

Date of Hearing: April 26, 2021

ASSEMBLY COMMITTEE ON TRANSPORTATION
Laura Friedman, Chair
AB 907 (Santiago) – As Amended April 19, 2021

SUBJECT: Driver's licenses: offenses and penalties

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 for an infraction. 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) Specifies that the \$100 fine is not subject to any additional penalty assessments, surcharges, or penalties.
- 3) Provides that the Department of Motor Vehicles (DMV) shall not suspend a driver's license for a person failing to appear for an infraction violation or for a misdemeanor violation of failure to appear.

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. Driver's 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.

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.

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).

Californians for Safety and Justice, writing in support of this bill, argue "Driving without a license, or driving with a license suspended for failure to appear in court or pay a fine can lead to exorbitant fines and fees, and even incarceration. These penalties disproportionately impact low-income communities and communities of color. One study found that Black and Latino motorists were overly represented among those who are arrested for driving with a suspended license or for failure to appear in court or pay a fine. Importantly, a suspended license may lead to the loss

of transportation and a job, educational opportunities, and bring severe financial burdens onto an individual.”

The Committee on Revision of the Penal Code also recommended lowering the penalty for driving 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.

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. The committee noted that there are currently 600,000 individuals with a suspended license for failure to appear.

In recent years the Legislature has lifted DL suspensions for reasons unrelated to bad driving, including unpaid traffic fines, high school truancy, vandalism, firearm use, and controlled substance or alcohol use unrelated to driving. Consistent with recent actions the Legislature has taken to remove DL suspensions unrelated to bad driving, this bill repeals the DL suspension for failure to appear for a traffic infraction.

According to the author, “We have a duty to ensure individuals are not overburdened by fines and fees that make it harder to stay afloat during these unprecedented times. COVID-19 has exposed deep inequities, including economic inequities, within our state. This bill will drastically reduce the fines and fees individuals could face for two non-public safety traffic related offenses. As thousands remain unemployed throughout California, now is the time to make it easier to get around, not harder.”

Committee comments: The Committee suggested and the author took amendments to increase the fine of driving without a license to \$100 for the first two offenses and a misdemeanor or an infraction for the third offense, unless the driver had prior suspensions on their record for safety related reasons like reckless driving or DUI, in which case the first offense would be eligible for a misdemeanor or infraction. A fine that is greater than the combined cost of correcting the violation (\$25) and obtaining (a \$38) will help to ensure that individuals obtain a DL.

This bill provides for a \$100 fine for driving without a license to not include penalty assessments. 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 DLs for failure to pay traffic fines.

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' DLs 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. This year's budget contains a proposal to make the pilot program for ability-to-pay determinations permanent and statewide.

The Legislature has never before removed the penalty assessments for a single traffic offense to deal with the issue of high fines, and should consider if the issue should be dealt with holistically as it will be in the Governor's proposal to create an online process to reduce penalties based on an individual's ability to pay, or by picking and choosing which offenses to remove the penalty assessments from as this bill does.

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

REGISTERED SUPPORT / OPPOSITION:

Support

California Rural Legal Assistance Foundation, INC.
Californians for Safety and Justice
Coalition of California Welfare Rights Organizations
Drug Policy Alliance
Ella Baker Center for Human Rights
Initiate Justice
National Association of Social Workers, California Chapter
Rubicon Programs
San Francisco Senior and Disability Action
Standing Up for Racial Justice San Diego
Tides Advocacy
We the People - San Diego
Women's Foundation California

Opposition

None on file

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