

Date of Hearing: July 1, 2024

ASSEMBLY COMMITTEE ON TRANSPORTATION

Lori D. Wilson, Chair

SB 1509 (Stern) – As Amended May 16, 2024

SENATE VOTE: 28-1

SUBJECT: Negligent Operator Treatment (NOT) in California Act

SUMMARY: Creates a rebuttable presumption that driving at a speed that exceeds the posted speed limit by 26 miles per hour (mph) or more on a highway with a posted speed limit for passenger vehicles of 55 mph or less is reckless driving. Specifically, **this bill:**

- 1) Provides that a conviction of the offense of reckless driving based solely upon the rebuttable presumption is punishable as an infraction only.

EXISTING LAW:

- 1) Authorizes the Department of Motor Vehicles (DMV) to refuse to issue or renew a driver's license or an applicant who they determine is a negligent or incompetent operator of a motor vehicle. (Vehicle Code (VEH) 12809)
- 2) Authorizes the DMV to take a variety of license control actions, including license suspension and probation, on negligent operators. (VEH 13800, 14250)
- 3) Specifies that a person is presumed to be a negligent operator if their driving record shows a violation point count of four or more points in 12 months, six or more points in 24 months, or eight or more points in 36 months. (VEH 12810.5)
- 4) Requires the DMV to offer potential negligent operators an administrative hearing when an action is taken under these provisions. (VEH 1350)
- 5) Prohibits driving a vehicle upon a highway at a speed greater than is reasonable or prudent having due regard for weather, visibility, and traffic. (VEH 22350)
- 6) Generally establishes the point value of a traffic conviction involving the safe operation of a motor vehicle upon the highway to be one point. (VEH 12810.5)
- 7) Specifies that each negligent operator point shall be valued at one and one-half times the value for each violation reasonably determined by the DMV to be attributable to the operation of a vehicle requiring a Class A or Class B license or a certificate or endorsement to operate.
- 8) Specifies that certain convictions, including failure to stop in the event of an accident, speeding at 100 mph or greater, speed contests, and driving under the influence shall be given a value of two points.
- 9) Allows courts to dismiss a single one-point conviction within an 18-month period if the offender attends a licensed traffic violator school. (VEH 1808.7 and 41501)

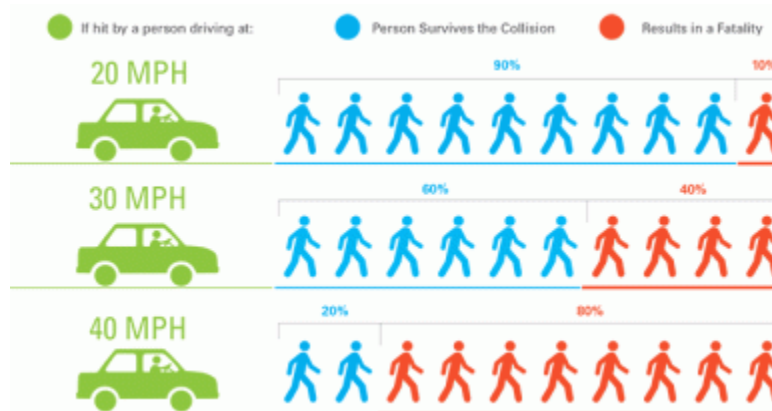
10) Defines “reckless driving” as a person who drives a vehicle upon a highway in a willful or wanton disregard for safety of persons or property.

11) Provides that a person found guilty of “reckless driving” is guilty of a misdemeanor.

FISCAL EFFECT: According to Senate Appropriations Committee, negligible state costs.

COMMENTS:

Speeding kills: The speed that a vehicle travels significantly increases the likelihood of death in a collision. According to the National Highway Traffic Safety Administration, a person struck by a vehicle going 20 mph has a 10% chance of dying. That number goes up to 40% for vehicles going 30 mph, and 80% for vehicles going 40 mph.



According to the National Transportation Safety Board (NTSB), from 2005 to 2014, crashes in which a law enforcement officer indicated a vehicle's speed was a factor resulted in 112,580 fatalities, representing 31% of all traffic fatalities. According to the NTSB, 4,407 people in California died in traffic collisions in 2022. Speeding was a factor in 35% of these traffic fatalities.

Projections from the National Highway Traffic Safety Administration estimate more than 4,400 people were killed in motor vehicle crashes throughout California in 2022, or about 12 people every day. Across the state, traffic fatalities increased approximately 7.6% from 3,980 in 2020 to 4,285 in 2021. No doubt, speeding played a role in these fatalities.

According to the author, "As the author of Senate Bill 1509, I am committed to prioritizing road safety and reducing preventable deaths and injuries caused by speeding collisions in California. The horrific statistics of speed-related fatalities and injuries highlight the urgent need for legislative action to address this speeding crisis. SB 1509, also known as the NOT IN CALIFORNIA Act, aims to increase accountability for drivers who exceed the posted speed limit by dangerous speeds. By implementing stricter penalties for speeding violations, we can deter reckless driving and save lives."

