1	Senate Bill No. 427
2	(By Senator Green)
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4	[Introduced March 4, 2013; referred to the Committee on the
5	Judiciary.]
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10	A BILL to amend and reenact $\$62-1A-10$ of the Code of West Virginia,
11	1931, as amended, relating to clarifying requirements for
12	certain motor vehicle searches.
13	Be it enacted by the Legislature of West Virginia:
14	That §62-1A-10 of the Code of West Virginia, 1931, as amended,
15	be amended and reenacted to read as follows:
16	ARTICLE 1A. SEARCH AND SEIZURE.
17	§62-1A-10. Motor vehicle searches.
18	(a) A law-enforcement officer who stops a motor vehicle for an
19	alleged violation of a traffic misdemeanor law or ordinance may not
20	search the vehicle unless he or she:
21	(1) Has probable cause or another lawful basis for the search;
22	<u>or</u>
23	(2) Obtains the written consent of the operator of the vehicle

- 1 on a form that complies with section eleven of this article; or 2 alternatively,
- 3 (3) Obtains the oral consent of the operator of the vehicle 4 and ensures that the oral consent is evidenced by an audio 5 recording that complies with section eleven of this article.
- 6 (b) Notwithstanding the provisions of subsection (a) of this 7 section, should a form meeting the requirement of section eleven of 8 this article or an audio recording device be unavailable a 9 handwritten consent executed by the vehicle operator and meeting 10 the consent requirements of section eleven of this article will 11 suffice.
- (c) Notwithstanding the provisions of subsection (a) or (b) of this section should a court find that the officer had a reasonable suspicion of dangerousness to his or her safety which precluded recordation of the consent the recordation requirements of this section shall be found inapplicable.
- 17 (d) Failure to comply with the provisions of this section 18 shall not, standing alone, constitute proof that any consent to 19 search was involuntary.
- 20 (e) A finding by a court that the operator of a motor vehicle 21 voluntarily and verbally consented to a search of the motor vehicle 22 shall make the recordation requirements of this section 23 inapplicable.
- 24 (f) Nothing contained in this section shall be construed to

1 create a private cause of action.

2 (g) This section takes effect on January 1, 2011.

NOTE: The purpose of this bill is to clarify the requirements for certain motor vehicle searches.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.