

By: Hinojosa

S.B. No. 1597

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 misdemeanor offenses 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 49.03, 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 intentionally failed to appear without just cause in response to a
17 written notice to appear, a citation, a summons, or other legal
18 process issued in connection with an offense committed by the
19 person, other than an offense involving the parking of a motor
20 vehicle [~~The offenses specified by Subsection (a) are the only~~
21 ~~offenses for which issuance of a written notice to appear is~~
22 ~~mandatory].~~

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

25 Art. 14.06. MUST TAKE OFFENDER BEFORE MAGISTRATE.

26 (a) Except as provided by Subsections [~~Subsection~~] (b)-(e), in
27 each case enumerated in this Code, the person making the arrest or

1 the person having custody of the person arrested shall take the
2 person arrested or have him taken without unnecessary delay, but
3 not later than 48 hours after the person is arrested, before the
4 magistrate who may have ordered the arrest, before some magistrate
5 of the county where the arrest was made without an order, or, if
6 necessary to provide more expeditiously to the person arrested the
7 warnings described by Article 15.17 of this Code, before a
8 magistrate in a county bordering the county in which the arrest was
9 made. The magistrate shall immediately perform the duties
10 described in Article 15.17 of this Code.

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

18 (c) A peace officer who is charging a person, including a
19 child, with committing a traffic offense that is a Class C
20 misdemeanor, including an offense under Section 49.031, Penal Code,
21 shall, instead of taking the person before a magistrate, issue a
22 citation to the person that contains written notice of the time and
23 place the person must appear before a magistrate, the name and
24 address of the person charged, and the offense charged if the person
25 displays:

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

1 country; or

2 (2) an unexpired personal identification certificate
3 issued to the person by the Department of Public Safety.

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

8 (e) Subsection (c) does not require a peace officer to issue
9 a citation if:

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

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

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

26 (4) the person making the arrest believes that the
27 arrested person has intentionally failed to appear without just

1 cause in response to a written notice to appear, a citation, a
2 summons, or other legal process issued in connection with an
3 offense committed by the arrested person, other than an offense
4 involving the parking of a motor vehicle.

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

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

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