

By: Buckingham

S.B. No. 2010

A BILL TO BE ENTITLED

AN ACT

relating to a limitation on the authority to arrest a person for certain misdemeanors punishable by fine only.

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

SECTION 1. Chapter 2, Code of Criminal Procedure, is amended by adding Article 2.1309 to read as follows:

Art. 2.1309. CITE AND RELEASE POLICY. (a) In this article, "law enforcement agency" means an agency of the state or an agency of a political subdivision of the state authorized by law to employ peace officers.

(b) Each law enforcement agency shall adopt a written policy regarding the issuance of citations for misdemeanor offenses, including traffic offenses, that are punishable by fine only. The policy must provide a procedure for a peace officer employed by the agency to verify a person's identity and issue a citation to a person who fails to present proof of identification.

SECTION 2. Article 14.01, Code of Criminal Procedure, is amended by adding Subsection (c) to read as follows:

(c) Notwithstanding Subsection (a) or (b), a peace officer or any other person may not, without a warrant, arrest an offender for a misdemeanor punishable by fine only, other than an offense under Section 22.01(a)(2) or (3), Penal Code, or Section 49.02, Penal Code.

SECTION 3. Article 14.03, Code of Criminal Procedure, is

1 amended by adding Subsection (h) to read as follows:

2 (h) Notwithstanding Subsection (a), (d), or (g), a peace  
3 officer may not, without a warrant, arrest a person who only commits  
4 one or more offenses punishable by fine only, other than an offense  
5 under Section 22.01(a)(2) or (3), Penal Code, or Section 49.02,  
6 Penal Code.

7 SECTION 4. Article 14.06, Code of Criminal Procedure, is  
8 amended by amending Subsection (b) and adding Subsection (b-1) to  
9 read as follows:

10 (b) A peace officer who is charging a person, including a  
11 child, with committing an offense that is a [~~Class C~~] misdemeanor  
12 punishable by fine only, other than an offense under Section 49.02,  
13 Penal Code, shall [~~may~~], instead of taking the person before a  
14 magistrate, issue a citation to the person that contains:

15 (1) written notice of the time and place the person  
16 must appear before a magistrate;

17 (2) the name and address of the person charged;

18 (3) the offense charged;

19 (4) information regarding the alternatives to the full  
20 payment of any fine or costs assessed against the person, if the  
21 person is convicted of the offense and is unable to pay that amount;  
22 and

23 (5) the following admonishment, in boldfaced or  
24 underlined type or in capital letters:

25 "If you are convicted of a misdemeanor offense involving  
26 violence where you are or were a spouse, intimate partner, parent,  
27 or guardian of the victim or are or were involved in another,

1 similar relationship with the victim, it may be unlawful for you to  
2 possess or purchase a firearm, including a handgun or long gun, or  
3 ammunition, pursuant to federal law under 18 U.S.C. Section  
4 922(g)(9) or Section 46.04(b), Texas Penal Code. If you have any  
5 questions whether these laws make it illegal for you to possess or  
6 purchase a firearm, you should consult an attorney."

7 (b-1) A peace officer who is charging a person, including a  
8 child, with committing an offense that is a misdemeanor under  
9 Section 22.01(a)(2) or (3), Penal Code, punishable by fine only  
10 may, instead of taking the person before a magistrate, issue a  
11 citation to the person that contains all of the information  
12 required for a citation issued under Subsection (b).

13 SECTION 5. Section 543.001, Transportation Code, is amended  
14 to read as follows:

15 Sec. 543.001. ARREST WITHOUT WARRANT AUTHORIZED. Any peace  
16 officer may arrest without warrant a person found committing a  
17 violation of this subtitle, other than a person found only  
18 committing one or more misdemeanors punishable by fine only.

19 SECTION 6. Section 543.004(a), Transportation Code, is  
20 amended to read as follows:

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

22 (1) the offense charged is a misdemeanor under this  
23 subtitle that is punishable by fine only[+]

24 [~~(A) speeding,~~

25 [~~(B) the use of a wireless communication device~~  
26 ~~under Section 545.4251, or~~

27 [~~(C) a violation of the open container law,~~

1 ~~Section 49.031, Penal Code~~]; and

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

4 SECTION 7. 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 8. This Act takes effect September 1, 2019.