

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

AN ACT

RELATING TO TRAFFIC CITATIONS; PROVIDING FOR REMITTANCE OF PENALTY ASSESSMENTS TO THE COURTS; ALLOWING PERSONS CHARGED WITH TRAFFIC CITATIONS TO PAY THE PENALTY ASSESSMENT ANYTIME BEFORE APPEARANCE IN COURT; PROVIDING THAT A UNIFORM TRAFFIC CITATION IS A SUMMONS; REQUIRING THAT TRAFFIC CITATIONS BE SUBMITTED TO THE APPROPRIATE COURT WITHIN THREE DAYS OF ISSUANCE; CREATING A FUND; IMPOSING A FEE ON PENALTY ASSESSMENT MISDEMEANORS; MAKING AN APPROPRIATION.

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

SECTION 1. TRAFFIC CITATION ADMINISTRATION

FUND--CREATED--PURPOSE.--

A. The "traffic citation administration fund" is created in the state treasury for appropriation by the legislature to the administrative office of the courts for the administration and processing of traffic citations in the courts, including the funding of full-time-equivalent positions dedicated to the administration and processing of traffic citations. The fund consists of traffic citation administration fees collected pursuant to Sections 35-6-1 and 66-8-116.3 NMSA 1978 and any appropriations, gifts, grants and donations. Income from the fund shall be credited to the fund, and money in the fund shall not revert or be transferred to any other fund at the end of a fiscal year.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

B. Payments from the traffic citation administration fund shall be made upon vouchers issued and signed by the director of the administrative office of the courts upon warrants drawn by the secretary of finance and administration.

SECTION 2. ACCESS TO RECORDS OF PENALTY ASSESSMENTS.--

The administrative office of the courts shall not publish on any public access internet web site the records of a defendant charged with only a penalty assessment if the case is closed. Penalty assessment records are subject to disclosure under the Inspection of Public Records Act.

SECTION 3. Section 35-6-1 NMSA 1978 (being Laws 1968, Chapter 62, Section 92, as amended) is amended to read:

"35-6-1. MAGISTRATE COSTS--SCHEDULE--DEFINITION OF "CONVICTED".--

A. Magistrate judges, including metropolitan court judges, shall assess and collect and shall not waive, defer or suspend the following costs:

- docket fee, criminal actions under Section 29-5-1 NMSA 1978.. . . . \$ 1.00;
 - docket fee, to be collected prior to docketing any other criminal action, except as provided in Subsection B of Section 35-6-3 NMSA 1978. 20.00.
- Proceeds from this docket fee shall be transferred to the administrative office of the courts for

1 deposit in the court facilities fund;
2 docket fee, twenty dollars (\$20.00) of which shall be
3 deposited in the court automation fund and fifteen
4 dollars (\$15.00) of which shall be deposited in the
5 civil legal services fund, to be collected prior to
6 docketing any civil action, except as provided in
7 Subsection A of Section 35-6-3 NMSA 1978. . 72.00;
8 jury fee, to be collected from the party demanding trial
9 by jury in any civil action at the time the demand
10 is filed or made.. . . . 25.00;
11 copying fee, for making and certifying copies of any
12 records in the court, for each page copied by
13 photographic process.. . . . 0.50.
14 Proceeds from this copying fee shall be transferred
15 to the administrative office of the courts for
16 deposit in the court facilities fund; and
17 copying fee, for computer-generated or electronically
18 transferred copies, per page.. . . . 1.00.
19 Proceeds from this copying fee shall be transferred
20 to the administrative office of the courts for
21 deposit in the court automation fund.

22 Except as otherwise specifically provided by law, docket
23 fees shall be paid into the court facilities fund.

24 B. Except as otherwise provided by law, no other
25 costs or fees shall be charged or collected in the magistrate

1 or metropolitan court.

2 C. The magistrate or metropolitan court may grant
3 free process to any party in any civil proceeding or special
4 statutory proceeding upon a proper showing of indigency. The
5 magistrate or metropolitan court may deny free process if it
6 finds that the complaint on its face does not state a cause
7 of action.

