

in any official record. At the end of the detention the person so detained shall be released or be arrested and charged with a crime.

HISTORY AND SOURCE OF LAW

DERIVATION: 48 Del. Laws. Ch. 304. Code 1935, Sec. 5343-B. 1951 AMENDMENT: 48 Del. Laws, Ch. 304, amended Code 1935 by adding these provisions as Section 5343-A.

NOTES OF DECISIONS

Arrest, acts as constituting 1
Sobriety test 2
Treatment of prisoner 3
7 Del. Code Ann.—19

1. Arrest, acts as constituting

Where a uniformed officer merely approached defendant and asked him what he had a package, defendant was not thereby placed under arrest. *State v. Gulczynski*, 2 W.W. Harr. 120, 32 Del. 120, 120A.8 (1952).

2. Sobriety Test

Action of state trooper who took defendant into custody following collision on highway in which defendant's automobile was involved, in insisting that defendant take sobriety test during first 2 hours, of defendant's detention was not a violation of defendant's constitutional privilege against self incrimination, Del. Const. Art. I, Sec. 7, and evidence obtained as result of such tests was admissible in evidence against defendant in prosecution for operating motor vehicle while under influence of intoxicating liquor. *State v. Smith*, 91 A. 2d, 188 (1952)

Where defendant was taken into custody by state trooper after collision occurred on highway in which defendant's automobile was involved and during first 2 hours of detention defendant submitted voluntarily to sobriety test, fact that defendant was not formally placed under arrest for operating motor vehicle while under influence of intoxicating liquor until following morning, notwithstanding statutory requirement that at end of 2-hour detention of person who fails to identify himself or explain his actions to satisfaction of peace officer who has reasonable grounds to believe such person has committed a crime such person should be arrested and charged, did not render inadmissible evidence relating to results of sobriety tests. *Id.*

3. Treatment of prisoner.

Any cruel or unnecessary exposure of a prisoner to cold, or deprivation of suitable clothing or covering, while in the custody of the officer arresting him, is unlawful, rendering the officer liable. *Petit v. Colmary*, 4 Penn. 266, 20 Del. 266, 55 A. 344 (1903).

SUPPLEMENTARY INDEX TO NOTES

Constitutionality 1/2
Peace officers, who are 4
Reasonable grounds 5

1/2. Constitutionality

This section, which permits a peace officer to stop any person who peace officer has "reasonable ground to suspect" has committed a crime, is constitutional, and is not void because it permits police officer to stop any person who peace officer has "reasonable ground to suspect" has committed a crime, as distinguished from detaining on "reasonable ground to believe", since words "suspect" and "believe" are equivalents in context of the statute. *De Salvatore v. State*, 163 A. 2d., 244 (1960).

1. Arrest, acts as constituting

Where, in criminal proceeding, evidence was sufficient to establish that officers had not stopped defendant to demand his name, address, business abroad, and destination but had taken him at once to the police station, officers' taking of defendant in custody constituted an "arrest" within this section, and, therefore, defendant's detention beyond 2-hour period was lawful, and statement