

By: Gallego

H.B. No. 2028

A BILL TO BE ENTITLED

AN ACT

relating to the issuance of a written notice to appear 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) 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:
(A) an unexpired driver's license or permit issued to the person by the department or by another state or country; or

(B) an unexpired personal identification certificate issued to the person by the department; 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.

1 ~~[(c) The offenses specified by Subsection (a) are the only~~
2 ~~offenses for which issuance of a written notice to appear is~~
3 ~~mandatory.]~~

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

6 Art. 14.06. MUST TAKE OFFENDER BEFORE
7 MAGISTRATE. (a) Except as provided by Subsections ~~[Subsection]~~
8 (b), (c), and (d), in each case enumerated in this Code, the person
9 making the arrest or the person having custody of the person
10 arrested shall take the person arrested or have him taken without
11 unnecessary delay, but not later than 48 hours after the person is
12 arrested, before the magistrate who may have ordered the arrest,
13 before some magistrate of the county where the arrest was made
14 without an order, or, to provide more expeditiously to the person
15 arrested the warnings described by Article 15.17 of this Code,
16 before a magistrate in any other county of this state. The
17 magistrate shall immediately perform the duties described in
18 Article 15.17 of this Code.

19 (b) A peace officer who is charging a person, including a
20 child, with committing an offense that is a Class C misdemeanor,
21 other than an offense under Section 49.02, Penal Code, or a traffic
22 offense, may, instead of taking the person before a magistrate,
23 issue a citation to the person that contains written notice of the
24 time and place the person must appear before a magistrate, the name
25 and address of the person charged, and the offense charged.

26 (c) A peace officer who is charging a person, including a
27 child, with committing a traffic offense that is a Class C

1 misdemeanor, including an offense under Section 49.031, Penal Code,
2 shall, instead of taking the person before a magistrate, issue a
3 citation to the person that contains written notice of the time and
4 place the person must appear before a magistrate, the name and
5 address of the person charged, and the offense charged, if the
6 person displays:

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

10 (2) an unexpired personal identification certificate
11 issued to the person by the department.

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

16 SECTION 3. (a) The change in law made by this Act applies
17 only to an offense committed on or after the effective date of this
18 Act. For the purposes of this section, an offense was committed
19 before the effective date of this Act if any element of the offense
20 occurred before that date.

21 (b) An offense committed before the effective date of this
22 Act is governed by the law in effect when the offense was committed,
23 and the former law is continued in effect for that purpose.

24 SECTION 4. This Act takes effect September 1, 2007.