

AN ACT

RELATING TO CRIMINAL CITATIONS; PROVIDING FOR THE USE OF
ELECTRONIC CITATIONS.

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

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

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

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

B. A citation issued pursuant to this section
shall contain the name and address of the cited person, the
offense charged and the time and place to appear. The
citation may be a paper citation or an electronic version of a
paper citation. Unless the person requests an earlier date,
the time specified in the citation shall be at least three
days after issuance of the citation. The law enforcement
officer shall explain the person's rights not to sign a
citation, the effect of not signing the citation, the effect
of signing the citation and the effect of failing to appear at
the time and place stated on the citation.

C. The person's signature on the citation constitutes a promise to appear at the time and place stated in the citation. One copy of the citation to appear shall be delivered to the person cited, and the law enforcement officer shall keep a duplicate copy for filing with the court as soon as practicable.

D. A law enforcement officer who prepares a citation pursuant to this section may use a paper citation form or an electronic citation form to record the information required by this section. Regardless of the form of citation used, a physical copy of the citation shall be delivered to the person cited as required by this section. An electronic citation may be signed electronically and the law enforcement officer's copy of a citation may be filed with the court electronically.

E. A citation issued pursuant to this section is a valid complaint if the person receives and signs the citation in paper or electronic form.

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

SECTION 2. Section 66-8-123 NMSA 1978 (being Laws 1978, Chapter 35, Section 531, as amended) is amended to read:

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

A. Except as provided in Section 66-8-122 NMSA 1978, unless a penalty assessment or warning notice is given, whenever a person is arrested for any violation of the Motor Vehicle Code or other law relating to motor vehicles punishable as a misdemeanor, the arresting officer, using the uniform traffic citation in paper or electronic form, shall complete the information section and prepare a notice to appear in court, specifying the time and place to appear, have the arrested person sign the agreement to appear as specified, give a copy of the citation to the arrested person and release the person from custody.

B. Whenever a person is arrested for violation of a penalty assessment misdemeanor and elects to pay the penalty assessment, the arresting officer, using the uniform traffic citation in paper or electronic form, shall complete the information section and prepare the penalty assessment notice indicating the amount of the penalty assessment, have the arrested person sign the agreement to pay the amount prescribed, give a copy of the citation along with a business reply envelope addressed to the motor vehicle division in Santa Fe to the arrested person and release the person from custody. No officer shall accept custody or payment of any penalty assessment. If the arrested person declines to accept

a penalty assessment notice, the officer shall issue a notice to appear.

C. The arresting officer may issue a warning notice, but shall fill in the information section of the uniform traffic citation in paper or electronic form and give a copy to the arrested person after requiring the person's signature on the warning notice as an acknowledgment of receipt. No warning notice issued under this section shall be used as evidence of conviction for purposes of suspension or revocation of license under Section 66-5-30 NMSA 1978.

D. In order to secure release, the arrested person must give the person's written promise to appear in court or to pay the penalty assessment prescribed or acknowledge receipt of a warning notice.

E. Any officer violating this section is guilty of a misconduct in office and is subject to removal.

F. A law enforcement officer who arrests a person without a warrant for a misdemeanor violation of the Motor Carrier Act, the Criminal Code, the Liquor Control Act or other New Mexico law may use the uniform traffic citation in paper or electronic form, issued pursuant to procedures outlined in Subsections B through F of Section 31-1-6 NMSA 1978, in lieu of taking the person to jail.

G. An electronic traffic citation, prescribed by Section 66-8-128 NMSA 1978, is an electronic version of the

uniform traffic citation. For the purposes of this section, an electronic citation may be completed instead of a uniform traffic citation; provided, however, that where this section requires a copy of a citation to be given to an arrested person, a physical copy of the citation shall be provided whether a uniform traffic citation or an electronic form of the uniform traffic citation was used. An electronic form of the uniform traffic citation may be signed electronically."

