

Assembly Bill No. 650—Committee on Judiciary

CHAPTER.....

AN ACT relating to judicial process; authorizing the supreme court to establish rules governing the electronic filing, storage and reproduction of documents filed with various courts; authorizing certain peace officers and other persons to issue certain electronic citations and to file such citations electronically with a court or traffic violations bureau; providing a penalty; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 1 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The supreme court may adopt rules not inconsistent with the laws of this state to provide for the electronic filing, storage and reproduction of documents filed with the courts of justice.

2. If the supreme court adopts such rules, each court of justice may provide for the electronic filing, storage and reproduction of documents filed with the court in accordance with those rules.

Sec. 2. NRS 62.175 is hereby amended to read as follows:

62.175 Whenever any child is stopped by a peace officer for any violation of a traffic law or an ordinance which is punishable as a misdemeanor, the peace officer may prepare and issue a ~~{written}~~ traffic citation ~~{under}~~ *pursuant to* the same criteria as would apply to an adult violator. If the child gives his written promise to appear in court by signing the citation, the officer shall deliver a copy of the citation to the child and shall not take him into physical custody for the violation.

Sec. 3. Chapter 171 of NRS is hereby amended by adding thereto a new section to read as follows:

1. It is unlawful for a person to violate his written promise to appear given to a peace officer upon the issuance of a misdemeanor citation prepared manually or electronically, regardless of the disposition of the charge for which the citation was originally issued.

2. A person may comply with a written promise to appear in court by an appearance by counsel.

3. A warrant may issue upon a violation of a written promise to appear.

Sec. 4. NRS 171.1773 is hereby amended to read as follows:

171.1773 1. Whenever a person is detained by a peace officer for any violation of a county, city or town ordinance or a state law which is punishable as a misdemeanor and he is not taken before a magistrate as required or permitted by NRS 171.177, 171.1771 or 171.1772, the peace officer may prepare a ~~{written}~~ misdemeanor citation *manually or electronically* in the form of a complaint issuing in the name of "The State of Nevada" or in the name of the respective county, city or town,

containing a notice to appear in court, the name and address of the person, the state registration number of his vehicle, if any, the offense charged, including a brief description of the offense and the NRS or ordinance citation, the time when and place where the person is required to appear in court, and such other pertinent information as may be necessary. The citation must be signed by the peace officer. *If the citation is prepared electronically, the officer shall sign the copy of the citation that is delivered to the person charged with the violation.*

2. The time specified in the notice to appear must be at least 5 days after the alleged violation unless the person charged with the violation demands an earlier hearing.

3. The place specified in the notice must be before a magistrate, as designated in NRS 171.178 and 171.184.

4. The person charged with the violation may give his written promise to appear in court by signing at least one copy of the ~~{written}~~ misdemeanor citation prepared by the peace officer, in which event the peace officer shall deliver a copy of the citation to the person, and thereupon the peace officer shall not take the person into physical custody for the violation. *If the citation is prepared electronically, the officer shall deliver the signed copy of the citation to the person and shall indicate on the electronic record of the citation whether the person charged gave his written promise to appear.* A copy of the citation *that is* signed by the person charged ~~{shall suffice}~~ *or the electronic record of the citation which indicates that the person charged gave his written promise to appear suffices* as proof of service.

~~{5.—It is unlawful for any person to violate his written promise to appear given to a peace officer upon the issuance of a misdemeanor citation regardless of the disposition of the charge for which the citation was originally issued.}~~

Sec. 5. NRS 171.1774 is hereby amended to read as follows:

171.1774 1. In those instances described in NRS 171.1772, the peace officer summoned after the arrest shall prepare a ~~{written}~~ misdemeanor citation *manually or electronically* in the form of a complaint issuing in the name of “The State of Nevada” or in the name of the respective county, city or town, and containing:

- (a) A notice to appear in court;
- (b) The name and address of the person;
- (c) The state registration number of his vehicle, if any;
- (d) The offense charged, including a brief description of the offense and the NRS or ordinance citation;
- (e) The time when and place where the person is required to appear in court;
- (f) Such other pertinent information as may be necessary; and
- (g) The signatures of the private person making the arrest and the peace officer preparing the citation.

