CALIFORNIA COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING

Basic Course Workbook Series

Student Materials

Learning Domain 28
Traffic Enforcement
Version 6.4

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Traffic Enforcement
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THE ACADEMY TRAINING MISSION

The primary mission of basic training is to prepare students mentally, morally, and physically to advance into a field training program, assume the responsibilities, and execute the duties of a peace officer in society.

FOREWORD

The California Commission on Peace Officer Standards and Training sincerely appreciates the efforts of the many curriculum consultants, academy instructors, directors and coordinators who contributed to the development of this workbook. We must also thank the California law enforcement agency executives who allowed their personnel to participate in the development of these training materials.

This student workbook is part of the POST Basic Course Training System. The workbook component of this system provides a self-study document for every learning domain in the Basic Course. Each workbook is intended to be a supplement to, not a substitute for, classroom instruction. The objective of the system is to improve academy student learning and information retention and ultimately contribute to you becoming a peace officer committed to safety, and to the communities you will serve.

The content of each workbook is organized into sequenced learning modules to meet requirements as prescribed both by California law and the POST Training and Testing Specifications for the Basic Course.

It is our hope that the collective wisdom and experience of all who contributed to this workbook will help you, the student, to successfully complete the Basic Course and to enjoy a safe and rewarding career as a peace officer.

MANUEL ALVAREZ, Jr.
Executive Director

LD 28: Traffic Enforcement

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How to Use the Student Workbook

Introduction

This workbook provides an introduction to the training requirements for this Learning Domain. It is intended to be used in several ways: for initial learning prior to classroom attendance, for test preparation, and for remedial training.

Workbook format

To use the workbook most effectively, follow the steps listed below.

Step	Action
1	Read the first two sections: Preface and How to Use the Workbook, which provide an overview of how the workbook fits into the POST Instructional System and how it should be used.
2	Refer to the overview section at the start of each chapter to review the learning objectives.
3	Read the text.
4	Refer to the Chapter Synopsis section at the end of each chapter to review the key points that support the chapter objectives.
5	Complete the Workbook Learning Activities at the end of each chapter. These activities reinforce the material taught in the chapter.
6	Refer to the Glossary section for a definition of important terms. The terms appear throughout the text and are bolded and underlined the first time they appear (e.g., **term**).

Preface

Introduction

Student workbooks

The student workbooks are part of the POST Basic Course Instructional System. This system is designed to provide students with a self-study document to be used in preparation for classroom training.

Regular Basic Course training requirement

Completion of the Regular Basic Course is required, prior to exercising peace officer powers, as recognized in the California Penal Code and where the POST-required standard is the POST Regular Basic Course.

Student workbook elements

The following elements are included in each workbook:

- chapter contents, including a synopsis of key points
- supplementary material
- a glossary of terms used in this workbook

Chapter 1

Basic Traffic Concepts

Overview

Learning need

Peace officers must know the principles of traffic law set forth in the California Vehicle Code to carry out their responsibilities in traffic enforcement.

Learning objectives

The chart below identifies the student learning objectives for this chapter.

After completing study of this chapter, the student will be able to:	Objective ID
• Explain the relevance of traffic enforcement to: - Public safety and quality of life within a community - Legally establish probable cause for accomplishing general law enforcement objectives	28.01.13 28.01.14
• Explain the organization of information within the Vehicle Code	28.01.15

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In this chapter

This chapter focuses on the basic concepts of traffic law. Refer to the chart below for specific topics.

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Relevance of Vehicle Code

Introduction

Traffic in California is more complex and voluminous than any other state and most nations. This presents a challenging environment for peace officers who are responsible for enforcing the traffic laws. Peace officers are expected to perform their functions in this area with the tenets of Principled Policing in mind giving those contacted a voice, showing respect, being neutral in decision making regarding citations and building community trust.

Effective enforcement

Effective enforcement of traffic laws results in:

- an opportunity to build positive contacts, trust and respect with the public
- the reduction of **collision** rates, saving lives, and reducing economic loss
- a reduction of crime rates in general
- encouraging voluntary compliance with the law
- providing peace officers with **probable cause** to conduct enforcement stops which may lead to the discovery of additional traffic or criminal offenses

  - The California Vehicle Code is an indispensable tool in proactive law enforcement. In addition, knowing the vehicle code gives the peace officer the ability to **stop**, detain, and investigate additional criminal activity

NOTE: For example, a car traveling in a high crime area may not be enough to stop and detain, but an inoperative tail lamp would give probable cause to stop and investigate further. Even though traffic violations may occur, they never justify bias-based enforcement actions because doing so violates the Peace Officer Code of Ethics which states, "I will never act officiously or permit personal feelings, prejudices, animosities or friendships to influence my decisions."

Peace officer's role

The peace officer's role in traffic enforcement can be summed up in the three "E's" of traffic.

- **E**ducation (e.g., educate the public regarding traffic laws)
- **E**nforcement (e.g., enforce traffic laws, control traffic)
- **E**ngineering (e.g., submit requests or suggestions to improve traffic safety by engineering or environmental design)

Vehicle Code Structure

Introduction

Traffic law enforcement begins with knowing what constitutes a violation of the California Vehicle Code. Peace officers must study the Vehicle Code to learn what types of conduct and conditions are violations. Recognition of the unlawful acts or conditions is only the first step. When writing a citation, the peace officer must identify the particular section and subsections of the Vehicle Code that have been violated.

Categories of sections

Statutes in the Vehicle Code fall within four categories according to their content. Each section (i.e., statute) must be carefully read as it may fall within one or more of the categories. Only punitive sections and subsections are citable.

Continued on next page

Categories of sections (continued)

The following table identifies the categories of sections found in the Vehicle Code.

Type of Section	Description
Definitive Sections	• defines, limits, or explains the meaning of words or phrases • not citable Example: See *Vehicle Code Section 360*
Procedural Sections	• describes methods of proceeding through different courses of action • provides rules by which legal actions are conducted • states procedures to follow for failure to comply • not citable Example: See *Vehicle Code Section 12509*
Authoritative Sections	• grants authority to individuals or entities • not citable Example: See *Vehicle Code Section 22651*
Punitive Sections	• requires or prohibits certain actions • prescribes punishments or penalties for specific violations (felonies, misdemeanors, or infractions) • identifies cite/arrest actions Example: See *Vehicle Code Section 22350*

Continued on next page

Vehicle Code aids

Versions of the Vehicle Code published by the California Office of State Publishing also provide a number of features designed to aid in using the code book itself. The following table identifies a number of these aids.

Aid	Description
Table of Contents	• identifies divisions, chapters, articles, and corresponding page numbers
Index	• subjects listed in alphabetical order • identifies references to applicable code sections • subjects may be cross-referenced to provide additional information NOTE: Not all subjects are included. The Index provides references for all contents of the Vehicle Code, but does not include appendix codes published within the same volume.

Continued on next page

Vehicle Code aids (continued)

Aid	Description	
Appendices	Appendix A (other laws)	• identifies specific segments of other various codes (e.g., Health and Safety Code, Penal Code, etc.) related to use of **highways** or operation of motor **vehicles**
	Appendix B (list of violations)	• violations included in the main body of the document • listed numerically by section and subdivision • includes brief description of each violation • identifies crime classification for each violation - Civil (C) - Infraction (I) - Misdemeanor (M) - Felony (F)

NOTE: Editions of the Vehicle Code produced by other publishers may not include the same aids noted in the above table.

Vehicle Code Definitions

Introduction

The definition section of the Vehicle Code provides definitions of numerous traffic-related terms.

Traffic related terms

The following table identifies a number of these terms.

Term	Definition	*Vehicle Code Section*
Bicycle	• a device upon which any person may ride, propelled exclusively by human power through a belt, chain, or gears, and having one or more wheels. Persons riding **bicycles** are subject to the provisions of this code specified in *Vehicle Code Sections 21200 and 21200.5*	*231*
Business District	• portion of a highway and the property contiguous thereto • upon one side of which highway, for a distance of 600 feet, 50 percent or more of the contiguous property fronting thereon is occupied by buildings in use for business • upon both sides of which highway, collectively, for a distance of 300 feet, 50 percent or more of the contiguous property fronting thereon is so occupied • a **business district** may be longer than these distances if the above ratio of buildings in use for business to the length of the highway exists • *Vehicle Code Section 240* contains definitions of terms related to business and **residence districts** as well as apartments and condominium complexes (multiple dwelling houses) included as business structures	*235 and 240 (d)*

Continued on next page

Traffic related terms (continued)

Term	Definition	*Vehicle Code Section*
Crosswalk	• portion of a **roadway** included within the prolongation or connection of the boundary lines of a **sidewalk** at an **intersection** where the road meets at approximate right angles, or • portion of a roadway distinctly indicated for **pedestrian** crossing by lines or other markings on the surface	*275*
Darkness	• any time from one-half hour after sunset to one-half hour before sunrise, or • when visibility is not sufficient to see a person or vehicle at a distance of 1,000 feet	*280*
Driver	• a person who drives or is in actual physical control of a vehicle	*305*
Highway	• publicly maintained, open to public for vehicular travel • extends from property line to property line	*360*
Intersection	• area within prolongation of lateral curb lines, where vehicles on different highways may come into conflict	*365*
Limit line	• solid white line (12-24 inches wide) indicating point at which traffic is required to stop	*377*

Continued on next page

Traffic related terms (continued)

Term	Definition	*Vehicle Code Section*
Official Traffic Control Device	• a traffic control device is any sign, signal, or marking placed by public authority, for the purpose of regulating, warning, or guiding traffic	*440*
Official Traffic Control Signal	• a traffic control signal is any device that directs traffic to alternately stop and proceed which is erected by authority of a public body or official having jurisdiction	*445*
Pedestrian	• any person who is afoot or is using a means of conveyance propelled by human power other than a bicycle • any person on an electric personal mobility device as defined in *Vehicle Code Section 313* (e.g.: Segway) • any disabled person operating a self-propelled wheelchair	*467*

Continued on next page

Traffic related terms (continued)

Term	Definition	*Vehicle Code Section*
Residence District	• is that portion of a highway and the property contiguous thereto other than a business district • upon one side of which highway, within a distance of a quarter of a mile, the contiguous property fronting is occupied by 13 or more separate dwelling houses or business structures • upon both sides of which highway, collectively, within a distance of a quarter of a mile, the contiguous property fronting is occupied by 16 or more separate dwelling houses or business structures • a residence district may be longer than one-quarter of a mile if the above ratio of separate dwelling houses or business structures to the length of the highway exists	*515/240(d)* *515(a)* *515(b)* *515(b)*

Continued on next page

Traffic related terms (continued)

Term	Definition	*Vehicle Code Section*
Roadway	• portion of a highway improved, designed, or ordinarily used for vehicular travel	*530*
Sidewalk	• portion of a highway set apart for pedestrian travel	*555*
Street	• same as a highway	*590*
Traffic	• includes pedestrians, ridden animals, vehicles, street cars, and other conveyances, either singly, or together, using any highway for purposes of travel	*620*
Vehicle	• a device by which any person or property may be propelled or drawn upon a highway, except a device moved exclusively by human power or used exclusively upon stationary rails or tracks	*670*

Chapter Synopsis

Learning need	Peace officers must know the principles of traffic law set forth in the Vehicle Code to carry out their responsibilities in traffic enforcement.
Relevance of traffic enforcement [28.01.13] [28.01.14]	Effective enforcement of traffic laws is challenging but may result in positive relationships with communities when done by building trust and showing respect. Understanding effective enforcement of traffic laws which may lead to the discovery of additional traffic or criminal offenses.
Organization of California vehicle code [28.01.15]	Understanding of the structure of the vehicle code can assist peace officers with enforcing traffic laws.

Workbook Learning Activities

Introduction

To help you review and apply the material covered in this chapter, a selection of learning activities has been included. No answers are provided. However, by referring to the appropriate text, you should be able to prepare a response.

Activity questions

1. Peace officers will usually have access to copies of the Vehicle Code when making stops and writing citations. Why do you think it remains important for peace officers to become familiar with various sections of the code? How would lack of familiarity affect peace officers' ability to do their jobs? How might it affect their professionalism and the way members of the public perceive the peace officers?

2. What service do peace officers provide when they cite motorists for each violation?

Problem Solving

Problem solving activity

Mountain Blvd. and LaSalle

1. Your Sergeant tells you that the four-way intersection of Mountain Blvd. and LaSalle has a high collision rate and he believes it is because people are running the red lights.

   Your assignment is to use proper definitions to perform the following:
   - describe the intersection
   - determine in simple, concise terms, what, if any violations would/could be causing the collisions

2. Traffic flow/management is determined by the three (3) E's

   - What are the "three Es"
   - Explain the official role in each "E"

Continued on next page

Problem solving activity (continued)

3. Explain the peace officer's role in each of the three "E's."

4. You are contacted by a narcotics detective and asked to stop a vehicle leaving an area known for drug activity.

   Option 1 - Upon following the vehicle, you do not notice any Vehicle Code violations. What course of action would you take?

   Option 2 – The same vehicle now has several Vehicle Code violations. What course of action would you take?

Chapter 2

Lawful Orders and Authorities

Overview

Learning need

Peace officers need to recognize their authority under the law to manage traffic effectively.

Learning objectives

The chart below identifies the student learning objectives for this chapter.

After completing study of this chapter, the student will be able to:	Objective ID
• Discuss the elements and Vehicle Code section(s) governing arrest	28.02.18
• Differentiate between mandatory and optional appearances before a magistrate	28.02.19
• Recognize the elements and common names for violations involving failure to obey the lawful orders of a peace officer or designated employee	28.02.20
• Demonstrate effective use of hand signals, flashlights and other warning devices to control traffic	28.02.21

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In this chapter

This chapter focuses on topics dealing with traffic management. Refer to the chart below for specific topics.

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Arrest Authority

Introduction

A peace officer may arrest a person who has committed specified offenses contained within the California Vehicle Code.

Arrest without a warrant for DUI

Additionally, *Vehicle Code Section 40300.5* notes a peace officer may, without a warrant, arrest a person when the officer has reasonable cause to believe that the person had been driving while **under the influence** of alcoholic beverage of any drug, or under the combined influence of an alcoholic beverage and any drug when any of the following exists:

- The person is involved in a traffic collision
- The person is observed in or about a vehicle that is obstructing a roadway
- The person will not be apprehended unless immediately arrested
- The person may cause injury to himself or herself or damage property unless immediately arrested
- The person may destroy or conceal evidence of the crime unless immediately arrested

NOTE: This is an exception to the general rule that a misdemeanor violation must occur in the peace officer's presence.

