

Date of Hearing: April 4, 2022

ASSEMBLY COMMITTEE ON TRANSPORTATION
Laura Friedman, Chair
AB 2746 (Friedman) – As Introduced February 18, 2022

SUBJECT: Driving privilege: suspension

SUMMARY: Lowers the penalties for driving without a license and removes the ability for a court to suspend a person's driver's license (DL) for failure to appear. Specifically, **this bill:**

- 1) Provides that the first and second offense for driving without a license shall be an infraction with a \$100 fine unless the person has prior, safety-related suspensions or revocations on their license.
- 2) Provides that the Department of Motor Vehicles (DMV) shall not suspend a driver's license for a person failing to appear. Maintains suspensions issued prior to January 1, 2023.
- 3) Repeals the requirement for courts to notify DMV of a violation of a written promise to appear or a lawfully granted continuance of their promise to appear in court.

EXISTING LAW:

- 1) Requires a driver's license to drive on public roads.
- 2) Makes it a misdemeanor or an infraction to drive without a license.
- 3) Makes it an infraction for a driver to fail to provide a DL to a peace officer when stopped while driving.
- 4) Requires law enforcement to issue a correction violation for failing to have a DL if charged with an infraction.
- 5) Makes it a crime to willfully fail to appear in court. If the underlying offense was a misdemeanor or an infraction, the failure to appear is a misdemeanor with a six month jail sentence and a potential \$300 civil assessment fine.

FISCAL EFFECT: Unknown

COMMENTS:

In 1901, California law authorized all cities and counties to give licenses for wheeled vehicles. By 1905, California created a state-wide vehicle registration system under the Secretary of State. In 1915, the Division of Motor Vehicles was created, and by 1935 DMV became a standalone department.

Licensing serves several purposes, but its main purpose is to ensure that drivers on the road are safe. Drivers under the age of 18 are required to get a learner's permit and spend a certain number of hours being trained how to drive. All drivers are required to pass both a written and driving skills test in order to receive a license.

The reasoning for this is simple: driving can be dangerous and may result in fatalities and serious injuries. According to the Center for Disease Control, 1.35 million people are killed on roadways around the world each year. According to the 2018 Global Status Report on Road Safety, traffic collisions are the 8th leading cause of death globally.

According to the National Safety Council, vehicle miles traveled dropped 13% in 2020, but the mileage death rate went up 24%, the highest estimated year-over-year jump in 96 years. Over 42 thousand Americans lost their lives to traffic violence in 2020, and an estimated 4.8 million additional road users were seriously injured last year.

Licensing ensures drivers are trained before they get behind the wheel of a car, and can also serve as a means of making sure bad drivers do not stay on the road. DMV can assess negligent operator points on DLs. Negligent operator points are generally given for most moving violations, many of which carry a single point. More serious offenses, like driving under the influence (DUI) carry two points. Most moving violations come with the ability to take traffic violator school to remove a negligent operator point. DMV can suspend or revoke a person's license if they are a negligent operator.

An individual is considered a negligent operator if they receive 4 or more points in 12 months, 6 in 24 months, or 8 in 36 months. In addition, a minor may receive a 30-day restriction on his or her license for 2 points in 12 months, or a suspension for 3 points in 12 months. Commercial drivers are allowed to receive two additional points, however a violation received while using a commercial vehicle carries 1.5 times the point count normally assessed. With the exception of DUIs, points remain on your record for a total of 36 months.

Governor Gavin Newsom established the Committee on Revision of the Penal Code to thoroughly examine California's criminal laws. In its first report to the Legislature, the Committee recommended making driving without a license an infraction and lowering the fine. The recommendation was based on the notion that there is no documented difference in driving behavior for someone driving without a license or driving with a license.

Studies from the AAA Foundation for Traffic Safety have come to the opposite conclusion. 18.2% of fatal crashes in the United States involved a driver who was unlicensed or invalidly licensed. Unlicensed drivers are also more likely to flee the scene of a collision (15% compared to 1.7% of licensed drivers).

Under existing law it is a misdemeanor or an infraction to drive without a license. If the crime is charged as an infraction, the offense carries a \$400 ticket after penalty assessments are made. However, law enforcement officers are required to offer a correction violation to individuals if they are charged with an infraction for driving without a license, unless the driver refused to correct the violation. Under a correction violation, an individual can pay \$25 and show proof that they got a DL. DLs currently cost \$38.

In Los Angeles County alone, over 5,000 people were charged with a misdemeanor for driving without a license in 2019. The Los Angeles District Attorney in 2020 issued a directive to stop filing these charges unless there have been repeat driving offenses over the preceding 24 months involving substantially similar behavior to that charged.