2. The time specified in the notice to appear must be at least 5 days after the alleged violation unless the person charged with the violation demands an earlier hearing.

3. The place specified in the notice must be before a magistrate, as designated in NRS 171.178 and 171.184.

4. The person charged with the violation may give his written promise to appear in court by signing at least one copy of the ~~{written}~~ misdemeanor citation prepared by the peace officer, in which event the peace officer shall deliver a copy of the citation to the person, and thereupon the peace officer shall not take the person into physical custody for the violation. *If the citation is prepared electronically, the officer shall deliver the signed copy of the citation to the person and shall indicate on the electronic record of the citation whether the person charged gave his written promise to appear.* A copy of the citation *that is* signed by the person charged ~~{shall suffice}~~ *or the electronic record of the citation which indicates that the person charged gave his written promise to appear suffices* as proof of service.

~~{5.—It is unlawful for any person to violate his written promise to appear given to a peace officer upon the issuance of a misdemeanor citation regardless of the disposition of the charge for which the citation was originally issued.}~~

Sec. 6. NRS 171.1775 is hereby amended to read as follows:

171.1775 1. Every county, city or town law enforcement agency in this state shall provide in appropriate form misdemeanor citations containing notices to appear which must ~~{be issued in books and}~~ meet the requirements of NRS 171.177 to 171.1779, inclusive ~~{, and be:~~

(a) Issued in books; or

(b) Available through an electronic device used to prepare the citations.

2. The chief administrative officer of each law enforcement agency is responsible for the issuance of such books *and electronic devices* and shall maintain a record of each book *, each electronic device* and each citation contained therein issued to individual members of the law enforcement agency. The chief administrative officer shall require and retain a receipt for every book *and electronic device that is* issued.

Sec. 7. NRS 171.1776 is hereby amended to read as follows:

171.1776 1. Every peace officer upon issuing a misdemeanor citation, pursuant to NRS 171.177 to 171.1779, inclusive, to an alleged violator of any provision of a county, city or town ordinance or of a state law which is punishable as a misdemeanor shall ~~{deposit}~~ *file manually or, if the provisions of subsection 2 are satisfied, file electronically* the original or a copy of such misdemeanor citation with a court having jurisdiction over the alleged offense.

2. *A copy of a misdemeanor citation that is prepared electronically may be filed electronically with a court having jurisdiction over the alleged offense if the court:*

- (a) *Authorizes such electronic filing;*
- (b) *Has the ability to receive and store the citation electronically; and*
- (c) *Has the ability to physically reproduce the citation upon request.*

3. Upon the ~~{deposit}~~ *filing* of the original or a copy of such misdemeanor citation with a court having jurisdiction over the alleged offense, such original or copy of such misdemeanor citation may be disposed of only by trial in such court or other official action by a judge of such court.

~~{3.}~~ 4. It is unlawful and official misconduct for any peace officer or other officer or public employee to dispose of a misdemeanor citation or copies thereof or of the record of the issuance of a misdemeanor citation in a manner other than as required in this section.

~~{4.}~~ 5. The chief administrative officer of every county, city or town law enforcement agency shall require the return to him of a *physical* copy *or electronic record* of every misdemeanor citation issued by an officer under his supervision to an alleged misdemeanant and of all *physical* copies *or electronic records* of every misdemeanor citation which has been spoiled or upon which any entry has been made and not issued to an alleged misdemeanant.

~~{5.}~~ 6. Such chief administrative officer shall also maintain or cause to be maintained in connection with every misdemeanor citation issued by an officer under his supervision a record of the disposition of the charge by the court in which the original or copy of the misdemeanor citation was ~~{deposited.}~~ *filed.*

Sec. 8. NRS 171.1778 is hereby amended to read as follows:

171.1778 If the form of citation ~~{includes}~~ :

1. *Includes* information whose truthfulness is attested as required for a complaint charging commission of the offense alleged in the citation to have been committed ~~{}~~ ; or

2. *Is prepared electronically,*

then the citation when filed with a court of competent jurisdiction shall be deemed to be a lawful complaint for the purpose of prosecution.

