

By: Thompson of Harris, Cain, et al.

H.B. No. 410

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to law enforcement policies regarding the issuance of  
3 citations for misdemeanors punishable by fine only and to a  
4 limitation on the authority to arrest a person for certain  
5 fine-only misdemeanors.

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

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

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

13 (b) Texas Southern University, in collaboration with law  
14 enforcement agencies, law enforcement associations, law  
15 enforcement training experts, the Bill Blackwood Law Enforcement  
16 Management Institute of Texas, and community organizations engaged  
17 in the development of law enforcement policy, shall publish a  
18 written model policy regarding the issuance of citations for  
19 misdemeanor offenses, including traffic offenses, that are  
20 punishable by fine only. The policy must provide a procedure for a  
21 peace officer, on a person's presentation of appropriate  
22 identification, to verify the person's identity and issue a  
23 citation to the person. The policy must comply with Articles 14.01,  
24 14.03, and 14.06 of this code and Sections 543.001 and 543.004,

1 Transportation Code.

2 (c) Each law enforcement agency shall adopt a written policy  
3 regarding the issuance of citations for misdemeanor offenses,  
4 including traffic offenses, that are punishable by fine only. The  
5 policy must meet the requirements for the model policy described by  
6 Subsection (b). A law enforcement agency may adopt the model policy  
7 published by Texas Southern University under Subsection (b).

8 SECTION 2. Section 543.001, Transportation Code, is amended  
9 to read as follows:

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

14 SECTION 3. Section 543.004(a), Transportation Code, is  
15 amended to read as follows:

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

17 (1) the offense charged is a misdemeanor under this  
18 subtitle that is punishable by fine only[+

19 ~~[(A) speeding,~~

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

22 ~~[(C) a violation of the open container law,~~  
23 ~~Section 49.031, Penal Code]; and~~

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

26 SECTION 4. The changes in law made by this Act apply only to  
27 an offense committed on or after the effective date of this Act. An

1 offense committed before the effective date of this Act is governed  
2 by the law in effect on the date the offense was committed, and the  
3 former law is continued in effect for that purpose. For purposes of  
4 this section, an offense was committed before the effective date of  
5 this Act if any element of the offense occurred before that date.

6 SECTION 5. (a) Not later than January 1, 2024, Texas  
7 Southern University shall publish the model policy required by  
8 Article 2.1309(b), Code of Criminal Procedure, as added by this  
9 Act.

10 (b) Not later than March 1, 2024, each law enforcement  
11 agency in this state shall adopt the policy required by Article  
12 2.1309(c), Code of Criminal Procedure, as added by this Act.

13 SECTION 6. This Act takes effect September 1, 2023.