

BILL ANALYSIS

Senate Research Center

C.S.S.B. 1195
By: Hinojosa
Criminal Justice
4/20/2005
Committee Report (Substituted)

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

The Fourth Amendment to the United States Constitution guarantees that Americans have the right to be free from unreasonable searches and seizures. However, that right has been eroded by a series of judicial decisions, particularly regarding citizens' rights at traffic stops. Consent searches at traffic stops occur when an officer has no probable cause to believe a crime has been committed, but asks for the driver's consent to search the vehicle.

C.S.S.B. 1195 prohibits peace officers from requesting permission to search vehicles stopped for traffic violations without having probable cause or obtaining written consent from the operator of the vehicle.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the director of the Department of Public Safety in SECTION 2 (Section 411.0207, Government Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Article 1.06, Code of Criminal Procedure, to prohibit a peace officer who stops a motor vehicle for any alleged violation of a law or ordinance regulating traffic from requesting the operator of the motor vehicle for consent to search the vehicle, unless the peace officer has probable cause or another legal basis for the search or obtains on a form that complies with Section 411.0207, Government Code, the written consent of the operator of the vehicle.

SECTION 2. Amends Subchapter A, Chapter 411, Government Code, by adding Section 411.0207, as follows:

Sec. 411.0207. GUIDELINES FOR FORMS INDICATING CONSENT TO VEHICLE SEARCH. Requires the director of the Department of Public Safety (director), by rule, to establish requirements for a form used to obtain the consent of the operator of a motor vehicle under Article 1.06, Code of Criminal Procedure. Sets forth minimum requirements for said rules.

SECTION 3. Requires the director to adopt rules required by Section 411.0207, Government Code, as added by this Act, not later than December 1, 2005.

SECTION 4. (a) Effective date: September 1, 2005, except as provided by Subsection (b).

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