

House Bill 3257

Sponsored by Representative FREDERICK; Representatives BAILEY, BARNHART, BUCKLEY, CLEM, DEMBROW, DOHERTY, GALLEGOS, GELSER, GOMBERG, GORSEK, GREENLICK, HARKER, HOLVEY, KENY-GUYER, KOMP, KOTEK, LIVELY, TOMEI, VEGA PEDERSON, WITT, Senator DINGFELDER

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Requires peace officers to inform stopped persons that giving consent to search is optional. Provides that failure to inform is prima facie evidence of involuntariness of consent.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to searching stopped persons; amending ORS 131.615; and declaring an emergency.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1.** ORS 131.615 is amended to read:

5 131.615. (1) A peace officer who reasonably suspects that a person has committed or is about to
6 commit a crime may stop the person and, after informing the person that the peace officer is a peace
7 officer, make a reasonable inquiry.

8 (2) The detention and inquiry shall be conducted in the vicinity of the stop and for no longer
9 than a reasonable time.

10 (3) The inquiry shall be considered reasonable if it is limited to:

11 (a) The immediate circumstances that aroused the officer's suspicion;

12 (b) Other circumstances arising during the course of the detention and inquiry that give rise to
13 a reasonable suspicion of criminal activity; and

14 (c) Ensuring the safety of the officer, the person stopped or other persons present, including an
15 inquiry regarding the presence of weapons.

16 (4)(a) The inquiry may include a request for consent to search in relation to the circumstances
17 specified in subsection (3) of this section or to search for items of evidence otherwise subject to
18 search or seizure under ORS 133.535[.] **only if:**

19 **(A) The officer informs the person that giving consent to search is optional; and**

20 **(B) The officer informs the person that refusing consent to search will not result in the
21 person's arrest.**

22 **(b) An officer may not obtain consent to search by threatening an action that the officer
23 knows is unlawful.**

24 **(c) An officer's failure to inform a stopped person as required under this subsection
25 constitutes prima facie evidence of involuntariness of the consent to search.**

26 (5) A peace officer making a stop may use the degree of force reasonably necessary to make the
27 stop and ensure the safety of the peace officer, the person stopped or other persons who are present.

28 **SECTION 2. This 2013 Act being necessary for the immediate preservation of the public
29 peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect
30 on its passage.**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

