

Germantown Police Department

Policies and Procedures

Number: 8-5
Effective Date: January 1, 2003
Subject: Traffic Citations
Previous Revisions:

I. PURPOSE

The purpose of this policy is to establish uniform guidelines and procedures for use of the traffic citation or summons.

II. POLICY

It is the policy of the Germantown Police Department for officers to issue traffic citations in accordance with departmental regulations, directives and procedures. When a person violates any traffic or other ordinance, law or regulation of any municipal government in the presence of a law enforcement officer, such officer may issue, in lieu of arresting the offender and having a warrant issued for the offense, a citation or complaint for such offense.

III. COMPLETING AND ISSUING CITATIONS FOR MOVING VIOLATIONS

- A. Legibility: Traffic citations will be completed using black ballpoint ink pens. Officers shall print all information in a manner that allows it to be clearly legible on **all** copies of the citation, especially the hard copy given to the violator.
- B. Appearance Requirements: Officers will explain the appearance requirements, although they are printed on the citation. Officers will also explain the procedure for those violators who wish to enter a guilty plea prior to their scheduled court date.
- C. Notes on Citations: The officer issuing the citation should use the back of the appropriate copy for making notes about a violation. The notes should include: road conditions, weather conditions, any passenger information, location of vehicle at first observation, location of the officer at the time of observation, details of the violation itself, remarks of the driver and any other pertinent details.
- D. Issuance: Traffic citations should be issued for violations occurring on public streets and roadways.

- E. Private Property: Traffic citations should not be issued for violations occurring on private property, except in the following circumstances:
 - 1. Under provisions of Tenn. Code Ann. 55-10-401, which provides that a person may be charged with D.U.I. for operating a vehicle on the premises of a shopping center, apartment complex or other area frequented by the public while under the influence of an intoxicant or drug;
 - 2. When an officer observes a person operating a vehicle in a reckless manner which endangers lives and property;
 - 3. When an officer follows a violator onto private property after observing a violation on the roadway;
 - 4. For leaving the scene of a private property crash witnessed by the officer; or
 - 5. Parking violations.

IV. REFUSAL OF VIOLATOR TO SIGN SUMMONS

- A. When a traffic violator refuses to sign a citation, the officer should make it as clear as possible that in signing, the driver is not admitting guilt, but only acknowledging receipt of the summons and agreeing to appear in court.
- B. Arrest when offender refuses to sign: In the event the offender refuses to sign the agreement to appear in court and to waive the issuance and service upon the offender of a warrant, then it shall be the duty of the officer, in whose presence the offense is committed, forthwith to place the offender under arrest and take the offender before the proper authority, procure a warrant, serve the same upon the offender and book the offender as in other cases of violations. The authority issuing the warrant shall take bail from the accused for appearance in court for trial, or in lieu thereof, commit the offender to jail.
- C. A supervisor will be called to the scene when a violator refuses to sign a citation.

V. ISSUANCE OF CITATION AFTER CRASH INVESTIGATION

The procedure already mentioned as to giving citations in lieu of arrests shall also apply when an officer makes a personal investigation at the scene of a traffic crash, or makes a personal investigation at the place of a violation, as a result of which the officer has reasonable and probable grounds to believe that the driver of any vehicle involved in the crash has violated any traffic ordinance, law or regulation; or in the case of violations other than traffic crashes, the officer has reasonable and probable grounds to believe the owner or occupant of property involved in a violation has violated any ordinance, law or regulation.

VI. CITATIONS ISSUED TO JUVENILES

Officers will issue a Juvenile Traffic Summons to juvenile offenders under 16 years of age, or any juvenile arrested on traffic charges. Minor traffic violations involving juveniles 16-17 years of age will be cited on a regular traffic citation. Court appearances are mandatory for juvenile offenders.

VII. GRADUATED DRIVER'S LICENSE

A. Learner Permit

1. Applicants must be 15 years old and pass the standard written and visual exams.
2. As of July 1, 2001, under the new law, juveniles have to hold a learner permit for six (6) months instead of three (3) months. If the juvenile obtains a learner permit before July 1, 2001, but it was not issued six (6) months prior to July 1, 2001, they will have to keep the learner permit for six (6) months or until age 16).
3. As of July 1, 2001, juveniles may drive a car when accompanied by a licensed driver 21 years or older.
4. As of July 1, 2001, juveniles may not drive between the hours of 10 p.m. and 6 a.m.
5. Passengers between 4 and 17 years of age must wear a seat belt.

B. Intermediate License

As of July 1, 2001, there will be two (2) Intermediate License levels for those who are under 18 years of age. The first level is the Intermediate Restricted License, and the second level is the Intermediate Unrestricted License.

First Level – Intermediate Restricted License

1. The juvenile must be sixteen (16) old and pass the driving test.
2. The juvenile must have held a learner permit for six (6) months.
3. The juvenile cannot have more than six (6) points on their record during the immediate 180 days preceding their application.
4. The juvenile must have verification they have 50 hours (ten (10) hours at night)) of driving experience. (Note: Verification certificates can be obtained at the Driver License Stations).

