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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 3851

02/15/2024 Authored by Frazier
The bill was read for the first time and referred to the Committee on Public Safety Finance and Policy

1.1 A bill for an act
1.2 relating to public safety; prohibiting consent searches by peace officers; prohibiting
1.3 use of the odor of marijuana as the basis to search a motor vehicle; amending
1.4 Minnesota Statutes 2023 Supplement, section 626.21; proposing coding for new
1.5 law in Minnesota Statutes, chapter 626.

1.6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.7 Section 1. Minnesota Statutes 2023 Supplement, section 626.21, is amended to read:

1.8 626.21 RETURN OF PROPERTY AND SUPPRESSION OF EVIDENCE.

1.9 (a) A person aggrieved by an unlawful search and seizure may move the district court
1.10 for the district in which the property was seized or the district court having jurisdiction of
1.11 the substantive offense for the return of the property and to suppress the use, as evidence,
1.12 of anything so obtained on the ground that:

- 1.13 (1) the property was illegally seized;
1.14 (2) the property was illegally seized without warrant;
1.15 (3) the warrant is insufficient on its face;
1.16 (4) the property seized is not that described in the warrant;
1.17 (5) there was not probable cause for believing the existence of the grounds on which the
1.18 warrant was issued;
1.19 (6) the warrant was illegally executed;
1.20 (7) the warrant was improvidently issued; or
1.21 (8) the warrant was executed or served in violation of section 626.14; or

2.1 (9) the property was seized as a result of a search that violated section 626.8621.

2.2 (b) The judge shall receive evidence on any issue of fact necessary to the decision of
2.3 the motion. If the motion is granted the property shall be restored unless otherwise subject
2.4 to lawful detention, and it shall not be admissible in evidence at any hearing or trial. The
2.5 motion to suppress evidence may also be made in the district where the trial is to be had.
2.6 The motion shall be made before trial or hearing unless opportunity therefor did not exist
2.7 or the defendant was not aware of the grounds for the motion, but the court in its discretion
2.8 may entertain the motion at the trial or hearing.

2.9 **Sec. 2. [626.8621] WARRANTLESS SEARCHES LIMITED; TRAFFIC STOPS;**
2.10 **CONSENT SEARCHES.**

2.11 Subdivision 1. Consent searches prohibited. A peace officer may not request that a
2.12 person consent to a warrantless search during a traffic stop. This prohibition does not prohibit
2.13 or otherwise limit a peace officer from conducting a lawful warrantless search incident to
2.14 an arrest, based on probable cause or reasonable suspicion, or another legal basis besides
2.15 consent.

2.16 Subd. 2. Odor of marijuana; search prohibited. (a) A peace officer's perception of
2.17 the odor of marijuana shall not serve as a basis to search a motor vehicle, or to search the
2.18 driver, passengers, or any of the contents of a motor vehicle.

2.19 (b) A peace officer may not use a drug-detection canine on a stopped motor vehicle
2.20 unless the officer has reasonable suspicion to believe either that the motor vehicle contains
2.21 illegal narcotics other than marijuana, or that a driver or passenger of the motor vehicle
2.22 possesses illegal narcotics other than marijuana.

2.23 Subd. 3. Consent search advisory required. If a person voluntarily grants a peace
2.24 officer consent to conduct a warrantless search during a traffic stop without the officer
2.25 requesting to conduct a search, the officer must issue a rights advisory to the person. The
2.26 advisory must provide notice that:

2.27 (1) the person has a right to deny the officer access;

2.28 (2) the person may withdraw consent at any time; and

2.29 (3) the person is subject to arrest and prosecution if the officer discovers illegal items,
2.30 contraband, or evidence of a crime.

3.1 Subd. 4. **In-service training; learning objectives.** (a) Beginning January 1, 2025, the
3.2 chief law enforcement officer of every state and local law enforcement agency shall provide
3.3 in-service training on the requirements contained in subdivisions 1 and 2.

3.4 (b) By December 1, 2024, the board shall prepare learning objectives for in-service
3.5 training to instruct peace officers on the requirements contained in subdivisions 1 and 2.

3.6 Subd. 5. **Licensing sanctions; injunctive relief.** (a) The board must investigate a credible
3.7 allegation of a peace officer failing to comply with the requirements of this section.

3.8 (b) Pursuant to the board's authority under section 214.11, if, after conducting an
3.9 investigation, the board concludes by a preponderance of the evidence that a peace officer
3.10 failed to comply with the requirements of this section, the board must impose licensing
3.11 sanctions and, when warranted, seek injunctive relief.