

COMMITTEE SUBSTITUTE

for

H. B. 2351

(BY DELEGATES MOORE, POORE, FLEISCHAUER, AND SKAFF)

(Originating in the Committee on the Judiciary)

[March 5, 2013]

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

Be it enacted by the Legislature of West Virginia:

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

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

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

1 (a) Whenever any person is arrested for any violation of this
2 chapter punishable as a misdemeanor, the arrested person shall
3 be immediately taken before a magistrate or court within the
4 county in which the offense charged is alleged to have been
5 committed and who has jurisdiction of the offense and is nearest
6 or most accessible with reference to the place where the arrest is
7 made, in any of the following cases:

8 (1) When a person arrested demands an immediate appear-
9 ance before a magistrate or court;

10 (2) When the person is arrested upon a charge of negligent
11 homicide;

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

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

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

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

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

30 (8) When a person is arrested for driving with a suspended
31 or revoked driver's license for miscellaneous reasons. *Provided,*
32 That when a person is arrested for driving with a suspended or
33 revoked driver's license for miscellaneous reasons, the arresting
34 officer may issue a charge by citation if a magistrate or judge is
35 not on duty or reasonably available.

36 (b) When the person arrested is a resident of a state that has
37 entered into a nonresident violator compact with this state, the
38 arresting officer shall issue the person a written notice as
39 provided for in section four of this article and may not take the

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40 person immediately before a magistrate or court, except under
41 the terms of the compact or under the circumstances set forth in
42 subsection (a) of this section.