Time/ location of a DUI arrest following an accident

Vehicle Code Section 40300.6 permits an arrest without a warrant to be made within a reasonable time and distance from the scene of a traffic accident.

There is no requirement that the peace officer be present at the time of the offense, but the peace officer must have probable cause to believe the person committed the offense of driving under the influence.

Continued on next page

Mandatory appearance before a magistrate

Under certain conditions, an arrested person shall be required to appear before a magistrate. The magistrate must have jurisdiction in the county where the alleged offense was committed and be the nearest and most accessible to the place where the arrest was made. This appearance shall be made without unnecessary delay. *(Vehicle Code Section 40302)*

Appearance before a magistrate is *mandatory* if a person has been arrested for a non-felony Vehicle Code violation and when a person:

- fails to present both his or her **driver's license** or other satisfactory evidence of his or her identity and an unobstructed view of his or her full face for examination
- refuses to give a written promise to appear in court
- demands an immediate appearance before a magistrate
- is charged with violating *Vehicle Code Section 23152* (DUI)

Continued on next page

Optional arrest

There are many Vehicle Code violations where an appearance before a magistrate is *optional*. Under such circumstances, the arresting peace officer may give the person a notice to appear, or take the person before the magistrate (i.e., arrest). *(Vehicle Code Section 40303)*

The following table presents some of these violations.

Violations	***Vehicle Code Section(s)***
• injuring or tampering with a vehicle	*10852* *10853*
• reckless driving	*23103* *23104*
• failure to perform duties in the event of a vehicle collision	*20002* *20003*
• participating in: - **speed contests** - exhibitions of speed • aiding and abetting same	*23109*
• driving while license is suspended or revoked	*14601* *14601.1* *14601.2* *14601.5*
• riding a bicycle while under the influence • riding a motorized scooter while under the influence	*21200.5* *21221.5*
• disobedience to traffic officers	*2800(a)*

Felony arrest

Whenever a person is arrested for a felony violation of the Vehicle Code, that person shall be dealt with in the same manner as if arrested for *any other felony*. *(Vehicle Code Section 40301)*

Lawful Orders

Introduction

Drivers and pedestrians are required to obey the lawful orders of a peace officer who is enforcing the traffic laws

Compliance with Peace Officer orders

There may be times when peace officers are called upon to control and manage traffic using only what they have on their person or within their vehicles

Vehicle Code Section 2800(a) states that it is unlawful to:

- willfully fail or refuse to comply with
- any lawful order, signal, or direction
- of any peace officer
- who is in uniform and
- performing duties under any provision of the Vehicle Code

Violation of this section is a *misdemeanor*.

Example

(1) A pedestrian who willfully failed to comply with the directions of a peace officer directing traffic

Continued on next page

Evading a peace officer

It is also unlawful to evade or attempt to evade a peace officer's orders or direction. The following table identifies many statutes that pertain to evading a peace officer.

Violations	*Vehicle Code Section*
• any person who • while operating a motor vehicle • willfully flees or otherwise attempts to elude • a pursuing peace officer who is: - driving a distinctively marked vehicle - wearing a distinctive uniform - sounding a siren as is reasonably necessary - exhibiting at least one lighted red lamp visible from the front - riding a distinctively marked bicycle - giving a verbal command to stop - sounding a horn of at least 115 decibels - giving hand signals commanding the person to stop • is guilty of a misdemeanor	*2800.1(a)* *2800.1(b)*
• if the evading vehicle is • driven in a **willful** or **wanton** disregard • for the safety of persons or property • the person driving the vehicle is guilty of a felony	*2800.2(a)*

Continued on next page

Evading a peace officer (continued)

Violations	*Vehicle Code Section*
• whenever willful flight or • attempt to elude a pursuing peace officer • causes death or serious bodily injury • the person driving the vehicle is guilty of a felony • NOTE: The legislative intent is to apply this section when the injury is sustained by anyone other than the suspect driver.	*2800.3(a)(b)*
• whenever willful flight or • attempt to elude pursuing peace officer • drives the wrong way, (opposite the way of traffic flow) the person is guilty of a misdemeanor and/or felony	*2800.4*

Continued on next page

Willful/ wanton disregard

Under *Vehicle Code Section 2800.2(b)* a *willful or wanton disregard* for the safety of persons or property includes, but is not limited to:

- driving while fleeing or attempting to elude a pursuing peace officer
- three or more moving traffic violations that are assigned a traffic violation point count occur
- when damage to property occurs

Peace officer controlled traffic management

A peace officer may encounter situations where he or she is called upon to control or manage traffic using what is readily available. In these situations, a peace officer may use:

- hand signals
- whistle
- voice commands
- flashlight, flares
- cones
- electronic beacon
- barricades or signs
- emergency lights from patrol car
- other warning devices

In directing traffic, simple and/or complex intersections or highways(s) may require direction by more than one peace officer (with a primary peace officer in charge).

Hand Signals, Warning Devices to Control Traffic

Hand signals

When using hand signals to control or manage traffic, a peace officer should always remember to:

- make eye contact with the driver, and
- give only one direction at a time

The following table describes general guidelines for traffic direction hand signals.

Signal	General Guidelines
STOP	To stop a driver: • point with arm and fingers extended, and look straight at driver • hold until driver sees signal, or has had time to do so • raise pointing hand so palm is toward driver • hold this position until driver stops Stop traffic from both directions in all lanes to give cross-street traffic the **right-of-way**: • stop traffic coming from one direction first, then the other • after traffic has been halted with one hand, hold that hand in stop position, then turn to the other side and repeat process • don't lower either arm until cars coming from both directions are halted

Continued on next page

Hand signals (continued)

Signal	General Guidelines
START	place yourself so one side is towards traffic to be started: • point with arm and finger toward first car to be started • hold position until you get driver's attention • with palm up, swing hand up and over chin, bending arm at elbow • after traffic has started from one side, drop that arm, and start traffic from other side in the same manner
KEEP MOVING	• continue to use the same signals for the slow and timid drivers
RIGHT TURN	• if car approaches from right, point toward driver with right arm • if car approaches from left, point with left arm • give driver time to see your gesture, then swing arm to point in direction the vehicle is to proceed • keep pointing in that direction until driver turns

Continued on next page

Hand signals (continued)

Signal	General Guidelines
LEFT TURN	• may have to halt traffic in the lane(s) through which car is to cross
	• if car approaches from the left: - give stop signal with right arm to stop traffic in lane through which car is to cross - hold stop signal with right arm - give turning gesture with left arm
	• if car approaches from the right: - turn around to face in direction the car is to go - halt traffic with right arm - give turning gesture with left arm
	• on a **street** with only one lane in each direction: - one driver, turning left, can delay many cars behind unless the driver's movement is handled properly - while driver is waiting, signal driver to move into intersection so cars behind can continue straight or make right turns - point finger at driver, motion to move forward and point to place where driver is to stop - when vehicle begins to move, signal cars behind it to move straight through or turn right - permit the left turn when there is a natural break in opposing traffic, or stop opposing traffic and signal for the left turn

Continued on next page

Whistle

The whistle can be used in conjunction with hand signals to get the attention of drivers and pedestrians. A peace officer should use his or her own judgment when using the whistle. Whistle blasts directed to pedestrians usually need not be as loud as those to command the attention of motorists.

When using a whistle, a peace officer may use:

- one long blast with a *stop* hand signal
- two short blasts with the *start* hand signal
- several short blasts to *get the attention of a driver or pedestrian* who does not respond to a given signal
- a short, intermittent blast to keep the traffic proceeding forward

Voice commands

The voice is seldom used in directing traffic flow. Hand gestures and the whistle are usually sufficient. Verbal orders not understood can lead to misinterpretations, which can be dangerous.

Any orders which are shouted may also antagonize a person. When a driver or pedestrian does not understand a peace officer's hand signals, the officer should move reasonably closer to the person, and politely and briefly explain the command.

Continued on next page

Flashlights

A peace officer's flashlight can be used to direct traffic in an emergency at night.

When using a flashlight to *direct traffic*, a peace officer should:

- not stand directly in front of the approaching vehicle
- avoid blinding the motorist with flashlight beam
- use a fluorescent cone to enhance peace officer safety

When using a flashlight to *halt traffic*, a peace officer can:

- slowly swing the flashlight at arm's length across the path of the approaching vehicle
- allow the flashlight beam to strike the pavement as an elongated spot of moving light that can be readily seen by driver

Flares

Flares can be used to warn oncoming traffic in situations where hazards are:

- expected to last long enough to warrant taking the time
- on shoulder or side of road
- in a traffic lane (night or day time)

Safety considerations when using flares

A peace officer should provide sufficient advance warning based on existing conditions, such as roadway configuration, lighting, posted speed limit, visibility, etc.

Improper use of flares can add to the hazard. Flares should *not* be used:

- around flammable substance spills (gas, oil, etc.)
- in hazardous environmental conditions (dry grassy fields, high winds)
- when other environmental concerns exist (e.g., rain, Botts dots, or painted lane markings)

Continued on next page

Guidelines for use of flares

The following table identifies guidelines for safe use of flares when directing traffic.

Action	Guidelines
Lighting	• remove cap to expose the striking plate and place it on the other end of the flare to prevent it from rolling • hold at arms length • contact and hold the flare against the strike plate • turn face away from strike area • strike flare and move it away from your body
Extinguishing	• pick up at the non-burning end, only if at least three inches remain • tap/scrape the side of the burning end against pavement until extinguished • do not throw or kick lit flare • let short flares (any time the non-burning end feels warm to the touch) burn out • do not step on a short flare to extinguish

Chapter Synopsis

Learning need	To manage traffic effectively, peace officers need to recognize their authority under the law.
Arrest authority and appearance before a magistrate [28.02.18, 28.02.19]	Whenever a person is arrested for a felony violation of the Vehicle Code, that person shall be dealt with in the same manner as if arrested for any other felony. A mandatory appearance is when the driver is charged with violating *Vehicle Code Section 23152* (DUI) and an optional appearance is when a driver is given notice to appear *(Vehicle Code Section 40303).*
Obedience to traffic officers [28.02.20]	Drivers and pedestrians are required to obey the lawful orders of peace officers enforcing traffic laws. Violation is a misdemeanor *(Vehicle Code Section 2800).*
Hand signals, warning devices to control traffic [28.02.21]	Manual traffic control devices include hand signals, whistles, voice commands, flashlights, and flares.

Workbook Learning Activities

Introduction

To help you review and apply the material covered in this chapter, a selection of learning activities has been included. No answers are provided. However, by referring to the appropriate text, you should be able to prepare a response.

Activity questions

1. After observing a vehicle travel approximately 35-mph in a 55-mph zone for over a mile and noticing that the car's tires were tracking on the lane dividing line, peace officers pull the driver over under suspicion of DUI. After making contact and giving field sobriety tests, the peace officers conclude that the driver is not under the influence. She is, however, driving on a suspended license and was being overcautious to avoid drawing attention to herself. What Vehicle Code section or sections has the driver violated and should the peace officers place her under arrest? How would this differ if she refused to sign the citation, saying she couldn't get to court?

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Activity questions (continued)

2. Write two short scenarios in which a suspect arrested for a Vehicle Code violation must make a mandatory appearance before a magistrate.

3. A woman rushing to an appointment on foot from a nearby parking garage approaches an intersection where traffic is being directed by a uniformed peace officer while the signal light is being retimed. The pedestrian arrives at the corner just as the peace officer halts pedestrian traffic so that vehicles can proceed. Rather than stopping, the pedestrian attempts to cross quickly in back of the peace officer as he turns to direct traffic to move forward. Cars honk at the pedestrian and the peace officer spots her. What, if any violations has she committed? How should the peace officer proceed?

Problem Solving

Problem solving activity

1. You take a good look at the intersection and note a tree branch conceals the signal light at the northwest corner blocking the view of the signal light for motorists east on Mountain Blvd. A large delivery truck also obstructs the signal light on LaSalle and Mountain Blvd. blocking the view of the signal light for west bound drivers on LaSalle.

   What should you do?

2. Determine a strategy to reduce or prevent collisions:

   - Is environment an issue
   - Cite responsible drivers
   - High visibility patrol

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Chapter 3

Common Vehicle Code Violations

Overview

Learning need

Peace officers must know the elements of the laws governing motor vehicles, bicycles and pedestrians.

Learning objectives

The chart below identifies the student learning objectives for this chapter.

After completing study of this chapter, the student will be able to:	Objective ID
• Recognize the elements and common names for traffic control signal and device violations involving: - Red signal lights - Stop signs - Other traffic control signals and devices	 28.03.15 28.03.16 28.03.17
• Recognize the elements and common names for right-of-way violations involving: - Failure to yield the right-of-way - Failure to yield to an emergency vehicle	 28.03.18 28.03.19
• Recognize the elements and common names for rights and provisions involving bicyclists	28.03.35
• Recognize the elements and common names for violations involving pedestrians	28.03.20
• Recognize the elements and common names for violations involving turning and signaling	28.03.21

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Learning objectives (continued)

After completing study of this chapter, the student will be able to:	Objective ID
• Recognize the elements and common names for speed violations involving: - Basic speed laws - Maximum speed	 28.03.22 28.03.23
• Recognize the elements and common names for driving and passing violations involving: - Following too closely - Unsafe lane change - Passing on the right/left - Passing a stopped school bus	 28.03.24 28.03.25 28.03.26 28.03.27
• Recognize the elements and common names for public offense violations involving: - Reckless driving - Speed contests - Handheld wireless telephone - Electronic wireless communications device	 28.03.28 28.03.29 28.03.36 28.03.37
• Recognize the elements and common names for hit and run violations	28.03.34
• Recognize the elements and common names for basic motor vehicle licensing requirements	28.03.30
• Recognize the elements and common names for violations when driving with a suspended or revoked license	28.03.31
• Recognize the elements and common names for basic motor vehicle registration requirements	28.03.32
• Recognize the elements and common names for basic vehicle equipment requirements for motor vehicles driven upon highways	28.03.33

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Overview, Continued

In this chapter

This chapter focuses on specific statutes within the Vehicle Code with which peace officers need to be familiar. Refer to the chart below for specific topics.

