



HOUSE BILL No. 4384

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February 9, 1995, Introduced by Reps. London, DeLange, McNutt, Pitoniak and DeMars and referred to the Committee on Transportation.

A bill to amend sections 35, 317, 318, 321a, 728, and 749 of Act No. 300 of the Public Acts of 1949, entitled as amended "Michigan vehicle code," section 317 as amended by Act No. 359 of the Public Acts of 1993, section 321a as amended by Act No. 211 of the Public Acts of 1994, section 728 as amended by Act No. 301 of the Public Acts of 1993, and section 749 as amended by Act No. 331 of the Public Acts of 1984, being sections 257.35, 257.317, 257.318, 257.321a, 257.728, and 257.749 of the Michigan Compiled Laws; and to add section 321c.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 35, 317, 318, 321a, 728, and 749 of Act  
2 No. 300 of the Public Acts of 1949, section 317 as amended by Act  
3 No. 359 of the Public Acts of 1993, section 321a as amended by  
4 Act No. 211 of the Public Acts of 1994, section 728 as amended by

1 Act No. 301 of the Public Acts of 1993, and section 749 as  
2 amended by Act No. 331 of the Public Acts of 1984, being  
3 sections 257.35, 257.317, 257.318, 257.321a, 257.728, and 257.749  
4 of the Michigan Compiled Laws, are amended and section 321c is  
5 added to read as follows:

6       Sec. 35. (1) "Nonresident operating privilege" means the  
7 privilege conferred upon a nonresident by the laws of this state  
8 pertaining to the operation by him OR HER of a motor vehicle, or  
9 the use of a motor vehicle owned by him OR HER, in this state.

10       (2) "NONRESIDENT VIOLATOR COMPACT" MEANS THE NONRESIDENT  
11 VIOLATOR COMPACT OF 1977.

12       Sec. 317. (1) ~~The~~ EXCEPT FOR A VIOLATION OF THE MOTOR  
13 VEHICLE LAWS OF THIS STATE BY A NONRESIDENT WHO IS SUBJECT TO THE  
14 NONRESIDENT VIOLATOR COMPACT FOR THAT VIOLATION, THE secretary of  
15 state may suspend or revoke the right of a nonresident to operate  
16 a motor vehicle in this state for a cause for which the license  
17 of a resident driver may be suspended or revoked. A nonresident  
18 who drives a motor vehicle upon a highway when the privilege to  
19 drive has been suspended, revoked, or denied by the secretary of  
20 state is guilty of a misdemeanor punishable as provided in sec-  
21 tion 904.

22       (2) The secretary of state, upon receiving a record of the  
23 conviction, civil infraction determination, FAILURE TO ANSWER A  
24 CITATION, FAILURE TO APPEAR IN COURT, FAILURE TO COMPLY WITH AN  
25 ORDER OR JUDGMENT, or forfeiture of bail in this state of a non-  
26 resident of a violation the record of which is required to be  
27 maintained under section 204a, may forward a certified copy of

1 the record to the motor vehicle administrator or other  
2 appropriate officer in the state in which the person is a  
3 resident.

4       Sec. 318. The secretary of state may suspend or revoke the  
5 ~~license of a resident of this state upon receiving notice of the~~  
6 ~~conviction of that person in another state of an offense in that~~  
7 ~~state, or the determination of responsibility of that person in~~  
8 ~~an administrative adjudication in another state for a violation~~  
9 ~~in that state which if committed in this state, would be grounds~~  
10 ~~for the suspension or revocation of the license of an operator or~~  
11 ~~chauffeur.~~ OPERATOR'S OR CHAUFFEUR'S LICENSE OF A PERSON WHO IS  
12 A RESIDENT OF THIS STATE UPON RECEIVING NOTICE THAT AN OMISSION  
13 BY THE PERSON OR ADJUDICATION REGARDING THE PERSON OCCURRED IN  
14 ANOTHER STATE OR JURISDICTION WHICH, IF THE OMISSION OR ADJUDICA-  
15 TION HAD OCCURRED IN THIS STATE, WOULD BE GROUNDS FOR THE SUSPEN-  
16 SION OR REVOCATION OF THE PERSON'S OPERATOR'S OR CHAUFFEUR'S  
17 LICENSE. THE OMISSIONS OR ADJUDICATIONS FOR WHICH THE SECRETARY  
18 OF STATE MAY SUSPEND OR REVOKE THE OPERATOR'S OR CHAUFFEUR'S  
19 LICENSE OF A PERSON UNDER THIS SECTION ARE AS FOLLOWS:

20       (A) THE CONVICTION OF THE PERSON OF AN OFFENSE.

