

By: Johnson of Dallas

H.B. No. 774

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the issuance of a citation or notice to appear for
3 certain misdemeanors punishable by a fine only.

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

5 SECTION 1. Article 14.06, Code of Criminal Procedure, is
6 amended by amending Subsection (b) and adding Subsection (b-1) to
7 read as follows:

8 (b) A peace officer who is charging a person, including a
9 child, with committing an offense that is a [~~Class C~~] misdemeanor
10 punishable by a fine only, other than an offense under Section
11 49.02, Penal Code, or an offense under Chapter 106, Alcoholic
12 Beverage Code, shall [may], instead of taking the person before a
13 magistrate, issue a citation to the person that contains written
14 notice of the time and place the person must appear before a
15 magistrate, the name and address of the person charged, the offense
16 charged, and the following admonishment, in boldfaced or underlined
17 type or in capital letters:

18 "If you are convicted of a misdemeanor offense involving
19 violence where you are or were a spouse, intimate partner, parent,
20 or guardian of the victim or are or were involved in another,
21 similar relationship with the victim, it may be unlawful for you to
22 possess or purchase a firearm, including a handgun or long gun, or
23 ammunition, pursuant to federal law under 18 U.S.C. Section
24 922(g)(9) or Section 46.04(b), Texas Penal Code. If you have any

1 questions whether these laws make it illegal for you to possess or
2 purchase a firearm, you should consult an attorney."

3 (b-1) A peace officer who is charging a person, including a
4 child, with committing an offense that is a misdemeanor punishable
5 by a fine only under Chapter 106, Alcoholic Beverage Code, may,
6 instead of taking the person before a magistrate, issue to the
7 person a citation that contains written notice of the time and place
8 the person must appear before a magistrate, the name and address of
9 the person charged, and the offense charged.

10 SECTION 2. Section 543.004(a), Transportation Code, is
11 amended to read as follows:

12 (a) An officer shall issue a written notice to appear if:

13 (1) the offense charged is ~~[speeding or]~~ a misdemeanor
14 under this subtitle that is punishable by a fine only ~~[violation of~~
15 ~~the open container law, Section 49.03, Penal Code]~~; and

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

18 SECTION 3. Subchapter A, Chapter 543, Transportation Code,
19 is amended by adding Section 543.0045 to read as follows:

20 Sec. 543.0045. NOTIFICATION REQUIRED DURING TRAFFIC STOP.

21 (a) An officer who stops a motor vehicle as a result of a person's
22 alleged commission of a misdemeanor under this subtitle that is
23 punishable by a fine only shall promptly notify the person that:

24 (1) the alleged offense is a misdemeanor under this
25 subtitle that is punishable by a fine only; and

26 (2) the officer may not arrest a person solely on the
27 basis of that offense.

1 (b) The Texas Commission on Law Enforcement by rule shall
2 specify the language that is required to be included in the
3 notification described by Subsection (a).

4 SECTION 4. The changes in law made by this Act apply only to
5 an offense committed on or after the effective date of this Act. An
6 offense committed before the effective date of this Act is governed
7 by the law in effect on the date 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 the effective date of
10 this Act if any element of the offense occurred before that date.

11 SECTION 5. The Texas Commission on Law Enforcement shall
12 adopt the rules required by Section 543.0045(b), Transportation
13 Code, as added by this Act, not later than December 1, 2017.

14 SECTION 6. (a) Except as provided by Subsection (b) of this
15 section, this Act takes effect September 1, 2017.

16 (b) Section 543.0045, Transportation Code, as added by this
17 Act, takes effect January 1, 2018.