Topic	See Page
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Right-of-Way	3-11
Bicycles	3-19
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Turns	3-30
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Traffic Control Signal and Devices

Introduction

Traffic control signals and devices are used to control and manage traffic flow. Control devices may be in the form of signs, lights, flares, cones, markings on the roadway, etc. All violations discussed in this chapter, unless otherwise noted, are *infractions*.

Obedience to traffic control devices and signals

Vehicle Code Section 21461(a) states that:

- it is unlawful for a driver
- to fail to obey any:
  - sign
  - signal device
  - local traffic ordinance or resolution
  - traffic control device

NOTE: This statute may be used by peace officers when there is not a more specific section available.

NOTE: This section of the Vehicle Code does not apply to parking violations.

Other related sections

The following table contains additional sections of the Vehicle Code related to violations of traffic control devices and signals.

Description	***Vehicle Code Section***
• unlawful for pedestrians to fail to obey any official traffic control sign or signal	*21461.5*
• unlawful for any driver to disobey traffic control devices regulating or prohibiting turning movements at intersections	*22101(d)*

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Control devices and signals

Peace officers should be aware of a number of Vehicle Code requirements related to traffic control devices and signals. The following table identifies four of these requirements.

	Requirements	***Vehicle Code Section***

Red Signal Lights	A *circular red light* requires a driver to:
	
	• stop at a marked **limit line**
	  - if there is no limit line, stop before entering the near **crosswalk**
	  - if there is no crosswalk, stop before entering the intersection
	• remain stopped until the light has changed and it is safe to proceed
		21453(a)

	After stopping at a *circular red light* and yielding to traffic lawfully using the intersection and pedestrians lawfully within an adjacent crosswalk, a driver may: • turn right or • turn left from a one-way street onto a one-way street • unless there is a sign prohibiting such movement	*21453(b)*

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Control devices and signals (continued)

	Requirements	*Vehicle Code Section*
Red Arrows	A driver facing *a steady red* arrow shall: • stop at a marked limit line • if there is no limit line, stop before entering the crosswalk • if there is no crosswalk, stop before entering the intersection • remain stopped • until an indication permitting movement is shown	*21453(c)*

Flashing Signals	At a *flashing red light*, a driver must:
	
	• stop at a marked limit line
	  - if there is no limit line, stop before entering the crosswalk
	  - if there is no crosswalk, stop before entering the intersection
	• then proceed according to the laws regarding yielding right of way
	
	NOTE: A flashing red light has the same stopping requirements as a stop sign.
		21457(a)

NOTE: Pedestrians facing a steady circular red signal or red arrow are not permitted to enter the roadway unless otherwise directed by a pedestrian control signal. *(Vehicle Code Section 21453(d))*

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Related violations

The following table identifies several additional Vehicle Code requirements that are related to traffic control devices and signals.

	Requirements	*Vehicle Code Section*
Green Signal Lights	• at a *green signal light*, a driver shall proceed after yielding, to vehicles and pedestrians lawfully within the intersection	*21451(a)*
	• only making the movement that is indicated when entering an intersection under a *green arrow* signal light	*21451(b)*
Lane Use Controls	• a *steady red signal light* is an indication that the driver should not enter or use the traffic lane	*21454(c)*
Other Signal Control	• drivers are required to obey traffic control signals erected at places other than an intersection	*21455*
Pedestrian Signal Light	• when a pedestrian signal indicates “walk,” pedestrians must yield right-of-way to vehicles already in the intersection	*21456(a)*
	• pedestrians shall not start to cross the roadway if a pedestrian signal light indicates “Don’t Walk,” “Wait,” or shows an upraised hand	*21456(b)*

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Related violations (continued)

	Requirements	*Vehicle Code Section*
Stop Signs	The driver of any vehicle: • approaching a *stop sign*: - at the entrance to an intersection - within an intersection - at a railroad grade crossing • shall stop at a limit line, if marked • otherwise before entering the crosswalk on the near side of the intersection NOTE: If there is no limit line or crosswalk, the driver shall stop at the entrance to the intersecting roadway or railroad grade crossing.	*22450(a)*

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Railroad crossings

Peace officers need to be aware of the traffic control signal devices and regulations associated with railroad crossings. The following table briefly identifies two of these sections.

	Requirements	***Vehicle Code Section***
Approaching	• A driver of any vehicle or pedestrian approaching a railroad or rail transit grade crossing shall stop not less than 15 feet from the nearest rail and shall not proceed until he or she can do safely, whenever the following conditions exist: • a clearly visible electric or mechanical signal device or flagman warns of the approach of a train/car • an approaching train or car is plainly visible or is emitting an audible signal	*22451(a)*
Crossing	No driver or pedestrian shall proceed through, around or under any closed railroad or rail transit crossing gate.	*22451(b)*
Specified vehicle crossing	Before crossing a railroad grade crossing, the driver of a specified vehicle shall: • *stop* • *listen* • *look* • do not proceed until it is safe to do so A specified vehicle includes any: • bus or farm labor vehicle that carries passengers • truck that carries explosives, gasoline, division 2.3 chlorine, liquefied petroleum gas, or other hazardous materials transport	*22452(b)*

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Roadway markings

Roadway markings (e.g., double lines, painted turn arrows, etc.) are also forms of traffic control devices. The following table identifies two such markings.

	Requirements	***Vehicle Code Section***
Double Solid Yellow Lines	When double parallel solid yellow lines are in place, no person driving a vehicle shall: • drive to the left of the double lines • except when: - turning at an intersection - entering a driveway or private road - making a legal **U-turn** - when one of the double lines is broken NOTE: Raised pavement markers may simulate painted lines (e.g., Botts dots).	*21460(a)*
Two-Way Left-Turn Lanes	A two-way left-turn lane: • must be used by a driver when preparing to make a left turn onto a highway • must be used when making a left or U-turn from the highway • shall *not* be driven in for more than 200 feet while: - preparing for and making a U-turn, or - preparing to merge into the adjacent lanes of travel NOTE: This section does not prohibit driving across a two-way left-turn lane.	*21460.5(c)*

Right-of-Way

Introduction

Only one person can occupy a given space at a time. Right-of-way is the *privilege* of the immediate use by a driver of a given space on the highway. *(Vehicle Code Section 525)*

Question of right-of-way

A question of right-of-way only arises when there is danger of a collision between two users of a highway. If there is no possibility of a collision, there is no question of right-of-way.

For a question of right-of-way to arise, it must be necessary for one of the drivers contending for the same area to swerve, slow, stop, or increase speed to avoid a collision or the potential for immediate conflict.

Presumption of right-of-way

A driver of a vehicle who is obeying the law has a right to presume that other drivers operating vehicles upon the highway will also obey the law.

If the law requires a driver on an intersecting highway to stop, the driver on the through highway may assume that the other driver *will* stop and yield the right-of-way.

Lawful operation

Before a driver is entitled to the right-of-way, the driver must be operating a vehicle within the law and not in violation of the law.

A driver of a vehicle cannot arbitrarily rely on gaining the right-of-way as the result of excessive speed, reckless driving, driving at night without lights, or any other negligent act or violation of the law.

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Waiver of right-of-way

A driver with the right-of-way at an intersection may intentionally waive it, or give the appearance of the intent to waive.

Example

(1) Two drivers stopped at an intersection. The first driver remained at a standstill, looking away from the route of travel. This created a reasonable belief in the mind of the second driver (who was signaling his intent to make a left turn across the lane of the first driver) that the first driver had relinquished the right-of-way.

Lane-by-lane application

Since right-of-way refers to a particular place of potential conflict, it also applies *lane-by-lane*. A driver may enter a lane if that lane is free and open. If a vehicle is already in the lane, the driver who wishes to change lanes must yield to the traffic in other lanes if there is a potential hazard.

If a driver wishes to move through successive lanes, that driver must yield the right-of-way *one lane at a time*.

Even when an oncoming vehicle in the lane closest to the left-turning vehicle surrenders its right-of-way, the driver who is turning left may not proceed beyond the first lane of traffic, if vehicles approaching in other lanes are a hazard during the turn.

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Intersections

The issue of right-of-way is clearly present when two or more vehicles are in or enter an intersection at one time. The following table identifies the violations associated with right-of-way at intersections.

Type of Intersection	Violations	*Vehicle Code Section*
Without Traffic Control Devices	A driver of a vehicle *approaching* an intersection shall yield the: • right-of-way to any vehicle which has entered the intersection from a different highway	*21800(a)*
	When two vehicles enter an intersection from different highways *at the same time*: • the driver of the vehicle on the *left* shall yield the right-of-way • to the vehicle on that driver's immediate *right* NOTE: "At the same time" has been interpreted as meaning approximately the same time.	*21800(b)(1)*

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Intersections (continued)

Type of Intersection	Violations	*Vehicle Code Section*
Without Traffic Control Devices (continued)	If the driver of one of the vehicles entering the intersection *at the same time* is on a **<u>terminating highway</u>**: • that driver shall yield the right-of-way • to any vehicle on the intersecting continuing highway NOTE: A terminating highway is a highway which intersects (but does not continue beyond the intersection) with another highway which continues through the intersection, commonly known as a T intersection.	*21800(b)(1)* (continued)
Four-way Stops	When two vehicles enter the intersection from different highways *at the same time* and the intersection is controlled from all directions by stop signs, (not limited to four way): • the driver of the vehicle on the *left* • shall yield right-of-way to the vehicle on the driver's *immediate right*	*21800(c)*

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Intersections (continued)

Type of Intersection	Violations	*Vehicle Code Section*
Inoperative Signals	The driver of any vehicle *approaching* an intersection with inoperative signals shall: • stop • proceed with caution only when it is safe to do so	*21800(d)(1)*
	When two vehicles approach the intersection from different highways *at the same time*: • the requirements are the same as for an intersection controlled from all directions by stop signs	*21800(d)(2)*

Left turns or U-turns

Vehicle Code Section 21801(a) states that a driver intending to turn left or to complete a U-turn at an intersection or into public or private property or an alley shall:

- yield right-of-way to all vehicles which:
  - have approached
  - are approaching from the opposite direction, *and*
  - close enough to constitute a hazard during the turning movement
- continue to yield to approaching vehicles
  - until the left turn can be made with reasonable safety

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Left turns or U-turns (continued)

The need to yield the right-of-way is not limited to vehicles in motion, but applies also to those not in motion if they have arrived so close to the intersection as to constitute a hazard to drivers as they make a left turn.

NOTE: All the laws related to right-of-way contain a section stating that a driver having yielded and given a signal as required may turn left or complete a U-turn. The drivers of all other vehicles approaching from the opposite direction shall yield the right-of-way.

Stop signs

The driver of any vehicle approaching a stop sign at the entrance to an intersection must not only stop, but also yield the right-of-way.

Vehicle Code Section 21802(a) states that the driver of a vehicle approaching a stop sign shall:

- stop as required by a stop sign *(Vehicle Code Section 22450)*
- then yield the right-of-way to other vehicles which:
  - have approached
  - are approaching so closely as to be an immediate hazard, *and*
- continue to yield to approaching vehicles
  - until the driver can proceed with reasonable safety

NOTE: *Immediate hazard* is determined primarily by the factors of *speed* and *distance* of the approaching vehicles.

NOTE: *Vehicle Code Section 21802* does not apply when stop signs are at all approaches to the intersection.

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Yield signs

Right-of-way can be assigned by the use of a yield sign. *Vehicle Code Section 21803(a)* establishes the following process for obeying a yield sign.

The driver of any vehicle shall:

- yield the right-of-way to other vehicles which:
  - have entered the intersection from an intersecting street
  - are approaching so closely as to constitute an immediate hazard, *and*
- continue to yield the right-of-way to such approaching vehicles
  - until the driver can proceed with reasonable safety

Entry onto a highway

The driver of a vehicle about to enter or cross a highway from any public or private property, or from an alley, must also yield the right-of-way.

Vehicle Code Section 21804(a) states that a driver in this situation shall:

- yield the right-of-way to all traffic
  - approaching so closely as to be an immediate hazard
- continue to yield the right-of-way to such approaching vehicles
  - until the driver can proceed with reasonable safety

NOTE: *Vehicle Code Section 21804(a)* also applies to vehicles backing onto a highway, generally from a private driveway. *Vehicle Code Section 22106* only applies to a vehicle already upon highway.

NOTE: Each section states once the driver has yielded to all vehicles that have the immediate right-of-way, that driver then has the lawful right-of-way.

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Emergency vehicle

An authorized emergency vehicle is any publicly or privately owned and operated vehicle which is authorized to have sirens and emergency lights. These include law enforcement vehicles, ambulances, or vehicles with lifesaving or emergency fire equipment. *(Vehicle Code Section 165)*

Vehicle Code Section 21806(a)(1) requires that when an authorized emergency vehicle is approaching while sounding the siren, and having at least one red light visible from 1,000 feet to the front of the vehicle drivers shall:

- yield the right-of-way
- drive as near and parallel to the *right*-hand edge of the roadway
- stop clear of any intersection
- remain stopped until the emergency vehicle has passed
  - unless otherwise directed by a traffic officer

NOTE: Pedestrians must remain in, or proceed to, a place of safety until the emergency vehicle has passed.

NOTE: No motor vehicle, except another authorized emergency vehicle, shall follow within 300 feet of any authorized emergency vehicle being driven under emergency conditions *(Vehicle Code Section 21706).*

Bicycles

Introduction

Every person riding a bicycle upon a highway has all the rights and is subject to all the provisions pertaining to the operation of a vehicle. (*Vehicle Code Section 21200)*

NOTE: Bicycles are not included within the definition of a motor vehicle (*Vehicle Code Section 415).* Therefore, *Vehicle Code Sections* such as *23109* and *23123*, specifically addressing violations by motor vehicles, are not applicable to bicycles.

Riding under the influence

Riding under the influence can apply to individuals on bicycles. *Vehicle Code Section 21200.5* states:

- it is unlawful
- to ride a bicycle
- upon a highway
- while under the influence of alcohol and/or drugs

Violation of this statute is a *misdemeanor*.