According to the author, "California law currently allows driving without possession of a license to be punished as a misdemeanor, even though it is a technical violation and not connected to

unsafe driving. Meanwhile, driving-related offenses that carry risk of serious harm to others—such as speeding or unsafe lane changes—can be punished only as infractions. This distinction is significant: People convicted of misdemeanors can face jail time and significant fines, while infractions carry only fines and are not criminal convictions. These more serious sanctions are not only disproportionate with the severity of the offense but also fall disproportionately on low-income people.”

This bill modifies existing law making driving without a license a wobbllet by providing that the first two offenses for driving without a license be charged as an infraction unless the defendant has had a prior lapsed suspension for safety related reasons like reckless driving, driving under the influence or vehicular manslaughter. By making the first two offenses an infraction, the drivers will be eligible for a fix-it ticket of \$25, far less than the \$400 penalty they may face if they fail to get a driver’s license after the offense.

The Committee on Revision of the Penal Code recommended lowering the penalty for driving with a suspended license for failure to appear instead of eliminating the ability to suspend a person’s DL and noted that there are currently 600,000 individuals with a suspended license for failure to appear. In their report, that committee wrote “Recent research shows that license suspension for failure to appear in court is not the most effective way to coerce people to appear in court and pay their fines. In fact, after California prohibited license suspensions for failure to pay court fees in 2017, on-time collections increased the following year. As the San Francisco Financial Justice Project concluded, ‘[t]he increase in collections without the use of DL suspensions indicates that the ability to suspend DLs was not needed to ensure payment.’

Other research shows that license suspensions have dramatic economic consequences. Data from New Jersey concludes that 42% of people surveyed lost a job while their license was suspended, 45% reported not finding another job, and 88% reported reduced income. Another study showed that women with young children receiving public assistance were twice as likely to find employment if they had a DL — a bigger impact than having graduated from high school.”

Since the writing of the report, the First Appellate District Court in *Hernández v. Department of Motor Vehicles* Super. Ct. No. RG16836460 ordered DMV to lift the suspensions of 426,000 DL for failure to appear for inappropriately suspending DLs without formal notices from traffic courts that their failure to appear was willful.

Instead of lowering the penalty for driving with a suspended license, this bill eliminates one of the few remaining DL suspensions that is unrelated to unsafe driving. In recent years the Legislature has lifted DL suspensions for reasons unrelated to unsafe driving, including unpaid traffic fines, high school truancy, vandalism, firearm use, and controlled substance or alcohol use unrelated to driving.

The Lawyers Committee for Civil Rights of the San Francisco Bay Area, writing in support of this bill, argues “Of all the difficulties our clients face, some of the most common and pernicious come from our traffic enforcement system. After receiving a ticket, it is extremely difficult for some of them to pay it off or appear in court. This puts them at-risk of a license suspension. Such an unreasonably harsh punishment then puts them at risk of criminalization, since many of them have to continue driving to maintain their jobs or get their kids to school. We have seen repeatedly how these two punishments—FTA license suspensions and the criminalization of driving on a suspended license—create a seamless pipeline from low-level traffic violations into

misdemeanor criminalization and bench warrants. This pipeline needs to stop and AB 2746 is the right way to do it.”

According to the report *Stopped, Fined, Arrested: Racial Bias in Policing and Traffic Courts in California*, the highest suspension rates for failure to appear, or previously failure to appear, were found in neighborhoods with high poverty rates and high percentages of Black or Latino residents. For example, in the Bay View Hunter’s Point neighborhood in San Francisco, the poverty rate at the time the report was written was 23.5% with a Black population of 35.8%, the highest percentage of Black residents in San Francisco. The suspension rate for failure to appear and failure to pay offenses was 6.7%, more than three times the state average.

Previous Legislation: SB 485 (Beall), Chapter 505, Statutes of 2019, repealed various DL suspensions for reasons unrelated to unsafe driving, including vandalism, controlled substance of alcohol use, firearm use, soliciting or engaging in prostitution.

AB 2685 (Lackey), Chapter 717, Statutes of 2018, eliminated license suspensions for minors who are found to be habitually truant.

AB 103 (Committee on Budget), Chapter 17, Statutes of 2017, removed the DL suspension for failure to pay a traffic fine.

AB 907 (Santiago), of 2021 would have made it a \$100 fine with penalty assessments waived for driving without a license and would have eliminated driver’s license suspensions for failure to appear if it stemmed from an infraction offense or from a misdemeanor failure to appear charge. That bill was held on suspense in Assembly Appropriations Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

Prosecutors Alliance California (Sponsor)
California for Safety and Justice
Community Legal Services in East Palo Alto
Ella Baker Center for Human Rights
Initiate Justice
Lawyers' Committee for Civil Rights - San Francisco
Rubicon Programs
The Young Women's Freedom Center

Opposition

None on file

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