

House Bill No. 1289

HOUSE BILL NO. 1289 -- By SMITH (Dale) and REESE.

An Act relating to schools; amending 70 O.S. 1991, Section 24-102, as last amended by Section 3, Chapter 350, O.S.L. 1997 (70 O.S. Supp. 1998, Section 24-102), which relates to pupil searches; authorizing certain drug and/or alcohol testing on pupils under certain circumstances; providing an effective date; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 70 O.S. 1991, Section 24-102, as last amended by Section 3, Chapter 350, O.S.L. 1997 (70 O.S. Supp. 1998, Section 24-102), is amended to read as follows:

Section 24-102. The superintendent, principal, teacher, or security personnel of any public school in the State of Oklahoma, upon reasonable suspicion, shall have the authority to detain and search or authorize the search, of any pupil or property in the possession of the pupil when said pupil is on any school premises, or while in transit under the authority of the school, or while attending any function sponsored or authorized by the school, for dangerous weapons, controlled dangerous substances, as defined in the Uniform Controlled Dangerous Substances Act, intoxicating beverages, low-point beer, as defined by Section 163.2 of Title 37 of the Oklahoma Statutes, wireless telecommunication devices or for missing or stolen property if said property be reasonably suspected to have been taken from a pupil, a school employee or the school during school activities. The search shall be conducted by a person of the same sex as the person being searched and shall be witnessed by at least one other authorized person, said person to be of the same sex if practicable.

The extent of any search conducted pursuant to this section shall be reasonably related to the objective of the search and not excessively intrusive in light of the age and sex of the student and the nature of the infraction. In no event shall a strip search of a student be allowed. No student's clothing, except cold weather outerwear, shall be removed prior to or during the conduct of any warrantless search.

The superintendent, principal, teacher, or security personnel searching or authorizing the search shall have authority to detain the pupil to be searched and to preserve any dangerous weapons, controlled dangerous substances, intoxicating

beverages, low-point beer, wireless telecommunication devices or missing or stolen property that might be in the pupil's possession including the authority to authorize any other persons they deem necessary to restrain such pupil or to preserve any dangerous weapons, controlled dangerous substances, intoxicating beverages, low-point beer, wireless telecommunication devices or missing or stolen property. Students found to be in possession of such an item shall be subject to the provisions of Section 4 ~~24-101.3~~ of this ~~act~~ title.

Pupils shall not have any reasonable expectation of privacy towards school administrators or teachers in the contents of a school locker, desk, or other school property. School personnel shall have access to school lockers, desks, and other school property in order to properly supervise the welfare of pupils. School lockers, desks, and other areas of school facilities may be opened and examined by school officials at any time and no reason shall be necessary for such search. Schools shall inform pupils in the student discipline code that they have no reasonable expectation of privacy rights towards school officials in school lockers, desks, or other school property.

Nothing in this section shall be construed to prohibit a school district from adopting and enforcing an alcohol and/or drug testing policy for pupils participating in extra-curricular and co-curricular activities or programs provided but not required by the schools.

SECTION 2. This act shall become effective July 1, 1999.

SECTION 3. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

COMMITTEE REPORT BY: COMMITTEE ON EDUCATION, dated 2-16-99 -- DO PASS, As Coauthored.