

1-1-1985

Transportation and Motor Vehicles

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Recommended Citation

University of the Pacific; McGeorge School of Law, *Transportation and Motor Vehicles*, 17 Pac. L. J. 803 (1986).

Available at: <https://scholarlycommons.pacific.edu/mlr/vol17/iss2/31>

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Transportation and Motor Vehicles

Transportation and Motor Vehicles; financial responsibility.

Insurance Code §12980 (new); Vehicle Code §16076 (new); §16072 (amended).

SB 855 (Mello); 1985 STAT. Ch 1494
(Effective October 2, 1985)

Support: Insurance Agent and Brokers Legislative Council; Department of Motor Vehicles; Department of Finance

Under existing law, a driver's license is automatically suspended when an uninsured¹ driver is involved in a reportable accident.² Chapter 1494, however, provides an exception to this rule by allowing a qualified uninsured driver involved in a reportable accident to apply for a restricted license.³ The restricted license permits the driver to travel to and from work as well as any other driving deemed necessary to perform duties of employment.⁴ Chapter 1494 provides that in order to qualify for a restricted license, the driver must maintain proof of financial responsibility⁵ and pay a \$250 penalty fee to the Department of Motor Vehicles.⁶

1. CAL. VEHICLE CODE §16000.7 (definition of uninsured motor vehicle).

2. *Id.* §16070. *See Id.* §16000 (definition of reportable accident).

3. *Id.* §16072 (a).

4. *Id.*

5. Financial responsibility is established if the driver or owner of the vehicle involved in the accident is 1) a self-insurer under the Financial Responsibility Laws of the Vehicle Code, 2) an insured or obligee under a form of insurance or bond that complies with the requirements of the Financial Responsibility Laws of the Vehicle Code and which covers the driver for the vehicle involved in the accident, or 3) is in compliance with the requirements of the Financial Responsibility Laws by any other manner which effectuates the purpose of this chapter. *Id.* §16021.

6. *Id.* §16072(a). If, after proof of financial responsibility is established, the driver's coverage expires, the driver's insurer must notify the Department of Motor Vehicles of the date of termination. *Id.*

Transportation and Motor Vehicles; driving under the influence

Vehicle Code §§23157, 23159 (new); §§13353, 23206 (amended); §§13353.5, 13354 (amended and renumbered).

AB 331 (Katz); 1985 STAT. Ch 735

Support: Mothers Against Drunk Drivers; Office of Traffic Safety; California Highway Patrol; Department of Finance
SB 500 (Deddeh); 1985 STAT. Ch 1330

Under existing law, persons who are lawfully arrested¹ for driving a motor vehicle² while under the influence of alcohol or drugs³ (hereinafter referred to as DUI) are deemed to have given consent to chemical testing of their blood, breath, or urine to determine the alcohol or drug content of their blood.⁴ The failure to submit to,⁵ or complete, a chemical test results in a six month suspension⁶ of driving privileges.⁷ Despite these penalties, the legislature has determined that the drunk driving laws of the state are not completely effective because many drivers refuse to submit to the required chemical

1. See CAL. PENAL CODE §836 (lawful arrest by a peace officer); CAL. VEH. CODE §40300.5 (peace officer may arrest without a warrant a person involved in a traffic accident when the officer has reasonable cause to believe that the person had been driving while under the influence of alcohol or drugs).

2. CAL. VEH. CODE §415 (definition of motor vehicle).

3. A person may not lawfully drive a motor vehicle while under the influence of any drug or with a blood alcohol content of 0.10 percent or more. *Id.* §§23152, 23153. See also *id.* §312 (definition of drug).

4. *Id.* §23157(a)(1) (incorporating 1984 Cal. Stat. c. 326, §1, at _____ (amending CAL. VEH. CODE §13353)). The peace officer must have reasonable cause to believe that the person was driving a motor vehicle in violation of Vehicle Code sections 23152 or 23153. *Id.* See generally *Schmerber v. California*, 384 U.S. 757 (1966) (upholding a withdrawal of blood without consent for analysis of alcohol content); *Karabian, California's Implied Consent Statute: An Examination and Evaluation*, 1 *LOY. L.A.L. REV.* 23 (1968); Note, *Implied Consent Legislation in Drunk Driving Cases: The Case for Repeal*, 6 *W. NEW ENG. L. REV.* 465 (1983).

5. A person may not verbally refuse to take a chemical test and avoid license suspension by later agreeing to take the test. The license will be suspended even if a sample is ultimately obtained and the test completed. *Morgan v. Department of Motor Vehicles*, 148 Cal. App. 3d 165, 170, 195 Cal. Rptr. 707, 711 (1983).

