

First Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 11-1009.01 Richard Sweetman

SENATE BILL 11-246

SENATE SPONSORSHIP

Giron,

HOUSE SPONSORSHIP

Barker,

Senate Committees
Transportation

House Committees

A BILL FOR AN ACT

101 CONCERNING ELIMINATING THE REQUIREMENT THAT A DEFENDANT
102 EXECUTE A PROMISE TO APPEAR IN COURT IN ORDER TO SECURE
103 HIS OR HER RELEASE FOLLOWING THE ISSUANCE OF A NOTICE
104 FOR A TRAFFIC VIOLATION.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

Current law provides that whenever a person commits a traffic violation other than a violation for which a penalty assessment notice may

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

be issued, and such person is not required to be arrested and taken without unnecessary delay before a county judge, the peace officer may issue and serve upon the defendant a summons and complaint, which shall be signed by the peace officer. The bill eliminates the requirement that the peace officer sign the summons and complaint and replaces this requirement with a requirement that the summons and complaint indicate the name and badge number of the peace officer.

Current law requires a defendant who does not possess a valid Colorado driver's license but who is otherwise eligible to be issued a summons and complaint or a penalty assessment notice for a traffic violation, in order to secure release, to either consent to be taken by the officer to the nearest mailbox and to mail the amount of the penalty and surcharges thereon to the department of revenue or to execute a promise to appear in court on the penalty assessment notice or on the summons and complaint. The bill eliminates the option to execute a promise to appear in court.

The bill also makes conforming amendments.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** 42-4-1707 (1) (a) and (6), Colorado Revised
3 Statutes, are amended to read:

4 **42-4-1707. Summons and complaint or penalty assessment**
5 **notice for misdemeanors, petty offenses, and misdemeanor traffic**
6 **offenses - release - registration.** (1) (a) Whenever a person commits a
7 violation of this title punishable as a misdemeanor, petty offense, or
8 misdemeanor traffic offense, other than a violation for which a penalty
9 assessment notice may be issued in accordance with the provisions of
10 section 42-4-1701 (5) (a), and such person is not required by the
11 provisions of section 42-4-1705 to be arrested and taken without
12 unnecessary delay before a county judge, the peace officer may issue and
13 serve upon the defendant a summons and complaint which shall:

14 (I) ~~Contain~~ INDICATE the name and address of the defendant, the
15 license number of the vehicle involved, if any, the number of the
16 defendant's driver's license, if any, a citation of the statute alleged to have

1 been violated, a brief description of the offense, the date and approximate
2 location thereof, and the date the summons and complaint is served on the
3 defendant;

4 (II) ~~shall~~ Direct the defendant to appear in a specified county court
5 at a specified time and place; AND

6 (III) ~~shall be signed by~~ INDICATE THE NAME AND BADGE NUMBER
7 OF the peace officer ~~and shall contain a place for the defendant to execute~~
8 ~~a written promise to appear at the time and place specified in the~~
9 ~~summons portion of the summons and complaint~~ WHO ISSUED THE
10 SUMMONS AND COMPLAINT.

11 (6) If the defendant is otherwise eligible to be issued a summons
12 and complaint or a penalty assessment notice for a violation of this title
13 punishable as a misdemeanor, petty offense, or misdemeanor traffic
14 offense ~~and if~~ BUT the defendant does not possess a valid Colorado
15 driver's license, the defendant, in order to secure release, as provided in
16 this section, must ~~either~~ consent to be taken by the officer to the nearest
17 mailbox and to mail the amount of the penalty and surcharges thereon to
18 the department. ~~or must execute a promise to appear in court on the~~
19 ~~penalty assessment notice or on the summons and complaint. If the~~
20 ~~defendant does possess a valid Colorado driver's license, the defendant~~
21 ~~shall not be required to execute a promise to appear on the penalty~~
22 ~~assessment notice or on the summons and complaint.~~ The peace officer
23 shall not require any person who is eligible to be issued a summons and
24 complaint or a penalty assessment notice for a violation of this title to
25 produce or divulge such person's social security number.

26 **SECTION 2.** 42-4-1705 (1) (e) and (2), Colorado Revised
27 Statutes, are amended to read:

1 **42-4-1705. Person arrested to be taken before the proper**
2 **court.** (1) Whenever a person is arrested for any violation of this article
3 punishable as a misdemeanor, the arrested person shall be taken without
4 unnecessary delay before a county judge who has jurisdiction of such
5 offense as provided by law, in any of the following cases:

6 (e) In any other event when the provisions of section 42-4-1701
7 (5) (b) and (5) (c) apply. ~~and the person arrested refuses to give a written~~
8 ~~promise to appear in court as provided in section 42-4-1707.~~

9 (2) Whenever any person is arrested by a police officer for any
10 violation of this article punishable as a misdemeanor and is not required
11 to be taken before a county judge as provided in subsection (1) of this
12 section, the arrested person shall, in the discretion of the officer, either be
13 given a written notice or summons to appear in court as provided in
14 section 42-4-1707 or be taken without unnecessary delay before a county
15 judge who has jurisdiction of such offense when the arrested person does
16 not furnish satisfactory evidence of identity. ~~or when the officer has~~
17 ~~reasonable and probable grounds to believe the person will disregard a~~
18 ~~written promise to appear in court.~~ The court shall provide a bail bond
19 schedule and available personnel to accept adequate security for such bail
20 bonds.

21 **SECTION 3. Repeal.** 42-4-1711, Colorado Revised Statutes, is
22 repealed as follows:

23 **42-4-1711. Compliance with promise to appear.** ~~A written~~
24 ~~promise to appear in court may be complied with by an appearance by~~
25 ~~counsel.~~

26 **SECTION 4. Act subject to petition - effective date.** This act
27 shall take effect at 12:01 a.m. on the day following the expiration of the

1 ninety-day period after final adjournment of the general assembly (August
2 10, 2011, if adjournment sine die is on May 11, 2011); except that, if a
3 referendum petition is filed pursuant to section 1 (3) of article V of the
4 state constitution against this act or an item, section, or part of this act
5 within such period, then the act, item, section, or part shall not take effect
6 unless approved by the people at the general election to be held in
7 November 2012 and shall take effect on the date of the official
8 declaration of the vote thereon by the governor.