

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR  
HOUSE BILL 178

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

AN ACT

RELATING TO CRIMINAL CITATIONS; PROVIDING FOR THE USE OF  
ELECTRONIC CITATIONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 31-1-6 NMSA 1978 (being Laws 1973,  
Chapter 73, Section 4, as amended) is amended to read:

"31-1-6. CITATION IN LIEU OF ARREST WITHOUT A WARRANT.--

A. A law enforcement officer who arrests a person  
without a warrant for a petty misdemeanor or any offense under  
Chapter 17 NMSA 1978 may offer the person arrested the option  
of accepting a citation to appear in lieu of taking ~~him~~ the  
person to jail.

B. A citation issued pursuant to this section shall  
contain the name and address of the cited person, the offense  
charged and the time and place to appear. The citation may be

.192828.2

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1 a paper citation or an electronic version of a paper citation.  
2 Unless the person requests an earlier date, the time specified  
3 in the citation shall be at least three days after issuance of  
4 the citation. The law enforcement officer shall explain the  
5 person's rights not to sign a citation, the effect of not  
6 signing the citation, the effect of signing the citation and  
7 the effect of failing to appear at the time and place stated on  
8 the citation.

9 C. The person's signature on the citation  
10 constitutes a promise to appear at the time and place stated in  
11 the citation. One copy of the citation to appear shall be  
12 delivered to the person cited, and the law enforcement officer  
13 shall keep a duplicate copy [~~which he shall file~~] for filing  
14 with the court as soon as practicable.

15 D. A law enforcement officer who prepares a  
16 citation pursuant to this section may use a paper citation form  
17 or an electronic citation form to record the information  
18 required by this section. Regardless of the form of citation  
19 used, a physical copy of the citation shall be delivered to the  
20 person cited as required by this section. An electronic  
21 citation may be signed electronically and the law enforcement  
22 officer's copy of a citation may be filed with the court  
23 electronically.

24 [~~D.~~] E. A citation issued pursuant to this section  
25 is a valid complaint if the person [~~receiving it appears in~~

1 ~~court~~] receives and signs the citation in paper or electronic  
2 form.

3 ~~[E.]~~ F. It is a petty misdemeanor for a person  
4 signing a citation not to appear at the time and place stated  
5 in the citation regardless of the disposition of the offense  
6 for which the citation was issued. A written promise to appear  
7 may be complied with by appearance of counsel."

8 SECTION 2. Section 66-8-123 NMSA 1978 (being Laws 1978,  
9 Chapter 35, Section 531, as amended) is amended to read:

10 "66-8-123. CONDUCT OF ARRESTING OFFICER--NOTICES BY  
11 CITATION.--

12 A. Except as provided in Section 66-8-122 NMSA  
13 1978, unless a penalty assessment or warning notice is given,  
14 whenever a person is arrested for any violation of the Motor  
15 Vehicle Code or other law relating to motor vehicles punishable  
16 as a misdemeanor, the arresting officer, using the uniform  
17 traffic citation in paper or electronic form, shall complete  
18 the information section and prepare a notice to appear in  
19 court, specifying the time and place to appear, have the  
20 arrested person sign the agreement to appear as specified, give  
21 a copy of the citation to the arrested person and release [~~him~~]  
22 the person from custody.

23 B. Whenever a person is arrested for violation of a  
24 penalty assessment misdemeanor and elects to pay the penalty  
25 assessment, the arresting officer, using the uniform traffic

.192828.2

1 citation in paper or electronic form, shall complete the  
2 information section and prepare the penalty assessment notice  
3 indicating the amount of the penalty assessment, have the  
4 arrested person sign the agreement to pay the amount  
5 prescribed, give a copy of the citation along with a business  
6 reply envelope addressed to the motor vehicle division in Santa  
7 Fe to the arrested person and release [~~him~~] the person from  
8 custody. No officer shall accept custody or payment of any  
9 penalty assessment. If the arrested person declines to accept  
10 a penalty assessment notice, the officer shall issue a notice  
11 to appear.

12 C. The arresting officer may issue a warning  
13 notice, but shall fill in the information section of the  
14 uniform traffic citation in paper or electronic form and give a  
15 copy to the arrested person after requiring [~~his~~] the person's  
16 signature on the warning notice as an acknowledgment of  
17 receipt. No warning notice issued under this section shall be  
18 used as evidence of conviction for purposes of suspension or  
19 revocation of license under Section 66-5-30 NMSA 1978.

20 D. In order to secure [~~his~~] release, the arrested  
21 person must give [~~his~~] the person's written promise to appear  
22 in court or to pay the penalty assessment prescribed or  
23 acknowledge receipt of a warning notice.

24 E. Any officer violating this section is guilty of  
25 a misconduct in office and is subject to removal.

.192828.2

1           F. A law enforcement officer who arrests a person  
 2 without a warrant for a misdemeanor violation of the Motor  
 3 Carrier Act, the Criminal Code, the Liquor Control Act or other  
 4 New Mexico law may use the uniform traffic citation in paper or  
 5 electronic form, issued pursuant to procedures outlined in  
 6 Subsections B through F of Section 31-1-6 NMSA 1978  
 7 [~~Subsections B through E~~], in lieu of taking [him] the person  
 8 to jail.

