

Date of Hearing: April 12, 2021

ASSEMBLY COMMITTEE ON TRANSPORTATION

Laura Friedman, Chair

AB 863 (Fong) – As Amended April 7, 2021

SUBJECT: Driver's licenses: provisional licenses

SUMMARY: Requires the accompanying licensed driver of a person with an instructional driver's permit to occupy the front passenger seat and to not be under the influence of alcohol, drugs, or the combined influence of any alcoholic beverage or drugs. Specifically, **this bill:**

- 1) Provides that a violation of the above provision to be an infraction.
- 2) Clarifies that this provision does not prohibit a charge of driving under the influence for the passenger if the passenger takes actual physical control of the vehicle.
- 3) Provides that a violation by the passenger shall not constitute grounds for any adverse action against the permitholder.

EXISTING LAW:

- 1) Prohibits a person who is under the influence of any alcoholic beverage to drive a vehicle.
- 2) Prohibits a person who has 0.08 % or more, by weight, of alcohol in his or her blood to drive a vehicle.
- 3) Prohibits a person who is under the influence of any drug, or a combined influence of any alcoholic beverage and drug to drive a vehicle.
- 4) Establishes a Provisional Driver's License (PDL) program for individuals between 16 and 18 years of age.
- 5) Provides that prior to issuing a PDL, the state Department of Motor Vehicles (DMV) must issue an instruction permit, commonly known as a learner's permit. An individual must be at least 15 years and six months old to apply for a learner's permit, and must have taken, or be enrolled in, driver education and training classes. (An individual 17 years and six months or older can apply without having taken driver education or training.) The learner's permit authorizes the holder to operate a motor vehicle only when he or she is either taking a driver training class or is practicing under the immediate supervision of a California licensed driver 25 years or older.
- 6) Prohibits a learner's permit holder from applying for a PDL until he or she has held the permit for at least six months. Requires a permitholder, prior to applying for a PDL, to successfully complete driver education and training classes; at least six hours of behind-the-wheel training; 50 hours of supervised driving practice, including at least 10 hours of nighttime driving; and written and driving tests required by DMV.

- 7) Prohibits, during the first 12 months, a PDL holder from driving between the hours of 11 p.m. and 5 a.m., or from transporting passengers who are under 20 years old, unless accompanied by the PDL holder's parent or guardian, a licensed driver who is 25 years or older, or a licensed and certified driving instructor. Provides exceptions for medical necessity, school activities, job necessity, need to transport an immediate family member, or if the licensee is an emancipated minor.
- 8) Requires an individual to submit to DMV the certification of a parent, spouse, guardian, or licensed and certified driving instructor that the applicant has completed the required amount of driving practices. Provides that an individual may have a licensed driver 25 years or older certify that he or she has completed these requirements if he or she does not have a parent, spouse, or guardian, or is an emancipated minor.
- 9) Allows an individual 18 years or older to apply for an original driver's license by passing a traffic laws and signs test, among other requirements. Provides that an individual 18 years or older who holds a learner's permit must be accompanied by another individual 18 years or older when practicing driving. Provides that this individual may schedule a driving test at DMV any time once he or she has obtained the learner's permit.
- 10) Provides that an infraction in the Vehicle Code shall be a base fine up to \$100 for a first offense, unless otherwise specified).

FISCAL EFFECT: Unknown

COMMENTS: For most of the country, including California, drivers between the age of 16 and 18 have certain restrictions while driving. In California, these drivers are prohibited from driving between the hours of 11 p.m. and 5 a.m. These drivers are also prohibited from transporting passengers under the age of 20, unless accompanied and supervised by a licensed driver over the age of 25, during the first 12 months of being issued a PDL, with certain exceptions.

These restrictions have a rational basis. Teen drivers, because of their inexperience, tend to have a higher crash rate than the general public. According to the Governor's Highway Safety Association (GHSA) teen drivers are 1.6 times more likely to be involved in a fatal crash than older drivers. According to GHSA, between 2005 and 2014 fatalities among 15-20 year olds declined 51%, while serious injuries declined 59%. GHSA credits much of that decline to graduated drivers licensing (GDL), known as a PDL in California. Between 2008 and 2017, 3,918 California drivers between the ages of 15 and 20 were involved in a fatal crash, with a high of 523 drivers in 2008, to a low of 326 drivers in 2011.