8 D. As used in this subsection, "convicted" means
9 the defendant has been found guilty of a criminal charge by
10 the magistrate or metropolitan judge, either after trial, a
11 plea of guilty or a plea of nolo contendere. Magistrate
12 judges, including metropolitan court judges, shall assess and
13 collect and shall not waive, defer or suspend the following
14 costs:

15 (1) corrections fee, to be collected upon
16 conviction from persons convicted of violating any provision
17 of the Motor Vehicle Code involving the operation of a motor
18 vehicle, convicted of a crime constituting a misdemeanor or a
19 petty misdemeanor or convicted of violating any ordinance
20 that may be enforced by the imposition of a term of
21 imprisonment as follows:

- 22 in a county with a metropolitan court. \$10.00;
- 23 in a county without a metropolitan court. 20.00;

24 (2) court automation fee, to be collected upon
25 conviction from persons convicted of violating any provision

1 of the Motor Vehicle Code involving the operation of a motor
2 vehicle, convicted of a crime constituting a misdemeanor or a
3 petty misdemeanor or convicted of violating any ordinance
4 that may be enforced by the imposition of a term of
5 imprisonment. 10.00;

6 (3) traffic safety fee, to be collected upon
7 conviction from persons convicted of violating any provision
8 of the Motor Vehicle Code involving the operation of a motor
9 vehicle.. . . . 3.00;

10 (4) judicial education fee, to be collected
11 upon conviction from persons convicted of operating a motor
12 vehicle in violation of the Motor Vehicle Code, convicted of
13 a crime constituting a misdemeanor or a petty misdemeanor or
14 convicted of violating any ordinance punishable by a term of
15 imprisonment. 3.00;

16 (5) jury and witness fee, to be collected upon
17 conviction from persons convicted of operating a motor
18 vehicle in violation of the Motor Vehicle Code, convicted of
19 a crime constituting a misdemeanor or a petty misdemeanor or
20 convicted of violating any ordinance punishable by a term of
21 imprisonment 5.00;

22 (6) brain injury services fee, to be collected
23 upon conviction from persons convicted of violating any
24 provision of the Motor Vehicle Code involving the operation
25 of a motor vehicle. 5.00;

1 (7) court facilities fee, to be collected upon
2 conviction from persons convicted of violating any provision
3 of the Motor Vehicle Code involving the operation of a motor
4 vehicle, convicted of a crime constituting a misdemeanor or a
5 petty misdemeanor or convicted of violating any ordinance
6 that may be enforced by the imposition of a term of
7 imprisonment as follows:

- 8 in a county with a metropolitan court. 24.00;
- 9 in any other county. 10.00;

10 and

11 (8) traffic citation administration fee, to be
12 collected upon conviction from persons convicted of a penalty
13 assessment misdemeanor. 4.00.

14 E. Metropolitan court judges shall assess and
15 collect and shall not waive, defer or suspend as costs a
16 mediation fee not to exceed five dollars (\$5.00) for the
17 docketing of small claims and criminal actions specified by
18 metropolitan court rule. Proceeds of the mediation fee shall
19 be deposited into the metropolitan court mediation fund."

20 SECTION 4. Section 35-7-4 NMSA 1978 (being Laws 1968,
21 Chapter 62, Section 99, as amended) is amended to read:

22 "35-7-4. MAGISTRATE ADMINISTRATION--MONTHLY
23 REMITTANCES.--Each magistrate court shall pay to the
24 administrative office of the courts, not later than the date
25 each month established by regulation of the director of the

1 administrative office, the amount of all fines, forfeitures
2 and costs collected by the court during the previous month,
3 except for amounts disbursed in accordance with law. The
4 administrative office shall return to each magistrate court a
5 written receipt itemizing all money received. The
6 administrative office shall deposit the amount of all fines
7 and forfeitures with the state treasurer for credit to the
8 current school fund. The administrative office shall deposit
9 the amount of all costs, except all costs collected pursuant
10 to Subsections D and E of Section 35-6-1 NMSA 1978, for
11 credit to the general fund. The amount of all costs
12 collected pursuant to Subsections D and E of Section 35-6-1
13 NMSA 1978 shall be credited as follows:

14 A. the amount of all costs collected pursuant to
15 Paragraph (1) of Subsection D of Section 35-6-1 NMSA 1978 for
16 credit to the local government corrections fund;

17 B. the amount of all costs collected pursuant to
18 Paragraph (2) of Subsection D of Section 35-6-1 NMSA 1978 for
19 credit to the court automation fund;

20 C. the amount of all costs collected pursuant to
21 Paragraph (3) of Subsection D of Section 35-6-1 NMSA 1978 for
22 credit to the traffic safety education and enforcement fund;

23 D. the amount of all costs collected pursuant to
24 Paragraph (4) of Subsection D of Section 35-6-1 NMSA 1978 for
25 credit to the judicial education fund;

1 E. the amount of all costs collected pursuant to
2 Paragraph (5) of Subsection D of Section 35-6-1 NMSA 1978 for
3 credit to the jury and witness fee fund;

4 F. the amount of all costs collected pursuant to
5 Paragraph (6) of Subsection D of Section 35-6-1 NMSA 1978 for
6 credit to the brain injury services fund;

7 G. the amount of all costs collected pursuant to
8 Paragraph (7) of Subsection D of Section 35-6-1 NMSA 1978 for
9 credit to the court facilities fund;

10 H. the amount of all costs collected pursuant to
11 Paragraph (8) of Subsection D of Section 35-6-1 NMSA 1978 for
12 credit to the traffic citation administration fund; and

13 I. the amount of all costs collected pursuant to
14 Subsection E of Section 35-6-1 NMSA 1978 for credit to the
15 metropolitan court mediation fund."