If the subject requests a chemical test, it must be given; though there is no requirement to offer a test. (*Vehicle Code Section 23612)*

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Bicycle Equipment

The following table presents required equipment for bicycles while upon a highway:

Equipment	Requirements	*Vehicle Code Section*
Brakes	No person shall operate a bicycle on a roadway unless: • it is equipped with a brake • which will enable the operator to make one braked wheel skid • on dry, level, clean pavement	*21201(a)*
Handlebars	No person shall operate a bicycle on the highway: • equipped with handlebars so raised that the operator must elevate their hands above the level of their shoulders in order to grasp the normal steering grip area	*21201(b)*
Size	No person shall operate a bicycle on a highway: • of a size that prevents the operator • from safely stopping • supporting it in an upright position with at least one foot on the ground • and restarting in a safe manner	*21201(c)*

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Bicycle Equipment (continued)

Equipment	Requirements	*Vehicle Code Section*

Lights/ Reflectors	A person shall operate a bicycle during **darkness** on a highway or **bikeway** with the following equipment:
	
	• White lamp
	  – illuminated to the front
	  – visible from a distance of 300 feet to the front and from the sides
	  – may be mounted to the operator (*Vehicle Code Section 21201(e)*)
	• Red reflector
	  – on the rear
	  – visible from a distance of 500 feet
	• White or yellow reflector
	  – on each pedal, shoe, or ankle
	  – visible from a distance of 200 feet to the front and rear
	• Side reflectors
	  – white or yellow forward of the center of the bicycle
	  – white or red to the rear of the center of the bicycle
	• reflectorized tires on the front and rear may replace side reflectors
		21201(d)

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Bicycle Equipment (continued)

Equipment	Requirements	*Vehicle Code Section*
Operator Seat	A person shall operate a bicycle: • on a highway • astride a permanent and regular seat attached thereto – unless the bicycle was designed by the manufacturer to be ridden without a seat	*21204(a)*
Passenger Seat	No person shall operate a bicycle: • on a highway • with a passenger • unless that passenger is upon or astride a separate seat attached thereto NOTE: If the passenger is four years of age or younger, or weighs 40 pounds or less, the seat shall have adequate provision for retaining the passenger in place and for protecting the passenger from the moving parts of the bicycle.	*21204(b)*

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Bicycle Equipment (continued)

Equipment	Requirements	*Vehicle Code Section*
Helmet	No person under 18 years of age: • shall operate a bicycle, • ride upon a bicycle, • or in a trailer attached to a bicycle • upon a highway or bikeway • unless that person is wearing a properly fitted and fastened bicycle helmet • that meets specified standards NOTE: This section also applies to minors operating a non-motorized scooter, a skateboard, and in-line or roller skates.	*21212(a)*

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Operation on a roadway

Bicycles shall be operated in the same direction as traffic when in the roadway or on the shoulder (*Vehicle Code Section 21650.1*). However, certain laws govern the operation of a bicycle when it is traveling less than the flow of traffic.

Vehicle Code Section 21202(a) states that any person operating a bicycle upon a roadway at a speed less than the flow of normal speed of traffic moving in the same direction at the same time shall ride as close as practicable to the right-hand curb or edge of the roadway, subject to the provisions of *Vehicle Code Section 21656,* except when under any of the following situations:

- overtaking and passing
- preparing for a left turn
- avoiding fixed or moving objects
- approaching a place where a right turn is authorized

Rider shall not attach himself to any vehicle on the **roadway**. *(Vehicle Code Section 21203)*

NOTE: *Vehicle Code Section 21206* grants authority to local government to adopt ordinances prohibiting the use of bicycles on sidewalks. In the absence of a local ordinance, bicycles may travel on sidewalks with or against traffic.

Vehicle Code Section 22100(a) requires a right-hand turn shall be made as close as practical to the right-hand curb or edge of the roadway.

Vehicle Code Section 21750 the driver of a vehicle overtaking another vehicle or a bicycle proceeding in the same direction shall pass to the left at a safe distance without interfering with the safe operation of the overtaken vehicle or bicycle, subject to the limitations and exceptions hereinafter stated.

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Bicycle Lanes

Vehicle Code Section 21208 requires the operator of a bicycle to ride within a marked bicycle lane when they are traveling at a speed less than the normal speed of traffic. The bicycle may leave the bicycle lane under the following situations:

- when overtaking and passing another bicycle, vehicle, or pedestrian within the bicycle lane
- preparing for a left-hand turn
- to avoid hazardous conditions
- place where right hand turns are authorized
- when the movement can be made with reasonable safety after signaling

Bicycle Lanes (continued)

Motor vehicles are not permitted to drive in a bicycle lane, except as permitted *Vehicle Code Section 21209.*

- to legally park
- to enter or leave the roadway
- to prepare for a turn within 200 feet of an intersection
- and does not interfere with a bicyclist within the bicycle lane

NOTE: *Vehicle Code Section 22100(a)* requires a right-hand turn shall be made as close as practical to the right-hand curb or edge of the roadway.

NOTE: *Vehicle Code Section 21750* the driver of a vehicle overtaking another vehicle or a bicycle proceeding in the same direction shall pass to the left at a safe distance without interfering with the safe operation of the overtaken vehicle or bicycle, subject to the limitations and exceptions hereinafter stated.

Pedestrian Right-of-Way

Introduction

A **pedestrian** is any person who is afoot or who is using a means of conveyance propelled by human power, other than a bicycle (*Vehicle Code Section 467*). Pedestrians do not have to outwardly demand the right-of-way in order to obtain it (e.g., putting a hand up to stop traffic before entering a crosswalk). They can waive their right-of-way and yield to vehicles if they so choose.

Conflict

Just as with two vehicles, the question of right-of-way only arises when there is danger of a conflict or collision. If there is no possibility of a conflict between a vehicle and a pedestrian, there is no question of right-of-way.

For a question of right-of-way to arise, the pedestrian must be compelled to move out of the way, slow, stop, or increase speed in order to avoid a collision.

Crosswalks

A driver must yield to any pedestrian who is in a marked or **unmarked crosswalk** *(Vehicle Code Section 21950(a))*.

It is not necessary for the driver of the vehicle to wait until the pedestrian has completely cleared the crosswalk to the other side before proceeding. Once the pedestrian has moved far enough out of the way of the vehicle that the possibility of conflict no longer exists, the vehicle can continue.

NOTE: An unmarked crosswalk is the portion of a roadway included within the prolongation or connection of the boundary lines of a sidewalk at an intersection where the roads meet at approximate right angles.

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Hesitation

Once a pedestrian steps into a crosswalk, even if that person stops or cautiously hesitates, the driver of the vehicle is required to yield the right-of-way if there is a danger that if the pedestrian continued, a conflict would occur.

The driver can continue only when the pedestrian conveys to the driver or causes the driver to reasonably assume the pedestrian has waived the right-of-way.

Due care

A pedestrian lawfully using the crosswalk and obeying traffic signals is entitled to presume that motor vehicle drivers will also obey the law.

If something occurs that would place the pedestrian on notice that a law is being or about to be violated, the pedestrian (of ordinary prudence) is responsible for using good judgment to avoid any possible conflict or collision.

Abuse of right-of-way

Vehicle Code Section 21950(b) establishes that pedestrians must not abuse the right-of-way. No pedestrian shall:

- suddenly leave a curb or other place of safety and walk or run into the path of a vehicle that is so close as to constitute an immediate hazard
- unnecessarily stop or delay traffic while in a marked or unmarked crosswalk

Even in such situations, the driver has the duty to exercise due care for the safety of the pedestrian (*Vehicle Code Section 21950(c)).*

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Vehicle stopped for a pedestrian

When a vehicle has stopped to allow a pedestrian in a crosswalk to pass, that vehicle may block the view of the pedestrian to approaching vehicles *(Vehicle Code Section 21951*).

Whenever any vehicle has:

- stopped at a marked or unmarked crosswalk
  - to permit a pedestrian to cross the roadway
- the driver of any *other* vehicle approaching from the rear
  - shall not overtake and pass the stopped vehicle

Outside crosswalks

Pedestrians who cross a street *outside* the crosswalk must yield to through vehicles which have the right-of-way *(Vehicle Code Section 21954(a))*.

Every pedestrian:

- upon a roadway at any point *other* than within a marked or unmarked crosswalk at an intersection
- shall yield the right-of-way to all vehicles upon the roadway
- that are so near as to constitute an immediate hazard

"Jaywalking"

Crossing a roadway at a point between adjacent intersections that are controlled by traffic control signal devices (or a peace officer) is an infraction *(Vehicle Code Section 21955)*.

Driver judgment

Even if a pedestrian is not in a marked or unmarked crosswalk, drivers are not relieved of their responsibility to exercise due care for the safety of any pedestrian upon a roadway *(Vehicle Code Section 21954(b))*.

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Other related violations

The following table identifies additional violations related to pedestrian right-of-way.

Violations	*Vehicle Code Section*
• when walking on a roadway outside of a business or residential district, a pedestrian shall walk on the left-hand edge of the roadway • a pedestrian may walk close to his or her right-hand edge of the roadway if a crosswalk or other means of safely crossing the roadway is not available or if existing traffic or other conditions would compromise the safety of a pedestrian attempting to cross the road	*21956(a)*
• no person shall stand in a roadway for the purpose of soliciting a ride (hitchhiking) from the driver of any vehicle	*21957*
• the driver shall yield to a visually handicapped pedestrian who uses a cane or is accompanied by a guide dog	*21963*

Turns

Introduction

Drivers who are operating their vehicles in any manner other than moving straight ahead must exercise greater care and yield to other vehicles on the highway.

Signaling Turns

No person shall turn a vehicle from a direct course or move right or left upon a roadway until such movement can be made with reasonable safety and then only after the giving of an appropriate signal in the manner provided in this chapter in the event any other vehicle may be affected by the movement *(Vehicle Code Section 22107).*

Any signal of intention to turn right or left shall be given continuously during the last 100 feet traveled by the vehicle before turning *(Vehicle Code Section 22108).*

Available Lanes

Completion of any turn after entering an intersection must be made in a lane that is lawfully available.

A **lawfully available lane** is any lane that is available in the appropriate direction of travel in which the driven vehicle does not interfere with the lawful movement of any other vehicle.

Controlled intersections

A driver must obey traffic control devices that regulate or prohibit right or left turns at an intersection *(Vehicle Code Section 22101(d)).*

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Intersections

Unless traffic devices regulate or prohibit otherwise, turning movements must be made in a specified manner. The following table identifies violations **not otherwise regulated by traffic devices.**

	Violations	***Vehicle Code Section***
Right Turns	The driver of any vehicle intending to turn right upon a highway shall: • approach the turn and make the turn • as close as is practicable to the right-hand curb or edge of the roadway NOTE: If a bike lane is present, driver must use the lane within 200 feet from the intersection. *(Vehicle Code Section 21209)* When a highway has an additional lane or lanes marked for a right turn by signs or markings: • a driver may turn right from any lane that is designated for that turning movement	*22100(a)*

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Intersections (continued)

	Violations	*Vehicle Code Section*
Left Turns	The driver of any vehicle intending to turn left upon a highway shall: • approach the turn as close as is practicable to the left-hand edge of the extreme left lane that is lawfully available • not make the turn before entering the intersection	*22100(b)*

NOTE: Obedience by a driver to **official traffic control devices** *(Vehicle Code Section 21461(a))* would also be used for a violation of a "No U-Turn" sign at an intersection.

NOTE: Unless otherwise prohibited or required, a right or left-hand turn may be made from the middle lane of a highway with three marked lanes in one direction when that highway *terminates* at a highway with traffic in both directions.

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Turns onto highways

Vehicle Code Section 22106 states that no person shall:

- start a vehicle which is:
  - stopped
  - standing
  - parked on a highway
- nor shall any person back a vehicle on a highway
  - until such movement can be made with reasonable safety

NOTE: This section applies to starting and backing *on a highway*. A driver who started or backed unsafely onto a highway from adjoining property and violated the right-of-way of a driver on the highway would be in violation of *Vehicle Code Section 21804(a)*.

U-turns

A U-turn is the turning of a vehicle upon a highway so as to proceed in the opposite direction, whether or not accomplished by one continuous movement *(Vehicle Code Section 665.5).*

A U-turn can begin and end on any portion of the highway, including the roadway, provided it is not unsafe and not otherwise prohibited.

U-turns are permissible unless an official traffic control device prohibits the turn. The turns must be made from the far left-hand lane lawfully available, when the intersection is controlled by official traffic signals or devices *(Vehicle Code Section 22100.5).*

U-turns in a business district are prohibited *(Vehicle Code Section 22102).*

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U-turns

U-turns are *allowed* at intersections, or openings on a divided highway where an opening has been provided. When multiple lanes exist, the turn must be made as close as practicable to the extreme left-hand edge of the lanes in the driver's direction of travel *(Vehicle Code Section 22102).*

No person in a residence district shall make a U-turn when any other vehicle is approaching from either direction within 200 feet except where approaching vehicles are controlled by a traffic control device *(Vehicle Code Section 22103).*

U-turns are prohibited in *front of* fire station driveway entrances or in the station driveways themselves *(Vehicle Code Section 22104)*.

NOTE: The definition implies a 180-degree turn accomplished without leaving the highway.

Unobstructed view

U-turns are prohibited unless the view is unobstructed for a distance of *200 feet (Vehicle Code Section 22105)*.

NOTE: Obstructions can include, but not be limited to, weather, embankments, hill crests, curves, parked vehicles, etc.

Speed

Introduction

There are two major categories of speed laws: *basic*, which includes speed laws that involve operation with regard to prevailing conditions and *maximum*, which refers to the laws regulating maximum speed.

Prevailing conditions

Vehicle Code Section 22350 prohibits driving a vehicle at a speed that is not reasonable and prudent (unsafe) for the *prevailing conditions*, when doing so endangers the safety of people or property.

The following table identifies some conditions that may hinder the driver's ability to stop and/or steer.

	Examples
Weather	• conditions which affect the road surface • fog, rain, snow, wind, etc.
Visibility	• darkness • environmental conditions • blowing sand, dust, smoke, etc.
Surface	• defects such as potholes or loose material • conditions which may reduce traction, coefficient of friction (ice, snow, oil, etc.)
Width	• width of roadway or individual lanes • reductions in width such as narrow bridges or temporary obstructions (e.g., road work, debris from previous collision, parked vehicles, etc.)

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Basic speed law

The basic (safe) speed law based on prevailing conditions is *always* in effect. Even though the roadway may be posted for maximum speed, conditions may be such that the safe speed is less than that posted.

To support a violation of basic speed law, a peace officer should be able to clearly articulate the reasons why they consider the speed unsafe.