Negligent operator points. The DMV can assess points for various driving violations, such as illegal U-turns, interfering with a driver's control of a vehicle, failing to yield the right-of-way to a horseback rider, driving too slowly, driving too fast, failing to signal while turning, crossing a double line, or driving for more than 10 consecutive hours for compensation. Most point assessments are specified in the Vehicle Code, which allows the DMV to assign points if a driver is convicted of a traffic violation involving the safe operation of a motor vehicle.

An individual is considered a negligent operator if they accrue four or more points in 12 months, six in 24 months, or eight in 36 months. Additionally, a minor may receive a 30-day license restriction for two points in 12 months, or a suspension for three points in 12 months. Commercial drivers are allowed to accumulate two additional points, but violations received while using a commercial vehicle carry 1.5 times the standard point count. Except for DUIs, points remain on a driver's record for 36 months.

Points do not accumulate per arrest; the highest point count from multiple convictions determines the assessment. For instance, if a driver is convicted of both speeding and texting while driving, they receive only one point, not one point for each violation.

Individuals with a noncommercial Class C or motorcycle license may attend traffic violator school to prevent points from being added to their license. Commercial license holders may also attend traffic violator school if the violation occurred while driving a noncommercial vehicle.

Finally, insurance providers are informed of traffic violations only when points are assessed. Points can negatively impact insurance rates. Insurance companies must offer a Good Driver Discount policy that provides rates at least 20% lower than the standard rate. However, if a driver has more than one point on their record, this discount is not mandatory.

Streets Are For Everyone, Streets for All and a coalition of bicycle and pedestrian advocacy groups writing in support of this bill argue “As it stands, speeding in California only results in a one-point violation unless the driver reaches a speed of 100 mph or higher, collides with a person, or collides with property. The connection between speed and safety is well-established from the perspective of physics and human behavior. Higher speed means less time for drivers to react, increased stopping distance, and a greater risk of injury and death upon impact. The threat of dangerous speeding must be met with appropriate accountability before the loss of life or property. Assigning a reckless driving infraction with two points for this violation will prompt the DMV to notify the driver that they are aware of their unsafe driving behavior, will be monitoring them, and warn the driver that they will be at risk of license probation and or suspension if they continue to violate traffic laws designed to keep people safe.

By designating such driving a reckless driving infraction with a two-point violation,, a clear message is sent about the seriousness of speeding and the potential consequences of endangering oneself and others.

Research by the DMV indicates that negligent operator points, coupled with warning letters about their consequences, effectively modify driving behavior. According to a 2009 DMV Report titled "Enhanced Negligent Operator Treatment Evaluation System Program Effectiveness Report," the DMV estimated that their negligent operator program prevented approximately 30,000 crashes from 1976 through 1994. A blind study conducted on two separate groups showed that even changing the way individuals nearing negligent operator status were notified significantly reduced crashes. For fiscal year 2007-2008, the DMV's letters to those accumulating points were estimated to have prevented 1,310 crashes and 15,532 future citations.

Put simply, this bill is unnecessarily punitive and will disparately impact our commercial driver members, especially our school bus drivers - many of whom drive both in a personal and commercial capacity. Although we hope our members never speed, we acknowledge that they can make mistakes, mostly during off hours. A point on a personal license attaches to a commercial license, but with a 1.5x magnifier. Commercial drivers also lack the same ability to mask points through traffic school like pedestrian drivers can. Sometimes a single point is enough to trigger a commercial insurance premium increase, resulting in the termination of our members without much due process. SB 1509 would greatly exacerbate this risk by assessing excessive points on commercial drivers, even if the violation occurred in their personal vehicles, and off work hours. This would certainly result in job terminations.

At the same time, two-point violations are typically reserved for the worst driving conduct, including DUI's or reckless driving above 100 MPH. While we agree that speeding 26 MPH over the limit is unquestionably dangerous, we cannot draw a false equivalence between these behaviors."

The California State Legislative Board of SMART- Transportation Division (SMART-TD), opposing this bill, argue "Put simply, this bill is unnecessarily punitive and will disparately impact our commercial driver members, especially our school bus drivers - many of whom drive both in a personal and commercial capacity. Although we hope our members never speed, we acknowledge that they can make mistakes, mostly during off hours. A point on a personal license attaches to a commercial license, but with a 1.5x magnifier. Commercial drivers also lack the same ability to mask points through traffic school like pedestrian drivers can. Sometimes a single point is enough to trigger a commercial insurance premium increase, resulting in the termination of our members without much due process. SB 1509 would greatly exacerbate this risk by assessing excessive points on commercial drivers, even if the violation occurred in their personal vehicles, and off work hours. This would certainly result in job terminations.

At the same time, two-point violations are typically reserved for the worst driving conduct, including DUI's or reckless driving above 100 MPH. While we agree that speeding 26 MPH over the limit is unquestionably dangerous, we cannot draw a false equivalence between these behaviors."

