

Explanation: Matter added to current law appears in ***bold italics***.

Matter removed from current law appears [~~in brackets and struckthrough.~~]

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

Rep. Kreis, Merr. 6

Rep. Gagne, Hills. 13

Rep. Welch, Rock. 8

Rep. Warden, Hills. 7

Rep. Manuse, Rock. 5

Rep. Lambert, Hills. 27

September 14, 2011

2011-2768h

03/04

#### Amendment to HB 628-FN

Amend the title of the bill by replacing it with the following:

AN ACT                      relative to searches conducted for purposes of transportation-related security.

Amend the bill by replacing all after the enacting clause with the following:

1 New Chapter; Federal Agency Searches Recorded. Amend RSA by inserting after chapter 595-B the following new chapter:

#### CHAPTER 595-C

#### Federal Agency Searches Recorded

##### 595-C:1 Federal Agency Searches Recorded.

I. Any law enforcement officer, as defined in RSA 651:6, I-a(a) who is stationed or present at an airport, bus station, train station, highway, or other transportation-related location or is in the presence of or who is working with an agent of the federal Transportation Security Administration or its equivalent while such agent is conducting an administrative search for transportation security of persons about to travel or already traveling in a vehicle of any kind shall record all interactions between the agent and citizen when that citizen complains to the law enforcement officer about the manner in which the administrative search is being or has been conducted.

II. When a law enforcement officer is not available at the site of an administrative search conducted for transportation security, a citizen may file a complaint at any office of the county sheriff within the state of New Hampshire, and the officer taking the report shall follow the same procedures as would be required had he or she been at the scene.

III. In such cases as described in paragraphs I and II, the law enforcement officer shall record the name and address of the citizen as well as the name and address or official identification of the

agent, along with an accurate statement of the details involving the complaint and his or her observations of the federal agent's behavior when applicable.

IV. Such records described in paragraph III shall be submitted within five business days to the division of state police for inclusion on an electronic database specifically identified as "Citizen Complaints About TSA Searches." The division of state police shall maintain the reports on the electronic database for at least 5 years, after which the records may be archived but not destroyed.

V. The information recorded pursuant to this section, with the name and other identifying information of the complainant redacted, shall be a public record under RSA 91-A.

VI. The department of safety and its employees and agents shall not be held liable for errors of omission or commission in the recording and maintenance of information under this section unless the error is shown to be the result of gross negligence or an intentional act.

VII.(a) In order to assist in the accuracy of records created by law enforcement officers in paragraph III, all citizens being searched shall be afforded their rights under the First Amendment to the Constitution for the United States of America and under Part 1, Article 22 of the New Hampshire Constitution to record, or designate a person to record, using any type of audio and video recording device, or a device that records just audio or just video, all interactions with an agent described in paragraph I, even in the presence of a law enforcement officer, without exception.

(b) If a citizen is prevented in any way from exercising his or her rights as specified in this section, he or she may require a law enforcement officer to enforce the provisions of this section.

(c) If a law enforcement officer does not enforce the provisions of this chapter or makes it difficult for a citizen to exercise his or her rights as specified in this section, the law enforcement officer may be guilty of official oppression pursuant to RSA 643:1.

2 Effective Date. This act shall take effect 90 days after its passage.