

Infraction for First Time Administrative Suspension License Violation

RESOLVED that the Conference of California Bar Association recommends that legislation be sponsored to amend California Vehicle Code section 14601.1 to read as follows:

§ 14601.1

(a) No person shall drive a motor vehicle when his or her driving privilege is suspended or revoked for any reason other than those listed in Section 14601, 14601.2, or 14601.5, if the person so driving has knowledge of the suspension or revocation. Knowledge shall be conclusively presumed if mailed notice has been given by the department to the person pursuant to Section 13106. The presumption established by this subdivision is a presumption affecting the burden of proof.

(b) Any person convicted under this section shall be punished as follows:

(1) Upon a first conviction, as an infraction. ~~by imprisonment in the county jail for not more than six months or by a fine of not less than three hundred dollars (\$300) or more than one thousand dollars (\$1,000), or by both that fine and imprisonment.~~

(2) Upon a second conviction, by imprisonment in the county jail for not more than six months or by a fine of not less than three hundred dollars (\$300) or more than one thousand dollars (\$1,000), or by both that fine and imprisonment. ~~If the offense occurred within five years of a prior offense which resulted in a conviction of a violation of this section or Section 14601, 14601.2, or 14601.5, by imprisonment in the county jail for not less than five days or more than one year and by a fine of not less than five hundred dollars (\$500) or more than two thousand dollars (\$2,000).~~

(c) Nothing in this section prohibits a person from driving a motor vehicle, which is owned or utilized by the person's employer, during the course of employment on private property which is owned or utilized by the employer, except an off street parking facility as defined in subdivision (d) of Section 12500.

(d) When the prosecution agrees to a plea of guilty or nolo contendere to a charge of a violation of this section in satisfaction of, or as a substitute for, an original charge of a violation of Section 14601.2, and the court accepts that plea, except, in the interest of justice, when the court finds it would be inappropriate, the court shall, pursuant to Section 23575, require the person convicted, in addition to any other requirements, to install a certified ignition interlock device on any vehicle that the person owns or operates for a period not to exceed three years.

(e) This section also applies to the operation of an off-highway motor vehicle on those lands to which the Chappie-Z'berg Off-Highway Motor Vehicle Law of 1971 (Division 16.5 (commencing with Section 38000)) applies as to off-highway motor vehicles, as described in Section 38001.

(Proposed new language underlined; language to be deleted stricken.)

PROPONENT: Los Angeles County Bar Association

## STATEMENT OF REASONS

The Problem: In contrast with the majority of suspended drivers' license provisions (14601, 14601.3 etc.), the current version of § 14601.1 is overbroad and includes numerous "administrative suspensions" of licenses for reasons that have nothing to do with bad driving.

Under this section, a license is suspended when the driver forgets to appear in court on a fix-it ticket, fails to pay sufficient child support, or is convicted of vandalism or prostitution. Such suspensions disproportionately affect the poor and are especially problematic for lower-income drivers who need to drive in order to maintain employment or who need transportation for child-care.

A perfectly qualified, safe driver who runs afoul of these non-safety administrative suspensions faces criminal prosecution and up to six months in jail. Unbelievably, in sharp contrast to misdemeanor crimes of violence, the current statute imposes mandatory jail for such drivers if they drive twice within a five year period. Many of those subject to these prosecutions have no criminal record but nonetheless face substantial hardship in terms of loss of current employment (from imposed jail time) and future employment opportunities (from the resulting criminal record). Such prosecutions are expensive and can better be handled in traffic court.

The Solution: The proposed resolution would recognize the distinction between a person who drives on a license suspended for non-safety reasons versus one who drives on a license suspended for bad driving. The Resolution would permit prosecution of first time "non-safety" suspensions as an infraction, with a second violation charged as a misdemeanor, but would remove mandatory jail minimums. Such a change would not only preserve the clean criminal records of such drivers by properly recognizing the far less serious nature of the "non-safety" suspension, but would also save the state money by reducing the need to formally prosecute such first time, minor offenders in an expensive criminal court. Finally, it is worth noting that, in the case of a repeat offender, a judge would still be permitted to increase the sentence up to the maximum six months in jail.

## IMPACT STATEMENT

This proposed resolution does not affect any other law, statute or rule.

## CURRENT OR PRIOR RELATED LEGISLATION

Not known.

**AUTHOR AND/OR PERMANENT CONTACT:** Nick Stewart-Oaten, Office of Los Angeles County Public Defender, 210 W Temple Street, 19th Floor, Los Angeles, CA 90012, phone 213-974-2941, e-mail [nstewart-oaten@pubdef.lacounty.gov](mailto:nstewart-oaten@pubdef.lacounty.gov)

**RESPONSIBLE FLOOR DELEGATE:** Nick Stewart-Oaten