Sec. 9. NRS 392.142 is hereby amended to read as follows:

392.142 1. The principal of a school shall report to the appropriate local law enforcement agency the name of any pupil enrolled in that school who is a habitual truant.

2. Upon receipt of such a report, if it appears after investigation that the pupil is a habitual truant, the law enforcement agency shall prepare *manually or electronically* a ~~{written}~~ citation directing the pupil to appear in the proper juvenile court.

3. A copy of the citation must be delivered to the pupil and to the parent, guardian or any other person who has control or charge of the pupil by:

(a) The local law enforcement agency;

(b) A school police officer employed by the board of trustees of the school district; or

(c) An attendance officer appointed by the board of trustees of the school district.

4. The citation must be in the form prescribed for misdemeanor citations in NRS 171.1773.

Sec. 10. NRS 483.465 is hereby amended to read as follows:

483.465 1. If a driver who holds a Nevada driver's license violates a written promise to appear pursuant to a citation ~~issued~~ *that was prepared manually or electronically* for a violation of a traffic law or ordinance occurring within this state other than one governing standing or parking, the clerk of the court shall immediately notify the department on a form approved by the department.

2. Upon receipt of notice from a court in this state of a failure to appear, the department shall notify the driver by mail that his privilege to drive is subject to suspension and allow him 30 days after the date of mailing the notice to:

(a) Appear in court and obtain a dismissal of the citation or complaint as provided by law;

(b) Appear in court and, if permitted by the court, make an arrangement acceptable to the court to satisfy a judgment of conviction; or

(c) Make a written request to the department for a hearing.

3. If notified by a court, within 30 days after the notice of a failure to appear, that a driver has been allowed to make an arrangement for the satisfaction of a judgment of conviction, the department shall remove the suspension from the driver's record. If the driver subsequently defaults on his arrangement with the court, the court shall notify the department which shall immediately suspend the driver's license until the court notifies the department that the suspension may be removed.

4. The department shall suspend the license of a driver 31 days after it mails him the notice provided for in subsection 2, unless within that time it has received a written request for a hearing from the driver or notice from the court on a form approved by the department that the driver has appeared or the citation or complaint has been dismissed. A license so suspended remains suspended until further notice is received from the court that the driver has appeared or that the case has been otherwise disposed of as provided by law.

Sec. 11. NRS 484.4085 is hereby amended to read as follows:

484.4085 1. A local law enforcement agency may appoint volunteers to issue citations *, prepared manually or electronically,* for the violation of the provisions of NRS 484.408 or ordinances enacted by a local authority that govern parking for the handicapped.

2. The local law enforcement agency appointing volunteers shall:

(a) Establish minimum qualifications for the volunteers;

(b) Provide training to the volunteers before authorizing them to issue citations; and

(c) Provide the volunteers with appropriate equipment, including, but not limited to, uniforms or other identifying attire and traffic citations issued in books ~~{ }~~ *or electronic devices that may be used to issue citations.*

3. A citation issued by a volunteer appointed pursuant to subsection 1 has the same force and effect as a citation issued by a peace officer. The volunteer shall ~~{deposit}~~ *file* the original or a copy of the citation in the manner prescribed in ~~{subsection 1 of}~~ NRS 484.813.

4. For the purposes of this section, a person who volunteers to a local law enforcement agency to issue citations pursuant to subsection 1 shall be deemed an employee of a political subdivision of this state for the purposes of NRS 616A.160 if he has successfully completed the training course for the issuance of such citations provided by the local law enforcement agency.

5. Local law enforcement agencies are not liable for the negligent acts or omissions of a person who volunteers to issue citations pursuant to subsection 1 unless:

(a) The volunteer made a specific promise or representation to a natural person who relied upon the promise or representation to his detriment; or

(b) The conduct of the volunteer affirmatively caused the harm.