21       (B) THE DETERMINATION OF RESPONSIBILITY OF THE PERSON IN AN  
22 ADMINISTRATIVE OR JUDICIAL ADJUDICATION.

23       (C) THE ENTRY OF A DEFAULT JUDGMENT AGAINST THE PERSON.

24       (D) THE FAILURE OF THE PERSON TO APPEAR IN COURT OR AT AN  
25 ADMINISTRATIVE TRIBUNAL.

26       (E) THE FAILURE OF THE PERSON TO ANSWER A CITATION.

1 (F) THE FAILURE OF THE PERSON TO COMPLY WITH AN ORDER OR  
2 JUDGMENT.

3 (G) THE DETERMINATION IN AN ADMINISTRATIVE OR JUDICIAL ADJU-  
4 DICATION THAT THE PERSON REFUSED TO SUBMIT TO A CHEMICAL TEST OF  
5 HIS OR HER BLOOD, BREATH, OR URINE FOR THE PURPOSE OF DETERMINING  
6 THE PRESENCE OR AMOUNT OF ALCOHOL OR A CONTROLLED SUBSTANCE, OR  
7 BOTH, IN HIS OR HER BLOOD AS REQUIRED BY LAW.

8 Sec. 321a. (1) A person who fails to answer a citation, or  
9 a notice to appear in court for a violation of this act or a  
10 local ordinance substantially corresponding to a provision of  
11 this act, or for any matter pending, or who fails to comply with  
12 an order or judgment issued pursuant to section 907 is guilty of  
13 a misdemeanor. A violation of this subsection shall not be con-  
14 sidered a violation for any purpose under section 320a.

15 (2) Except as provided in subsection (3) OR (5), 28 days or  
16 more after the date of noncompliance with A CITATION, NOTICE TO  
17 APPEAR, OR an order or judgment, the court shall give notice by  
18 mail at the last known address of the person that if the person  
19 fails to appear or fails to comply with the order or judgment  
20 issued pursuant to section 907, including, but not limited to,  
21 paying all fines and costs, within 14 days after the notice is  
22 issued, the secretary of state shall suspend the person's  
23 operator's or chauffeur's license. If the person fails to appear  
24 or fails to comply with the order or judgment issued pursuant to  
25 section 907, including, but not limited to, paying all fines and  
26 costs, within the 14-day period, the court shall, within 14 days,  
27 inform the secretary of state, who shall immediately suspend the

1 license OR PRIVILEGE TO OPERATE of the person and notify the  
2 person of the suspension by regular mail at the person's last  
3 known address.

4 (3) If the person is charged with, or convicted of, a viola-  
5 tion of section 625(1), (2), (3), (4), (5), or (6) or a local  
6 ordinance substantially corresponding to section 625(1), (2),  
7 (3), or (6) and the person fails to answer a citation or a notice  
8 to appear in court, or for any matter pending, or fails to comply  
9 with an order or judgment of the court, including, but not  
10 limited to, paying all fines, costs, and crime victim rights  
11 assessments, the court shall immediately give notice by  
12 first-class mail sent to the person's last known address that if  
13 the person fails to appear within 7 days after the notice is  
14 issued, or fails to comply with the order or judgment of the  
15 court, including, but not limited to, paying all fines, costs,  
16 and crime victim rights assessments, within 14 days after the  
17 notice is issued, the secretary of state shall suspend the  
18 person's operator's or chauffeur's license. If the person fails  
19 to appear within the 7-day period, or fails to comply with the  
20 order or judgment of the court, including, but not limited to,  
21 paying all fines, costs, and crime victim rights assessments,  
22 within the 14-day period, the court shall immediately inform the  
23 secretary of state who shall immediately suspend the person's  
24 operator's or chauffeur's license and notify the person of the  
25 suspension by first-class mail sent to the person's last known  
26 address.

1 (4) A suspension imposed under subsection (2) or (3) shall  
2 remain in effect until both of the following occur:

3 (a) The court informs the secretary of state that the person  
4 has appeared before the court and that all matters relating to  
5 the violation or to the noncompliance with section 907 are  
6 resolved.