9           G. An electronic traffic citation, prescribed by  
 10 Section 66-8-128 NMSA 1978, is an electronic version of the  
 11 uniform traffic citation. For the purposes of this section, an  
 12 electronic citation may be completed instead of a uniform  
 13 traffic citation; provided, however, that where this section  
 14 requires a copy of a citation to be given to an arrested  
 15 person, a physical copy of the citation shall be provided  
 16 whether a uniform traffic citation or an electronic form of the  
 17 uniform traffic citation was used. An electronic form of the  
 18 uniform traffic citation may be signed electronically."

19           SECTION 3. Section 66-8-128 NMSA 1978 (being Laws 1978,  
 20 Chapter 35, Section 536, as amended) is amended to read:

21           "66-8-128. UNIFORM TRAFFIC CITATION.--

22           A. The department shall prepare a uniform traffic  
 23 citation containing at least the following information:

24                   (1) an information section, serially numbered  
 25 and containing spaces for the name, physical address and

.192828.2

1 mailing address, city and state of the individual charged; the  
2 individual's physical description, age and sex; the  
3 registration number, year and state of the vehicle involved and  
4 its make and type; the state and number of the individual's  
5 driver's license; the specific section number and common name  
6 of the offense charged under the NMSA 1978 or local law; the  
7 date and time of arrest; the arresting officer's signature and  
8 identification number; and the conditions existing at the time  
9 of the violation;

10 (2) a notice to appear; and

11 (3) a penalty assessment notice with a place  
12 for the signature of the violator agreeing to pay the penalty  
13 assessment prescribed.

14 B. The department shall prescribe how the uniform  
15 traffic citation form may be used as a warning notice.

16 C. The department shall prescribe the size and  
17 number of copies of the paper version of the uniform traffic  
18 citation and the disposition of each copy. The department may  
19 also prescribe one or more electronic versions of the uniform  
20 traffic citation, [~~and these electronic versions~~] which may be  
21 used in the issuance of citations instead of or with paper  
22 uniform traffic citations.

23 D. Any entity that wishes to submit [~~uniform~~]  
24 electronic traffic citations instead of or with paper uniform  
25 traffic citations required to be submitted to the department

.192828.2

1 ~~[by electronic means]~~ shall secure the prior permission of the  
2 department.

3 E. An electronic version of a uniform traffic  
4 citation shall include the same information required to be  
5 included in a uniform traffic citation. An electronic version  
6 of a uniform traffic citation may be signed electronically and  
7 a law enforcement officer may submit or file with a court an  
8 electronic version of a uniform traffic citation if prior  
9 permission of the department has been secured. Where the law  
10 requires a law enforcement officer to provide a copy of a  
11 citation to a person cited or arrested, a physical copy of the  
12 citation shall be provided regardless of whether a paper  
13 uniform traffic citation or an electronic version of a uniform  
14 traffic citation was used."

15 SECTION 4. Section 66-8-130 NMSA 1978 (being Laws 1978,  
16 Chapter 35, Section 538, as amended) is amended to read:

17 "66-8-130. ALL TRAFFIC CITATIONS TO CONFORM--  
18 MUNICIPALITIES MAY PASS ORDINANCE TO ESTABLISH SIMILAR  
19 PROGRAM.--

20 A. The uniform traffic citation, in paper or  
21 electronic form, shall be used by all state and local agencies  
22 enforcing laws and ordinances relating to motor vehicles.

23 ~~[Any]~~ A municipality may, by passage of an ordinance, establish  
24 a municipal penalty assessment program similar to that  
25 established in Sections 66-8-116 through 66-8-117 NMSA 1978 for

.192828.2

1 violations of provisions of the Motor Vehicle Code. Every  
2 municipality that has adopted an ordinance to establish a  
3 penalty assessment program shall assess on all penalty  
4 assessment misdemeanors after January 1, 1984, in addition to  
5 the penalty assessment, a penalty assessment fee of ten dollars  
6 (\$10.00) to be deposited in a special fund in the municipal  
7 treasury for use by the municipality only for municipal jailer  
8 training; for the construction planning, construction,  
9 operation and maintenance of the municipal jail; for paying the  
10 costs of housing that municipality's prisoners in other  
11 detention facilities in the state; or for complying with match  
12 or contribution requirements for the receipt of federal funds  
13 relating to jails. Such a municipal program shall be limited  
14 to violations of municipal traffic ordinances.

15 B. All penalty assessments under a municipal  
16 program authorized by this section shall be processed by the  
17 municipal court, and all fines and fees collected shall be  
18 deposited in the treasury of the municipality. A copy of each  
19 penalty assessment processed shall be forwarded to the division  
20 within ten days of completion of local processing for posting  
21 to the driver's record. With the prior approval of the  
22 director, the required information may be submitted to the  
23 division by electronic means in lieu of forwarding copies of  
24 the penalty assessments.

25 C. Each agency shall provide itself with copies

1 conforming exactly in size and format with the uniform traffic  
2 citation and the electronic version of the uniform traffic  
3 citation if applicable, prescribed by the director, and any  
4 alterations to the format to conform with local conditions must  
5 be approved by the director."

6 SECTION 5. TEMPORARY PROVISION--PROCEDURES TO IMPLEMENT  
7 THE USE OF ELECTRONIC CITATIONS.--The department of public  
8 safety and the motor vehicle division of the taxation and  
9 revenue department shall develop procedures to carry out the  
10 provisions of this act.

11 SECTION 6. EFFECTIVE DATE.--The effective date of the  
12 provisions of this act is July 1, 2013.

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