

HOUSE BILL No. 4849

May 22, 1991, Introduced by Reps. Bandstra, Nye, Fitzgerald, London, Martin, Bouchard, Gubow, Yokich, Perry Bullard and Power and referred to the Committee on Judiciary.

A bill to amend sections 727 and 728 of Act No. 300 of the Public Acts of 1949, entitled as amended

"Michigan vehicle code,"

section 727 as amended by Act No. 63 of the Public Acts of 1983 and section 728 as amended by Act No. 346 of the Public Acts of 1988, being sections 257.727 and 257.728 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 727 and 728 of Act No. 300 of the
2 Public Acts of 1949, section 727 as amended by Act No. 63 of the
3 Public Acts of 1983 and section 728 as amended by Act No. 346 of
4 the Public Acts of 1988, being sections 257.727 and 257.728 of
5 the Michigan Compiled Laws, are amended to read as follows:

6 Sec. 727. When a person is arrested without a warrant in
7 any of the following cases, the arrested person shall, without

1 unreasonable delay, be ~~taken before~~ ARRAIGNED BY a magistrate
2 who is nearest or most accessible within the judicial district as
3 provided in section 13 of chapter IV of the code of criminal pro-
4 cedure, Act No. 175 of the Public Acts of 1927, being section
5 764.13 of the Michigan Compiled Laws, or, if a minor, taken
6 before the probate court within the county in which the offense
7 charged is alleged to have been committed:

8 (1) ~~When the~~ THE person is arrested upon a charge of neg-
9 ligent homicide.

10 (2) ~~When the~~ THE person is arrested under section 625 or
11 an ordinance substantially corresponding to that section.

12 (3) ~~When a~~ A person is arrested under section 626 or an
13 ordinance substantially corresponding to that section. If under
14 the existing circumstances it does not appear that releasing the
15 person pending the issuance of a warrant will constitute a public
16 menace, the arresting officer may proceed in such cases as pro-
17 vided by section 728.

18 (4) ~~When a~~ A person arrested does not have in his or her
19 immediate possession a valid operator's or chauffeur's license or
20 the receipt described in section 311a. If the arresting officer
21 otherwise satisfactorily determines the identity of the person
22 and the practicability of subsequent apprehension ~~in the event~~
23 ~~of~~ IF the ~~person's failure~~ PERSON FAILS to voluntarily appear
24 before a designated magistrate or probate court as directed, the
25 officer may release the person from custody with instructions to
26 appear in court, given in the form of a citation as prescribed by
27 section 728.

1 Sec. 728. (1) When a person is arrested without a warrant
2 for a violation of this act punishable as a misdemeanor, or an
3 ordinance substantially corresponding to a provision of this act
4 and punishable as a misdemeanor, under conditions not referred to
5 in sections 617, 619, and 727(1), (2), and (3), the arresting
6 officer shall prepare, as soon as possible and as completely as
7 possible, an original and 3 copies of a written citation to
8 appear in court containing the name and address of the person,
9 the violation charged, and the time and place when and where the
10 person shall appear in court. The officer shall inform the
11 offender of the violation and shall give the second copy of the
12 citation to the alleged offender. If the arrested person
13 demands, he or she shall be ~~taken before~~ ARRAIGNED BY a magis-
14 trate or probate court as provided in section 727 in lieu of
15 being given the citation.

16 (2) The time specified in the citation to appear shall be
17 within a reasonable time after the arrest.

18 (3) The place specified in the citation to appear shall be
19 before a magistrate or probate court within the county in which
20 the violation charged is alleged to have been committed and who
21 has jurisdiction of the violation.

22 (4) Appearance may be made in person, by representation, or
23 by mail. ~~When~~ IF appearance is made by representation or mail,
24 the magistrate may accept the plea of guilty or not guilty for
25 purposes of arraignment, with the same effect as though the
26 person personally appeared before him or her. The magistrate, by
27 giving 5 days' notice of the date of appearance, may require

1 appearance in person at the time and place designated in the
2 citation.

