

Act No. 301  
Public Acts of 1993  
Approved by the Governor  
December 23, 1993  
Filed with the Secretary of State  
December 28, 1993

**STATE OF MICHIGAN  
87TH LEGISLATURE  
REGULAR SESSION OF 1993**

Introduced by Reps. Bandstra, Mathieu, Nye, Yokich and Curtis

# **ENROLLED HOUSE BILL No. 4909**

AN ACT to amend sections 727 and 728 of Act No. 300 of the Public Acts of 1949, entitled as amended "An act to provide for the registration, titling, sale, transfer, and regulation of certain vehicles operated upon the public highways of this state or any other place open to the general public or generally accessible to motor vehicles and distressed vehicles; to provide for the licensing of dealers; to provide for the examination, licensing, and control of operators and chauffeurs; to provide for the giving of proof of financial responsibility and security by owners and operators of vehicles; to provide for the imposition, levy, and collection of specific taxes on vehicles, and the levy and collection of sales and use taxes, license fees, and permit fees; to provide for the regulation and use of streets and highways; to create certain funds; to provide penalties and sanctions for a violation of this act; to provide for civil liability of owners and operators of vehicles and service of process on residents and nonresidents; to provide for the levy of certain assessments; to provide for the enforcement of this act; to provide for the creation of and to prescribe the powers and duties of certain state and local agencies; to repeal all other acts or parts of acts inconsistent with this act or contrary to this act; and to repeal certain parts of this act on a specific date," section 727 as amended by Act No. 99 of the Public Acts of 1991 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:*

Section 1. Sections 727 and 728 of Act No. 300 of the Public Acts of 1949, section 727 as amended by Act No. 99 of the Public Acts of 1991 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, are amended to read as follows:

Sec. 727. If a person is arrested without a warrant in any of the following cases, the arrested person shall, without unreasonable delay, be arraigned by the magistrate who is nearest or most accessible within the judicial district as provided in section 13 of chapter IV of the code of criminal procedure, Act No. 175 of the Public Acts of 1927, being section 764.13 of the Michigan Compiled Laws, or, if a minor, taken before the probate court within the county in which the offense charged is alleged to have been committed:

(a) The person is arrested upon a charge of negligent homicide.

(b) The person is arrested under section 625(1), (3), (4), or (5), or an ordinance substantially corresponding to section 625(1) or (3).

(c) A person is arrested under section 626 or an ordinance substantially corresponding to that section. If under the existing circumstances it does not appear that releasing the person pending the issuance of a warrant will constitute a public menace, the arresting officer may proceed as provided by section 728.

(d) A person arrested does not have in his or her immediate possession a valid operator's or chauffeur's license or the receipt described in section 311a. If the arresting officer otherwise satisfactorily determines the identity of the person and the practicability of subsequent apprehension if the person fails to voluntarily appear before a designated magistrate or probate court as directed, the officer may release the person from custody with instructions to appear in court, given in the form of a citation as prescribed by section 728.

Sec. 728. (1) When a person is arrested without a warrant for a violation of this act punishable as a misdemeanor, or an ordinance substantially corresponding to a provision of this act and punishable as a misdemeanor, under conditions not referred to in section 617, 619, or 727, the arresting officer shall prepare, as soon as possible and as completely as possible, an original and 3 copies of a written citation to appear in court containing the name and address of the person, the violation charged, and the time and place when and where the person shall appear in court. The officer shall inform the offender of the violation and shall give the second copy of the citation to the alleged offender. If the arrested person demands, he or she shall be arraigned by a magistrate or probate court as provided in section 727 in lieu of being given the citation.

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

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

(4) Appearance may be made in person, by representation, or by mail. If appearance is made by representation or mail, the magistrate may accept the plea of guilty or not guilty for purposes of arraignment, with the same effect as though the person personally appeared before him or her. The magistrate, by giving 5 days' notice of the date of appearance, may require appearance in person at the time and place designated in the citation.

(5) If a person who is not a resident of this state is arrested without warrant for a violation of this act which is punishable as a misdemeanor, or an ordinance substantially corresponding to a provision of this act and punishable as a misdemeanor, under conditions not referred to in section 727, the arresting officer, upon demand of the arrested person, immediately shall take the person for arraignment by a magistrate in the vicinity to answer to the complaint made against the person. If a magistrate is not available or an immediate trial cannot be had, the person arrested may recognize to the officer for his or her appearance by leaving with the officer a guaranteed appearance certificate or a sum of money not to exceed \$100.00, in which case the following provisions apply:

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

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

(c) At or before the completion of his or her tour of duty, a police officer taking a certificate or deposit of money shall deliver the certificate or deposit of money either to the magistrate named in the citation together with a report of the facts relating to the arrest, or to the police chief or person authorized by the police chief to receive certificates and deposits. The police chief or person authorized by the police chief shall deposit with the court the certificate or the money deposited and the citation in the same manner as prescribed for citations in section 728a. Failure to make a report and deliver the money deposited is embezzlement of public money.

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

(6) An officer making an arrest under this chapter for a misdemeanor without a warrant, except under section 727 is not entitled to any fees for making the arrest or the issuance of a citation under this section.

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

(8) A police officer may issue a citation to a person who is a driver of a motor vehicle involved in an accident if, based upon personal investigation, the officer has reasonable cause to believe that the person has committed a misdemeanor under this act in connection with the accident. The officer shall prepare an original and 3 copies of the citation, setting forth the name and address of the person, the violation that may be charged against the person, and the time and place of the appearance of the person in court. The citation shall inform the person of the office, bureau, or department to which requests for a change or adjournment of the court date may be made.

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

Section 2. This amendatory act shall not take effect unless all of the following bills of the 87th Legislature are enacted into law:

- (a) House Bill No. 4910.
- (b) House Bill No. 4911.
- (c) House Bill No. 4912.
- (d) House Bill No. 4913.

This act is ordered to take immediate effect.

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Co-Clerk of the House of Representatives.

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Secretary of the Senate.

Approved -----

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Governor.