The provisions of this section are not intended to abrogate the principal of common law that the duty of governmental entities to provide services is a duty owed to the public, not to individual persons.

6. An owner of private property on which there are parking spaces designated for the handicapped, or the owner or operator of a business establishment located on such property, is not liable for any acts or omissions resulting from the issuance of a citation by a volunteer pursuant to this section.

Sec. 12. NRS 484.695 is hereby amended to read as follows:

484.695 1. Peace officers and inspectors of the department, in pursuance of assigned duty, having reasonable cause to believe that any vehicle or combination of vehicles is not equipped as required by this chapter or is in such unsafe condition as to endanger the driver or other occupant or any person upon a public highway or does not comply with any standards for tires or brakes adopted pursuant to subsection 4, may require the driver thereof to stop and submit the vehicle or combination of vehicles to an inspection of the mechanical condition or equipment thereof and such tests with reference thereto as may be appropriate.

2. If a vehicle or combination of vehicles is found to be in an unsafe mechanical condition or is not equipped as required by this chapter or does not comply with any standards for tires or brakes adopted pursuant to subsection 4, the peace officer or inspector causing the inspection to be made may give the owner of the vehicle a ~~{written}~~ citation or notice of violation and further require the owner of the vehicle to produce in court or

the office of the peace officer or inspector satisfactory evidence that the vehicle or its equipment has been made to conform with the requirements of this chapter and regulations adopted ~~{thereunder.}~~ *pursuant thereto.*

3. The director may establish centers for the inspection of motor vehicles for safety at the branch offices of the department for the purpose of inspecting vehicles intended to be registered in the ~~{state.}~~ *State of Nevada.* Inspections at these centers are limited to examination of tires and brakes on motor vehicles which have a declared gross weight of less than 10,000 pounds and which were manufactured more than 2 years before the date of inspection.

4. The director shall adopt regulations prescribing the standards for tires and brakes.

Sec. 13. NRS 484.799 is hereby amended to read as follows:

484.799 1. Whenever a person is halted by a peace officer for any violation of this chapter punishable as a misdemeanor and is not taken before a magistrate as required or permitted by NRS 484.793 and 484.795, the peace officer may prepare a ~~{written}~~ traffic citation *manually or electronically* in the form of a complaint issuing in the name of "The State of Nevada," containing a notice to appear in court, the name and address of the person, the state registration number of his vehicle, if any, the number of his driver's license, if any, the offense charged, including a brief description of the offense and the NRS citation, the time and place when and where the person is required to appear in court, and such other pertinent information as may be necessary. The citation must be signed by the peace officer. *If the citation is prepared electronically, the officer shall sign the copy of the citation that is delivered to the person charged with the violation.*

2. The time specified in the notice to appear must be at least 5 days after the alleged violation unless the person charged with the violation demands an earlier hearing.

3. The place specified in the notice to appear must be before a magistrate, as designated in NRS 484.803.

4. The person charged with the violation may give his written promise to appear in court by signing at least one copy of the ~~{written}~~ traffic citation prepared by the peace officer, in which event the peace officer shall deliver a copy of the citation to the person, and thereupon the peace officer shall not take the person into physical custody for the violation. *If the citation is prepared electronically, the officer shall deliver the signed copy of the citation to the person and shall indicate on the electronic record of the citation whether the person charged gave his written promise to appear.* A copy of the citation *that is* signed by the person charged ~~{shall suffice}~~ *or the electronic record of the citation which indicates that the person charged gave his written promise to appear suffices* as proof of service.

Sec. 14. NRS 484.801 is hereby amended to read as follows:

484.801 Except for felonies and those offenses set forth in paragraphs (a) to (d), inclusive, of subsection 1 of NRS 484.791, a peace officer at the scene of a traffic accident may issue a ~~{written}~~ traffic citation, as provided in NRS 484.799, or a misdemeanor citation, as provided in NRS 171.1773, to any person involved in the accident when, based upon personal investigation, the peace officer has reasonable and probable grounds to believe that the person has committed any offense ~~{under}~~ *pursuant to* the provisions of this chapter or of chapter 482, 483, 485, 486 or 706 of NRS in connection with the accident.

