

1 **COMMITTEE SUBSTITUTE**

2 **for**

3 **H. B. 2351**

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

5 (Originating in the Committee on the Judiciary)

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7
8 [March 5, 2013]

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

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

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

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

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

24 (a) Whenever any person is arrested for any violation of this
25 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
25 to appear in court or to comply with the terms of the written
26 notice to appear in court as provided in section four of this

1 article; and

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

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