16 SECTION 5. Section 35-7-13 NMSA 1978 (being Laws 2010,
17 Chapter 7, Section 1) is amended to read:

18 "35-7-13. MAGISTRATE COURTS OPERATIONS FUND--CREATED--
19 PURPOSE--TERMINATION OF FUND.--The "magistrate courts
20 operations fund" is created in the state treasury for
21 appropriation by the legislature for the operations of
22 magistrate courts. The fund consists of magistrate courts
23 operations fees collected pursuant to Section 66-8-116.3 NMSA
24 1978 and any appropriations, gifts, grants and donations.
25 Income from the fund shall be credited to the fund. Money in

1 the fund at the end of fiscal years 2010, 2011, 2012 and 2013
2 shall not revert to any other fund. Balances remaining in
3 the fund at the end of fiscal year 2014 shall be transferred
4 to the traffic citation administration fund, and the
5 magistrate courts operations fund shall be dissolved on
6 July 1, 2014."

7 SECTION 6. Section 66-5-30 NMSA 1978 (being Laws 1978,
8 Chapter 35, Section 252, as amended) is amended to read:

9 "66-5-30. AUTHORITY OF DIVISION TO SUSPEND OR REVOKE
10 LICENSE.--

11 A. The division is authorized to suspend the
12 instruction permit, driver's license or provisional license
13 of a driver without preliminary hearing upon a showing by its
14 records or other sufficient evidence, including information
15 provided to the state pursuant to an intergovernmental
16 agreement authorized by Section 66-5-27.1 NMSA 1978, that the
17 licensee:

18 (1) has been convicted of an offense for which
19 mandatory revocation of license is required upon conviction;

20 (2) has been convicted as a driver in an
21 accident resulting in the death or personal injury of another
22 or serious property damage;

23 (3) has been convicted with such frequency of
24 offenses against traffic laws or rules governing motor
25 vehicles as to indicate a disrespect for traffic laws and a

1 disregard for the safety of other persons on the highways;

2 (4) is an habitually reckless or negligent
3 driver of a motor vehicle;

4 (5) is incompetent to drive a motor vehicle;

5 (6) has permitted an unlawful or fraudulent use
6 of the license;

7 (7) has been convicted of an offense in another
8 state or tribal jurisdiction that if committed within this
9 state's jurisdiction would be grounds for suspension or
10 revocation of the license;

11 (8) has violated provisions stipulated by a
12 district court in limitation of certain driving privileges;

13 (9) has failed to fulfill a signed promise to
14 appear or notice to appear in court as evidenced by notice
15 from a state court or tribal court, whenever appearance is
16 required by law or by the court as a consequence of a charge
17 or conviction under the Motor Vehicle Code or pursuant to the
18 laws of the tribe;

19 (10) has failed to pay a penalty assessment
20 within thirty days of the date of issuance by a tribe;

21 (11) has failed to pay a penalty assessment
22 within the time frame as ordered by the court; or

23 (12) has accumulated seven points, but less
24 than eleven points, and when the division has received a
25 recommendation from a municipal or magistrate judge that the

1 license be suspended for a period not to exceed three months.

2 B. Upon suspending the license of a person as
3 authorized in this section, the division shall immediately
4 notify the licensee in writing and upon the licensee's
5 request shall afford the licensee an opportunity for a
6 hearing as early as practicable within not to exceed twenty
7 days, not counting Saturdays, Sundays and legal holidays,
8 after receipt of the request in the county wherein the
9 licensee resides unless the division and the licensee agree
10 that the hearing may be held in some other county; provided
11 that the hearing request is received within twenty days from
12 the date that the suspension was deposited in the United
13 States mail. The director may, in the director's discretion,
14 extend the twenty-day period. Upon the hearing, the director
15 or the director's duly authorized agent may administer oaths
16 and may issue subpoenas for the attendance of witnesses and
17 the production of relevant books and papers and may require a
18 reexamination of the licensee. Upon the hearing, the
19 division shall either rescind its order of suspension or,
20 good cause appearing therefor, may continue, modify or extend
21 the suspension of the license or revoke the license."

