WEST VIRGINIA CODE: §62-1A-11

§62-1A-11. Rules for certain evidence of consent to vehicle search.

- (a) To facilitate the implementation of section ten of this article the Governor's Committee on Crime, Delinquency and Corrections shall promulgate emergency and legislative rules in accordance with article three, chapter twenty-nine-a of this code to establish the requirements for:
- (1) A form used to obtain the written consent of the operator of a motor vehicle under section ten of this article; and
- (2) An audio recording used as evidence of the oral consent of the operator of a motor vehicle under section ten of this article.
- (b) The form required under subsection (a) of this section shall contain:
- (1) A statement that the operator of the motor vehicle fully understands that he or she may refuse to give the law-enforcement officer consent to search the motor vehicle;
- (2) A statement that the operator of the motor vehicle is freely and voluntarily giving the law-enforcement officer consent to search the motor vehicle;
- (3) A statement that the operator of the motor vehicle may withdraw the consent at any time during the search;
- (4) The time and date of the stop giving rise to the search;
- (5) The make and the registration number of the vehicle to be searched; and
- (6) The name of the law-enforcement officer seeking consent.
- (c) The rules adopted under subdivision (2), subsection (a) of this section must require the audio recording to reflect an affirmative statement made by the operator that:
- (1) The operator of the motor vehicle understands that the operator may refuse to give the law-enforcement officer consent to search the motor vehicle;
- (2) The operator of the motor vehicle is voluntarily giving the law-enforcement officer consent to search the motor vehicle; and
- (3) The operator of the motor vehicle was informed that he or she may withdraw the consent at any time during the search.
- (d) The Governor's Committee on Crime, Delinquency and Corrections shall promulgate the

emergency and legislative rules required by this section no later than December 31, 2010.