The Center for Disease Control, the National Highway Traffic Safety Administration, and the Insurance Institute for Highway Safety have all found that drivers that go through a provisional licensing period experience 40-60% fewer vehicle crashes than those who obtain a license after reaching the age of 18. The purpose of a PDL is to ensure new drivers are not distracted by younger passengers or driving at night when it is more dangerous.

California requires individuals under the age of 18 to have an instructional permit for six months before they can get a PDL and they are required to have a supervising licensed driver over the age of 25 present with them. The purpose of the supervising driver is to take over the wheel in case the newly learning driver is driving incorrectly, while also providing instruction to the new

driver. Individuals under 18 require 50 hours of instructional training prior to advancing to a PDL.

Existing law is silent on whether the supervising driver needs to be sober (should the supervising driver ever take the wheel under the influence of alcohol, then they would potentially be guilty of driving under the influence). However, it is clear that the law requires the person to be in a position that would enable the supervising driver to assist the person in control of the vehicle in a manner to help them avoid a collision.

According to the author, “AB 863 will provide clarity and improve safety standards in the Vehicle Code by ensuring that supervising adult drivers are alert, present, and sober when teaching our next generation of California drivers. Effective supervision will help keep minor drivers, passengers, and other individuals sharing the roads safe.”

According to AAA Northern California, Nevada and Utah and the Automobile Club of Southern California, arguing in support of this bill, “alcohol impaired drivers, and we believe this public opinion extends to supervising adults of minors learning to drive. AB 863 will help ensure adults act responsibly as educators and role models for teens learning to operate a vehicle for the first time.”

Illinois, Maine, North Carolina, Ohio, Pennsylvania, Vermont, and West Virginia require the supervising driver to not be under the influence of drugs or alcohol. All but 6 states specify that the supervising driver must be in the front passenger seat.

It is unclear how law enforcement would prove the passenger was under the influence of drugs or alcohol. Existing law provides there is implied consent that a driver of a motor vehicle needs to submit to a chemical test or breathalyzer test if lawfully arrested for driving under the influence. This bill does not require that the passenger submit to a chemical test if the officer suspects they are driving under the influence.

A first DUI conviction is a misdemeanor with a fine of \$1674. This bill makes it an infraction for a supervising driver to be under the influence (if there is evidence that the supervising driver took the wheel, this bill still permits the supervising driver to be charged as the driver). Like most Vehicle Code violations, the bill does not specify what the fine for the infraction would be. As a result, the Judicial Council may set a base fine up to \$100 for the first offense. Currently the Judicial Council has set the base fine for driving without a supervising driver at \$35. After taking into account additional penalties, the fine increases to \$238.

The cost of fines and fees associated with traffic and parking citations has steadily increased over the last few decades. After adding on fees to base fines, tickets can total in the hundreds of dollars. Add-on fees for minor offenses double or quadruple the original fine, and until recently California suspended driver’s licenses for failure to pay traffic fines or for failing to appear to court for a traffic infraction.

According to the Judicial Council, there is a total outstanding uncollected fine debt of \$8.6 billion as of the 2019-2020 fiscal year. The Legislature and Governor have made several efforts to collect unpaid debt and to address the negative consequences of unpaid fines. In the 2017 Budget Act, the state removed the court’s authority to notify the DMV of the suspension of individuals’ driver’s licenses for unpaid traffic fines. The 2018 Budget Act created a pilot

program that allows a pilot court to issue an ability-to-pay determination prior to a court hearing date. This determination could result in an individual either completing community service in lieu of the total fine amount, or suspend the total amount due in whole or in part. Governor Brown also signed AB 503 (Lackey), Chapter 741, Statutes of 2017, which requires a payment program to be offered to indigent individuals before agencies can use DMV to collect unpaid parking tickets.

Previous legislation: AB 1183 (Ramos), Chapter 109, Statutes of 2019, changed the definition of the operator of a vessel in a manner that would permit a supervising operator to be charged with boating under the influence, amongst other things.

REGISTERED SUPPORT / OPPOSITION:**Support**

American Automobile Association of Northern California, Nevada & Utah
Americans United Against Destructive Driving
Automobile Club of Southern California
Conor Lynch Foundation
Socal Families for Safe Streets

Opposition

None on file

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