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H. B. 4297

(By Delegates Moore, Poore, Fleischauer,
Skaff and Sobonya)

[Introduced January 25, 2012; referred to the
Committee on the Judiciary.]

10 A BILL to amend and reenact §17C-19-3 of the Code of West Virginia,
11 1931, as amended, relating to authorizing law enforcement to
12 issue a charge by citation instead of prompt presentment
13 before a magistrate when making an arrest for driving with a
14 suspended or revoked license for miscellaneous reasons if a
15 magistrate or judge is not reasonably available.

16 *Be it enacted by the Legislature of West Virginia:*

17 That §17C-19-3 of the Code of West Virginia, 1931, as amended,
18 be amended and reenacted to read as follows:

19 **ARTICLE 19. PARTIES, PROCEDURE UPON ARREST AND REPORTS IN**
20 **CRIMINAL CASES.**

21 **§17C-19-3. When person arrested must be taken immediately before**
22 **a magistrate or court.**

23 (a) Whenever any person is arrested for any violation of this
24 chapter punishable as a misdemeanor, the arrested person shall be

1 immediately taken before a magistrate or court within the county in
2 which the offense charged is alleged to have been committed and who
3 has jurisdiction of the offense and is nearest or most accessible
4 with reference to the place where the arrest is made, in any of the
5 following cases:

6 (1) When a person arrested demands an immediate appearance
7 before a magistrate or court;

8 (2) When the person is arrested upon a charge of negligent
9 homicide;

10 (3) When the person is arrested upon a charge of driving while
11 under the influence of alcohol, or under the influence of any
12 controlled substance, or under the influence of any other drug, or
13 under the combined influence of alcohol and any controlled
14 substance or any other drug;

15 (4) When the person is arrested upon a charge of failure to
16 stop in the event of an accident causing death, personal injury or
17 damage to property;

18 (5) When the person is arrested upon a charge of violating
19 section fourteen, article seventeen of this chapter relating to
20 weight violations, except as otherwise provided in that section;

21 (6) When the person arrested is a resident of a state that has
22 not entered into a nonresident violator compact with this state;

23 (7) In any other event when the person arrested refuses to
24 accept the written notice to appear in court as his or her promise

1 to appear in court or to comply with the terms of the written
2 notice to appear in court as provided in section four of this
3 article; and

4 (8) When a person is arrested for driving with a suspended or
5 revoked driver's license for miscellaneous reasons or driving under
6 the influence of alcohol, having a concentration of alcohol of
7 eight hundredth of one percent or more by weight. When a person is
8 arrested for driving with a suspended or revoked driver's license
9 for miscellaneous reasons, the arresting officer may issue a charge
10 by citation if a magistrate or judge is not reasonably available.

11 (b) When the person arrested is a resident of a state that has
12 entered into a nonresident violator compact with this state, the
13 arresting officer shall issue the person a written notice as
14 provided for in section four of this article and may not take the
15 person immediately before a magistrate or court, except under the
16 terms of the compact or under the circumstances set forth in
17 subsection (a) of this section.

NOTE: The purpose of this bill is to authorize arresting officers to charge by citation instead of prompt presentment before a magistrate when making an arrest for driving with a suspended or revoked driver's license for miscellaneous reasons if a magistrate or judge is not reasonably available.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.