7 (b) The person has paid to the court a \$25.00 driver license  
8 reinstatement fee. ~~The increase in the reinstatement fee from  
9 \$10.00 to \$25.00 shall be imposed for a license that is suspended  
10 on or after April 5, 1988 regardless of when the license was  
11 suspended.~~

12 (5) UPON RECEIPT OF NOTICE FROM A FOREIGN JURISDICTION THAT  
13 IS A MEMBER OF THE NONRESIDENT VIOLATOR COMPACT THAT A RESIDENT  
14 OF THIS STATE FAILED TO ANSWER A CITATION OR NOTICE TO APPEAR IN  
15 A COURT OR TRIBUNAL FOR A VIOLATION OF A TRAFFIC LAW OF THE FOR-  
16 EIGN JURISDICTION, OR FAILED TO COMPLY WITH AN ORDER OR JUDGMENT  
17 ISSUED FOR A VIOLATION OF A TRAFFIC LAW OF THE FOREIGN JURISDIC-  
18 TION BY NOT PAYING FINES AND COSTS, THE SECRETARY OF STATE SHALL  
19 GIVE NOTICE BY FIRST-CLASS MAIL SENT TO THE PERSON'S LAST KNOWN  
20 ADDRESS THAT IF THE PERSON FAILS TO PRESENT SATISFACTORY EVIDENCE  
21 OF COMPLIANCE WITH THE CITATION, NOTICE TO APPEAR, ORDER, OR  
22 JUDGMENT, AS APPLICABLE, TO THE SECRETARY OF STATE WITHIN 21 DAYS  
23 AFTER THE NOTICE IS ISSUED, THE SECRETARY OF STATE SHALL DENY  
24 ISSUANCE OF AN OPERATOR'S OR CHAUFFEUR'S LICENSE TO THE PERSON OR  
25 SUSPEND THE PERSON'S OPERATOR'S OR CHAUFFEUR'S LICENSE. IF THE  
26 PERSON FAILS TO PRESENT SATISFACTORY EVIDENCE OF COMPLIANCE WITH  
27 THE CITATION, NOTICE TO APPEAR, ORDER, OR JUDGMENT, AS

1 APPLICABLE, TO THE SECRETARY OF STATE WITHIN THE 21-DAY PERIOD,  
2 THE SECRETARY OF STATE SHALL DENY ISSUANCE OF AN OPERATOR'S OR  
3 CHAUFFEUR'S LICENSE TO THE PERSON OR SUSPEND THE OPERATOR'S OR  
4 CHAUFFEUR'S LICENSE OF THE PERSON AND NOTIFY THE PERSON OF THE  
5 DENIAL OR SUSPENSION BY FIRST-CLASS MAIL AT THE PERSON'S LAST  
6 KNOWN ADDRESS. THIS SUBSECTION DOES NOT APPLY TO A PERSON WHO  
7 PRESENTS EVIDENCE AS REQUIRED BY THE SECRETARY OF STATE THAT HE  
8 OR SHE IS NOT THE PERSON WHO WAS ISSUED THE CITATION OR NOTICE TO  
9 APPEAR, OR WHO FAILED TO COMPLY WITH THE ORDER OR JUDGMENT, IN  
10 THE FOREIGN JURISDICTION THAT SENT THE NOTICE DESCRIBED IN THIS  
11 SUBSECTION TO THE SECRETARY OF STATE.

12 (6) THE DENIAL OF ISSUANCE OF AN OPERATOR'S OR CHAUFFEUR'S  
13 LICENSE TO A PERSON OR A SUSPENSION OF A PERSON'S OPERATOR'S OR  
14 CHAUFFEUR'S LICENSE UNDER SUBSECTION (5) FOR FAILURE TO COMPLY  
15 WITH A CITATION, NOTICE TO APPEAR, ORDER, OR JUDGMENT SHALL  
16 REMAIN IN EFFECT UNTIL BOTH OF THE FOLLOWING OCCUR:

17 (A) EITHER OF THE FOLLOWING OCCURS:

18 (i) THE FOREIGN JURISDICTION THAT INFORMED THE SECRETARY OF  
19 STATE THAT THE PERSON FAILED TO COMPLY WITH THE CITATION, NOTICE  
20 TO APPEAR, ORDER, OR JUDGMENT INFORMS THE SECRETARY OF STATE THAT  
21 ALL MATTERS RELATING TO THE NONCOMPLIANCE ARE RESOLVED.