Sec. 15. NRS 484.803 is hereby amended to read as follows:

484.803 1. Whenever any person is taken before a magistrate or is given a ~~{written}~~ traffic citation containing a notice to appear before a magistrate as provided for in NRS 484.799, the magistrate must be a justice of the peace or municipal judge who has jurisdiction of the offense and is nearest or most accessible with reference to the place where the alleged violation occurred, except that when the offense is alleged to have been committed within an incorporated municipality wherein there is an established court having jurisdiction of the offense, the person must be taken without unnecessary delay before that court.

2. For the purpose of this section, the terms “magistrate” and “court” include magistrates and courts having jurisdiction of offenses under the law of this state as committing magistrates and courts and those having jurisdiction of the trials of such offenses.

Sec. 16. NRS 484.805 is hereby amended to read as follows:

484.805 Whenever any person is taken into custody by a peace officer for the purpose of taking him before a magistrate or court as authorized or required in this chapter upon any charge other than a felony or the offenses enumerated in paragraphs (a) to (d), inclusive, of subsection 1 of NRS 484.791, and no magistrate is available at the time of arrest, and there is no bail schedule established by the magistrate or court and no lawfully designated court clerk or other public officer who is available and authorized to accept bail upon behalf of the magistrate or court, the person must be released from custody upon the issuance to him of a ~~{written}~~ misdemeanor citation or traffic citation and his signing a promise to appear, as provided in NRS 171.1773 or 484.799, respectively.

Sec. 17. NRS 484.807 is hereby amended to read as follows:

484.807 1. It is unlawful for any person to violate his written promise to appear given to a peace officer upon the issuance of a traffic citation *prepared manually*, regardless of the disposition of the charge for which ~~{such}~~ *the* citation was originally issued.

2. A *person may comply with a* written promise to appear in court ~~{may be complied with}~~ by an appearance by counsel.

3. A warrant may issue upon a violation of a written promise to appear.

Sec. 18. NRS 484.810 is hereby amended to read as follows:

484.810 1. *A traffic citation for a parking violation may be prepared manually or electronically.*

2. When a traffic citation for a parking violation has been issued identifying by license number a vehicle registered to a person who has not signed the citation, a bench warrant may not be issued for that person for failure to appear before the court unless:

~~1-1~~ (a) A notice to appear concerning the violation is first sent to the person by first-class mail within 60 days after the citation is issued; and

~~1-2~~ (b) The person does not appear within 20 days after the date of the notice or the notice to appear is returned with a report that it cannot be delivered.

Sec. 19. NRS 484.811 is hereby amended to read as follows:

484.811 1. Every traffic enforcement agency in this state shall provide in appropriate form traffic citations containing notices to appear which must ~~be issued in books and~~ meet the requirements of this chapter ~~and be:~~

(a) *Issued in books; or*

(b) *Available through an electronic device used to prepare citations.*

2. The chief administrative officer of each traffic enforcement agency is responsible for the issuance of such books *and electronic devices* and shall maintain a record of each book , *each electronic device* and each citation contained therein issued to individual members of the traffic enforcement agency ~~and volunteers of the traffic enforcement agency appointed pursuant to NRS 484.4085.~~ The chief administrative officer shall require and retain a receipt for every book *and electronic device that is* issued.

Sec. 20. NRS 484.813 is hereby amended to read as follows:

484.813 1. Every peace officer upon issuing a traffic citation to an alleged violator of any provision of the motor vehicle laws of this state or of any traffic ordinance of any city or town shall ~~deposit~~ *file manually or, if the provisions of subsection 2 are satisfied, file electronically* the original or a copy of the traffic citation with a court having jurisdiction over the alleged offense or with its traffic violations bureau.