A common example of an unlawful speed is the violator driving 55-mph on a 55-mph **freeway** in heavy fog. The peace officer will be required to prove that, under those conditions, the safe speed was 15-mph. This may be done by noting:

- visibility
- slick road surface
- speed of other vehicles
- number of vehicles passed by violator, etc.

Prima facie

Prima facie means good and sufficient *on its face*, or that which suffices for the proof of a particular fact until contradicted and overcome by other evidence. A prima facie speed is the speed limit in a specific area, unless otherwise posted.

Prima facie speed limits are guides established to indicate safe speeds. Drivers are presumed to know the prima facie speed limits; therefore, these limits need not be posted. Any change to a prima facie speed limit must be posted.

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Prima facie speeds

Vehicle Code Section 22352 establishes many prima facie speeds. The following table identifies two of these speed limits.

Prima Facie Speed	Area	Conditions
15-mph	uncontrolled railway grades	• if during the last 100 feet the view is obstructed within 400 feet in either direction
	uncontrolled intersections	• if during the last 100 feet the view is obstructed within 100 feet in either direction
	alleys	
25-mph	business/ residential districts	• unless another speed is posted
	school zones	• when approaching or passing a school building or grounds when children are present
	senior zones	• while passing a posted senior zone

NOTE: *Vehicle Code Section 22352* is nonpunitive. A peace officer should cite for a violation of the basic speed limit, *Vehicle Code Section 22350*, driving faster than is reasonable or prudent.

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Maximum speed limit

Generally, 65-mph is the maximum permissible speed in California.

Exceeding the 65-mph maximum speed limit is an infraction under *Vehicle Code Section 22349(a)*. No vehicle may be driven faster than 55-mph on a *two-lane, undivided highway* unless it is posted otherwise *(Vehicle Code Section 22349(b))*.

Driving in excess of 100-mph is an infraction citable under *Vehicle Code Section 22348(b)*.

When drivers violate the maximum speed limit, peace officers are *not* required to prove that the speed was either unreasonable or unsafe.

NOTE: If certain conditions are met, the Department of Transportation, upon consultation and approval of the California Highway Patrol, can declare and post a maximum speed of 70-mph *(Vehicle Code Section 22356)*.

NOTE: Certain types of vehicles may never be driven more than 55-mph *(Vehicle Code Section 22406)*. Vehicles with speed restrictions include motor-trucks or truck tractors with three or more axles, or any motor-truck drawing (i.e., towing) any other vehicle, passenger vehicles or buses drawing any other vehicle, school buses transporting any school pupils, farm labor vehicles when transporting passengers, vehicles transporting explosives, and trailer buses.

Driving and Passing

Introduction

The average combined perception/reaction time of a driver is 1.5 seconds. Considering this small amount of time, there are several routine driving movements that, when executed without due care, could contribute to the possibility of a collision.

Following too Closely

Vehicle Code Section 21703 prohibits a driver from following another vehicle more closely than is reasonable or prudent considering:

- speed
- traffic
- condition of roadway

Driving on the right

Vehicle Code Section 21650 requires that on all highways a vehicle shall be driven on the right half of the roadway.

Exceptions to this requirement include:

- when lawfully overtaking and passing another vehicle
- when making a lawful left turn
- when the right side of the roadway is closed for construction or repair
- when operating a bicycle on the shoulder, sidewalk, crosswalk, or bicycle path when not prohibited by a city or county ordinance
- when driving on a one-way street
- where the roadway narrows
- when the vehicle is necessarily traveling so slowly as to impede the normal movement of traffic, that portion of the highway adjacent to the right edge of the roadway may be utilized temporarily when in a condition permitting safe operation

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Divided highway

Whenever a highway has been divided into two or more roadways by intermittent barriers or a dividing section at least two feet wide, drivers are required to remain on the right of them.

Vehicle Code Section 21651(a) makes it unlawful to:

- drive over, upon, or across the dividing section or
- make any left or U-turn on the divided highway, except through a designated opening in the barrier or dividing section

NOTE: The dividing section may be unpaved or delineated by curbs, double-parallel lines, or other markings on the roadway.

Driving the "wrong way" on a divided highway can be classified as a misdemeanor or a felony, depending on whether it causes injury or death *(Vehicle Code Sections 21651(b) and 21651(c)).*

Lane changes

Vehicle Code Section 21658(a) prohibits unsafe lane changes and lane straddling. Whenever any roadway has been divided into two or more clearly marked lanes for traffic in one direction, a vehicle:

- shall be driven, as nearly as is practical, entirely within a single lane and
- shall not be moved from the lane until such movement can be made with reasonable safety

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Driving on the left prohibited

Four sub-sections of *Vehicle Code Section 21752* prohibit driving on the left side of the roadway under the following conditions:

(a) When approaching or upon the crest of a grade or a curve in the highway where the driver's view is obstructed within such distance as to create a hazard in the event another vehicle might approach from the opposite direction.
(b) When the view is obstructed upon approaching within 100 feet of any bridge, viaduct, or tunnel.
(c) When approaching within 100 feet of or when traversing any railroad grade crossing.
(d) When approaching within 100 feet or when traversing any intersection.

This section does not apply on a one-way roadway.

Vehicle Code Section 21750 states that a driver overtaking another vehicle or bicycle (unless on a one-way highway) shall:

- pass to the left at a safe distance
- without interfering with the safe operation of the overtaken vehicle

Attempting to pass another vehicle on the left without sufficient clearance while on a two-lane highway is an infraction *(Vehicle Code Section 21751)*.

Passing on the right

A driver may overtake or pass another vehicle upon the right only when conditions make it safe to do so.

It is unlawful to pass on the right by driving off the paved or main-traveled portion of the roadway (e.g., using the shoulder of the road) *(Vehicle Code Section 21755)*.

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School bus

A **school bus** is any motor vehicle used for transporting school pupils at or below grade 12 level to or from a public or private school or to or from school activities *(Vehicle Code Section 545)*.

- *Vehicle Code Section 22454(a)* requires a driver approaching or overtaking a school bus which has stopped to load or unload school children

- is displaying its flashing red lights and the stop signal arm, if so equipped
- shall stop and remain stopped until the lights cease operation
- on a highway or private roadway

The driver of a vehicle upon a divided or multiple-lane highway need not stop upon approaching or overtaking a school bus:

- that is upon the other roadway
- when stopped at an intersection controlled by a traffic officer or **official traffic control signal** *(Vehicle Code Section 22454(b))*

Public Offenses

Introduction

Certain offenses where drivers deliberately put themselves in situations in which they are not totally in control of their vehicles can create even greater hazards and risk for others. Such offenses are often referred to as public offenses.

Applicability

Vehicle Code Section 23100 states the provisions of section *Vehicle Code Section 23103* through *Vehicle Code Section 23249.5* apply to vehicles upon the highways and elsewhere unless expressly provided otherwise.

Reckless driving

Vehicle Code Section 23103(a) states that:

- any person
- who drives a vehicle upon a highway
- in *willful* or *wanton* disregard
- for the safety of persons or property
- is guilty of reckless driving

This law also applies to driving recklessly in any **off-street parking facility** *(Vehicle Code Section 23103(b)).*

Examples of reckless driving include:

- driving at a high speed and changing lanes without regard for safety
- speeding through a parking area forcing pedestrians to move quickly out of the way

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Related terms

In order to better understand the violation of reckless driving, peace officers need to understand the meaning of the following terms.

Willful means an act performed with *intentional* disregard for safety and not merely an act done in disregard of safety.

Wanton means being *conscious* of one's:

- conduct
- intent to commit or omit the act in question
- realization of probable injury to another
- reckless disregard of the consequences

Overt acts

The willful or wanton disregard for safety can be shown by a single act, but it is generally shown as a series of overt acts.

Generally, speed *alone* is not reckless driving. But if there is more than one contributing factor along with speed (e.g., weaving in and out of traffic, forcing other vehicles off the road, etc.), then the driver's actions may constitute reckless driving.

Classifications: reckless driving

Violation of *Vehicle Code Section 23103* is a misdemeanor.

However, if the act of reckless driving of a vehicle has caused bodily injury to any other person other than the driver, the punishment may be enhanced (*Vehicle Code Section 23104(a)*).

If the driver has had previous convictions for reckless driving, speed contests, or DUI, the current offense of reckless driving causing great bodily injury is a felony (*Vehicle Code Section 23104(b)*).

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Speed contests

A speed contest can involve a single vehicle racing against the clock, timing device, or two or more vehicles racing against each other (i.e., drag racing).

It is a misdemeanor offense for any person to engage in any motor vehicle speed contest on a highway. *(Vehicle Code Section 23109(a)*)

Aiding or abetting in any motor vehicle speed contest on a highway is also a misdemeanor offense. *(Vehicle Code Section 23109(b)*)

NOTE: Organized road rallies of over 20 miles, in which vehicles do not exceed speed limits, are exempt from the violations noted under *Vehicle Code Section 23109*.

Exhibition of speed

Exhibition of speed involves a driver exhibiting to another person an overt act (i.e., "showing off") involving speed on a highway. *Vehicle Code Section 23109(c)* states that engaging in such an act, or aiding and abetting another in such an act, is a misdemeanor offense.

For a driver's action to be considered an exhibition of speed, another person must be present to be *exhibited to*. Such a person need not be known to the exhibitor at the time. A single peace officer may constitute the required observer of the offense.

One example of an exhibition of speed would be:

- a driver intentionally causing tires to lose traction (i.e., "burning rubber") is engaging in an exhibition of speed

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Throwing substances at vehicles

Vehicle Code Section 23110(a) states that it is unlawful for any person to throw any substance at a vehicle on a highway, or any occupant of a vehicle on a highway.

Such action is elevated to a felony offense if a person:

- with the intent to do great bodily injury
- maliciously and willfully throws or projects any object
- capable of doing serious bodily harm
- at a vehicle, or an occupant of a vehicle on a highway (*Vehicle Code Section 23110(b)*)

For example, throwing concrete rocks at vehicles from a freeway overpass and knowing that they could cause injury to drivers on the highway below would be a felony offense.

Throwing cigarettes/ cigars

Vehicle occupants and pedestrians are prohibited from throwing any lighted or non-lighted cigarette, cigar, match, or any flaming or glowing substance upon the highway or adjacent property *(Vehicle Code Section 23111)*.

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Handheld wireless telephones

Vehicle Code Section 23123(a) states that a person shall not drive a motor vehicle:

- while using a wireless telephone unless it is specifically designed and
- configured to allow hands free listening and talking or

used in that manner while driving

Wireless communications device

Vehicle Code Section 23123.5 states that a person shall not drive a motor vehicle while using an electronic wireless communications device to write, send, or read a text-based communication:

- unless the electronic device is specifically designed and configured to allow voice-operated and hands-free operation to dictate, send, or listen to a text-based communication, and it is used in that manner while driving.

Persons under age 18

Vehicle Code Section 23124 applies to persons under the age of 18.

- Shall not drive a motor vehicle while using a wireless telephone or an electronic communication device, even if equipped with a hands-free device.
- A violation of this section is an infraction punishable by a base fine of twenty dollars ($20) for a first offense and fifty dollars ($50) for each subsequent offense.

NOTE: For purposes of this section, "electronic wireless communications device" includes, but is not limited to, a broadband personal communication device, specialized mobile radio device, handheld device or laptop computer with mobile data access, pager, and two-way messaging device.

Exceptions

This section does not apply to a person using a wireless telephone for emergency purposes, including, but not limited to, an emergency call to a law enforcement agency, health care provider, fire department, or other emergency services agency or entity.

Hit and Run

Introduction

A traffic collision is an unintended event involving a vehicle in motion that produces damage or injury (including fatal injury). A driver involved in a collision has certain obligations to fulfill.

Rendering aid

A driver involved in a collision resulting in injury or death shall:

- render reasonable assistance to any injured person
- including transportation to medical care

Providing information

Vehicle Code Section 20003 also requires a driver involved in a collision resulting in injury or death of any person to provide specific information to peace officers at the collision scene. Required information includes:

- driver's and any injured occupants' names and addresses
- vehicle's registration number
- name and address of the vehicle's owner, if different from the driver

Upon request, the driver shall provide drivers license information to:

injured occupants any available identification to:

- person(s) struck
- driver or occupant(s) of the involved vehicle(s)
- investigating peace officer at the scene

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No peace officer present

If a collision results in the death of any person and there is no peace officer present at the scene, *Vehicle Code Section 20004* stipulates that the driver shall:

- without delay
- report the collision to the nearest office of the CHP or police authority
- provide the required information

Misdemeanor hit and run

Vehicle Code Section 20002(a) requires that a driver involved in a collision resulting only in property damage shall:

- immediately stop at the scene
- locate the owner or person in charge of the property damaged
- provide name and address of driver and registered owner
- on request, show driver's license and vehicle registration

If the owner cannot be located, the driver must:

- leave a note (in a conspicuous place) on the damaged property, containing the above information and the circumstances of collision
- without unnecessary delay, notify the:
  - police department of the city in which the collision occurred
  - CHP if the collision occurred in an unincorporated area

Failure to comply with these requirements is a *misdemeanor*.

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Felony hit and run

Vehicle Code Section 20001(a) requires:

- the driver of any vehicle involved in a collision resulting in:
  - injury to any person other than himself
  - death of any person
- shall *immediately stop* the vehicle at the scene of the collision
- fulfill certain requirements based on whether the collision involves an injury, a death, and/or property damage

Violation of this statute is classified as a *felony*.

NOTE: For additional information regarding collision investigations, refer to LD 29: *Traffic Collision Investigation*.

Runaway vehicle

The actions required by *Vehicle Code Section 20002(a)* also apply:

- to any person
- who last drove a runaway vehicle
- which becomes involved in a collision
- resulting in damage to any property *(Vehicle Code Section 20002(b))*

NOTE: For the purposes of this lesson, runaway vehicle means a vehicle that is moving without the driver being present within the vehicle.

Example

(1) Smith parked his vehicle, and failed to set the brake. The vehicle slipped downhill, causing damage to several other cars. Smith returned to his vehicle, saw the damage, and left the scene without notifying law enforcement authorities or leaving notes on the damaged cars.

Driver Licensing

Introduction

Driving on California highways is a *privilege*, not a right. That privilege may be refused, restricted, suspended, or revoked by the Department of Motor Vehicles (DMV) or the courts.

