

1 ENROLLED

2 COMMITTEE SUBSTITUTE

3 for

4 H. B. 2351

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

6 [Passed April 12, 2013; in effect ninety days from passage.]

7  
8 AN ACT to amend and reenact §17C-19-3 of the Code of West Virginia,  
9 1931, as amended, relating to requiring an arresting law  
10 enforcement officer to promptly present before a magistrate or  
11 court an individual charged with driving with a suspended or  
12 revoked license, and providing the option to issue a citation  
13 if a magistrate or court is not on duty or reasonably  
14 available.

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

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

18 **ARTICLE 19. PARTIES, PROCEDURE UPON ARREST AND REPORTS IN**

19 **CRIMINAL CASES.**

20 **§17C-19-3. When person arrested must be taken immediately before**  
21 **a magistrate or court.**

22 (a) Whenever any person is arrested for any violation of this  
23 chapter punishable as a misdemeanor, the arrested person shall be  
24 immediately taken before a magistrate or court within the county in  
25 which the offense charged is alleged to have been committed and who

1 has jurisdiction of the offense and is nearest or most accessible  
2 with reference to the place where the arrest is made, in any of the  
3 following cases:

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

6 (2) When the person is arrested upon a charge of negligent  
7 homicide;

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

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

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

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

21 (7) In any other event when the person arrested refuses to  
22 accept the written notice to appear in court as his or her promise  
23 to appear in court or to comply with the terms of the written  
24 notice to appear in court as provided in section four of this  
25 article; and

26 (8) When a person is arrested for driving with a suspended or

1 revoked driver's license for miscellaneous reasons. *Provided*, That  
2 when a person is arrested for driving with a suspended or revoked  
3 driver's license for miscellaneous reasons, the arresting officer  
4 may issue a charge by citation if a magistrate or judge is not on  
5 duty or reasonably available.

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