22 (ii) THE PERSON PRESENTS SATISFACTORY EVIDENCE OF COMPLIANCE  
23 WITH THE CITATION, NOTICE TO APPEAR, ORDER, OR JUDGMENT TO THE  
24 SECRETARY OF STATE.

25 (B) THE PERSON HAS PAID TO THE SECRETARY OF STATE A \$25.00  
26 DRIVER LICENSE REINSTATEMENT FEE. FUNDS RECEIVED BY THE  
27 SECRETARY OF STATE UNDER THIS SUBDIVISION SHALL BE DEPOSITED IN

1 THE STATE GENERAL FUND AND SHALL BE EXPENDED TO DEFRAY THE  
2 EXPENSES INCURRED BY THE SECRETARY OF STATE IN THE FOLLOWING  
3 ORDER OF PRIORITY:

4 (i) PROCESSING THE DENIAL, SUSPENSION, AND REINSTATEMENT OF  
5 LICENSES UNDER SUBSECTION (5) AND THIS SUBSECTION.

6 (ii) PERFORMING OTHER DUTIES UNDER THE NONRESIDENT VIOLATOR  
7 COMPACT.

8 (7) AS USED IN SUBSECTIONS (5) AND (6):

9 (A) "COMPLIANCE" MEANS ANSWERING A CITATION, SUMMONS, SUB-  
10 POENA, OR NOTICE TO APPEAR AT A FOREIGN COURT OR TRIBUNAL BY AN  
11 APPEARANCE, OR THE PAYMENT OF FINES AND COSTS, OR BOTH.

12 (B) "SATISFACTORY EVIDENCE" MEANS EITHER OF THE FOLLOWING:

13 (i) AN OFFICIAL CERTIFICATE ISSUED BY A COURT OR TRIBUNAL.

14 (ii) A CERTIFIED COPY OF A JUDGMENT ISSUED BY A COURT OR  
15 TRIBUNAL.

16 (8) ~~(5)~~ The court shall not notify the secretary of state,  
17 and the secretary of state shall not suspend the person's  
18 license, if the person fails to appear in response to a citation  
19 issued for, or fails to comply with an order or judgment involv-  
20 ing 1 or more of the following infractions:

21 (a) The parking or standing of a vehicle.

22 (b) A pedestrian, passenger, or bicycle violation.

23 (9) ~~(6)~~ The court may notify a person who has done either  
24 of the following, that if the person does not appear within 10  
25 days after the notice is issued, the court will inform the secre-  
26 tary of state of the person's failure to appear:

1 (a) Failed to answer 2 or more parking violation notices or  
2 citations for violating a provision of this act or an ordinance  
3 substantially corresponding to a provision of this act pertaining  
4 to handicapper parking issued or served after ~~the effective date~~  
5 ~~of the amendatory act that added this subdivision~~ SEPTEMBER 19,  
6 1989.

7 (b) Failed to answer 6 or more parking violation notices or  
8 citations, issued or served after March 31, 1981, regarding ille-  
9 gal parking.

10 (10) ~~(7)~~ The secretary of state, upon being informed of  
11 the failure of a person to appear as provided in subsection ~~(6)~~  
12 (9), shall not issue a license to the person until both of the  
13 following occur:

14 (a) The court informs the secretary of state that the person  
15 has resolved all outstanding matters regarding the notices or  
16 citations.

17 (b) The person has paid to the court a \$25.00 driver license  
18 reinstatement fee. ~~The increase in the reinstatement fee from~~  
19 ~~\$10.00 to \$25.00 shall be imposed for a license that is suspended~~  
20 ~~on or after April 5, 1988 regardless of when the license was~~  
21 ~~suspended.~~ If the court determines that the person is not  
22 responsible for any of the parking violations for which the  
23 person's license was suspended under this subsection, the court  
24 shall waive payment of the fee.

25 (11) ~~(8)~~ For the purposes of subsections (4)(a) and  
26 ~~(7)(a)~~ (10)(A), the court shall give to the person a copy of  
27 the information being transmitted to the secretary of state.

1 Upon showing that copy, the person shall not be arrested or  
2 issued a citation for driving on a suspended license on the basis  
3 of any matter resolved under subsection (4)(a) or ~~(7)(a)~~  
4 (10)(A), even if the information being sent to the secretary of  
5 state has not yet been received or recorded by the department.