Second Level – Intermediate Unrestricted License

1. To obtain this license, the juvenile must be 17 years old.
2. The juvenile must have held an Intermediate Restricted License for one (1) year.
3. The juvenile cannot have accumulated more than six (6) points on their driving record.
4. The juvenile cannot have had a traffic accident that was their fault.
5. The juvenile cannot have had two seat belt violations.

Passengers between 4 and 17 years of age must be wearing a seat belt.

Juveniles may obtain a Class D (Regular Driver License) when they are 18 years of age. The word “intermediate” will be omitted; however, the license will still appear as “Under 21.”

C. Proof of School Attendance/Progress

Applicants under the age of 18 years must prove they are either enrolled in or have already graduated from high school. If they have graduated, they must bring their high school diploma or G.E.D. certificate with them when they apply. If not, they need to ask their school to complete a Certificate of Compulsory School Attendance and take the original part of this form with them to a driver license station.

If a student 15 years or older drops out of school, the school is required to notify the Department of Safety which suspends the student’s driving privileges. The first time a student drops out, he/she may regain the privilege to drive by returning to school and making satisfactory academic progress. There is no second chance, however. The second time a student drops out, he/she must wait to turn 18 years old before being eligible to apply.

VIII. TRAFFIC AND PARKING CITATION ACCOUNTABILITY

- A. Individual supplies of summonses and parking citations will be obtained from designated issue points, normally through shift supervisors.
- B. Summons and citation books will be issued by number. The issuing supervisor will document the (1) beginning and ending numbers of each book issued, (2) the receiving officer’s name, and (3) the issuing officer’s name.

- C. Officers must account for each summons and citation issued. Officers will retain a copy of each summons and citation. Failure to produce unaccounted for summonses or citations may result in disciplinary action.
- D. When a summons or citation book has been completed, the officer will submit all blue copies (25) to a shift supervisor for review.
- E. When an officer issues a citation, the citation number will be documented on the officer's daily log sheet.

IX. CHARGING NON-DRIVERS WITH TRAFFIC OFFENSES

Tenn. Code Ann. 55-10-201 establishes that every person who aids or abets in the commission of any act declared to be illegal by Chapters 8 or 10 of the Motor Vehicle Section of the Code shall be guilty of the offense the driver committed. It further states that any accessory shall be guilty of such offense and that anyone who willfully causes or permits another to violate any provision of Chapters 8 and 10 shall be guilty of the same offense as the driver.

To charge one other than the operator of the vehicle with a violation of the law because he/she was a party to that crime, the individual must have either:

- A. Encouraged or forced the driver to violate the law; or
- B. Have had knowledge that the driver was violating the law, did not attempt to halt the illegal actions, and had control over who was driving the car, (i.e., owner, renter or custodian of the car).

D.U.I. charges could be placed against the owner of a car who was neither intoxicated nor driving when he/she knew the driver to be intoxicated or impaired and permitted him/her to drive. The proper charge would be aiding and abetting driving under the influence, Tenn. Code Ann. 55-10-401.

Aiding and abetting reckless driving charges could be placed against all individuals in a car who encourage the driver to operate his/her vehicle recklessly. This charge would be appropriate if a group went out joy riding. Even though only one person was behind the wheel, all participated in the crime by willfully inducing the driver to proceed in such a reckless manner. Officers must know that the passenger actively encouraged the unlawful action to bring these charges.

Tenn. Code Ann. 55-10-201 is not a criminal offense in itself, but simply a codification of the common law theory of aiding and abetting offenses. It gives officers the authority to charge persons with aiding and abetting a particular offense.

Tenn. Code Ann. 55-10-202 is directed specifically at owners of automobiles and people who have control over the driving of an automobile (i.e., employer-chauffeur

relationship). This makes it unlawful for them to require or knowingly permit the operation of the vehicle in an unlawful manner. This charge should be placed whenever the non-driver has the right to determine who shall drive the car. Tenn. Code Ann. 55-10-202 is a separate criminal offense and should be used in addition to a charge of aiding and abetting when appropriate.

Another section that can be used is Tenn. Code Ann. 55-10-501. This deals with drag racing. It states that:

“...any person or persons who arrange for, supervise, or in any way and manner set in motion any such ‘drag racing’ as herein defined, regardless of whether or not such person or persons may be the operator of, or be a passenger in, any motor vehicle participating in such ‘drag racing.’

Proof to sustain a conviction based on any of these three statutes will need to be great. Discretion must be exercised in bringing charges against one other than the driver.

X. ERRORS ON CITATIONS

If an error or an omission of necessary information is discovered after a citation has been issued, officers will not correct the citation unless the violator is contacted and the same corrections are made on the violator’s copy. If the officer is unable to recontact the violator, the citation will be turned in without corrections. The officer will be responsible for contacting the court clerk’s office or city prosecutor to amend the information. A memorandum outlining the error or mistake will be attached to the citation.

XI. CANCELLATION OF SUMMONS OR CITATION

Once a summons or citation has been issued, whether for traffic or criminal violations, it cannot and shall not be voided by any officer of the department. Under Tenn. Code Ann. 55-10-204, “Any person who cancels or solicits the cancellation of any traffic citation, in any manner other than as provided in this chapter, commits a Class C misdemeanor.”

XII. REVIEW PROCESS

An annual review of this policy shall be conducted to determine if it should be revised, cancelled or continued in its present form.

This order shall remain in effect until revoked or superseded by competent authority.