6. CAL. VEH. CODE §13102 (definition of suspension).

7. *Id.* §23157(a)(1) (incorporating 1984 Cal. Stat. c. 326, §1, at _____ (amending CAL. VEH. CODE §13353)). Driving privileges are revoked for two years if the person has previously been convicted of a separate violation of Vehicle Code section 23103, as specified in sections 23103.5, 23152, or 23153, within five years of the refusal. If a person has two or more violations, the revocation of driving privileges is for three years. *Id.* See also *Mackler v. Alexis*, 130 Cal. App. 3d 44, 51, 181 Cal. Rptr. 613, 617 (1982) (proceedings relating to the suspension of driving privileges on the grounds of refusal to submit to a chemical test are civil in nature rather than criminal); Note, *Constitutional Challenge to Statute Authorizing License Revocation Upon Refusal to Submit to a Blood Alcohol Test: Hernandez v. Department of Motor Vehicles*, 9 *PEPPERDINE L. REV.* 952 (1982) (history of constitutional challenges).

tests which show their intoxication.⁸ The legislature, therefore, intends to enhance the penalties for refusal to complete the chemical tests.⁹ With the enactment of Chapter 735, if any person is convicted of DUI¹⁰ or injury DUI,¹¹ and at the time of the arrest leading to conviction, the person willfully refused to complete the chemical test,¹² the court must impose the following penalty enhancements: (1) mandatory confinement in the county jail for at least forty-eight hours if the person is convicted of a first violation of DUI or injury DUI;¹³ (2) mandatory confinement in the county jail for ninety-six hours if the person is convicted of a second violation of DUI or injury DUI;¹⁴ (3) mandatory confinement in the county jail for ten days if the person is convicted of a third violation of DUI;¹⁵ and (4) mandatory confinement in the county jail for eighteen days if the person is convicted of a fourth or subsequent violation of DUI.¹⁶

Chapters 735 and 1330 also reorganize the Vehicle Code so that all current provisions related to the duty of a driver to submit to chemical tests are consolidated in the article prescribing offenses involving alcohol and drugs.¹⁷

8. 1985 Cal. Stat. c. 735, §1, at ____.

9. *Id.*

10. CAL. VEH. CODE §23152 (unlawful to drive while under the influence of any drug or alcohol).

11. *Id.* §23153 (causing bodily injury to another by driving a vehicle while under the influence of any drug or alcohol).

12. The willful refusal or failure to complete the chemical test must be pled and proven. *Id.* §23159(b).

13. *Id.* §23159(a)(1), (2). If the person is convicted of injury DUI, the confinement must be continuous. *Id.* §23159(a)(2).

14. *Id.* §23159(a)(3).

15. *Id.* §23159(a)(4).

16. *Id.* §23159(a)(5).

17. 1985 Cal. Stat. c. 735, §1, at 447; 1985 Cal. Stat. c. 1330, §3, at 447. See CAL. VEH. CODE §23157.5 (incorporating 1983 Cal. Stat. c. 841, §1, at 756 (enacting CAL. VEH. CODE §13353.5)); *id.* §23158 (incorporating 1982 Cal. Stat. c. 1339, §9, at 4982 (amending CAL. VEH. CODE §13354)).

Transportation and Motor Vehicles; probation of driver's license

Vehicle Code §§4763, 14401, 40509, 40509.5, 41103.5 (amended).
AB 753 (Lancaster); 1985 STAT. Ch 1008
Support: Department of Motor Vehicles

Existing law provides that after all administrative appeals are completed, a person whose driver's license¹ is refused,² cancelled,³ suspended,⁴ or revoked⁵ must be given a written notice from the Department of Motor Vehicles informing the person of the right to have a court review the order.⁶ Chapter 1008 adds persons whose licenses have been placed on probation⁷ to the list of persons that must be notified.⁸ Existing law also requires that an action to review any order of the Department of Motor Vehicles refusing, cancelling, suspending, or revoking a person's license be brought within ninety days after notice⁹ of the order is given.¹⁰ Under Chapter 1008, any action to review an order placing a person's license on probation must also be brought within this ninety-day period.¹¹

1. CAL. VEH. CODE §310 (definition of driver's license).

2. *Id.* §§12805 (grounds requiring refusal of a license); 12809 (grounds for permitting a refusal).

3. *Id.* §13100 (definition of cancellation).

4. *Id.* §13102 (definition of suspension).

5. *Id.* §13101 (definition of revocation). *See also id.* §§13350 (required revocation); 13359 (grounds for revocation).

6. *Id.* §14401(b).

7. *Id.* §14250 (definition of probation).

8. *Id.* §14401(b).

9. When the Department of Motor Vehicles proposes to revoke, suspend, or put on probation a person's license, notice and an opportunity to be heard are required to be given before the action is taken. *Id.* §13950.

10. *Id.* §14401(a).

11. *Id.*