22 SECTION 7. Section 66-8-116.3 NMSA 1978 (being
23 Laws 1989, Chapter 318, Section 35 and Laws 1989, Chapter
24 319, Section 14 and also Laws 1989, Chapter 320, Section 5,
25 as amended) is amended to read:

1 "66-8-116.3. PENALTY ASSESSMENT MISDEMEANORS--ADDITIONAL

2 FEES.--In addition to the penalty assessment established for
3 each penalty assessment misdemeanor, there shall be assessed:

4 A. in a county without a metropolitan court, twenty
5 dollars (\$20.00) to help defray the costs of local government
6 corrections;

7 B. a court automation fee of ten dollars (\$10.00);

8 C. a traffic safety fee of three dollars (\$3.00),
9 which shall be credited to the traffic safety education and
10 enforcement fund;

11 D. a judicial education fee of three dollars
12 (\$3.00), which shall be credited to the judicial education
13 fund;

14 E. a jury and witness fee of five dollars (\$5.00),
15 which shall be credited to the jury and witness fee fund;

16 F. a juvenile adjudication fee of one dollar
17 (\$1.00), which shall be credited to the juvenile adjudication
18 fund;

19 G. a brain injury services fee of five dollars
20 (\$5.00), which shall be credited to the brain injury services
21 fund;

22 H. a court facilities fee as follows:
23 in a county with a metropolitan court.. . . . \$24.00;
24 in any other county.. . . . 10.00;

25 I. until May 31, 2014, a magistrate courts

1 operations fee of four dollars (\$4.00), which shall be
2 credited to the magistrate courts operations fund; and

3 J. a traffic citation administration fee of four
4 dollars (\$4.00), which shall be credited to the traffic
5 citation administration fund."

6 SECTION 8. Section 66-8-119 NMSA 1978 (being Laws 1968,
7 Chapter 62, Section 159, as amended) is amended to read:

8 "66-8-119. PENALTY ASSESSMENT REVENUE--DISPOSITION.--

9 A. The administrative office of the courts shall
10 remit all penalty assessment receipts, except receipts
11 collected pursuant to Subsections A through I of Section
12 66-8-116.3 NMSA 1978, to the state treasurer for credit to
13 the general fund.

14 B. The administrative office of the courts shall
15 remit all penalty assessment fee receipts collected pursuant
16 to:

17 (1) Subsection A of Section 66-8-116.3 NMSA
18 1978 to the state treasurer for credit to the local
19 government corrections fund;

20 (2) Subsection B of Section 66-8-116.3 NMSA
21 1978 to the state treasurer for credit to the court
22 automation fund;

23 (3) Subsection C of Section 66-8-116.3 NMSA
24 1978 to the state treasurer for credit to the traffic safety
25 education and enforcement fund;

1 (4) Subsection D of Section 66-8-116.3 NMSA
2 1978 to the state treasurer for credit to the judicial
3 education fund;

4 (5) Subsection E of Section 66-8-116.3 NMSA
5 1978 to the state treasurer for credit to the jury and
6 witness fee fund;

7 (6) Subsection F of Section 66-8-116.3 NMSA
8 1978 to the state treasurer for credit to the juvenile
9 adjudication fund;

10 (7) Subsection G of Section 66-8-116.3 NMSA
11 1978 to the state treasurer for credit to the brain injury
12 services fund;

13 (8) Subsection H of Section 66-8-116.3 NMSA
14 1978 to the state treasurer for credit to the court
15 facilities fund;

16 (9) Subsection I of Section 66-8-116.3 NMSA
17 1978 to the state treasurer for credit to the magistrate
18 courts operations fund; and

19 (10) Subsection J of Section 66-8-116.3 NMSA
20 1978 to the state treasurer for credit to the traffic
21 citation administration fund."

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

24 "66-8-123. CONDUCT OF ARRESTING OFFICER--NOTICES BY
25 CITATION.--

1 A. Except as provided in Section 66-8-122 NMSA
2 1978, unless a penalty assessment or warning notice is given,
3 whenever a person is arrested for any violation of the Motor
4 Vehicle Code or other law relating to motor vehicles
5 punishable as a misdemeanor, the arresting officer, using the
6 uniform traffic citation, shall complete the information
7 section and prepare a notice to appear in court, specifying
8 the time and place to appear, have the arrested person sign
9 the agreement to appear as specified, give a copy of the
10 citation to the arrested person and release the person from
11 custody.

