

ASSEMBLY, No. 931

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblyman KRAMER

1 AN ACT concerning certain motor vehicle searches and supplementing
2 Title 2A of the New Jersey Statutes.

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

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7 1. When a driver of a motor vehicle consents to a law enforcement
8 officer's search of that motor vehicle, the officer's failure to obtain the
9 consent of a passenger before searching items that belong to that
10 passenger shall not constitute an improper search pursuant to the New
11 Jersey and United States Constitutions.

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13 2. This act shall take effect immediately.

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16 STATEMENT

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18 In State v. Suazo, 133 N.J.315 (1993), decided July 27, 1993, the
19 New Jersey Supreme Court held that cocaine found in a search of an
20 automobile where the defendant had been a passenger could not be
21 admissible as evidence against the defendant because the cocaine had
22 been the product of an illegal search. Although the driver of the
23 automobile had given the police officer his written consent to search
24 the automobile and all its contents, the cocaine was found in a clothes
25 bag belonging to the passenger, and the officer had not received the
26 passenger's consent for the search of the passenger's property.

27 This bill would overturn the holding in this case, making it
28 inapplicable to future cases. The bill provides that a motor vehicle
29 driver's consent to a police search of the vehicle extends to all
30 property found in the vehicle, and that a search of a passenger's
31 property under these circumstances does not constitute an improper
32 search pursuant to the New Jersey and United States Constitutions.

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3 Provides that motor vehicle passenger's constitutional rights are not
4 violated during motor vehicle search consented to by driver if
5 passenger fails to consent to the search.