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

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

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