SECTION 3. Section 66-8-128 NMSA 1978 (being Laws 1978, Chapter 35, Section 536, as amended) is amended to read:

"66-8-128. UNIFORM TRAFFIC CITATION.--

A. The department shall prepare a uniform traffic citation containing at least the following information:

(1) an information section, serially numbered and containing spaces for the name, physical address and mailing address, city and state of the individual charged; the individual's physical description, age and sex; the registration number, year and state of the vehicle involved and its make and type; the state and number of the individual's driver's license; the specific section number and common name of the offense charged under the NMSA 1978 or local law; the date and time of arrest; the arresting officer's signature and identification number; and the conditions existing at the time of the violation;

(2) a notice to appear; and

(3) a penalty assessment notice with a place for the signature of the violator agreeing to pay the penalty assessment prescribed.

B. The department shall prescribe how the uniform traffic citation form may be used as a warning notice.

C. The department shall prescribe the size and number of copies of the paper version of the uniform traffic citation and the disposition of each copy. The department may also prescribe one or more electronic versions of the uniform traffic citation, which may be used in the issuance of citations instead of or with paper uniform traffic citations.

D. Any entity that wishes to submit electronic traffic citations instead of or with paper uniform traffic citations required to be submitted to the department shall secure the prior permission of the department.

E. An electronic version of a uniform traffic citation shall include the same information required to be included in a uniform traffic citation. An electronic version of a uniform traffic citation may be signed electronically and a law enforcement officer may submit or file with a court an electronic version of a uniform traffic citation if prior permission of the department has been secured. Where the law requires a law enforcement officer to provide a copy of a citation to a person cited or arrested, a physical copy of the citation shall be provided regardless of whether a paper

uniform traffic citation or an electronic version of a uniform traffic citation was used."

SECTION 4. Section 66-8-130 NMSA 1978 (being Laws 1978, Chapter 35, Section 538, as amended) is amended to read:

"66-8-130. ALL TRAFFIC CITATIONS TO CONFORM--
MUNICIPALITIES MAY PASS ORDINANCE TO ESTABLISH SIMILAR
PROGRAM.--

A. The uniform traffic citation, in paper or electronic form, shall be used by all state and local agencies enforcing laws and ordinances relating to motor vehicles. A municipality may, by passage of an ordinance, establish a municipal penalty assessment program similar to that established in Sections 66-8-116 through 66-8-117 NMSA 1978 for violations of provisions of the Motor Vehicle Code. Every municipality that has adopted an ordinance to establish a penalty assessment program shall assess on all penalty assessment misdemeanors after January 1, 1984, in addition to the penalty assessment, a penalty assessment fee of ten dollars (\$10.00) to be deposited in a special fund in the municipal treasury for use by the municipality only for municipal jailer training; for the construction planning, construction, operation and maintenance of the municipal jail; for paying the costs of housing that municipality's prisoners in other detention facilities in the state; or for complying with match or contribution requirements for the receipt of

federal funds relating to jails. Such a municipal program shall be limited to violations of municipal traffic ordinances.

B. All penalty assessments under a municipal program authorized by this section shall be processed by the municipal court, and all fines and fees collected shall be deposited in the treasury of the municipality. A copy of each penalty assessment processed shall be forwarded to the division within ten days of completion of local processing for posting to the driver's record. With the prior approval of the director, the required information may be submitted to the division by electronic means in lieu of forwarding copies of the penalty assessments.

C. Each agency shall provide itself with copies conforming exactly in size and format with the uniform traffic citation and the electronic version of the uniform traffic citation if applicable, prescribed by the director, and any alterations to the format to conform with local conditions must be approved by the director."

SECTION 5. TEMPORARY PROVISION--PROCEDURES TO IMPLEMENT THE USE OF ELECTRONIC CITATIONS.--The department of public safety and the motor vehicle division of the taxation and revenue department shall develop procedures to carry out the provisions of this act.

SECTION 6. EFFECTIVE DATE.--The effective date of the

provisions of this act is July 1, 2013. _____

HJC/HB 178
Page 9