

1 SENATE BILL 455

2 **51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013**

3 INTRODUCED BY

4 Cliff R. Pirtle

5
6
7
8
9
10 AN ACT

11 RELATING TO JURISDICTION; REQUIRING TRAFFIC CITATIONS TO BE
12 FILED IN THE COUNTY OR DISTRICT IN WHICH THE OFFENSE OCCURRED.

13
14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

15 SECTION 1. Section 31-1-6 NMSA 1978 (being Laws 1973,
16 Chapter 73, Section 4, as amended) is amended to read:

17 "31-1-6. CITATION IN LIEU OF ARREST WITHOUT A WARRANT.--

18 A. A law enforcement officer who arrests a person
19 without a warrant for a petty misdemeanor or any offense under
20 Chapter 17 NMSA 1978 may offer the person arrested the option
21 of accepting a citation to appear in lieu of taking ~~him~~ the
22 person to jail.

23 B. A citation issued pursuant to this section shall
24 contain the name and address of the cited person, the offense
25 charged and the time and place to appear. The place to appear

.191788.2

underscored material = new
[bracketed material] = delete

underscored material = new
[bracketed material] = delete

1 must be in the county or district in which the offense is
2 alleged to have been committed. Unless the person requests an
3 earlier date, the time specified in the citation shall be at
4 least three days after issuance of the citation. The law
5 enforcement officer shall explain the person's rights not to
6 sign a citation, the effect of not signing the citation, the
7 effect of signing the citation and the effect of failing to
8 appear at the time and place stated on the citation.

9 C. The person's signature on the citation
10 constitutes a promise to appear at the time and place stated in
11 the citation. One copy of the citation to appear shall be
12 delivered to the person cited, and the law enforcement officer
13 shall keep a duplicate copy [~~which he shall file~~] for filing
14 with the court as soon as practicable.

15 D. A citation issued pursuant to this section is a
16 valid complaint if the person receiving it appears in court.

17 E. It is a petty misdemeanor for a person signing a
18 citation not to appear at the time and place stated in the
19 citation regardless of the disposition of the offense for which
20 the citation was issued. A written promise to appear may be
21 complied with by appearance of counsel."

22 SECTION 2. Section 35-3-6 NMSA 1978 (being Laws 1968,
23 Chapter 62, Section 51, as amended) is amended to read:

24 "35-3-6. JURISDICTION--TERRITORIAL LIMITS.--

25 A. The territorial jurisdiction of a magistrate is

.191788.2

underscoring material = new
~~[bracketed material] = delete~~

1 coextensive with the magistrate district in which the
2 magistrate serves. [~~A magistrate also has jurisdiction in any~~
3 ~~criminal action involving violation of a law relating to motor~~
4 ~~vehicles arising in a magistrate district adjoining at any~~
5 ~~point that in which the magistrate serves and within magistrate~~
6 ~~trial jurisdiction; provided that the defendant is entitled to~~
7 ~~a change of venue to the district where the cause of action~~
8 ~~arose if the defendant so moves at, or within fifteen days~~
9 ~~after, arraignment.]~~

10 B. A magistrate has jurisdiction to sit in any
11 action arising in any other magistrate district when designated
12 for a specific period of time by a district judge because of
13 the unavailability of a magistrate in that magistrate district.
14 A magistrate acting in another magistrate district by
15 designation pursuant to this subsection shall include the cases
16 heard by designation in the magistrate's own reports to the
17 administrative office of the courts, indicating on the reports
18 that the magistrate's jurisdiction is by designation.

19 C. In a criminal action in which a magistrate has
20 territorial jurisdiction over the offense pursuant to this
21 section, the magistrate court has personal jurisdiction over
22 the defendant for the purpose of service of process upon the
23 defendant wherever the defendant resides or may be found within
24 the state.

25 D. In a civil action arising within the

.191788.2

underscoring material = new
[bracketed material] = delete

1 magistrate's territorial jurisdiction, the magistrate court has
2 personal jurisdiction over the defendant for the purpose of
3 service of process upon the defendant wherever the defendant
4 resides or may be found within the state.

5 E. The territorial limitations of magistrate
6 court jurisdiction shall not apply to actions to enforce
7 judgments entered in the magistrate district and writs issued
8 in aid of those actions."

