

# SENATE, No. 430

## STATE OF NEW JERSEY 210th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2002 SESSION

**Sponsored by:**

**Senator WAYNE R. BRYANT**

**District 5 (Camden and Gloucester)**

**Senator ROBERT J. MARTIN**

**District 26 (Morris and Passaic)**

**Co-Sponsored by:**

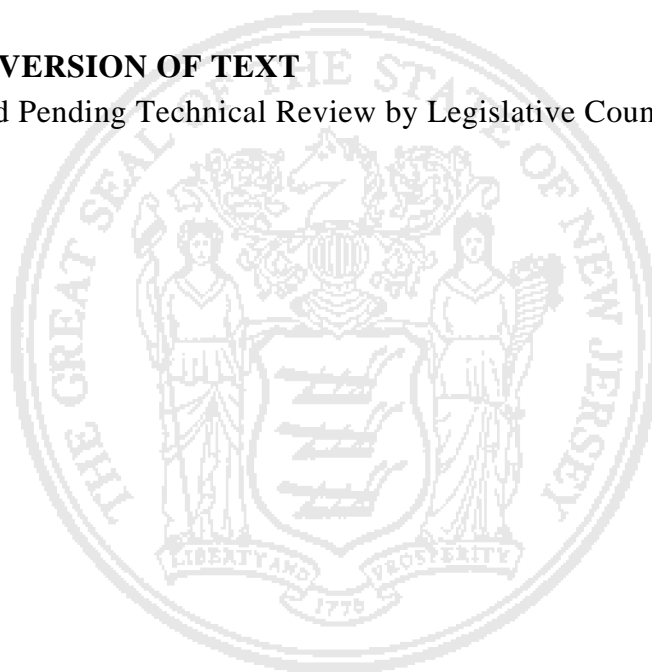
**Senators Adler, Sacco, Girgenti, Lesniak, James, Rice, Baer, Kenny,  
Turner, Furnari and Suliga**

**SYNOPSIS**

Bans consent searches of motor vehicles by State and local law enforcement officers.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



**(Sponsorship Updated As Of: 6/7/2002)**

1 AN ACT concerning motor vehicle searches and supplementing chapter  
2 5 of Title 39 of the Revised Statutes.

3  
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
5 *of New Jersey:*

6  
7 1. The Legislature finds and declares:

8 In its recent investigation of racial profiling and the New Jersey  
9 State Police, the Senate Judiciary Committee amply documented the  
10 potential for abuse surrounding "consent" searches of motor vehicles  
11 during routine traffic stops. These searches may be carried out by a  
12 police officer, who lacks probable cause to believe a vehicle contains  
13 weapons or contraband, as long as the driver does not object.

14 The Attorney General's Office has found that minority motorists are  
15 subjected to an inordinate number of consent searches, that these  
16 searches are fraught with the potential for discriminatory law  
17 enforcement practices, and that these searches yield little contraband.  
18 The committee also determined that the term "consent search" is a  
19 misnomer because when a motorist is detained on the side of the  
20 highway by a police officer seeking to search the vehicle, such a  
21 situation is inherently coercive. Furthermore, there is a considerable  
22 risk that motorists may not understand that they have the right to deny  
23 consent. In State v. Carty, 332 N.J.Super. 200, 207 (App.Div. 2000),  
24 the Appellate Division held that a law enforcement officer must have  
25 at least an articulable suspicion before requesting consent to search a  
26 vehicle. In support of this holding, the Appellate Division observed  
27 that "[r]equests to consent to an automobile search are obviously, as  
28 a matter of common experience, likely to be complied with..." and  
29 that such searches subject a motorist to "harassment, embarrassment  
30 and inconvenience..."

31 The inequity that characterizes consent searches was demonstrated  
32 by information presented by the Attorney General concerning consent  
33 searches on the New Jersey Turnpike in 2000. The data confirmed  
34 that minority motorists are subject to a disproportionately high rate  
35 of consent searches on certain roads patrolled by the State Police, and  
36 the Attorney General testified that those searches yield "very little"  
37 contraband. The data indicated that black and Hispanic motorists  
38 were the subject of 78 percent of consent searches. The data also  
39 indicated that consent searches of minorities were more likely to be  
40 based upon a lower quantum of proof. Some form of probable cause  
41 was present for 54 percent of consent searches of white motorists, but  
42 probable cause was present for only 26 percent of searches of black  
43 motorists and 8 percent of searches of Hispanic motorists. The data  
44 also indicated that consent searches of white motorists were twice as

1 likely to result in seizures than consent searches of black motorists,  
2 and five times more likely to result in seizures than consent searches  
3 of Hispanic motorists.

4 Clearly, as the minority report to the Judiciary Committee report  
5 asserts, the marginal value of consent searches in the context of traffic  
6 stops is greatly outweighed by the risk these searches pose to the  
7 rights of law-abiding motorists. It is, therefore, in the best interest of  
8 the citizens of this State that motor vehicle searches be conducted  
9 during traffic stops only when a law enforcement officer has probable  
10 cause to believe a vehicle contains weapons, contraband or evidence  
11 of a crime.

12

13 2. A State, municipal or county law enforcement officer who stops  
14 a motor vehicle for a violation or suspected violation of Title 39 of the  
15 Revised Statutes shall not search that vehicle unless the officer has  
16 probable cause to believe the vehicle contains unlawful property or  
17 evidence of a crime.

18

19 3. This act shall take effect immediately.

20

21

22 STATEMENT

23

24 This bill would prohibit State and local police officers from  
25 conducting consent searches of motor vehicles they stop for violations  
26 of Title 39, the State motor vehicle code. It is based on findings of the  
27 Senate Judiciary Committee that these searches, which are conducted  
28 without probable cause, pose risks to the rights of motorists that far  
29 outweigh their value as a law enforcement tool.

30 During its hearings on racial profiling and the State Police, the  
31 committee heard testimony regarding consent searches from the  
32 Attorney General, State Police officers and troopers, outside experts  
33 and members of the public. The committee concluded that minority  
34 motorists are subjected to an inordinately high rate of consent  
35 searches, that minority motorists are subject to a disproportionate  
36 number of consent searches, and that the searches yield very little  
37 contraband. Furthermore, the committee determined that by their  
38 nature, consent searches are inherently coercive and there is a  
39 considerable risk that motorists may not understand that they have the  
40 right to refuse such a search.