6 (12) ~~(9)~~ Sixty percent of the driver license reinstatement  
7 fees received under subsections (4)(b) and ~~(7)(b)~~ (10)(B) shall  
8 be transmitted by the court to the secretary of state on a  
9 monthly basis. The funds received by the secretary of state pur-  
10 suant to this subsection shall be deposited in the state general  
11 fund and shall be used to defray the expenses of the secretary of  
12 state in processing the suspension and reinstatement of driver  
13 licenses under this section.

14 SEC. 321C. (1) EXCEPT AS OTHERWISE PROVIDED IN THIS SEC-  
15 TION, 28 DAYS OR MORE AFTER THE DATE THAT A PERSON WHO IS A RESI-  
16 DENT OF A FOREIGN JURISDICTION THAT IS A MEMBER OF THE NONRESI-  
17 DENT VIOLATOR COMPACT AND WHO EXECUTED A PERSONAL RECOGNIZANCE  
18 UNDER SECTION 749 FAILS TO ANSWER A CITATION OR A NOTICE TO  
19 APPEAR IN COURT FOR A VIOLATION OF THIS ACT OR A LOCAL ORDINANCE  
20 SUBSTANTIALLY CORRESPONDING TO A PROVISION OF THIS ACT, OR FOR  
21 ANY MATTER PENDING, OR FAILS TO COMPLY WITH AN ORDER OR JUDGMENT  
22 OF THE COURT FOR A VIOLATION OF THIS ACT OR A LOCAL ORDINANCE  
23 SUBSTANTIALLY CORRESPONDING TO A PROVISION OF THIS ACT, INCLUD-  
24 ING, BUT NOT LIMITED TO, PAYING ALL FINES AND COSTS, THE COURT  
25 SHALL IMMEDIATELY GIVE NOTICE BY FIRST-CLASS MAIL SENT TO THE  
26 PERSON'S LAST KNOWN ADDRESS THAT IF THE PERSON FAILS TO ANSWER  
27 THE CITATION OR A NOTICE TO APPEAR OR FAILS TO COMPLY WITH THE

1 ORDER OR JUDGMENT OF THE COURT, INCLUDING, BUT NOT LIMITED TO,  
2 PAYING ALL FINES AND COSTS, WITHIN 14 DAYS AFTER THE NOTICE IS  
3 ISSUED, THE COURT WILL NOTIFY THE SECRETARY OF STATE, WHO SHALL  
4 NOTIFY THE LICENSING AUTHORITY IN THE PERSON'S JURISDICTION OF  
5 RESIDENCE TO DENY ISSUANCE OF A DRIVER LICENSE TO THE PERSON OR  
6 SUSPEND THE PERSON'S DRIVER LICENSE UNTIL THE PERSON ANSWERS THE  
7 CITATION OR NOTICE TO APPEAR OR COMPLIES WITH THE ORDER OR JUDG-  
8 MENT, INCLUDING, BUT NOT LIMITED TO, PAYING ALL FINES AND COSTS.  
9 IF THE PERSON FAILS TO ANSWER THE CITATION OR A NOTICE TO APPEAR  
10 OR FAILS TO COMPLY WITH THE ORDER OR JUDGMENT, INCLUDING, BUT NOT  
11 LIMITED TO, PAYING ALL FINES AND COSTS, WITHIN THE 14-DAY PERIOD,  
12 THE COURT SHALL, WITHIN 14 DAYS, NOTIFY THE SECRETARY OF STATE,  
13 WHO SHALL IMMEDIATELY NOTIFY THE LICENSING AUTHORITY IN THE  
14 PERSON'S JURISDICTION OF RESIDENCE OF THE NONCOMPLIANCE AND  
15 REQUEST THE LICENSING AUTHORITY TO DENY ISSUANCE OF A DRIVER  
16 LICENSE TO THE PERSON OR SUSPEND THE PERSON'S LICENSE AS PROVIDED  
17 IN THE NONRESIDENT VIOLATOR COMPACT.

18 (2) THE SECRETARY OF STATE SHALL NOT SEND A NOTICE TO THE  
19 LICENSING AUTHORITY OF A PERSON'S JURISDICTION OF RESIDENCE UNDER  
20 SUBSECTION (1) AFTER THE EXPIRATION OF 6 MONTHS FROM THE DATE ON  
21 WHICH THE PERSON RECEIVED THE CITATION FOR THE VIOLATION FOR  
22 WHICH THE NOTICE WOULD BE SENT.

