

HOUSE BILL 742

E2

EMERGENCY BILL

3lr2797
CF 3lr2978

By: **Delegates Waldstreicher and McDermott**

Introduced and read first time: February 6, 2013

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure – Citation Authority**

3 FOR the purpose of authorizing a police officer to charge by citation for certain crimes;
4 making this Act an emergency measure; and generally relating to criminal
5 citations.

6 BY repealing and reenacting, with amendments,
7 Article – Criminal Procedure
8 Section 4–101(c)
9 Annotated Code of Maryland
10 (2008 Replacement Volume and 2012 Supplement)

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

13 **Article – Criminal Procedure**

14 4–101.

15 (c) (1) **(I)** Subject to paragraph (2) of this subsection, in addition to
16 any other law allowing a crime to be charged by citation, a police officer shall charge
17 by citation for:

18 **[(i)] 1.** any misdemeanor or local ordinance violation that
19 does not carry a penalty of imprisonment;

20 **[(ii)] 2.** any misdemeanor or local ordinance violation for
21 which the maximum penalty of imprisonment is 90 days or less, except:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 [1.] A. failure to comply with a peace order under §
2 3–1508 of the Courts Article;

3 [2.] B. failure to comply with a protective order under
4 § 4–509 of the Family Law Article;

5 [3.] C. violation of a condition of pretrial or posttrial
6 release while charged with a sexual crime against a minor under § 5–213.1 of this
7 article;

8 [4.] D. possession of an electronic control device after
9 conviction of a drug felony or crime of violence under § 4–109(b) of the Criminal Law
10 Article;

11 [5.] E. violation of an out-of-state domestic violence
12 order under § 4–508.1 of the Family Law Article; or

13 [6.] F. abuse or neglect of an animal under § 10–604 of
14 the Criminal Law Article; or

15 [(iii)] 3. possession of marijuana under § 5–601 of the
16 Criminal Law Article.

17 (II) **SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, IN**
18 **ADDITION TO ANY OTHER LAW ALLOWING A CRIME TO BE CHARGED BY**
19 **CITATION, A POLICE OFFICER MAY CHARGE BY CITATION FOR:**

20 **1. SALE OF AN ALCOHOLIC BEVERAGE TO AN**
21 **UNDERAGE DRINKER OR INTOXICATED PERSON UNDER ARTICLE 2B, § 12–108**
22 **OF THE CODE;**

23 **2. MALICIOUS DESTRUCTION OF PROPERTY UNDER §**
24 **6–301 OF THE CRIMINAL LAW ARTICLE, IF THE AMOUNT OF DAMAGE TO THE**
25 **PROPERTY IS LESS THAN \$500; OR**

26 **3. MISDEMEANOR THEFT UNDER § 7–104(G)(2) OF**
27 **THE CRIMINAL LAW ARTICLE.**

28 (2) A police officer may charge a defendant by citation only if:

29 (i) the officer is satisfied with the defendant's evidence of
30 identity;

31 (ii) the officer reasonably believes that the defendant will
32 comply with the citation;

1 (iii) the officer reasonably believes that the failure to charge on a
2 statement of charges will not pose a threat to public safety;

3 (iv) the defendant is not subject to arrest for another criminal
4 charge arising out of the same incident; and

5 (v) the defendant complies with all lawful orders by the officer.

6 (3) A police officer who has grounds to make a warrantless arrest for
7 an offense that may be charged by citation under this subsection may:

8 (i) issue a citation in lieu of making the arrest; or

9 (ii) make the arrest and subsequently issue a citation in lieu of
10 continued custody.

11 SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency
12 measure, is necessary for the immediate preservation of the public health or safety,
13 has been passed by a ye and nay vote supported by three-fifths of all the members
14 elected to each of the two Houses of the General Assembly, and shall take effect from
15 the date it is enacted.