

HB 386
Uniform Citations - Overview
Prepared by Representative Mike Hawker's Office

HB 386 establishes and requires the use of a uniform format, process and standard deadlines for citations issued in the state. The process is contained in sections 21 – 31 of the bill. The rest of the bill adopts the standard process for various citations.

Uniform Citation Process and Format contained in AS 12.25.175 – 12.25.230:

- ◇ 12.25.175 (new section of law) sets out requirements for the standard citation format, requires the commissioner of the Department of Public Safety to provide or prescribe the standard citation formats, and enables the commissioner to adopt regulations. Uniform citations must adhere to a statewide numbering system and contain specific information described in AS 12.25.200 (b). The citation issuer is also required to make an oath or affirmation, if authorized to do so, or make a statement under penalty of perjury that the citation was true and personally served on the person charged.
- ◇ 12.25.180 (existing law) clarifies when an officer can issue a citation instead of making an arrest. Most of the changes reword existing law for clarity and have no substantive effect.
 - ◆ In (a)(2), the requirement that the officer have “reasonable and probable cause to believe” that a person is a danger to self or others is replaced with “reasonably believes.” Probable cause indicates there are certain elements that must be met, whereas a reasonable belief can be articulated more easily. Because it is within the officer’s discretion to arrest or issue a citation, that determination should be based on a reasonable belief, rather than probable cause.
 - ◆ In (b)(2), the requirement that the person receiving the citation provide a written promise to appear in court is removed to facilitate electronic transmission of the citation. The required issuer’s oath or statement that a copy of the citation was correctly served (required by AS 12.25.175) satisfies the intent of this statute.
- ◇ 12.25.190 (existing law) clarifies when a person shall be given a five-day notice to appear in court. Most of the changes are language repeals to accommodate the standard process adopted in this legislation and rewording for clarity.
 - ◆ The provision allowing a person to request a hearing earlier than five days after the citation is issued is repealed. Officers in the field cannot always forward a citation to the court for a hearing in fewer than five days.
- ◇ 12.25.195 (existing law) outlines the disposition of “scheduled offenses” – violations that have an established bail or fine amount. If a person doesn’t contest the citation, there is a standard 30 day deadline for paying the bail or fine, regardless of the type of citation.
- ◇ 12.25.200 (existing law) specifies a format for citations. The changes to this section expand its applicability to all citations, instead of just those issued by law enforcement.
- ◇ 12.25.210 (existing law) outlines recordkeeping requirements for citation issuers. The changes to this section expand its applicability to all citations, instead of just those issued by law enforcement. This section also sets a 10 working day deadline for citations to be filed with the court and clarifies that missing the filing deadline does not negate the citation.
- ◇ 12.25.230 (existing law) outlines the penalties for failure to pay a fine or appear in court, as required by a citation. The current language is confusing. While having two sections implies

that that each offense should have a different penalty, because the type of misdemeanor is not defined, they can be interpreted to apply the same penalty to both types of citation. Under HB 386, there would be a bright line between offenses that require a court appearance and “scheduled offenses” which carry a particular fine and can be paid by mail.

- ♦ 12.25.230 (a) states that the penalty for failing to appear to answer a citation that requires a court appearance would be a class A misdemeanor (see penalties above).
- ♦ 12.25.230 (b) states that the penalty for failing to appear or pay the bail or fine for a citation for a “scheduled offense” is a class B misdemeanor, which is punishable by up to a \$2,000 fine and/or imprisonment of up to 90 days.

Statutory changes to implement the Uniform Citation Process and Format for various violations:

- ◇ Sections 1, 4, 7, 9, 14, 17, 34, 37, 38, 39, 40, 44, 45, 49, 56 and 57 are statutory references changed or added to reference the standard citation process and format:
- ◇ Sections 2, 5, 32, 35, 41, 54, and 56 reflect the standard deadline of 30 days for payment for a “scheduled offense” citation (see AS 12.25.195). These sections also add language specifying that this deadline is for violators who plead “no contest,” since a person contesting the citation wouldn’t be sending in a payment.
- ◇ Sections 3, 6, 33, 36, 42, 53, and 55 are individual penalty sections that are amended or repealed and reenacted to adopt the uniform penalties in AS 12.25.230.
- ◇ Sections 10, 14, 18, 45 and 49 remove the condition that a citation be “in writing” (see notes for AS 12.25.180 (b)(2)).
- ◇ Sections 11, 15, 19, 46, and 50 reflect the five day notice and repeal language allowing a person to request an earlier hearing (see notes for AS 12.25.190).
- ◇ Sections 12 and 51 reflect the 10 day deadline for a citation to be filed with the court by the citation issuer (see AS 12.25.210).
- ◇ Sections 13, 16, 20, 47, and 52 repeal language specifying what needs to be in particular citations and instead state that a citation that complies with the uniform format is considered to be a lawful complaint for the purposes of prosecution.

Miscellaneous Sections:

- ◇ Sections 8 and 24 ensure that the law is consistent after other previously enacted bills sunset. The language mirrors language found in sections 7 and 23, respectively.
- ◇ Section 43 allows citations to be given for violations in the Knik River Public Use Area.
- ◇ Section 48 allows DPS to establish regulations to implement standardized citations.
- ◇ Section 58 repeals statutes regarding citation formats that are made moot by adoption of the standardized format in this bill.
- ◇ Sections 59-63 provide applicability instructions, transitional provisions and effective dates.