23 (3) THIS SECTION DOES NOT APPLY TO A PERSON WHO IS CHARGED  
24 WITH, IS CONVICTED OF, IS DETERMINED RESPONSIBLE FOR, OR HAS A  
25 PROBATE COURT ORDER OF DISPOSITION ENTERED FOR, ANY OF THE  
26 FOLLOWING:

1 (A) A VIOLATION THAT REQUIRES A PERSONAL APPEARANCE.

2 (B) A MOVING VIOLATION THAT REQUIRES A MANDATORY SUSPENSION  
3 OR REVOCATION OF A LICENSE.

4 (C) AN EQUIPMENT VIOLATION.

5 (D) AN INSPECTION VIOLATION.

6 (E) A SIZE OR WEIGHT VIOLATION.

7 (F) A TRANSPORTATION OF HAZARDOUS WASTE VIOLATION.

8 (G) A PARKING OR STANDING VIOLATION.

9 (H) A PEDESTRIAN, PASSENGER, OR BICYCLE VIOLATION.

10 (I) ANY OTHER VIOLATIONS EXCLUDED UNDER THE PROVISIONS OF  
11 THE NONRESIDENT VIOLATOR COMPACT.

12 (4) THE GOVERNOR SHALL APPOINT THE SECRETARY OF STATE TO  
13 SERVE AS THE COMPACT ADMINISTRATOR FOR THIS STATE TO ADMINISTER  
14 THE PROVISIONS OF THE NONRESIDENT VIOLATOR COMPACT IN THIS  
15 STATE. THE SECRETARY OF STATE SHALL PERFORM ALL DUTIES NECESSARY  
16 TO IMPLEMENT THE NONRESIDENT VIOLATOR COMPACT IN THIS STATE.

17 Sec. 728. (1) ~~When~~ IF a person is arrested without a war-  
18 rant for a violation of this act punishable as a misdemeanor, or  
19 an ordinance substantially corresponding to a provision of this  
20 act and punishable as a misdemeanor, under conditions not  
21 referred to in section 617, 619, or ~~727~~ 727(A), (B), AND (C),  
22 the arresting officer shall prepare, as soon as possible and as  
23 completely as possible, an original and 3 copies of a written  
24 citation to appear in court containing the name and address of  
25 the person, the violation charged, and the time and place when  
26 and where the person shall appear in court. The officer shall  
27 inform the offender of the violation and shall give the second

1 copy of the citation to the alleged offender. If the arrested  
2 person demands, he or she shall be arraigned by a magistrate or  
3 probate court as provided in section 727 in lieu of being given  
4 the citation.

5 (2) The time specified in the citation to appear shall be  
6 within a reasonable time after the arrest.

7 (3) The place specified in the citation to appear shall be  
8 before a magistrate or probate court within the county in which  
9 the violation charged is alleged to have been committed and who  
10 has jurisdiction of the violation.

11 (4) Appearance may be made in person, by representation, or  
12 by mail. If appearance is made by representation or mail, the  
13 magistrate may accept the plea of guilty or not guilty for pur-  
14 poses of arraignment, with the same effect as though the person  
15 personally appeared before him or her. The magistrate, by giving  
16 5 days' notice of the date of appearance, may require appearance  
17 in person at the time and place designated in the citation.

18 (5) If a person who is not a resident of this state is  
19 arrested without warrant for a violation of this act which is  
20 punishable as a misdemeanor, or an ordinance substantially corre-  
21 sponding to a provision of this act and punishable as a misde-  
22 meanor, under conditions not referred to in section 727, the  
23 arresting officer, upon demand of the arrested person, immedi-  
24 ately shall take the person for arraignment by a magistrate in  
25 the vicinity to answer to the complaint made against the person.  
26 If a magistrate is not available or an immediate trial cannot be  
27 had, the person arrested may recognize to the officer for his or

1 her appearance by leaving with the officer a guaranteed  
2 appearance certificate or a sum of money not to exceed \$100.00,  
3 in which case the following provisions apply:

4 (a) The officer making the arrest shall give a receipt to  
5 the person arrested for the guaranteed appearance certificate or  
6 the money deposited together with a written citation as provided  
7 in subsection (1).

