

APPROVED AND SIGNED BY THE GOVERNOR

Date 3-30-82

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1982

ENROLLED

Committee Substitute for
SENATE BILL NO. 221

(By Mr. GALPERIN)

PASSED MARCH 13, 1982

In Effect ninety days from Passage



ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 221

(BY MR. GALPERIN, *original sponsor*)

[Passed March 13, 1982; in effect ninety days from passage.]

AN ACT to amend article one, chapter sixty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section five-a, relating to preliminary procedure; and providing that a law-enforcement officer may issue a citation instead of making an arrest for any misdemeanor, not involving injury to the person, committed in the law-enforcement officer's presence, providing that an arrest may be made upon the belief that the person is likely to harm himself or others, and when a person is being detained for shoplifting pursuant to law; time for appearance to be stated on citation; and providing for arrest for failure to appear in response to citation.

Be it enacted by the Legislature of West Virginia:

That article one, chapter sixty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section five-a, to read as follows:

ARTICLE 1. PRELIMINARY PROCEDURE.

§62-1-5a. Citation in lieu of arrest; failure to appear.

- 1 A law-enforcement officer may issue a citation instead of
- 2 making an arrest for the following offenses, if there are
- 3 reasonable grounds to believe that the person being cited will
- 4 appear to answer the charge:

5 (1) Any misdemeanor, not involving injury to the person,
6 committed in a law-enforcement officer's presence: *Provided*,
7 That the officer may arrest the person if he has reasonable
8 grounds to believe that the person is likely to cause serious
9 harm to himself or others; and

10 (2) When any person is being detained for the purpose of
11 investigating whether such person has committed or
12 attempted to commit shoplifting, pursuant to section four,
13 article three-a, chapter sixty-one of this code.

14 The citation shall provide that the defendant shall appear
15 within a designated time.

16 If the defendant fails to appear in response to the citation or
17 if there are reasonable grounds to believe that he will not
18 appear, a complaint may be made and a warrant shall issue.

19 When a physical arrest is made and a citation is issued in
20 relation to the same offense the officer shall mark on the
21 citation, in the place specified for court appearance date, the
22 word "arrested" in lieu of the date of court appearance.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

R. P. Baylor
Chairman Senate Committee

Joseph E. Whitlow
Chairman House Committee

Originated in the Senate.

To take effect ninety days from passage.

Jedd C. Withers
Clerk of the Senate

C. A. Blankenship
Clerk of the House of Delegates

Warren R. McHarris
President of the Senate

John H. Seelye
Speaker House of Delegates

The within *approved* this the *30*
day of *March*, 1982.

John R. Dyer
Governor



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SECY. OF STATE