1	н. в. 2351
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3	(By Delegates Moore, Poore, Fleischauer and Skaff)
4	[Introduced February 13, 2013; referred to the
5	Committee on the Judiciary.]
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L 0	A BILL to amend and reenact §17C-19-3 of the Code of West Virginia,
L1	1931, as amended, relating to authorizing law enforcement to
L2	issue a charge by citation instead of prompt presentment
L3	before a magistrate when making an arrest for driving with a
L 4	suspended or revoked license for miscellaneous reasons if a
L 5	magistrate or judge is not reasonably available.
L 6	Be it enacted by the Legislature of West Virginia:
L 7	That \$17C-19-3 of the Code of West Virginia, 1931, as amended,
L 8	be amended and reenacted to read as follows:
L 9	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

- 1 chapter punishable as a misdemeanor, the arrested person shall be
- 2 immediately taken before a magistrate or court within the county in
- 3 which the offense charged is alleged to have been committed and who
- 4 has jurisdiction of the offense and is nearest or most accessible
- 5 with reference to the place where the arrest is made, in any of the $\,$
- 6 following cases:
- 7 (1) When a person arrested demands an immediate appearance
- 8 before a magistrate or court;
- 9 (2) When the person is arrested upon a charge of negligent
- 10 homicide;
- 11 (3) When the person is arrested upon a charge of driving while
- 12 under the influence of alcohol, or under the influence of any
- 13 controlled substance, or under the influence of any other drug, or
- 14 under the combined influence of alcohol and any controlled
- 15 substance or any other drug;
- 16 (4) When the person is arrested upon a charge of failure to
- 17 stop in the event of an accident causing death, personal injury or
- 18 damage to property;
- 19 (5) When the person is arrested upon a charge of violating
- 20 section fourteen, article seventeen of this chapter relating to
- 21 weight violations except as otherwise provided in that section;
- 22 (6) When the person arrested is a resident of a state that has
- 23 not entered into a nonresident violator compact with this state;
- 24 (7) In any other event when the person arrested refuses to

1 accept the written notice to appear in court as his or her promise

2 to appear in court or to comply with the terms of the written

3 notice to appear in court as provided in section four of this

4 article; and

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

6 revoked driver's license for miscellaneous reasons or driving under

7 the influence of alcohol, having a concentration of alcohol of

8 eight hundredth of one percent or more by weight. When a person is

9 arrested for driving with a suspended or revoked driver's license

10 for miscellaneous reasons, the arresting officer may issue a charge

11 by citation if a magistrate or judge is not reasonably available.

12 (b) When the person arrested is a resident of a state that has

13 entered into a nonresident violator compact with this state, the

14 arresting officer shall issue the person a written notice as

15 provided in section four of this article and may not take the

16 person immediately before a magistrate or court, except under the

17 terms of the compact or under the circumstances set forth in

18 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.