8 (b) If the alleged offender fails to appear as required in  
9 the citation, the guaranteed appearance certificate or deposit  
10 shall be forfeited as in other cases of default in bail in addi-  
11 tion to any other penalty provided in this chapter.

12 (c) At or before the completion of his or her tour of duty,  
13 a police officer taking a certificate or deposit of money shall  
14 deliver the certificate or deposit of money either to the magis-  
15 trate named in the citation together with a report of the facts  
16 relating to the arrest, or to the police chief or person autho-  
17 rized by the police chief to receive certificates and deposits.  
18 The police chief or person authorized by the police chief shall  
19 deposit with the court the certificate or the money deposited and  
20 the citation in the same manner as prescribed for citations in  
21 section 728a. Failure to make a report and deliver the money  
22 deposited is embezzlement of public money.

23 (d) "Guaranteed appearance certificate" means a card or cer-  
24 tificate containing a printed statement that a surety company  
25 authorized to do business in this state guarantees the appearance  
26 of the person whose signature appears on the card or certificate,  
27 and that the company, if the person fails to appear in court at

1 the time of trial or sentencing or to pay any fines or costs  
2 imposed pursuant to this act, will pay any fine, costs, or bond  
3 forfeiture imposed on the person in a total amount not to exceed  
4 \$200.00.

5 (6) An officer making an arrest under this chapter for a  
6 misdemeanor without a warrant, except under section ~~727~~ 727(A),  
7 (B), AND (C) is not entitled to any fees for making the arrest or  
8 the issuance of a citation under this section.

9 (7) An officer or magistrate violating this section is  
10 guilty of misconduct in office and subject to removal from  
11 office.

12 (8) A police officer may issue a citation to a person who is  
13 a driver of a motor vehicle involved in an accident if, based  
14 upon personal investigation, the officer has reasonable cause to  
15 believe that the person has committed a misdemeanor under this  
16 act in connection with the accident. The officer shall prepare  
17 an original and 3 copies of the citation, setting forth the name  
18 and address of the person, the violation that may be charged  
19 against the person, and the time and place of the appearance of  
20 the person in court. The citation shall inform the person of the  
21 office, bureau, or department to which requests for a change or  
22 adjournment of the court date may be made.

23 (9) If the citation is issued to a person who is operating a  
24 commercial motor vehicle, the citation shall contain the vehicle  
25 group designation and indorsement description of the vehicle  
26 operated by the person at the time of the alleged violation.

1           Sec. 749. (1) ~~When~~ IF a person who is not a resident of  
2 this state is stopped for a civil infraction pursuant to  
3 section 742, the police officer making the stop shall take that  
4 person's driver's license as security for the nonresident's  
5 appearance in court and satisfaction of any order which may be  
6 issued under section 907 and shall issue to that person a  
7 citation as provided in sections 727c and 742. At or before the  
8 completion of his or her tour of duty a police officer taking the  
9 driver's license shall deliver the driver's license either to the  
10 court named in the citation or to the police chief or person  
11 authorized by the police chief to receive citations and drivers'  
12 licenses. The police chief or person authorized shall deposit  
13 the driver's license and citation with the court in the same  
14 manner as prescribed for citations in section 728a. Failure to  
15 deliver the license shall be considered contempt of court. If  
16 the person does not have a license in immediate possession in  
17 violation of section 301 or a license or the receipt described in  
18 section 311a in violation of section 311, the officer shall  
19 arrest that person pursuant to section ~~727(4)~~ 727(D).

20           (2) In lieu of the officer's taking of the license under  
21 subsection (1) or before appearance in court, the person stopped  
22 may recognize to the officer or to the court for his or her  
23 appearance by leaving with the officer or court ~~a~~ 1 OF THE  
24 FOLLOWING:

25           (A) A guaranteed appearance certificate. ~~or a~~

26           (B) A sum of money not to exceed \$100.00.

1 (C) IF THE PERSON IS A RESIDENT OF A FOREIGN JURISDICTION  
2 THAT IS A MEMBER OF THE NONRESIDENT VIOLATOR COMPACT AND IS  
3 LICENSED TO OPERATE A MOTOR VEHICLE UNDER THE LAWS OF THE FOREIGN  
4 JURISDICTION, AND THE VIOLATION IS NOT LISTED IN SECTION 321C, A  
5 PERSONAL RECOGNIZANCE.

