



HOUSE BILL No. 4909

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July 1, 1993, Introduced by Reps. Bandstra, Mathieu, Nye, Yokich and Curtis 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. 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:**

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. 99 of the  
3 Public Acts of 1991 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. If a person is arrested without a warrant in any  
7 of the following cases, the arrested person shall, without

1 unreasonable delay, be ~~taken before~~ ARRAIGNED BY the 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 (a) ~~If the~~ THE person is arrested upon a charge of negli-  
9 gent homicide.

10 (b) ~~If the~~ THE person is arrested under section 625(1),  
11 (3), (4), or (5), or an ordinance substantially corresponding to  
12 section 625(1) or (3).

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

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

1 appear in court, given in the form of a citation as prescribed by  
2 section 728.

3       Sec. 728. (1) When a person is arrested without a warrant  
4 for a violation of this act punishable as a misdemeanor, or an  
5 ordinance substantially corresponding to a provision of this act  
6 and punishable as a misdemeanor, under conditions not referred to  
7 in ~~sections 617, 619, and 727(1), (2), and (3)~~ SECTION 617,  
8 619, OR 727, the arresting officer shall prepare, as soon as pos-  
9 sible and as completely as possible, an original and 3 copies of  
10 a written citation to appear in court containing the name and  
11 address of the person, the violation charged, and the time and  
12 place when and where the person shall appear in court. The offi-  
13 cer shall inform the offender of the violation and shall give the  
14 second copy of the citation to the alleged offender. If the  
15 arrested person demands, he or she shall be ~~taken before~~  
16 ARRAIGNED BY a magistrate or probate court as provided in section  
17 727 in lieu of being given the citation.

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

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

24       (4) Appearance may be made in person, by representation, or  
25 by mail. ~~When~~ IF appearance is made by representation or mail,  
26 the magistrate may accept the plea of guilty or not guilty for  
27 purposes of arraignment, with the same effect as though the

1 person personally appeared before him or her. The magistrate, by  
2 giving 5 days' notice of the date of appearance, may require  
3 appearance in person at the time and place designated in the  
4 citation.

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

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

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

1 (c) At or before the completion of his or her tour of duty,  
2 a police officer taking a certificate or deposit of money shall  
3 deliver the certificate or deposit of money either to the magis-  
4 trate named in the citation together with a report of the facts  
5 relating to the arrest, or to the police chief or person autho-  
6 rized by the police chief to receive certificates and deposits.  
7 The police chief or person authorized by the police chief shall  
8 deposit with the court the certificate or the money deposited and  
9 the citation in the same manner as prescribed for citations in  
10 section 728a. Failure to make a report and deliver the money  
11 deposited ~~shall be~~ IS embezzlement of public money.

12 (d) "Guaranteed appearance certificate" means a card or cer-  
13 tificate containing a printed statement that a surety company  
14 authorized to do business in this state guarantees the appearance  
15 of the person whose signature appears on the card or certificate,  
16 and that the company, if the person fails to appear in court at  
17 the time of trial or sentencing or to pay any fines or costs  
18 imposed pursuant to this act, will pay any fine, costs, or bond  
19 forfeiture imposed on the person in a total amount not to exceed  
20 \$200.00.

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

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

1           (8) A police officer may issue a citation to a person who is  
 2 a driver of a motor vehicle involved in an accident ~~when~~ IF,  
 3 based upon personal investigation, the officer has reasonable  
 4 cause to believe that the person has committed a misdemeanor  
 5 under ~~the~~ THIS act in connection with the accident. The offi-  
 6 cer shall prepare an original and 3 copies of the citation, set-  
 7 ting forth the name and address of the person, the violation that  
 8 may be charged against the person, and the time and place of the  
 9 appearance of the person in court. The citation shall inform the  
 10 person of the office, bureau, or department to which requests for  
 11 a change or adjournment of the court date may be made.

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

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

19           (a) Senate Bill No. \_\_\_\_\_ or House Bill No. 4910 (request  
 20 no. 01538'93).

21           (b) Senate Bill No. \_\_\_\_\_ or House Bill No. 4911 (request  
 22 no. 01540'93).

23           (c) Senate Bill No. \_\_\_\_\_ or House Bill No. 4912 (request  
 24 no. 02430'93).

25           (d) Senate Bill No. \_\_\_\_\_ or House Bill No. 4913 (request  
 26 no. 02431'93).