

Date of Hearing: April 22, 2019

ASSEMBLY COMMITTEE ON TRANSPORTATION

Jim Frazier, Chair

AB 1618 (Jones-Sawyer) – As Amended April 11, 2019

SUBJECT: Driving privileges: vandalism

SUMMARY: Repeals the ability for a court to suspend or delay someone's driver's license for a conviction of the crime of vandalism. Specifically, **this bill:**

- 1) Repeals the ability for a court to suspend or delay someone's driver's license for a conviction of the crime of vandalism.
- 2) Specifies that existing suspensions and delays will remain in effect.

EXISTING LAW:

- 1) Requires a court to suspend a person's driving privilege for up to two years if a defendant is convicted of vandalism, unless the court finds that a personal or family hardship exists that requires the person to have a driver's license.
- 2) Requires a court to delay issuing a driver's license to a person for one year if they are convicted of vandalism and do not already have a driver's license.
- 3) Allows a court to reduce the length of time a defendant's license is suspended or delayed by performing community service.
- 4) Specifies that every person who maliciously commits any of the following acts with respect to any real or personal property not their own, in cases other than those specified by state law, is guilty of vandalism:
 - a) Defaces with graffiti or other inscribed material.
 - b) Damages.
 - c) Destroys.
- 5) Provides for higher criminal penalties for vandalism depending on the amount of property damage that is done, the use of materials to commit the act, or for specific locations of vandalism.

FISCAL EFFECT: Unknown

COMMENTS: The California Legislature passed a series of laws to fight graffiti in the 1990s, including measures expanding the definition of vandalism and forcing defendants to pay for the costs of apprehension after a conviction. With the passage of Proposition 21 in 2000, criminal penalties for vandalism were enhanced, including imposing a fine up to \$50,000 if there was more than \$10,000 in property damage. The state's anti-graffiti laws extended to a point where a judge can order a parent or guardian to keep a previously defaced area clean of graffiti for up to one year and can require them to pay the fine on behalf of their child.

In addition to fines, vandalism charges also can result in jail time. If the vandalism results in less than \$400 in damage, the defendant may be charged with a misdemeanor and sentenced to imprisonment in a county jail not exceeding one year. If the vandalism results in more than \$400 worth of property damage, the defendant may be charged with a misdemeanor or a felony with imprisonment up to 3 years. If the vandalism is to a place for worship, a religious school or cemetery, and the act was a hate crime meant to deter persons from freely exercising their faith, the crime is a felony punishable up to 3 years. In addition, if the act was a hate crime it is within judicial discretion to add an additional one, two or three years to a person's sentence if they acted alone, or two, three or four years if they acted in concert with another person.

In 1990, the Legislature passed SB 1977 (Kopp), Chapter 712, which, among other things, granted a court the ability to suspend or delay someone's driver's license if they were convicted of vandalism. The Los Angeles Times reported at the time that "For years, the Legislature has waged a mostly unsuccessful war against vandals armed with spray cans, paint brushes and ink pens. In a new twist, the Senate passed, 24 to 7, and sent to the Assembly a bill by Sen. Quentin L. Kopp (I-San Francisco) clamping a one-year license suspension on 16- to 21-year-olds convicted of graffiti vandalism. A graffiti conviction for 13- to 16-year-olds would delay issuance of a driver's license for one year. Kopp noted that to teen-agers, a driver's license is perhaps the most important thing in life and that losing it for a year or facing a delay in obtaining it should make youths think twice before defacing property with graffiti.... However, opponents objected that the driving privileges of youngsters have no connection with graffiti vandalism."

The Assembly Transportation Committee Analysis for SB 1977 included a recommendation: "Do not pass. Bad policy; no linkage between the crime and punishment. Bills like this are gradually transforming the DMV into the warden for juvenile delinquency."

In 1996, the Legislature removed judicial discretion to suspend licenses, and instead required a driver's license suspension for every conviction of vandalism with the passage of AB 2331 (Goldsmith) Chapter 918. Assemblymember Goldsmith stated at the time that "The deficiency in our system is demonstrated by the continuing problem of graffiti. Even with legislation passed to treat graffiti more seriously in past years, we continue to see this problem that damages and destroys personal property."

Graffiti was considered such a blight that in 1998, a Los Angeles Times reporter wrote that graffiti is "a silent scourge that just doesn't let up. It leaves ugly lesions scrawled on walls, windows and railroad trestles. It can be a running narrative of gang warfare or the signature of a disenfranchised youth seeking his own brand of glory. To property owners, it is a festering wound, a cowardly affront, a sign of neighborhood decline."

In 2006, the Legislature passed AB 2923 (Calderon), Chapter 434. That bill extended the one year suspension for vandalism to two years. The author argued at the time that "Graffiti blights communities, is a major cause in declining property values and gives the false impression that residents do not care and that they have given into hoodlums and vandals."

In 2018, 2,258 individuals had their licenses delayed as a result of a vandalism suspension. 2,628 licenses were suspended as a result of vandalism. Five of those suspensions were as a result of vandalism to a religious institution.

Committee comments: Despite decades of legislative efforts of using license suspensions as a deterrent against graffiti, graffiti has persisted. In 2014, the City of Los Angeles spent \$7 million cleaning up 32.4 million square feet of graffiti.

While the suspended licenses appear to have not had an effect on reducing graffiti, they have real world impacts on transportation. Suspending someone's driver's license does not stop someone from driving. In fact, there were 115,000 convictions for driving with a suspended license in 2018 (and that number does not include suspensions as a result of reckless driving or driving under the influence.) It does, however, stop someone from having a legal means of getting to work or school if there is no available public transportation.

Further, suspending licenses also stops those who opt to drive anyway from having vehicle insurance. This could have detrimental effects for anyone involved in vehicle accident with someone driving with a suspended license. According to a 2000 study from AAA entitled *Unlicensed to Kill*, nearly 1 in 5 traffic fatalities in California are committed by someone with a suspended license, and hit and runs are more likely to occur when someone has a suspended license.

By delaying a teenager's ability to get a license until after the age of 18, you are also guaranteeing they will not get a provisional driver's license, which includes behind the wheel training requirements.

While the state grants courts the ability to suspend licenses for something completely unrelated to driving, two years ago it removed the authority for courts to suspend driver's licenses for failing to pay traffic tickets out of recognition of the harm it may cause for low income families.

Last year, the Legislature passed and the Governor signed AB 2685 (Lackey) Chapter 717, Statutes of 2018, which eliminated license suspensions for habitual truancy.

The Legislature may want to consider whether it should continue to allow for the suspension of driver's licenses for issues unrelated to traffic safety.

Related bills:

SB 485 (Beall, 2019) repeals various license suspensions for crimes unrelated to traffic safety, including a provision identical to this bill. That bill passed out of Senate Public Safety Committee and is pending a hearing in Senate Appropriations Committee.

Previous Legislation:

AB 2685 (Lackey) Chapter 717, Statutes of 2018, eliminated license suspensions for habitual truancy.

AB 2923 (Calderon) Chapter 434, Statutes of 2006, extended the license suspension for vandalism to up to two years.

AB 2331 (Goldsmith) chapter 918, Statutes of 1996, required a one year license suspension for a conviction of vandalism.

SB 1977 (Kopp), Chapter 712, Statutes of 1990, granted a court the ability to suspend or delay someone's driver's license if they were convicted of vandalism.

REGISTERED SUPPORT / OPPOSITION:

Support

American Civil Liberties Union of California
California District Attorneys Association

Opposition

None on file

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