12 B. Whenever a person is arrested for violation of a
13 penalty assessment misdemeanor, the arresting officer shall
14 advise the person of the option either to accept the penalty
15 assessment and pay it to the court or to appear in court.
16 The arresting officer, using the uniform traffic citation,
17 shall complete the information section, prepare the penalty
18 assessment notice indicating the amount of the penalty
19 assessment and prepare a notice to appear in court specifying
20 the time and place to appear. The arresting officer shall
21 have the person sign the citation as a promise either to pay
22 the penalty assessment as prescribed or to appear in court as
23 specified, give a copy of the citation to the person and
24 release the person from custody. An officer shall not accept
25 custody or payment of any penalty assessment.

1 C. The arresting officer may issue a warning
2 notice, but shall fill in the information section of the
3 uniform traffic citation and give a copy to the arrested
4 person after requiring a signature on the warning notice as
5 an acknowledgment of receipt. No warning notice issued under
6 this section shall be used as evidence of conviction for
7 purposes of suspension or revocation of license under Section
8 66-5-30 NMSA 1978.

9 D. In order to secure release, the arrested person
10 must give a written promise to appear in court or to pay the
11 penalty assessment prescribed or acknowledge receipt of a
12 warning notice.

13 E. A penalty assessment citation issued by a law
14 enforcement officer shall be submitted to the appropriate
15 magistrate or metropolitan court within three business days
16 of issuance. If the citation is not submitted within three
17 business days, it may be dismissed with prejudice.

18 F. Any officer violating this section is guilty of
19 a misconduct in office and is subject to removal.

20 G. A law enforcement officer who arrests a person
21 without a warrant for a misdemeanor violation of the Motor
22 Carrier Act, the Criminal Code, the Liquor Control Act or
23 other New Mexico law may use the uniform traffic citation,
24 issued pursuant to procedures outlined in Subsections B
25 through E of Section 31-1-6 NMSA 1978, in lieu of taking the

1 person to jail."

2 SECTION 10. Section 66-8-126 NMSA 1978 (being Laws 1978,
3 Chapter 35, Section 534) is amended to read:

4 "66-8-126. FAILURE TO OBEY NOTICE TO APPEAR--SUMMONS--
5 WARRANT.--

6 A. It is a misdemeanor for any person to violate a
7 written promise to pay the penalty assessment or to appear in
8 court given to an officer upon issuance of a uniform traffic
9 citation regardless of the disposition of the charge for
10 which the citation was issued.

11 B. A uniform traffic citation with a written
12 promise to appear in court or to pay the penalty assessment
13 is a summons. If a person fails to appear or to pay the
14 penalty assessment by the appearance date, a warrant for
15 failure to appear may be issued.

16 C. A written promise to appear in court may be
17 complied with by appearance of counsel."

18 SECTION 11. Section 66-8-128 NMSA 1978 (being Laws 1978,
19 Chapter 35, Section 536, as amended) is amended to read:

20 "66-8-128. UNIFORM TRAFFIC CITATION.--

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

23 (1) an information section, serially numbered
24 and containing spaces for the name, physical address, mailing
25 address, city and state of the individual charged; the

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

11 (2) a notice to appear in court or to pay a
12 penalty assessment with a place for the signature of the
13 violator agreeing to appear in court or to pay the penalty
14 assessment prescribed.

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

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

23 D. Any entity that wishes to submit uniform traffic
24 citations required to be submitted to the department by
25 electronic means shall secure the prior permission of the

1 department."

2 SECTION 12. Section 66-8-131 NMSA 1978 (being Laws 1961,
3 Chapter 213, Section 10, as amended) is amended to read:

4 "66-8-131. UNIFORM TRAFFIC CITATION IS COMPLAINT.--The
5 uniform traffic citation used as a notice to appear is a
6 summons and a valid complaint, though not verified."

7 SECTION 13. APPROPRIATION.--Five hundred thousand
8 dollars (\$500,000) is appropriated from the general fund to
9 the administrative office of the courts for expenditure in
10 fiscal years 2014 and 2015 for the purchase of equipment and
11 information technology infrastructure necessary for use in
12 traffic citation administration and collection. Any
13 unexpended or unencumbered balance remaining at the end of
14 fiscal year 2015 shall revert to the general fund.

15 SECTION 14. REPEAL.--Section 66-8-117 NMSA 1978 (being
16 Laws 1978, Chapter 35, Section 525, as amended) is repealed.

17 SECTION 15. EFFECTIVE DATE.--

18 A. The effective date of the provisions of
19 Sections 1 through 4, 6 through 12 and 14 of this act is
20 July 1, 2014.

21 B. The effective date of the provisions of
22 Sections 5 and 13 of this act is July 1, 2013. _____