Related terms

A driver's license is a valid license to drive the type of motor vehicle or combination of vehicles for which a person is licensed under this code or by a foreign jurisdiction. (*Vehicle Code Section 310*)

License requirements

Vehicle Code Section 12500(a) states that no person shall:

- drive a motor vehicle upon a highway
- without being licensed
- except persons expressly exempted

Violation of this statute is a *misdemeanor*.

NOTE: Information regarding exemptions may be found in *Vehicle Code Section 12501*.

Driver's license restrictions

No person shall operate a motor vehicle in violation of the provisions of a restricted license issued to that person (*Vehicle Code Section 14603*). Court-mandated restrictions may be stamped on, typed on, or attached to a license.

NOTE: *Vehicle Code Section 14601.2(b)* is used for license restrictions after a DUI conviction. *Vehicle Code Section 14603* should not be used for court mandates.

NOTE: Local enforcement policies may vary. A peace officer must be aware of his or her agency's specific enforcement policies on license restriction violations.

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Cause for restrictions

The DMV may issue driver's licenses with specific restrictions for a number of different reasons. Restrictions may include but not be limited to:

- using special mechanical control devices
- using additional mirrors
- wearing corrective lenses while driving
- not driving at night
- not driving on a freeway
- any other restrictions to assure the safe operation of a motor vehicle by the licensee

Immediate possession

Vehicle Code Section 12951(a) states that a:

- driver must have a valid license
- in that person's immediate possession
- at all times when driving a motor vehicle upon a highway

Violation of this statute is an *infraction*.

Presentation of driver's license

It is unlawful for a driver to:

- refuse to present their driver's license
- upon the demand of a peace officer *(Vehicle Code Section 12951(b)*)

Violation of this statute is a *misdemeanor*.

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Classification of license

It is unlawful for a person to:

- drive a motor vehicle, or combination of vehicles
- without the proper classification of license *(Vehicle Code Section 12500(d)*

Violation of this statute is an *infraction.*

License classes

The following table identifies the four classifications of driver's licenses defined in *Vehicle Code Section 12804.9.*

Class	Description
A	• any combination of vehicles, if any vehicle being towed weighs more than 10,000 lbs • vehicles towing more than one vehicle • trailer buses • operation of all vehicles under class B and class C
B	• single vehicles weighing more than 26,000 lbs • single vehicles with three or more axles, except those weighing 6,000 lbs or less • buses, except a trailer bus • farm labor vehicles • single vehicles with three or more axles or weighing more than 26,000 lbs, towing another vehicle weighing 10,000 lbs or less • any house car over 40 feet in length, excluding safety devices and safety bumpers

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License classes (continued)

Class	Description
C	• two-axle vehicles weighing 26,000 lbs or less • two-axle vehicles weighing 4,000 lbs or more unladen • house cars of 40 feet or less or vehicles towing other vehicles with a gross weight of 10,000 lbs or less • two-axle vehicles 4,000 lbs or more unladen, when towing either a trailer coach or a fifth-wheel travel trailer not exceeding 10,000 lbs, when the towing is not for compensation • two-axle vehicles weighing 4,000 lbs or more unladen when towing a fifth-wheel travel trailer weighing between 10,000 and 15,000 lbs, when the towing is not for compensation and the driver has passed a special examination *Vehicle Code Section 12804.9 (f)(ii)* • three-axle vehicles weighing 6,000 lbs or less • motorized scooter *Vehicle Code Section 12804.9(3)(I)* • three-wheeled motorcycle

NOTE: Class C license does not include any two-wheel motorcycle or two-wheel motor-driven cycle.

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License classes (continued)

Class		Description
M		• A class M license gives authority to drive vehicles in this class is granted: - by endorsement on a class A, B, or C license - upon completion of an appropriate examination *(Vehicle Code Section 12814.6(a))*
	M-1	• class license can operate two-wheel motorcycles and motor driven cycles *(Vehicle Code Section 12814.6(b))*
	M-2	• class license can operate: - motorized bicycles mopeds - bicycles with attached motors - motorized scooter *Vehicle Code Section 12804.9 (5)(A)(ii)*

NOTE: For specific restrictions that apply to provisional licenses, see *Vehicle Code Section 12814.6*.

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Motorcycle license

It is unlawful for a person to drive any:

- motorcycle
- motor-driven cycle
- motorized bicycle

- on a highway
- unless holding a license or endorsement for that class (*Vehicle Code Section 12500(b))*

NOTE: Any person with a valid California driver's license may operate a motorized bicycle on a short-term rental of 48 hours or less. (*Vehicle Code Section 12804.9(h))*

Off-street parking

Vehicle Code Section 12500(c) requires drivers to have a license when driving in an off-street parking facility (i.e., any off-street facility held open for use by the public for parking vehicles). Such facilities include any public or private facilities where:

- no fee is charged
- which are held open for the common public use of retail customers

Suspended or revoked license for reckless driving or negligent-operator

Vehicle Code Section 14601(a) states that:

- no person shall drive at any time
- when that person's privilege to drive
- is suspended or revoked for reckless driving *(Vehicle Code Section 23103), and*
- the person so driving has been notified of the suspension or revocation

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Suspension for driving under the influence

Vehicle Code Section 14601.2(a) states that no person shall drive a motor vehicle when:

- that person's driving privilege has been *suspended* or *revoked*
- for a conviction of a violation of:
  - driving under the influence of an **alcoholic beverage** or driving under the influence of a drug (*Vehicle Code Sections 23152 or 23153)*
- *if that perso*n so driving has knowledge of the suspension *or revocation*

*Except in f*ull compliance with the restriction no person shall drive a motor vehicle at any time when:

- that person's driving privileges are *restricted*, if
- the person has knowledge of the restriction (*Vehicle Code Section 14601.2(b))*

Suspension for refusing chemical/ alcohol test

Vehicle Code Section 14601.5(a) states that no person shall drive a motor vehicle at any time:

- when that person's driving privilege has been suspended or revoked because of:
  - refusing or failing to complete a chemical test (*Vehicle Code Section 13353*)
  - refusing or failing to complete a preliminary alcohol screening test (*Vehicle Code Section 13353.1*)
  - driving with an excessive blood alcohol level (*Vehicle Code Section 13353.2*)
- the person has knowledge of the suspension or revocation

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Suspension for refusing chemical/ alcohol test (continued)

Except in full compliance with the restriction no person shall drive a motor vehicle at any time when:

- that person's driving privileges are restricted
- due to failing to complete a chemical test, preliminary alcohol screening test or driving with an excessive blood alcohol level
- the person has knowledge of the restriction (*Vehicle Code Section 14601.5(b)*)

Exceptions for driving with suspend*d license*

*Persons who are or ha*ve participated in an alcohol or drug rehabilitation program:

- may drive when the vehicle being driven is owned or utilized by the person's employer
  - during the course of that employment
  - when on private property that is owned or utilized by the employer
- may not drive on an off-street facility
- may not drive off-highway vehicles on specified lands see *Vehicle Code Section 38000 et seq*.

NOTE: Even though a person may have a suspended license, there may be specific conditions which allow them to drive. Verify any conditions prior to taking enforcement actions.

Vehicle Registration

Introduction

Registration provides identification of vehicles and their ownership. The fees generated through annual registration provide resources supporting the Department of Motor Vehicles (DMV), the California Highway Patrol, and other transportation-related activities.

Registration requirement

Vehicle Code Section 4000(a)(1) states that no person shall:

- drive
- move
- leave standing upon:
  - a highway
  - an off-street public parking facility *Vehicle Code Section 4000 (a)(2)*
- any vehicle, trailer, semi trailer, pole or pipe dolly, or logging dolly
- unless it is registered and fees paid or registered under the permanent trailer identification program

NOTE: New residents must register their vehicle(s) within 20 days of establishing residency or accepting gainful employment in the state. (*Vehicle Code Section 6700*)

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Exceptions

There are exceptions for specific types of vehicles and vehicles operated under certain conditions. The following table identifies some of these exceptions.

Exceptions to Vehicle Registration Requirement	*Vehicle Code Section*
• off-highway vehicles in an off street public parking facility when displaying off-highway identification	*38012*
• off-highway vehicles when crossing a highway in a lawful manner	*38025*
• no part of vehicle is in contact with the highway (i.e., vehicle loaded on a trailer)	*4009*
• vehicles operated under permit or other exceptions	*4002-4021*

NOTE: Although motorized bicycles are exempt from registration, a moped license plate is required. (*Vehicle Code Section 5030*)

Registration card

The owner of a vehicle is required to keep the registration card or a copy with the vehicle for which it was issued, except during the registration process or when the vehicle is left unattended. (*Vehicle Code Section 4454(a) and (b)*)

Change of address

The registered owner of a vehicle must notify the DMV within 10 days of a change of address *(Vehicle Code Section 4159*), and insert the new address on the registration card. *(Vehicle Code Section 4160)*

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License plate requirements

The following table contains registration provisions relating to the vehicle's license plates.

Descriptions	Requirements	*Vehicle Code Section*
Display of License Plates	• must be attached to the proper vehicle • when two are issued, one must be in front and one in the rear NOTE: Only one plate is required to be displayed on the front of truck tractors. *(Vehicle Code Section 4850.5)*	*5200*
Positioning of Plates	• must be securely fastened to vehicle for which they are issued • no covering shall obstruct or impair the recognition of any license plate information • shall be upright and displayed from left to right	*5201(a)*
Registration Tabs	• indicate month and year of expiration • must be current • must be assigned to the vehicle • attached to rear plate, except for truck tractor and commercial vehicles with gross vehicle weight of 10,001 lbs. or more • exempts fleet vehicles subject to Division 3, Article 9.5 (commencing with *Vehicle Code Section 5300*)	*5204(a)*

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Related provisions

The following table identifies additional sections related to the registration of motor vehicles.

A seizure of documents and plates gives a peace officer the authority to seize any false evidence of registration *(Vehicle Code Section 4460)*.

Violations	Descriptions	***Vehicle Code Section***
presentation of evidence of registration	• requiring driver to present registration on demand of peace officer	*4462(a)*
unlawful display of evidence of registration (misdemeanor)	• displaying evidence of registration to avoid registration fees	*4462.5*
false evidence of document devices or plates (felony or misdemeanor)	• defrauding the DMV	*4463*
facsimile license plates (misdemeanor)	• manufacturing or selling false license plates	*4463.5(a)*

Vehicle Equipment

Introduction

To help keep vehicles safe, peace officers must be aware of statutory vehicle equipment requirements and cite for violations of those laws.

Lighting equipment requirements

Darkness is defined as any time from one-half hour after sunset to one-half hour before sunrise, or when visibility is not sufficient to see a person or vehicle at a distance of 1,000 feet. (*Vehicle Code Section 280*)

During darkness, a vehicle shall be equipped with *lighted* lighting equipment as required for that specific type of vehicle. (*Vehicle Code Section 24250)*

All required lighting equipment installed on a vehicle shall be maintained in good working order. This includes lamps with bulbs of the correct voltage, functioning lamps or reflectors, etc. (*Vehicle Code Section 24252*)

NOTE: There are vehicle code exceptions for antique cars.

Failure to meet requirements

Whenever any lighting equipment or device fails to meet DMV requirements, the driver of the vehicle must remove the equipment or device within 24 hours. (*Vehicle Code Section 40151(a)*)

If the lighting equipment is appropriate but otherwise fails to meet requirements because of a defect or adjustment, the driver of the vehicle has 48 hours to make the equipment comply with code standards. (*Vehicle Code Section 40151(b)*)

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Headlamps

All motor vehicles, except motorcycles and vehicles manufactured prior to 1930, must:

- have at least two headlamps, one on each side of the vehicle
- the lamps must be between 22 and 54 inches in height from the ground (*Vehicle Code Section 24400(a)(1)*)
- have headlamps on when wipers are in continuous use

Both headlamps must be lighted
- during darkness
- or **inclement weather** (*Vehicle Code Section 24400(b))*

Motorcycle headlamps

During darkness, motorcycles shall be equipped with at least one, and not more than two, lighted headlamps that conform to equipment requirements. (*Vehicle Code Section 25650*)

Headlamps on motorcycles manufactured and registered on or after January 1, 1978, are required to:

- automatically turn on when the engine is started
- remain lighted as long as the engine is running (*Vehicle Code Section 25650.5*)

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Stoplamps

Every motor vehicle is required to be equipped with stoplamps mounted on the rear of the vehicle. The following table identifies the statutory specifications associated with this requirement.

Stoplamp Requirements	*Vehicle Code Section*
• every vehicle must have one or more stoplamps	*24603(a)*
• all vehicles need two stoplamps, except for those vehicles manufactured prior to 1958 and trailers less than 30 inches wide	*24603(b)*
• all vehicles manufactured after January 1, l979 must have stoplamps that emit a red light • vehicles manufactured before January 1, 1979 must have stoplamps that emit a red or yellow light • stoplamps must be plainly visible from 300 feet to the rear during sunlight or nighttime	*24603(e)*
• at all times, stoplamps must be activated upon the application of brakes (on the rear of the vehicle or on the last vehicle in a combination of vehicles)	*24603(f)*
• supplemental stoplamps (red) may be mounted inside the rear window, if mounted at the centerline and if no light is visible to the driver	*24603(g)*

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Other lighting equipment requirements

Along with headlamps and stoplamps, there are other types of lighting equipment that must be present and operational on vehicles. The following table contains information regarding the requirements for such equipment.

