

HOUSE BILL 376

R2, E2

0lr1614

By: **Delegates Norman, DeBoy, Frank, Harrison, McComas, Riley, Shewell, Stifler, Stukes, and Stull**

Introduced and read first time: January 28, 2010

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Traffic Citations – Notice of Defendant’s Right to Elect to Stand Trial –**
3 **Presence of Police Officer**

4 FOR the purpose of requiring a certain traffic citation to include a notice to the person
5 charged that the person may elect to stand trial for the offense; requiring a
6 person who elects to stand trial for a certain offense and desires the presence at
7 trial of the police officer who issued the citation to notify the District Court by
8 returning a copy of the citation to the District Court within the time allowed for
9 payment of the fine and providing certain information in the appropriate space
10 on the citation; prohibiting a court from dismissing a certain offense on the
11 grounds that the police officer who issued the citation was not present at trial
12 unless the person electing to stand trial for the offense sent a certain
13 notification to the District Court; making technical corrections; and generally
14 relating to traffic citations.

15 BY repealing and reenacting, with amendments,
16 Article – Transportation
17 Section 26–201
18 Annotated Code of Maryland
19 (2009 Replacement Volume and 2009 Supplement)

20 BY repealing and reenacting, without amendments,
21 Article – Transportation
22 Section 26–204(b)(2)
23 Annotated Code of Maryland
24 (2009 Replacement Volume and 2009 Supplement)

25 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
26 MARYLAND, That the Laws of Maryland read as follows:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **Article – Transportation**

2 26–201.

3 (a) A police officer may charge a person with a violation of any of the
4 following, if the **POLICE** officer has probable cause to believe that the person has
5 committed or is committing the violation:

6 (1) The Maryland Vehicle Law, including any regulation adopted
7 under any of its provisions;

8 (2) A traffic law or ordinance of any local authority;

9 (3) Title 9, Subtitle 2 of the Tax – General Article;

10 (4) Title 9, Subtitle 3 of the Tax – General Article;

11 (5) Title 10, Subtitle 4 of the Business Regulation Article;

12 (6) § 10–323 of the Business Regulation Article; or

13 (7) § 10–323.2 of the Business Regulation Article.

14 (b) A police officer who charges a person under this section shall issue a
15 traffic citation, and provide a copy, to the person charged.

16 (c) A traffic citation issued to a person under this section shall contain:

17 (1) A notice to appear in court, including a notice that, if the offense is
18 not punishable by incarceration, the person may **[request]**:

19 (i) **REQUEST** a hearing regarding sentencing and disposition in
20 lieu of a trial as provided in § 26–204(b)(2) of this subtitle; **OR**

21 (ii) **ELECT TO STAND TRIAL FOR THE OFFENSE;**

22 (2) A notice that:

23 (i) The citation is a summons to appear as notified by a circuit
24 court or the District Court through a trial notice setting the date, time, and place for
25 the person to appear; or

26 (ii) A circuit court or the District Court will issue a writ setting
27 the date, time, and place for the person to appear;

28 (3) The name and address of the person;

- 1 (4) The number of the person's license to drive, if applicable;
- 2 (5) The State registration number of the vehicle, if applicable;
- 3 (6) The violation or violations charged;
- 4 (7) An acknowledgment of receipt of the citation, to be executed by the
5 person as required under § 1-605 of the Courts Article;
- 6 (8) Near the acknowledgment, a clear and conspicuous statement that:
- 7 (i) Acknowledgment of the citation by the person does not
8 constitute an admission of guilt; and
- 9 (ii) The failure to acknowledge receipt of the citation may
10 subject the person to arrest; and
- 11 (9) Any other necessary information.

12 **(D) (1) IF A PERSON ELECTS TO STAND TRIAL FOR AN OFFENSE IN
13 ACCORDANCE WITH SUBSECTION (C)(1)(II) OF THIS SECTION AND DESIRES THE
14 PRESENCE AT TRIAL OF THE POLICE OFFICER WHO ISSUED THE CITATION, THE
15 PERSON SHALL RETURN A COPY OF THE CITATION TO THE DISTRICT COURT
16 WITHIN THE TIME ALLOWED FOR PAYMENT OF THE FINE INDICATING IN THE
17 APPROPRIATE SPACE ON THE CITATION THAT THE PERSON:**

18 **(I) ELECTS TO STAND TRIAL FOR THE OFFENSE; AND**

19 **(II) DESIRES THE PRESENCE AT TRIAL OF THE POLICE
20 OFFICER.**

21 **(2) A COURT MAY NOT DISMISS AN OFFENSE UNDER THIS
22 SECTION ON THE GROUNDS THAT THE POLICE OFFICER WHO ISSUED THE
23 CITATION WAS NOT PRESENT AT TRIAL UNLESS THE PERSON ELECTING TO
24 STAND TRIAL FOR THE OFFENSE NOTIFIED THE DISTRICT COURT, IN
25 ACCORDANCE WITH PARAGRAPH (1) OF THIS SUBSECTION, THAT THE PRESENCE
26 OF THE POLICE OFFICER WHO ISSUED THE CITATION WAS DESIRED.**

27 **[(d)] (E)** A police officer who discovers a vehicle stopped, standing, or
28 parked in violation of § 21-1003 or § 21-1010 of this article shall:

29 (1) Deliver a copy of a citation to the driver or, if the vehicle is
30 unattended, attach a copy of a citation to the vehicle in a conspicuous place; and

1 (2) Keep a written or electronic copy of the citation, bearing the police
2 officer's certification under penalty of perjury that the facts stated in the citation are
3 true.

4 **[(e)] (F)** (1) A police officer who discovers a motor vehicle parked in
5 violation of § 13-402 of this article shall:

6 (i) Deliver a copy of a citation to the driver or, if the motor
7 vehicle is unattended, attach a copy of a citation to the motor vehicle in a conspicuous
8 place; and

9 (ii) Keep a written or electronic copy of the citation, bearing the
10 **[law enforcement] POLICE** officer's certification under penalty of perjury that the facts
11 stated in the citation are true.

12 (2) In the absence of the driver, the owner of the motor vehicle is
13 presumed to be the person receiving the copy of a citation or warning.

14 26-204.

15 (b) (2) (i) Subject to the provisions of subparagraph (iii) of this
16 paragraph, a person who intends to comply with the notice to appear contained in a
17 traffic citation by appearance in person or by counsel may return a copy of the citation
18 to the District Court within the time allowed for payment of the fine indicating in the
19 appropriate space on the citation that the person:

20 1. Does not dispute the truth of the facts as alleged in
21 the citation; and

22 2. Requests, in lieu of a trial, a hearing before the Court
23 regarding sentencing and disposition.

24 (ii) A person who requests a hearing under the provisions of
25 subparagraph (i) of this paragraph waives:

26 1. Any right to a trial of the facts as alleged in the
27 citation; and

28 2. Any right to compel the appearance of the police
29 officer who issued the citation.

30 (iii) A person may request a hearing under the provisions of
31 subparagraph (i) of this paragraph only if the traffic citation is for an offense that is
32 not punishable by incarceration.

33 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
34 October 1, 2010.