

1 SENATE BILL 222

2 **52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015**

3 INTRODUCED BY

4 Cliff R. Pirtle

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10 AN ACT

11 RELATING TO JURISDICTION; REQUIRING TRAFFIC CITATIONS TO BE  
12 FILED IN THE COUNTY IN WHICH THE VIOLATION IS ALLEGED TO HAVE  
13 BEEN COMMITTED.

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

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

18 "31-1-6. CITATION IN LIEU OF ARREST WITHOUT A WARRANT.--

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

24 B. A citation issued pursuant to this section shall  
25 contain the name and address of the cited person, the offense

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

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

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

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

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

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

11           "35-3-6. JURISDICTION--TERRITORIAL LIMITS.--

12           A. The territorial jurisdiction of a magistrate is  
13 coextensive with the magistrate district in which the  
14 magistrate serves. [~~A magistrate also has jurisdiction in any  
15 criminal action involving violation of a law relating to motor  
16 vehicles arising in a magistrate district adjoining at any  
17 point that in which the magistrate serves and within magistrate  
18 trial jurisdiction; provided that the defendant is entitled to  
19 a change of venue to the district where the cause of action  
20 arose if the defendant so moves at, or within fifteen days  
21 after, arraignment.~~]

22           B. A magistrate has jurisdiction to sit in any  
23 action arising in any other magistrate district when designated  
24 for a specific period of time by a district judge because of  
25 the unavailability of a magistrate in that magistrate district.

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1 A magistrate acting in another magistrate district by  
2 designation pursuant to this subsection shall include the cases  
3 heard by designation in the magistrate's own reports to the  
4 administrative office of the courts, indicating on the reports  
5 that the magistrate's jurisdiction is by designation.

6 C. In a criminal action in which a magistrate has  
7 territorial jurisdiction over the offense pursuant to this  
8 section, the magistrate court has personal jurisdiction over  
9 the defendant for the purpose of service of process upon the  
10 defendant wherever the defendant resides or may be found within  
11 the state.

12 D. In a civil action arising within the  
13 magistrate's territorial jurisdiction, the magistrate court has  
14 personal jurisdiction over the defendant for the purpose of  
15 service of process upon the defendant wherever the defendant  
16 resides or may be found within the state.

17 E. The territorial limitations of magistrate  
18 court jurisdiction shall not apply to actions to enforce  
19 judgments entered in the magistrate district and writs issued  
20 in aid of those actions."

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

23 "66-8-122. IMMEDIATE APPEARANCE BEFORE MAGISTRATE.--  
24 Whenever any person is arrested for any violation of the  
25 Motor Vehicle Code or other law relating to motor vehicles

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1 punishable as a misdemeanor, [~~he~~] the person shall be  
2 immediately taken before an available magistrate in the  
3 county where the violation is alleged to have been committed  
4 who has jurisdiction of the offense when the:

5 A. person requests immediate appearance;

6 B. person is charged with driving while under the  
7 influence of intoxicating liquor or narcotic drugs;

8 C. person is charged with failure to stop in the  
9 event of an accident causing death, personal injuries or  
10 damage to property;

11 D. person is charged with reckless driving;

12 E. arresting officer has good cause to believe  
13 the person arrested has committed a felony;

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

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

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

24 "66-8-123. CONDUCT OF ARRESTING OFFICER--NOTICES BY  
25 CITATION.--

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1           A. Except as provided in Section 66-8-122 NMSA  
2           1978, unless a penalty assessment or warning notice is given,  
3           whenever a person is arrested for any violation of the Motor  
4           Vehicle Code or other law relating to motor vehicles  
5           punishable as a misdemeanor, the arresting officer, using the  
6           uniform traffic citation in paper or electronic form, shall  
7           complete the information section and prepare a notice to  
8           appear in court, specifying the time and place to appear,  
9           have the arrested person sign the agreement to appear as  
10          specified, give a copy of the citation to the arrested person  
11          and release the person from custody.

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

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

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

13           E. A notice to appear issued pursuant to this  
14 section shall be filed in the county in which the offense is  
15 alleged to have been committed.

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

18           ~~[F-]~~ G. A law enforcement officer who arrests a  
19 person without a warrant for a misdemeanor violation of the  
20 Motor Carrier Act, the Criminal Code, the Liquor Control Act  
21 or other New Mexico law may use the uniform traffic citation  
22 in paper or electronic form, issued pursuant to procedures  
23 outlined in Subsections B through F of Section 31-1-6 NMSA  
24 1978, in lieu of taking the person to jail.

25           ~~[G-]~~ H. An electronic traffic citation,

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1 prescribed by Section 66-8-128 NMSA 1978, is an electronic  
2 version of the uniform traffic citation. For the purposes of  
3 this section, an electronic citation may be completed instead  
4 of a uniform traffic citation; provided, however, that where  
5 this section requires a copy of a citation to be given to an  
6 arrested person, a physical copy of the citation shall be  
7 provided whether a uniform traffic citation or an electronic  
8 form of the uniform traffic citation was used. An electronic  
9 form of the uniform traffic citation may be signed  
10 electronically."

11 SECTION 5. EFFECTIVE DATE.--The effective date of the  
12 provisions of this act is July 1, 2015.