

By: Hinojosa

S.B. No. 1195

A BILL TO BE ENTITLED

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AN ACT

relating to the authority of peace officers to conduct certain searches.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Article 1.06, Code of Criminal Procedure, is amended to read as follows:

Art. 1.06. SEARCHES AND SEIZURES. (a) The people shall be secure in their persons, houses, papers and possessions from all unreasonable seizures or searches. No warrant to search any place or to seize any person or thing shall issue without describing them as near as may be, nor without probable cause supported by oath or affirmation.

(b) A peace officer who stops a motor vehicle for any alleged violation of a law or ordinance regulating traffic may not search the vehicle unless the peace officer:

(1) has probable cause or another legal basis for the search; or

(2) obtains on a form that complies with Section 411.0207, Government Code, the written consent of the operator of the vehicle.

SECTION 2. Subchapter A, Chapter 411, Government Code, is amended by adding Section 411.0207 to read as follows:

Sec. 411.0207. GUIDELINES FOR FORMS INDICATING CONSENT TO VEHICLE SEARCH. (a) The director by rule shall establish

1 requirements for a form used to obtain the consent of the operator
2 of a motor vehicle under Article 1.06, Code of Criminal Procedure.

3 (b) At a minimum, the rules must require the form to
4 contain:

5 (1) a statement that the operator of the motor vehicle
6 fully understands that the operator may refuse to give the peace
7 officer consent to search the motor vehicle;

8 (2) a statement that the operator of the motor vehicle
9 is freely and voluntarily giving the peace officer consent to
10 search the motor vehicle;

11 (3) the time and date of the stop giving rise to the
12 search;

13 (4) a description of the motor vehicle to be searched;
14 and

15 (5) the name of each peace officer conducting the stop
16 or search.

17 SECTION 3. The director of the Department of Public Safety
18 of the State of Texas shall adopt the rules required by Section
19 411.0207, Government Code, as added by this Act, not later than
20 December 1, 2005.

21 SECTION 4. (a) Except as provided by Subsection (b) of
22 this section, this Act takes effect September 1, 2005.

23 (b) Article 1.06, Code of Criminal Procedure, as amended by
24 this Act, takes effect January 1, 2006.