6 (3) If a magistrate is available for an immediate appear-  
7 ance, upon demand of the person stopped, the officer immediately  
8 shall take the nonresident driver before the magistrate to answer  
9 to the civil infraction alleged. Upon entry of an admission of  
10 responsibility for the civil infraction, with or without explana-  
11 tion, or upon completion of an informal hearing, the defendant's  
12 license shall be returned if judgment is entered for the  
13 defendant, if any adverse judgment entered against the defendant  
14 is satisfied, or if the defendant leaves with the court a guaran-  
15 teed appearance certificate, or a sum of money not to exceed  
16 \$100.00 as security, OR IF THE DEFENDANT IS A RESIDENT OF A  
17 JURISDICTION THAT IS A MEMBER OF THE NONRESIDENT VIOLATOR COMPACT  
18 AND IS LICENSED TO OPERATE A MOTOR VEHICLE UNDER THE LAWS OF THE  
19 FOREIGN JURISDICTION, AND THE VIOLATION IS NOT LISTED IN  
20 SECTION 321C, A PERSONAL RECOGNIZANCE, for payment of any fines  
21 or costs ordered. If the nonresident defendant requests a formal  
22 hearing, the hearing shall be scheduled as provided in  
23 section 747 but the defendant's license shall be retained by the  
24 court until final resolution of the matter unless the defendant  
25 leaves with the court the guaranteed appearance certificate, ~~or~~  
26 deposit, OR PERSONAL RECOGNIZANCE as provided in subsection (2)  
27 as security for appearance at the scheduled formal hearing.

1 (4) The officer receiving a guaranteed appearance  
2 certificate, ~~or~~ deposit of money, OR PERSONAL RECOGNIZANCE  
3 under subsection (2) shall give a receipt to the person stopped  
4 for the guaranteed appearance certificate, ~~or~~ the money  
5 deposited, OR THE PERSONAL RECOGNIZANCE together with the written  
6 citation required under subsection (1).

7 (5) At or before the completion of his or her tour of duty a  
8 police officer taking a certificate, ~~or~~ deposit of money, OR  
9 PERSONAL RECOGNIZANCE shall deliver the certificate, ~~or~~ deposit  
10 of money, OR PERSONAL RECOGNIZANCE, and the citation either to  
11 the court named in the citation, or to the police chief or person  
12 authorized by the police chief to receive certificates, ~~or~~  
13 deposits, OR PERSONAL RECOGNIZANCES. The police chief or person  
14 authorized shall deposit the certificate, ~~or~~ the money  
15 deposited, OR THE PERSONAL RECOGNIZANCE and the citation with the  
16 court in the same manner as prescribed for citations in  
17 section 728a. Failure to deliver the money deposited shall be  
18 embezzlement of public money.

19 (6) If the person who posts a certificate, ~~or~~ deposit, OR  
20 PERSONAL RECOGNIZANCE fails to appear as required in the citation  
21 or for a scheduled formal hearing, the court having jurisdiction  
22 and venue over the civil infraction shall enter a default judg-  
23 ment against the person, and the guaranteed appearance certifi-  
24 cate or money deposited shall be forfeited and applied to any  
25 civil fine or costs ordered pursuant to section 907.

26 (7) For purposes of this section: ~~,"guaranteed"~~

1 (A) "GUARANTEED appearance certificate" means a card or  
2 certificate containing a printed statement that a surety company  
3 authorized to do business in this state guarantees the appearance  
4 of the person whose signature appears on the card or certificate,  
5 and that the company, if the person fails to appear in court at  
6 the time of a scheduled informal or formal hearing or to pay any  
7 fine or costs imposed pursuant to section 907, will pay any fine,  
8 costs, or bond forfeiture imposed on the person in a total amount  
9 not to exceed \$200.00.

10 (B) "PERSONAL RECOGNIZANCE" MEANS AN AGREEMENT THAT IS  
11 SIGNED BY A MOTORIST AT THE TIME OF ISSUANCE OF A TRAFFIC  
12 CITATION OR APPEARANCE IN COURT THAT HE OR SHE WILL COMPLY WITH  
13 THE TERMS OF THE CITATION OR WITH THE ORDER OF THE COURT.

14 Section 2. This amendatory act shall take effect October 1,  
15 1995.

16 Section 3. This amendatory act shall not take effect unless  
17 Senate Bill No. \_\_\_ or House Bill No. 4383 (request no. 01700'95)  
18 of the 88th Legislature is enacted into law.