

HB 162-FN - AS INTRODUCED

2025 SESSION

25-0812
09/05

HOUSE BILL ***162-FN***

AN ACT relative to informed consent for law enforcement searches of houses or other property.

SPONSORS: Rep. Roy, Rock. 31; Rep. Scherr, Rock. 26

COMMITTEE: Criminal Justice and Public Safety

ANALYSIS

This bill expands the informed consent law to include houses and other property. This bill further modifies the requirements governing what a law enforcement officer must inform a person prior to obtaining consent for a search as well as any applicable exceptions.

Explanation: Matter added to current law appears in ***bold italics***.
 Matter removed from current law appears ~~[in brackets and struckthrough]~~
 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Five

AN ACT relative to informed consent for law enforcement searches of houses or other property.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 Search Warrants; Informed Consent Exceptions Expanded. Amend RSA 595-A:10 to read as
2 follows:

3 595-A:10 Informed Consent Exception for ~~[Motor Vehicles]~~ ***Searches of Houses and Other***
4 ***Property.***

5 I. A law enforcement officer may legally conduct a search of a ***person's home or any other***
6 ***property, including a*** motor vehicle, without a warrant ~~[under this chapter]~~ if the law enforcement
7 officer expressly informs the ~~[operator of the motor vehicle]~~ ***person*** that:

8 (a) The ~~[operator]~~ ***person*** has the right to refuse to consent to a search; ***and***

9 (b) ***The person's exercise of that right cannot be used against him or her in***
10 ***court, as part of a criminal investigation, or as grounds for further detention.*** ~~[Any refusal~~
11 ~~to consent to a search shall not constitute a basis either for probable cause to arrest the operator or~~
12 ~~reasonable suspicion to detain the operator;~~

13 (c) ~~The operator cannot be charged with any crime or violation for refusing to consent to~~
14 ~~a search; and~~

15 (d) ~~The operator cannot be further detained for refusing to consent to a search.]~~

16 II. If the ~~[operator of a motor vehicle]~~ ***person*** refuses to consent to a search, the law
17 enforcement officer shall cease any further questioning concerning consent to a search ***unless a***
18 ***significant period of time has passed, or the subject is raised by the person. A significant***
19 ***period of time shall mean the person and the law enforcement agency involved have ceased***
20 ***to interact with one another and a new set of circumstances or facts have arisen that***
21 ***justify a new interaction.***

22 III. A law enforcement officer shall document any consent to search either by the signature
23 of the ~~[motor vehicle operator]~~ ***person*** on a consent-to-search form providing notice of the provisions
24 of paragraphs I and II at the time of the consent, or by means of a video and sound recording of the
25 consent at the time of the consent. Such form or video and sound recording shall be retained until
26 any criminal charge resulting from the consent to search is fully resolved.

27 IV. Any act of a law enforcement officer which violates a provision of this section shall result
28 in the inadmissibility in any criminal proceeding of any evidence of obtained by the law enforcement
29 officer, ***unless it is determined otherwise admissible by the court under another exception***
30 ***such as inevitable discovery, or any other legal exception.***

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1 V. This section shall not preclude searches incident to arrest; ***searches justified by***
2 ***probable cause under exigent circumstances***; searches allowed under the United States
3 Constitution for officer safety; searches on any grounds, lands, or parking areas of any state or
4 county correctional facility or transitional housing unit operated by the department of corrections; or
5 inventory searches of lawfully-seized property, including but not limited to vehicles towed in
6 conjunction with the arrest of the operator.

7 VI. Any person on prison grounds or in a department of corrections facility, regardless of
8 whether such person is a resident, visitor, staff, or anyone identified in some other category, shall be
9 subject to search without warning of their vehicle, possessions, and person pursuant to
10 administrative rule Cor 306.

11 2 Effective Date. This act shall take effect January 1, 2026.

LBA
25-0812
12/17/24

**HB 162-FN- FISCAL NOTE
AS INTRODUCED**

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FISCAL IMPACT:

The Legislative Budget Assistant has determined that this legislation has a total fiscal impact of less than \$10,000 in each of the fiscal years 2025 through 2028.

AGENCIES CONTACTED:

Judicial Branch, New Hampshire Municipal Association and Department of Safety