

1-1 By: Hinojosa S.B. No. 1195
1-2 (In the Senate - Filed March 9, 2005; March 21, 2005, read
1-3 first time and referred to Committee on Criminal Justice;
1-4 April 21, 2005, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 4, Nays 0; April 21, 2005,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1195 By: Hinojosa

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the authority of peace officers to conduct certain
1-11 searches.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Article 1.06, Code of Criminal Procedure, is
1-14 amended to read as follows:

1-15 Art. 1.06. SEARCHES AND SEIZURES. (a) The people shall be
1-16 secure in their persons, houses, papers and possessions from all
1-17 unreasonable seizures or searches. No warrant to search any place
1-18 or to seize any person or thing shall issue without describing them
1-19 as near as may be, nor without probable cause supported by oath or
1-20 affirmation.

1-21 (b) A peace officer who stops a motor vehicle for any
1-22 alleged violation of a law or ordinance regulating traffic may not
1-23 search the vehicle unless the peace officer:

1-24 (1) has probable cause or another legal basis for the
1-25 search; or

1-26 (2) obtains on a form that complies with Section
1-27 411.0207, Government Code, the written consent of the operator of
1-28 the vehicle.

1-29 SECTION 2. Subchapter A, Chapter 411, Government Code, is
1-30 amended by adding Section 411.0207 to read as follows:

1-31 Sec. 411.0207. GUIDELINES FOR FORMS INDICATING CONSENT TO
1-32 VEHICLE SEARCH. (a) The director by rule shall establish
1-33 requirements for a form used to obtain the consent of the operator
1-34 of a motor vehicle under Article 1.06, Code of Criminal Procedure.

1-35 (b) At a minimum, the rules must require the form to
1-36 contain:

1-37 (1) a statement that the operator of the motor vehicle
1-38 fully understands that the operator may refuse to give the peace
1-39 officer consent to search the motor vehicle;

1-40 (2) a statement that the operator of the motor vehicle
1-41 is freely and voluntarily giving the peace officer consent to
1-42 search the motor vehicle;

1-43 (3) the time and date of the stop giving rise to the
1-44 search;

1-45 (4) a description of the motor vehicle to be searched;
1-46 and

1-47 (5) the name of each peace officer conducting the stop
1-48 or search.

1-49 SECTION 3. The director of the Department of Public Safety
1-50 of the State of Texas shall adopt the rules required by Section
1-51 411.0207, Government Code, as added by this Act, not later than
1-52 December 1, 2005.

1-53 SECTION 4. (a) Except as provided by Subsection (b) of
1-54 this section, this Act takes effect September 1, 2005.

1-55 (b) Article 1.06, Code of Criminal Procedure, as amended by
1-56 this Act, takes effect January 1, 2006.

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