Equipment	Requirements	*Vehicle Code Section*
Taillamps	• during darkness, motor vehicles not in combination with any other vehicle, shall be equipped with one or more lighted taillamps • every vehicle at the end of a combination of vehicles shall be equipped with no less than two taillamps • taillamps should be mounted on the rear of the vehicle	*24600(a-f)*
Turn Signal System	• certain vehicles are required to be equipped with lamp-type turn signal systems (e.g., motor trucks, truck tractors, buses, passenger vehicles, motorcycles manufactured and registered after January 1, 1973) NOTE: Any vehicle *may* be equipped with a lamp-type turn signal system capable of clearly indicating any intention to turn right or left. (*Vehicle Code Section 24951(a)*)	*24951(a-b)*

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Other lighting equipment requirements (continued)

Equipment	Requirements	*Vehicle Code Section*
Flashing Lights	• flashing lights are prohibited on vehicles except as otherwise permitted • flashing lights are permitted on vehicles to: - indicate an intention to turn or move right or left upon a roadway - indicate a disabled or parked vehicle off the roadway but within ten feet of the roadway - warn other motorists of collisions or hazards on the roadway - warn other motorists of funeral processions - use on Authorized Emergency Vehicles - vehicle disabled on a roadway - side lamps permitted and used in conjunction with turn signal lamps - lamps on a trailer or semi-trailer after broken away from towing vehicle - may be flashed in a repeated series of short and long flashes when driver is in need of help	*25250* and *25251*

Exhaust systems

Every motor vehicle shall at all times be equipped with an adequate muffler that is properly maintained and contains no cutout or bypass type device. (*Vehicle Code Section 27150(a)*)

No motor vehicle shall be operated in a manner resulting in excessive smoke or flame. (*Vehicle Code Section 27153*)

NOTE: Correction of exhaust system violations must be certified by an authorized motor vehicle Pollution Control Device Inspection station.

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Windshields

Passenger vehicles, buses, motor trucks, and truck tractors shall be equipped with an adequate windshield, whether publicly or privately owned. (*Vehicle Code Section 26700(a)*)

It is unlawful to operate any motor vehicle upon a highway if the windshield or rear window is in such a defective condition that it would impair the driver's vision. Drivers can be required to have such windshields or rear windows repaired within 48 hours. (*Vehicle Code Section 26710*)

Obstructed views

No person shall drive a motor vehicle with any object or material placed, displayed, installed, affixed, or applied in or upon a vehicle in such a way that it obstructs or reduces the driver's clear view. (*Vehicle Code Section 26708(a)(1)*)

This restriction applies to materials:

- upon the windshield, side, or rear windows
- in or upon the vehicle itself

There are several exemptions to this requirement which include, but are not limited to:

- rearview mirrors
- adjustable nontransparent sun visors
- side windows to the rear of the driver
- rear trunk lid handle or hinges, etc.
- signs/stickers displayed in a five-inch square in the lower corner of the windshield nearest the driver; this is to include GPS devices affixed in this area
- signs/stickers displayed in a seven-inch square in the lower corner of windshield farthest from the driver; this is to include GPS devices affixed in this area

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Tinted glass

Vehicle Code Section 26708 also prohibits certain types of glass tinting such as:

- glass which transmits less than 70 percent of the light
- “after market” tinting

Other equipment requirements

The following table presents information on a number of additional requirements regarding equipment on motor vehicles.

Equipment	Requirements	*Vehicle Code Section*
Mirrors	• motor vehicles shall be equipped with no less than two mirrors which reflect to the driver a view of the highway for a distance of at least 200 feet to the rear of the vehicle • one of the required mirrors must be affixed to the driver’s left-hand side of the vehicle NOTE: Motorcycles are required to have one mirror.	*26709(a-c)*

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Other equipment requirements (continued)

Equipment	Requirements	*Vehicle Code Section*
Horns/ Warning Devices	• every motor vehicle operated upon a highway shall be equipped with a horn that: - is in good working order, and - is capable of emitting a sound audible (under normal conditions) for a distance of not less than 200 feet • no vehicle's horn shall emit an unreasonably loud or harsh sound NOTE: Emergency vehicles are allowed to use an air horn which emits sounds that do not comply with the requirements of this section.	*27000(a-d)*
Headsets/Ear plugs	A person operating a motor vehicle or bicycle may not wear a headset covering, or earplugs in, both ears.	*27400*

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General unsafe condition

Vehicle Code Sections 24002(a) and *(b)* state that it is unlawful to operate any vehicle which:

- is in an unsafe condition
- is not safely loaded
- presents an immediate safety hazard
- is not equipped as required

Vehicle Code Section 24002 can be used to:

- cite for violations not specifically covered in other sections of the code, or
- when a vehicle has *multiple* equipment violations

Examples

(1) If after stopping a vehicle for weaving and determining that the weaving was caused by a half-turn of slack (play) in the steering wheel, it would be appropriate to use *Vehicle Code Section 24002(a)*.

(2) If a vehicle was found to have bad tires, a severely cracked windshield, and no operational stoplamps, it would be appropriate to use *Vehicle Code Section 24002(a)*.

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Vehicle operation after notice

It is unlawful to operate a vehicle after notice by a peace officer that:

- the vehicle is unsafe or
- not equipped as required by the Vehicle Code
- except to return the vehicle to the owner or to a garage (*Vehicle Code Section 24004*)

Seatbelts

With the intent to reduce highway deaths and injuries, the state legislature established a mandatory seatbelt law which requires:

- the driver and
- all passengers 16 years of age or older
- to be properly restrained by seatbelts
- when the vehicle is being operated on a highway (*Vehicle Code Section 27315*)

NOTE: This statute applies to all vehicles manufactured after January 1, 1968 and to all trucks manufactured after January 1, 1972.

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Exemptions to seatbelt law

There are several exemptions to the mandatory seatbelt law based on certain specific circumstances. Several exemptions are noted in the following table.

Exempt	Conditions
Taxis/ Limousines for Hire	• rear seat passengers (Passengers riding in front seat must be properly restrained.) • drivers *unless* they are: - driving alone in vehicle on a city street - driving on a freeway
Emergency Vehicles	• peace officers in the emergency vehicle (unless otherwise required by agency policy) • passengers riding in rear seats (unless otherwise required by agency policy)
Persons with Disabilities	• persons with *certified* medical conditions or disabilities that prevent them from using seatbelts • persons must have documentation with them
Delivery Persons	• while: - delivering newspapers - serving as rural delivery carriers for the U.S. Postal Service - collecting solid waste/recyclable materials • prior to starting the route and after finishing deliveries, these persons are required to use seatbelts

NOTE: During the past decade, over 50% of the peace officers killed in the line of duty died in traffic related incidents. Of those deaths, 40% were not wearing their seatbelts.

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Seatbelt violations

Vehicle Code Section 27315 can be used when citing an individual for a violation of the mandatory seatbelt law. The following table identifies the appropriate subsections to cite depending on the violator.

Requirements	Person to Cite	***Vehicle Section Code***
• driver and passengers 16 years or older must be properly restrained by a safety belt	driver	*27315(d)*
• all passengers 16 or older must be properly restrained by a safety belt	passenger	*27315(e)*
• all safety belts must be maintained in good working order, if originally installed in the vehicle (including taxis and limos)	registered owner	*27315(f)*

NOTE: Properly restrained means that the lower (lap) portion of the belt crosses the hips or upper thighs of the occupant and the upper (shoulder) portion of the belt, if present, crosses the chest in front of the occupant.

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Child restraints under the age of eight years

Vehicle Code Section 27360 requires that all children under the age of eight years old to be secured in a rear seat in an appropriate child passenger restraint system.

Exemptions

Vehicle Code Section 27363 exemptions:

- any class of child by age, weight, or size if it is determined that the use of a child passenger restraint system would be impractical by reason of physical unfitness, medical condition, or size. The court may require satisfactory proof of the child's physical unfitness, medical condition, or size and that an appropriate special needs child passenger restraint system is not available.
- in case of a life-threatening emergency, or when a child is being transported in an authorized emergency vehicle, if there is no child passenger restraint system available, a child may be transported without the use of that system, but the child shall be secured by a seatbelt.
- a child weighing more than 40 pounds may be transported in the backseat of a vehicle while wearing only a lap safety belt when the backseat of the vehicle is not equipped with a combination lap and shoulder safety belt.
- a child or ward under eight years of age who is four feet nine inches in height or taller may be properly restrained by a safety belt, rather than by a child passenger restraint system.

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Exemptions (continued)

- a child or ward under eight years of age may ride properly secured in an appropriate child passenger restraint system meeting applicable federal motor vehicle safety standards in the front seat of a motor vehicle under any of the following circumstances:
  - there is no rear seat.
  - the rear seats are side-facing jump seats.
  - the rear seats are rear-facing seats.
  - the child passenger restraint system cannot be installed properly in the rear seat.
  - all rear seats are already occupied by children seven years of age or under.
  - Medical reasons necessitate that the child or ward not ride in the rear seat. The court may require satisfactory proof of the child's medical condition.
- a child shall not be transported in a rear-facing child passenger restraint system in the front seat of a motor vehicle that is equipped with an active frontal passenger airbag.

Child restraints eight years and older

All children ages eight to sixteen are required to be properly restrained by seatbelts when the vehicle is being operated on a highway.

NOTE: Not required in vehicles exempt from seatbelt law.

The Vehicle Code Section to cite for a violation of child restraint laws can vary depending on the violator. The following table identifies two sections that are commonly used.

Requirement	Person to Cite	*Vehicle Code Section*
• when a parent or legal guardian is also in the vehicle, even if they are not the driver	parent	*27360.5(a)*
• when a parent or legal guardian is not in the vehicle	driver	*27360.5(a)*

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Motorcycle safety helmets

All persons are required to wear a safety helmet when driving or riding on motorcycles, motor driven cycles, or motorized bicycles (mopeds) being operated on a highway. (*Vehicle Code Section 27803*)

Helmets must be of an approved type, fastened with straps, the correct size, and secured on the head. *Vehicle Code Section 27802* identifies the specifications and standards for safety helmets.

Motorcycle safety helmet violations

Vehicle Code Section 27803 can be used for citing an individual who is in violation of the mandatory safety helmet requirements. The following table identifies appropriate subsections of this section that apply to drivers and passengers.

Person in Violation	*Vehicle Code Section*
Driver	*27803(b)*
Passenger	*27803(c)*

Continued on next page

Passengers in a truck

The following table identifies the sections relating to transporting persons on pickup or flatbed trucks.

Requirements	Person to Cite	*Vehicle Code Section*
• no person driving a pickup truck or flatbed motor-truck on a highway shall transport any person in or on the back of the truck	driver	*23116(a)*
• no person shall ride in or on the back of a truck being driven on a highway	passenger	*23116(b)*

Exemptions

Exemptions to the law are allowed when the passenger is:

- being restrained by a restraint system which meets federal standards
- being transported in an emergency response situation by a public agency or pursuant to the direction or authority of a public agency
- within the boundaries of a farm or ranch
- being transported in a parade

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Related sections

The following table identifies additional requirements regarding carrying animals or individuals on vehicles.

Requirements	*Vehicle Code Section*
• animals being transported in the back of a vehicle in the space intended for any load must be appropriately enclosed or cross tethered to prevent the animal from being discharged from the vehicle	*23117(a)*
• it is unlawful for persons to ride on any vehicle or portion of the vehicle that is not designed or intended for use by passengers	*21712(a)* and *(b)*
• it is unlawful for a person to ride in the trunk of a motor vehicle	*21712(d)*
• it is unlawful for passengers to ride in a trailer coach, camp trailer, or trailer carrying a vessel that is being towed	*21712(g)*
• it is unlawful to drive a motor vehicle that is towing any person riding upon a motorcycle, motorized bicycle, bicycle, coaster, roller skates, sled, skis, or toy vehicle	*21712(h)*

Chapter Synopsis

Learning need	Peace officers must know the elements of the laws governing motor vehicles and pedestrians.
Traffic control signal and device violations [28.03.15, 28.03.16, 28.03.17]	Traffic control devices and signals include stop signs, red signal lights, red arrows, flashing lights, double solid line, two way left-turn lanes, and various types of intersections that dictate right-of-way.
Right-of-way violations [28.03.18, 28.03.19]	The privilege of the immediate use by a driver of a given space on the highway.
Rights and provisions involving bicyclists [28.03.35]	Riding a bicycle upon a highway has all the rights and is subject to all the provisions pertaining to the operation of a vehicle *(Vehicle Code Section 21200).*
Violations involving pedestrian [28.03.20]	A driver must yield to any pedestrian who is in a marked or unmarked crosswalk.
Violations involving turning and signaling [28.03.21]	A driver must obey signs that regulate or prohibit right or left turns at intersections. U-turns are permissible unless an official traffic control device prohibits it. The u-turn must be made from the farthest left lane lawfully available.

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Speed violations [28.03.21, 28.03.22]

Vehicle Code Section 22350 prohibits driving a vehicle at a speed that is not reasonable and prudent (safe) for the *prevailing conditions*. Exceeding the 65-mph maximum speed limit is an infraction under *Vehicle Code Section 22349(a)*.

No vehicle may be driven faster than 55-mph on a *two-lane, undivided highway unless* it is otherwise posted (*Vehicle Code Section 22349(b)*).

Driving and passing violations [28.03.24, 28.03.25, 28.03.26, 28.03.27]

Driving and passing violations may include following another vehicle closer than reasonable, or driving on the right of another vehicle. It is also unlawful to drive over, upon, or across the dividing section or make any left or U-turn on the divided highway, except through a designated opening in the barrier or dividing section.

Public offense violations [28.03.28, 28.03.29, 28.03.36, 28.03.37]

Certain offenses where drivers deliberately put themselves in situations in which they are not totally in control of their vehicles can create even greater hazards and risk for others. Examples include: Reckless driving, speed contests, hand-held wireless telephone, and electronic wireless communications device.

Hit and run violations [28.03.34]

A collision is an unintended event involving a vehicle in motion that produces damage or injury (including fatal injury). A driver involved has certain obligations to fulfill.

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Motor vehicle licensing requirements [28.03.30]	*Vehicle Code Section 12500(a)* states that no person shall drive a motor vehicle upon a highway without being licensed, except persons expressly exempted.
Driving with a suspended or revoked license [28.03.31]	*Vehicle Code Section 14601(a)* states that no person shall drive at any time when that person's privilege to drive is suspended or revoked for reckless driving *(Vehicle Code Section 23103), and* the person so driving has been notified of the suspension or revocation.
Motor vehicle registration requirement [28.03.32]	*Vehicle Code Section 4000(a)* states that no person shall drive, move, leave standing upon a highway, or in an off-street public parking facility, any vehicle, trailer, semi trailer, pole or pipe dolly, or logging dolly, unless it is registered and fees paid or registered under the permanent trailer identification program.
Vehicle equipment requirements [28.03.33]	Vehicle equipment requirements are as follows: Headlamps must be used during hours of darkness, vehicles must have one or more stoplamps, vehicles must have two stoplamps, except for vehicles manufactured prior to 1958 and trailers less than 30 inches wide, all vehicles, manufactured after January 1, l979, must have stoplamps that emit a red light, vehicles manufactured before January 1, 1979, must have stoplamps that emit a red or yellow light, stoplamps must be plainly visible from 300 feet to the rear, and every motor vehicle must be equipped with a muffler that is properly maintained and contains no cutout or bypass type device.

