

By: Thompson

H.B. No. 1835

A BILL TO BE ENTITLED

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AN ACT

relating to the issuance of citations to and the arrest of persons for certain misdemeanors punishable by fine only.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 543.004, Transportation Code, is amended to read as follows:

Sec. 543.004. NOTICE TO APPEAR REQUIRED[~~: CERTAIN OFFENSES~~]. (a) Except as provided by Subsection (c), the issuance of a written notice to appear as provided by Section 543.003 is mandatory and an [An] officer shall issue a written notice to appear if:

(1) the offense charged is a misdemeanor punishable by fine only [speeding or a violation of the open container law, Section 49.93, Penal Code]; [and]

(2) the person displays an unexpired driver's license or permit issued to the person by the department or by another state or country; and

(3) the person makes a written promise to appear in court as provided by Section 543.005.

(b) If the person is a resident of or is operating a vehicle licensed in a state or country other than this state, Subsection (a) applies only as provided by Chapter 703.

(c) Subsection (a) does not require an officer to issue a written notice to appear if:

1 (1) the arresting officer believes that taking the
2 person before a magistrate is necessary to prevent imminent bodily
3 injury to the person or another;

4 (2) the offense was committed in the presence of the
5 arresting officer and the officer believes that because of the
6 commission of the offense a substantial risk of harm to the person
7 or another exists and will continue to exist unless the person is
8 taken before a magistrate;

9 (3) the arresting officer believes that the person has
10 insufficient ties to the jurisdiction to assure that the person
11 will comply with a written notice to appear in court issued under
12 Section 543.003 and that there is a substantial likelihood that the
13 person would fail or refuse to comply with a written notice to
14 appear in court; or

15 (4) the arresting officer believes that the person has
16 failed to appear without just cause in response to a written notice
17 to appear, a citation, a summons, or other legal process issued in
18 connection with an offense committed by the person, other than an
19 offense involving the parking of a motor vehicle. [The offense
20 specified by Subsection (a) are the only offenses for which
21 issuance of a written notice to appear mandatory.]

22 SECTION 2. Article 14.06, Code of Criminal Procedure, is
23 amended to read as follows:

24 Art. 14.06. MUST TAKE OFFENDER BEFORE MAGISTRATE. (a)
25 Except as provided by Subsections [~~Subsection~~] (b), (c), (d), and
26 (e), in each case enumerated in this Code, the person making the
27 arrest shall take the person arrested or have the person [~~him~~] taken

1 without unnecessary delay before the magistrate who may have
2 ordered the arrest, before some magistrate of the county where the
3 arrest was made without an order, or, if necessary to provide more
4 expeditiously to the person arrested the warnings described by
5 Article 15.17 of this Code, before a magistrate in a county
6 bordering the county in which the arrest was made. The magistrate
7 shall immediately perform the duties described in Article 15.17 of
8 this Code.

9 (b) A peace officer who is charging a person, including a
10 child, with committing an offense that is a Class C misdemeanor,
11 other than an offense under Section 49.02, Penal Code, or a traffic
12 offense, may, instead of taking the person before a magistrate,
13 issue a citation to the person that contains written notice of the
14 time and place the person must appear before a Magistrate, the name
15 and address of the person charged, and the offense charged.

16 (c) A peace officer who is charging a person, including a
17 child, with committing a traffic offense that is a Class C
18 misdemeanor, including an offense under Section 49.03, Penal Code,
19 shall, instead of taking the person before a magistrate, issue a
20 citation to the person that contains written notice of the time and
21 place the person must appear before a magistrate, the name and
22 address of the person charged, and the offense charged, if the
23 person displays:

24 (1) an unexpired driver's license or permit issued to
25 the person by the Department of Public Safety or by another state or
26 country; or

27 (2) an unexpired personal identification certificate

1 issued to the person by the department.

2 (d) If a person charged as described by Subsection (c) is a
3 resident of or is operating a vehicle licensed in a state or country
4 other than this state, Subsection (c) applies only as provided by
5 Chapter 703, Transportation Code.

6 (e) Subsection (c) does not-require a peace officer to issue
7 a citation if:

8 (1) the peace officer making the arrest believes that
9 taking the arrested person before a magistrate is necessary to
10 prevent imminent bodily injury to the arrested person or another;

11 (2) the offense was committed in the presence of the
12 peace officer making the arrest and the officer believes that
13 because of the commission of the offense a substantial risk of harm
14 to the arrested person or another exists and will continue to exist
15 unless the arrested person is taken before a magistrate as required
16 by Subsection (a);

17 (3) the peace officer making the arrest believes that
18 the arrested person has insufficient ties to the jurisdiction to
19 assure that the arrested person will comply with a citation that
20 contains a written notice to appear before a magistrate issued
21 under Subsection (a) and that there is a substantial likelihood
22 that the arrested person would fail or refuse to comply with the
23 written notice to appear before the magistrate; or

24 (4) the peace officer making the arrest believes that
25 the arrested person has failed to appear without just cause in
26 response to a written notice to appear, a citation, a summons, or
27 other legal process issued in connection with an offense committed

1 by the arrested person, other than an offense involving the parking
2 of a motor vehicle.

3 SECTION 3. (a) This Act takes effect September 1, 2003.

4 (b) The change in law made by this Act applies only to an
5 offense committed on or after September 1, 2003.

6 (c) An offense committed before September 1, 2003, is
7 covered by the law in effect when the offense was committed, and the
8 former law is continued in effect for that purpose. For purposes of
9 this section, an offense was committed before September 1, 2003, if
10 any element of the offense was committed before that date.