2. *A copy of a traffic citation that is prepared electronically and issued to an alleged violator of any provision of the motor vehicle laws of this state or of any traffic ordinance of any city or town may be filed electronically with a court having jurisdiction over the alleged offense or with its traffic violations bureau if the court or traffic violations bureau, respectively:*

(a) *Authorizes such electronic filing;*

(b) *Has the ability to receive and store the citation electronically; and*

(c) *Has the ability to physically reproduce the citation upon request.*

3. Upon the ~~deposit~~ *filing* of the original or a copy of the traffic citation with a court having jurisdiction over the alleged offense or with its traffic violations bureau, the traffic citation may be disposed of only by trial

in that court or other official action by a judge of that court, including forfeiture of the bail, or by the deposit of sufficient bail with, or payment of a fine to, the traffic violations bureau by the person to whom the traffic citation has been issued by the peace officer.

~~[3.]~~ 4. It is unlawful and official misconduct for any peace officer or other officer or public employee to dispose of a traffic citation or copies of it or of the record of the issuance of a traffic citation in a manner other than as required in this section.

~~[4.]~~ 5. The chief administrative officer of every traffic enforcement agency shall require the return to him of a *physical* copy *or electronic record* of every traffic citation issued by an officer under his supervision to an alleged violator of any traffic law or ordinance and of all *physical* copies *or electronic records* of every traffic citation which has been spoiled or upon which any entry has been made and not issued to an alleged violator.

~~[5.]~~ 6. The chief administrative officer shall also maintain or cause to be maintained a record of every traffic citation issued by officers under his supervision. The record must be retained for at least 2 years after issuance of the citation.

7. *As used in this section, "officer" includes a volunteer appointed to a traffic enforcement agency pursuant to NRS 484.4085.*

Sec. 21. NRS 484.817 is hereby amended to read as follows:

484.817 If the form of citation ~~[includes]~~ :

1. *Includes* information whose truthfulness is attested as required for a complaint charging commission of the offense alleged in the citation to have been committed ~~[]~~ ; or

2. *Is prepared electronically,*

then the citation when filed with a court of competent jurisdiction shall be deemed to be a lawful complaint for the purpose of prosecution ~~[under]~~ *pursuant to* this chapter.

Sec. 22. NRS 706.235 is hereby amended to read as follows:

706.235 1. Whenever a peace officer detains the driver of a heavy-duty motor vehicle for a violation of any provision of this chapter or any other specific statute or regulation relating to the equipment, lights, brakes, tires, mechanisms or safety appliances required of such a vehicle, the peace officer shall, in lieu of arresting the driver, *prepare manually or electronically and* issue a ~~[written]~~ citation, a ~~[written]~~ notice of correction, or both. If a notice of correction is issued, it must set forth the violation with particularity and specify the corrective action which must be taken.

2. If at the time of the issuance of a citation or a notice of correction, the peace officer determines that the vehicle is unsafe and poses an immediate threat to the life of the driver or any other person upon a public highway, the peace officer may require that the vehicle be taken to the nearest garage or other place where the vehicle may be safely repaired. If the vehicle is transporting wet concrete or other perishable cargo and does not pose an immediate threat to life, and if the destination of the vehicle is within a distance of not more than 15 miles, the peace officer shall not

delay the vehicle for more than 15 minutes and shall permit the vehicle to proceed to its destination and unload its cargo. Upon the arrival of the vehicle at its destination, the peace officer may order that the vehicle be taken, after the cargo of the vehicle has been unloaded, to the nearest garage or other place where the vehicle may be safely repaired.

3. As used in this section:

(a) "Heavy-duty motor vehicle" means a motor vehicle which:

(1) Has a manufacturer's gross vehicle weight rating of 10,000 pounds or more; and

(2) Is owned or leased by or otherwise used in the regular course of the business of a common, contract or private motor carrier.

(b) "Peace officer" means:

(1) A peace officer or an inspector of the department; or

(2) A sheriff, peace officer or traffic officer assisting in the enforcement of the provisions of this chapter.

Sec. 23. The amendatory provisions of this act do not apply to offenses that were committed before July 1, 1999.

Sec. 24. This act becomes effective on July 1, 1999.

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