9 SECTION 3. Section 66-8-122 NMSA 1978 (being Laws 1953,
10 Chapter 139, Section 185, as amended) is amended to read:

11 "66-8-122. IMMEDIATE APPEARANCE BEFORE MAGISTRATE.--
12 Whenever any person is arrested for any violation of the
13 Motor Vehicle Code or other law relating to motor vehicles
14 punishable as a misdemeanor, [~~he~~] the person shall be
15 immediately taken before an available magistrate in the
16 county where the violation occurred who has jurisdiction of
17 the offense when the:

- 18 A. person requests immediate appearance;
19 B. person is charged with driving while under the
20 influence of intoxicating liquor or narcotic drugs;
21 C. person is charged with failure to stop in the
22 event of an accident causing death, personal injuries or
23 damage to property;
24 D. person is charged with reckless driving;
25 E. arresting officer has good cause to believe

.191788.2

underscoring material = new
~~[bracketed material]~~ = delete

1 the person arrested has committed a felony;

2 F. person refuses to give [~~his~~] the person's
3 written promise to appear in court or acknowledge receipt of
4 a warning notice; or

5 G. person is charged with driving when [~~his~~] the
6 person's privilege to do so was suspended or revoked pursuant
7 to Section 66-8-111 NMSA 1978 or pursuant to a conviction for
8 driving while under the influence of intoxicating liquor or
9 drugs."

10 SECTION 4. Section 66-8-123 NMSA 1978 (being Laws 1978,
11 Chapter 35, Section 531, as amended) is amended to read:

12 "66-8-123. CONDUCT OF ARRESTING OFFICER--NOTICES BY
13 CITATION.--

14 A. Except as provided in Section 66-8-122 NMSA
15 1978, unless a penalty assessment or warning notice is given,
16 whenever a person is arrested for any violation of the Motor
17 Vehicle Code or other law relating to motor vehicles
18 punishable as a misdemeanor, the arresting officer, using the
19 uniform traffic citation, shall complete the information
20 section and prepare a notice to appear in court, specifying
21 the time and place to appear, have the arrested person sign
22 the agreement to appear as specified, give a copy of the
23 citation to the arrested person and release [~~him~~] the person
24 from custody.

25 B. Whenever a person is arrested for violation of
.191788.2

underscoring material = new
[bracketed material] = delete

1 a penalty assessment misdemeanor and elects to pay the
2 penalty assessment, the arresting officer, using the uniform
3 traffic citation, shall complete the information section and
4 prepare the penalty assessment notice indicating the amount
5 of the penalty assessment, have the arrested person sign the
6 agreement to pay the amount prescribed, give a copy of the
7 citation along with a business reply envelope addressed to
8 the motor vehicle division in Santa Fe to the arrested person
9 and release ~~[him]~~ the person from custody. No officer shall
10 accept custody or payment of any penalty assessment. If the
11 arrested person declines to accept a penalty assessment
12 notice, the officer shall issue a notice to appear.

13 C. The arresting officer may issue a warning
14 notice but shall fill in the information section of the
15 uniform traffic citation and give a copy to the arrested
16 person after requiring ~~[his]~~ the person's signature on the
17 warning notice as an acknowledgment of receipt. No warning
18 notice issued under this section shall be used as evidence of
19 conviction for purposes of suspension or revocation of
20 license under Section 66-5-30 NMSA 1978.

21 D. In order to secure ~~[his]~~ release, the arrested
22 person must give ~~[his]~~ the person's written promise to appear
23 in court or to pay the penalty assessment prescribed or
24 acknowledge receipt of a warning notice.

25 E. A notice to appear issued pursuant to this

.191788.2

underscored material = new
[bracketed material] = delete

1 section shall be filed in the county or district in which the
2 offense is alleged to have been committed.

3 ~~[E.]~~ F. Any officer violating this section is
4 guilty of a misconduct in office and is subject to removal.

5 ~~[F.]~~ G. A law enforcement officer who arrests a
6 person without a warrant for a misdemeanor violation of the
7 Motor Carrier Act, the Criminal Code, the Liquor Control Act
8 or other New Mexico law may use the uniform traffic citation,
9 issued pursuant to procedures outlined in Subsections B
10 through E of Section 31-1-6 NMSA 1978, [~~Subsections B through~~
11 ~~E]~~ in lieu of taking ~~[him]~~ the person to jail."

12 **SECTION 5. EFFECTIVE DATE.**--The effective date of the
13 provisions of this act is July 1, 2013.