Committee Concerns: This bill as introduced had the initial goal of adding two points on a person's record for going 26 mph over the speed limit in an area with a speed limit of 55 mph or less. In order to avoid DMV costs for programming a new point violation, the author in Senate Appropriations Committee instead decided to redefine an existing 2 point violation, reckless driving, to include these speeding violation.

Unlike traditional speeding or other motor vehicle offenses, reckless driving is a “mens rea” crime. It is not enough to simply show the person is breaking the law. There needs to be proof of “willful and wanton” behavior. Speeding by itself has never been considered “reckless driving” and jury instructions explicitly state that speeding by itself is not evidence of reckless driving.

As a result of reckless driving being a more serious crime, charges have several additional consequences beyond a traditional speeding ticket. A person can have their vehicle towed, sentencing enhancements for other crimes exist if there is a reckless driving charge on your record. While moving violations committed during employment do not result in penalties for your personal insurance, reckless driving charges do. Because reckless driving can be charged as a misdemeanor, a jury trial is permitted.

Reckless driving currently does not have a speed limit component. A person can be reckless driving going the speed limit depending on the circumstances on the road. Even going 15 mph over the speed limit in an area with a high number of pedestrians can be shown to be reckless driving. This bill creates the potential to make it more difficult for law enforcement to prove reckless driving at slower speeds by setting a 26 mph standard and making it an infraction instead of a misdemeanor.

Further, the fine permitted for reckless driving is significantly higher than the fine provided for going 26 mph over the speed limit today. Going 26 mph over the speed limit today results in a \$100 base fine (\$492 with penalty assessments). Under this bill, that fine would be increased significantly. The base fine would increase to \$145 (\$680 with penalty assessments).

Two points on a person’s driving record is not a simple notice. A person loses their good driver discount and will see their insurance rates go up at least 20%. The Teamsters and other labor unions have repeatedly mentioned that getting two points on their license may result in termination from employment, regardless of whether the violation occurred on the job. Two points on your license is serious, and is generally reserved for the most dangerous driving offenses, including going 100 mph over the speed limit, sideshows, and driving under the influence. At the same time, repeated driving behavior of going 26 mph over the speed limit may justify two points on your license, especially considering the first point may be removed as a result of attending traffic violator school.

Reckless driving should not be watered down purely to meet DMV programming needs, and two points for a first offense would have serious consequences for merely speeding alone without other factors. Therefore, the committee recommends creating a new offense for “excessive” speeding that would result in similar punishments for speeding today for a first offense while permitting two points to be assessed for subsequent offenses.

DMV information technology (IT) updates are expected to be completed by 2026. Because of the IT updates, several bills requiring IT changes that have passed over the last two years have been delayed until 2027. In order to prevent a wall of work for DMV in 2027, the committee also recommends delaying implementation for this bill until 2028.

The Committee recommends striking the contents of the bill and replacing with the following amendments with a 2028 delayed enactment date:

VEH 22349 (d) A person shall not excessively speed on a highway with a posted speed limit of 55 miles per hour or less.

For the purposes of this section, “excessively speeding” means driving at a speed that exceeds the posted speed limit by 26 miles per hour or more on a highway with a posted speed limit for passenger vehicles of 55 miles per hour or less.

(e)(1) A violation of this section is an infraction by a fine of one hundred dollars (\$100).

(2) For a second infraction occurring within one year of a prior infraction that resulted in a conviction, a fine not exceeding two hundred dollars (\$200).

(3) For a third or subsequent infraction occurring within one year of two or more prior infractions that resulted in convictions, a fine not exceeding two hundred fifty dollars (\$250).

VEH 12810.6

A violation point shall be given for a first conviction of 22349(d) and two violation points shall be given for subsequent violations of 22429(d) within a three year time period.

REGISTERED SUPPORT / OPPOSITION:

Support

Active San Gabriel Valley
 Alliance for Automotive Innovation
 Bicycle Club of Irvine
 Bike LA
 Calbike
 California Association of Highway Patrolmen
 City of Los Angeles
 City of Malibu
 City of Merced
 Conor Lynch Foundation
 Encinitas Bike Walk
 Faith for Safer Streets
 Families for Safe Streets San Diego
 Generic LLC
 Goleta; City of
 In Memory of Zachary Cruz
 League of California Cities
 Los Angeles Walks
 Marin County Bicycle Coalition
 Move LA
 National Coalition for Safer Roads
 Office of Los Angeles County Supervisor Lindsey P. Horvath
 Orange County Bicycle Coalition

Santa Monica Safe Streets Alliance
Santa Monica Spoke
So Cal Cycling
So-Cal Families for Safe Streets
Street Racing Kills
Streets are For Everyone
Streets for All
Walk San Francisco
We Save Lives
West Hollywood Bicycle Coalition

Opposition

California Conference Board of the Amalgamated Transit Union
California Teamsters Public Affairs Council
Smart - Transportation Division

Analysis Prepared by: David Sforza / TRANS. / (916) 319-2093