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# Traffic Violations and Summary Offenses

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A summary offense is any minor crime, initially heard and decided by a magisterial district judge. Many violations of the Motor Vehicle Code, such as speeding, illegal parking and going through a red light, are summary offenses. However, driving under the influence of alcohol or drugs is not a summary offense, it is a misdemeanor, which is a more serious crime.

Non-traffic summary offenses include disorderly conduct, underage drinking, harassment, criminal mischief and first offense shoplifting.

## How Are Summary Offenses Enforced?

Most summary crimes are enforced by a citation issued by a police officer to the person who is charged with committing the offense. Normally, the citation is handed to the person charged by a police officer who has observed the incident. If no officer was present, or if, for any valid reason, the officer decides not to issue the citation at the scene, a citation/summons may be sent by mail.

In certain circumstances, a police officer may arrest someone, take him/her into custody and then before a magisterial district judge. In that case, a hearing can be requested. The hearing may be held immediately or at a later time, for which the magisterial district judge may require security to guarantee that person's appearance. A citation will still be prepared and given to that person.

Special Note: This pamphlet has been issued to inform and not to advise. It is based on Pennsylvania law. The statements are general, and individual facts in a given case may alter their application or involve other laws not referred to here.

## Consumer Legal Information



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## **What Is a Citation?**

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A citation contains a brief statement of the facts of the incident, how the law was violated, and a specific statement of the section of the law that is supposed to have been violated. It also contains instructions on what must be done to respond to the citation.

The instructions on the citation must be followed. Generally, if you receive a citation, you must within 10 days either plead guilty and pay the fine, or plead not guilty and request a hearing. If you fail to respond to the citation as instructed, you can be arrested and brought to court and, in cases involving traffic citations, your license may be suspended.

## **What If Some of the Information in the Citation Is Wrong?**

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If the incorrect information is minor, such as a misspelled name, the wrong color or model year of a car, the mistakes will probably not invalidate the citation. If, however, the mistakes are major, such as listing the wrong section of the law claimed to have been violated, then the citation may be invalid if prejudice can be shown.

## **What If I Do Not Respond to a Citation?**

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If you do not answer a citation within 10 days, you can be arrested. This arrest is usually made by a local constable. When the constable appears with the arrest warrant, you can avoid arrest by 1) paying the amount of the fine plus an additional \$5 and costs as security for your appearance at a hearing; or 2) pleading guilty and paying the fine and costs.

The constable will return the warrant and the security money to the magisterial district judge, who will then send out a notice of the date and time of the hearing to you and the police if a not-guilty plea has been made. If you do not pay the security money to the constable, you can be arrested and taken before the magisterial district judge.

## **What If I Request a Hearing?**

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When you request a hearing, the magisterial district judge will send notices to you and the police of the date and time of the hearing. You have the right to be represented by your own lawyer at the hearing, but you do not usually have the right to be represented by a public defender or a lawyer appointed at public expense if your conviction will only result in a fine.

At the hearing, the police officer and other witnesses for the prosecution will testify, then you or your attorney may ask questions of the police or others who testify against you. You can then produce your own witnesses and testify yourself if you wish to do so. The police or district attorney can question you or any of your witnesses. The police can then introduce any additional evidence to contradict or disprove what you or your witnesses said. Finally, each side is given the opportunity to make any concluding statements or arguments to the magisterial district judge.

The magisterial district judge will then decide the case. If you are found not guilty, all security you posted will be returned to you. If you are found guilty, the security will go toward paying the amount of the fine and costs.

## **What If I Fail to Appear at the Hearing?**

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Once you have requested a hearing, it will be held whether you are there or not, unless a continuance has been allowed by the magisterial district judge. If, in your absence, you are found guilty, the security money will go toward paying the fine and costs. If the security is not enough to cover the total amount, you will be ordered to pay an additional amount. If you are found not guilty, the security money will be returned to you.

## **Can I Appeal?**

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You must appeal within 30 days by filing a form obtained from the magisterial district judge or clerk of courts. When the case is tried in common pleas court, you will have a completely new trial.

The police generally do not have the right to appeal if you are found not guilty by the magisterial district judge.

## **For More Information**

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Some information about handling summary charges can be obtained from the office of the magisterial district judge where the citation is filed. The citation will include the name and address of the magisterial district judge. That office, however, cannot provide legal advice concerning the case.

If you want further advice about handling a summary charge, you should contact a lawyer. The immediate aid of a lawyer is advisable whenever a person is charged with a traffic summary offense. A conviction may result in the assignment of points or a suspension/ revocation of a driver's license. A conviction on a driver's record may also affect a driver's insurance rates. The aid of an attorney is also warranted in many cases involving non-traffic summary offenses.

## **How Can I Locate an Attorney?**

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Call the Pennsylvania Bar Association Lawyer Referral Service toll free at 800-692-7375. Most counties have this same service at the local level. Check your Yellow Pages under "attorneys" for more details.

If you are found guilty of a summary offense, you can appeal to the common pleas court in the county where the magisterial district judge is located.