3 (5) When a person who is not a resident of this state is
4 arrested without warrant for a violation of this act which is
5 punishable as a misdemeanor, or an ordinance substantially corre-
6 sponding to a provision of this act and punishable as a misde-
7 meanor, under conditions not referred to in section 727, the
8 arresting officer, upon demand of the arrested person, immedi-
9 ately shall take the person ~~before~~ FOR ARRAIGNMENT BY a magis-
10 trate ~~of~~ IN the vicinity to answer to the complaint made
11 against the person. If a magistrate is not available or an imme-
12 diate trial cannot be had, the person arrested may recognize to
13 the officer for his or her appearance by leaving with the officer
14 a guaranteed appearance certificate or a sum of money not to
15 exceed \$100.00, in which case the following provisions ~~shall~~
16 apply:

17 (a) The officer making the arrest shall give a receipt to
18 the person arrested for the guaranteed appearance certificate or
19 the money deposited together with a written citation as provided
20 in subsection (1).

21 (b) If the alleged offender fails to appear as required in
22 the citation, the guaranteed appearance certificate or deposit
23 shall be forfeited as in other cases of default in bail in addi-
24 tion to any other penalty provided in this chapter.

25 (c) At or before the completion of his or her tour of duty,
26 a police officer taking a certificate or deposit of money shall
27 deliver the certificate or deposit of money either to the

1 magistrate named in the citation together with a report of the
2 facts relating to the arrest, or to the police chief or person
3 authorized by the police chief to receive certificates and
4 deposits. The police chief or person authorized by the police
5 chief shall deposit with the court the certificate or the money
6 deposited and the citation in the same manner as prescribed for
7 citations in section 728a. Failure to make a report and deliver
8 the money deposited ~~shall be~~ IS embezzlement of public money.

9 (d) "Guaranteed appearance certificate" means a card or cer-
10 tificate containing a printed statement that a surety company
11 authorized to do business in this state guarantees the appearance
12 of the person whose signature appears on the card or certificate,
13 and that the company, if the person fails to appear in court at
14 the time of trial or sentencing or to pay any fines or costs
15 imposed pursuant to this act, will pay any fine, costs, or bond
16 forfeiture imposed on the person in a total amount not to exceed
17 \$200.00.

18 (6) An officer making an arrest under this chapter for a
19 misdemeanor without a warrant, except under section 727(1), (2),
20 and (3), ~~shall~~ IS not ~~be~~ entitled to any fees for making the
21 arrest or the issuance of a citation under this section.

22 (7) An officer or magistrate violating this section is
23 guilty of misconduct in office and subject to removal from
24 office.

25 (8) A police officer may issue a citation to a person who is
26 a driver of a motor vehicle involved in an accident ~~when~~ IF,
27 based upon personal investigation, the officer has reasonable

1 cause to believe that the person has committed a misdemeanor
2 under the act in connection with the accident. The officer shall
3 prepare an original and 3 copies of the citation, setting forth
4 the name and address of the person, the violation that may be
5 charged against the person, and the time and place of the appear-
6 ance of the person in court. The citation shall inform the
7 person of the office, bureau, or department to which requests for
8 a change or adjournment of the court date may be made.

9 (9) If the citation is issued to a person who is operating a
10 commercial motor vehicle, the citation shall contain the vehicle
11 group designation and indorsement description of the vehicle
12 operated by the person at the time of the alleged violation.

13 Section 2. This amendatory act shall not take effect unless
14 all of the following bills of the 86th Legislature are enacted
15 into law:

16 (a) Senate Bill No. _____ or House Bill No. 4848 (request
17 no. 01391'91).

18 (b) Senate Bill No. _____ or House Bill No. 4850 (request
19 no. 01393'91).

20 (c) Senate Bill No. _____ or House Bill No. 4851 (request
21 no. 01394'91).

22 (d) Senate Bill No. _____ or House Bill No. 4852 (request
23 no. 01395'91).