Workbook Learning Activities

Introduction

To help you review and apply the material covered in this chapter, a selection of learning activities has been included. No answers are provided. However, by referring to the appropriate text, you should be able to prepare a response.

Activity questions

1. Peace officers arrive at the scene of a vehicle collision at an intersection controlled by a stoplight. Through interviews with the drivers of the two vehicles and two other witnesses, peace officers determine that the collision was caused when a vehicle turned left into the farthest left lane on a circular green light and was struck by a vehicle turning right onto the same highway. The driver turning right turned into the same lane as the left turning driver rather than staying in the farthest right lane. What violations have been committed in this scenario and by whom? Include the corresponding Vehicle Code sections. Which driver had the right-of-way? Explain your reasoning.

Continued on next page

Activity questions (continued)

2. Describe at least two situations in which the maximum speed limit for a given vehicle may not exceed 55-mph.

3. A pedestrian is crossing a four-lane roadway in the middle of a block in a busy business district, rather than at the corner. Halfway across one lane, the pedestrian is struck and injured by a motorist traveling within the posted speed limit. What, if any, violations have been committed and by whom? What citations should the responding peace officer make?

Continued on next page

Activity questions (continued)

4. When may a driver appropriately move into the two-way left turn lane? If a driver chooses to use the left turn lane as a travel lane to avoid traffic, how should the driver be cited?

5. A motorist is making a U-turn at a rural intersection where U-turns are permitted. Due to a heavy downpour of rain, the driver's visibility during the turn is limited to approximately 50 feet. Just as the turn is completed, the driver is struck from behind by another vehicle traveling in the same direction moving approximately 10 miles below the posted speed limit of 55-mph. What, if any violations should be cited? (Include the Vehicle Code sections.) Explain.

Continued on next page

Activity questions (continued)

6. Peace officers on patrol on a busy freeway notice a driver moving approximately five miles above the speed limit is passing other vehicles on both the left and right sides. The driver allows enough space, and signals in advance of changing lanes. What, if any, violations have been committed, and are they citable?

7. In a busy downtown district, delivery vans, at their convenience, frequently travel on either the right or left sides of the road. Are these actions violations of the Vehicle Code? If so, which sections?

Continued on next page

Activity questions (continued)

8. List three common vehicle equipment violations and their corresponding Vehicle Code sections.

9. Peace officers stop a driver for a stop sign violation. Upon examination of the person's driver's license, the contact peace officer notes that the driver is required to wear corrective lenses when driving. When the peace officer questions the driver, she replies that she has had laser surgery and no longer needs to wear glasses. Other than the stop sign violation, has the driver committed any other Vehicle Code violations? How would you handle the situation?

Continued on next page

Activity questions (continued)

10. At approximately 7:00 pm, a peace officer stops a vehicle that has a broken headlamp. Along with the driver, there is another woman (the car's registered owner) and the driver's two-year-old child in the vehicle. The child (weighing approximately 25 pounds) is sitting in the rear passenger seat and is wearing a lap belt but no shoulder harness. Neither of the adults in the front is wearing seatbelts. The driver tells the peace officer that they are driving to the child's grandmother's house, which is only 15 minutes away. Based on the information presented, list by name and number, the Vehicle Code violation(s) that have taken place. Who should be cited for the violation(s)?

11. A peace officer stops a motorcycle when seeing that the driver is wearing a safety helmet but the passenger is not wearing a helmet. When the contact peace officer asks the driver for his driver's license, the driver explains that he has one, but he left his billfold at home in a different pair of jeans. The driver goes on to explain that he is licensed to operate the motorcycle and was just giving his roommate a short ride to an evening class. Identify by name and section number the Vehicle Code violation(s), which have been committed? If you were the peace officer, how would you proceed?

Continued on next page

Activity questions (continued)

12. When is hit and run a misdemeanor? A felony? Which Vehicle Code section governs each? How does a driver's responsibility differ when property damage, rather than injury, is the only result of the collision?

Workbook Learning Activities

Student Notes:

Chapter 4

Vehicle Removal

Overview

Learning need

Peace officers must know the legal authorities to **impound** and store vehicles as authorized in the Vehicle Code.

Learning objectives

The chart below identifies the student learning objectives for this chapter.

After completing study of this chapter, the student will be able to:	Objective ID
• Recognize a peace officer's legal authority to remove vehicles	28.04.12

In this chapter

This chapter focuses on peace officers' legal authorities to remove vehicles.

Topic	See page
Vehicle Removal	4-2
Chapter Synopsis	4-9
Workbook Learning Activities	4-10
Problem Solving	4-11

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Vehicle Removal

Introduction

Under certain circumstances, peace officers have the legal authority to remove unattended vehicles from a highway to a garage or any other place. They also may remove such vehicles from public or private property.

Vehicle storage

Storage of a vehicle from public or private property.

When a vehicle is *stored*, the vehicle can be released to the owner, or authorized agent with proper identification, pending any fees (e.g., fines, towing fees, etc.).

Vehicle impound

Impound of a vehicle from public or private property while an *investigation* is still in progress, when forfeiture, or 30-day hold procedures are in progress (stipulated vehicle release, SVR).

When a vehicle is *impounded*, the law enforcement agency that authorized the impound can decide when and to whom the car is released.

NOTE: Inventory policies vary from agency to agency. Consult agency guidelines.

NOTE: The intent of storing or impounding a vehicle is to improve public safety.

Continued on next page

Removal authority

The following table presents many conditions under which a peace officer has statutory authority to have a vehicle towed.

	Peace officers have the authority to remove a vehicle:	***Vehicle Code Section***
Traffic Hazard	• left standing on a highway obstructing normal traffic movement, or creating a hazard to other traffic	*22651(b)*
	• illegally parked so as to block an entrance to a private driveway, and it is impractical to move to another point on the highway	*22651(d)*
Incapacitated Driver	• when the person(s) in charge of a vehicle upon a highway or public lands is unable, because of illness or injury, to provide for its custody or removal	*22651(g)*
Public Nuisance	• with activated alarm devices or horns	*22651.5*

Continued on next page

Removal authority (continued)

	Peace officers have the authority to remove a vehicle:	***Vehicle Code Section***
Abandoned	• abandoned on a highway or public or private property	*22669(a)*
	• which is parked, resting, or immobilized on a highway or public right-of-way and lacks any part or equipment necessary to operate safely and is a hazard to public health and safety	*22669(d)*
	• parked or left standing upon a highway for 72 or more consecutive hours in violation of a local ordinance authorizing removal	*22651(k)*
	• left unattended on a bridge, viaduct or causeway, or in a tube or tunnel, and is obstructing traffic	*22651(a)*

Continued on next page

Removal authority (continued)

	Peace officers have the authority to remove a vehicle:	***Vehicle Code Section***
Registration Licensing Violations	• found or operated on a highway, public lands, or off-street parking facility with registration expired more than six months prior to the date the vehicle was found or operated • displaying evidence of registration not lawfully issued for that vehicle • displaying altered, forged, or counterfeit registration	*22651(o)*
	Removal and impound of vehicle is authorized only when a citation has been issued for: • not ever having been issued a driver's license • having an expired driver's license • driving out of class • driving under a suspended or revoked license with knowledge of or proper **<u>service of suspension/revocation</u>**	*22651(p)*

NOTE: Refer to section *Penal Code 14602.6(a)(1)* for any additional violations.

Continued on next page

Criminal activity

Vehicle Code Section 22655.5 states that a peace officer may also remove a vehicle from the highway or from public or private property, if the peace officer has probable cause to believe that the vehicle:

- was used in the commission of a public offense
- is itself evidence showing that a crime has been committed
- contains evidence, which cannot be readily removed

Removal authority associated with criminal activity

The following table presents many conditions under which a peace officer has statutory authority to have a vehicle towed when it is associated with criminal activity.

	A peace officer has the authority to remove a vehicle:	***Vehicle Code Section***
Stolen/ Embezzled Vehicle	• found on a highway and has previously been reported stolen or embezzled	*22651(c)*
	• found on private property and has previously been reported stolen or embezzled	*22653(a)*

NOTE: The **Stolen Vehicle System (SVS)** is a database containing records related to vehicles, license plates, and vehicle parts that are under investigation. SVS is available through the Criminal Justice Information System (CJIS).

Continued on next page

Removal authority associated with criminal activity (continued)

	A peace officer has the authority to remove a vehicle:	*Vehicle Code Section*
Incident to Arrest	• incident to arrest when driver or person in control of the vehicle is arrested and taken into custody (refer to department policy)	*22651(h)(1)*
	• when a peace officer serves notice of an order of suspension or revocation for failure to take or complete a preliminary alcohol screening or chemical test if under 21 or is on probation for DUI	*22651(h)(2)*

NOTE: Drivers having previous DUI convictions within the last 10 years may be subject to impound per *Vehicle Code Section 14602.8(a)1*; (Refer to LD#36, Information Systems).

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Removal authority associated with criminal activity (continued)

	A peace officer has the authority to remove a vehicle:	***Vehicle Code Section***
Hit and Run	• found on a highway or on public or private property open to the general public, and the peace officer has reasonable cause to believe it was involved in a hit and run collision NOTE: The vehicle shall be released 48 hours after the removal upon demand of the owner. *(Vehicle Code Section 22655(b))*	*22655(a)*
	• found on private property and has been involved in and left at the scene of a traffic collision, and no owner is available to grant permission to remove the vehicle	*22653(b)*

Chapter Synopsis

Learning need	Peace officers must know their legal authorities to remove vehicles.
Authority to remove vehicle [28.04.12]	There are many conditions under which a peace officer has statutory authority to have a vehicle towed.

Workbook Learning Activities

Introduction

To help you review and apply the material covered in this chapter, a selection of learning activities has been included. No answers are provided. However, by referring to the appropriate text, you should be able to prepare a response.

Activity questions

1. Peace officers on patrol in a suburban neighborhood spot a car in a driveway that fits the description of one suspected in a hit and run collision in which a senior citizen was severely injured. Upon examination, the peace officers find damage to the vehicle consistent with the collision. When peace officers attempt to contact the residents, they find no one home. How should peace officers proceed? Cite Vehicle Code sections supporting your response.

2. Peace officers on patrol stops a vehicle for an equipment violation. The driver stops his vehicle in a well-lit parking lot and is legally parked. The driver has a warrant for his arrest. How should the peace officer proceed? Cite California Vehicle Code sections supporting your response.

Problem Solving

Problem solving activity

Mountain Blvd. and LaSalle

1. You conduct a traffic stop on a motorist for running the red traffic signal. You contact the solo driver of the car and subsequently determine he has a suspended driver's license.

   What should your course of action be? (Answer shall minimally include Vehicle Code sections violated and/or authorities used.)

Continued on next page

Student notes

Chapter 5

Driving Under the Influence

Overview

Learning need

Peace officers must know the laws to detect and apprehend drivers whose behavior indicates that they may be driving under the influence of alcohol and/or drugs.

Learning objectives

The chart below identifies the student learning objectives for this chapter.

After completing study of this chapter, the student will be able to:	Objective ID
• Recognize the elements and common names for violations involving the possession of alcoholic beverages in a motor vehicle	28.05.1
• Explain the meaning of the phrase "under the influence"	28.05.2
• Recognize the elements and common names for violations involving Driving Under the Influence (DUI)	28.05.3
• Recognize driving that might indicate a driver of a vehicle may be under the influence of alcohol and/or drugs	28.05.4
• Recognize the indications of driving under the influence of alcohol or drugs a peace officer may observe upon making contact with a driver	28.05.5
• Discuss medical conditions that may cause a person to appear under the influence	28.05.6

Continued on next page

Learning objectives (continued)

After completing study of this chapter, the student will be able to:	Objective ID
• Recognize appropriate peace officer actions if a subject refuses to cooperate in performing a Field Sobriety Test (FST)	28.05.7
• Demonstrate FSTs that may be used to determine impairment, to include: - Horizontal Gaze Nystagmus (HGN) - One-Leg Stand (OLS) - Walk & Turn (WAT)	28.05.8
• Discuss the primary elements included in the statutory admonition read to drivers who refuse to submit to a chemical sobriety test	28.05.9

Continued on next page

Overview, Continued

In this chapter

This chapter focuses on the **detection** and apprehension of persons who are driving under the influence of alcohol or drugs. Refer to the chart below for specific topics.

Topic	See Page
Peace Officer Responsibility	5-4
Possession	5-5
Driving Under the Influence	5-11
DUI Detection	5-16
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Chemical Sobriety Tests	5-32
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Peace Officer Responsibilities

Introduction

The National Highway Traffic Safety Administration estimates that approximately half of all fatal traffic collisions involve the use of alcohol and/or drugs. Because of the gravity of the problem, enforcing laws against impaired driving is an important responsibility of a peace officer.

Detection

Detection of driving under the influence is usually initiated in one of the following ways:

- a report from another person about the individual's driving
- as a result of a call to the scene of a collision
- as a result of stopping the driver for a traffic violation

NOTE: A peace officer should mentally record not only the normal actions which should be expected, but also the driver's abnormal or unusual actions.

Peace officer responsibilities

A peace officer has the responsibility to stop any driver operating a vehicle in a manner that raises a doubt to the driver's sobriety, and ascertain the cause of the erratic driving, or other abnormal conditions.

Once the peace officer has detained the driver, reasonable suspicion of driving under the influence may develop into probable cause to arrest as a result of questioning the driver, closer observation, and administering field sobriety tests.

Possession

Introduction

An **alcoholic beverage** is any liquid or solid material intended to be ingested by any person, which contains ethanol, also known as ethyl alcohol, drinking alcohol, or alcohol, including but not limited to alcoholic beverages. (*Vehicle Code Section 109*)

Drinking or smoking / ingesting in a motor vehicle

Even if alcohol consumption has not reached the level that constitutes driving under the influence, an individual may still be guilty of drinking while driving. *Vehicle Code Section 23220(a)* states:

- no person shall
- *drink* any alcoholic beverage, or
- smoke/ingest marijuana or any marijuana product
- while driving a motor vehicle on any lands as described in *Vehicle Code Section 23220(c)*
- 23220(b) prevents a passenger from doing any of the above.

It is also an infraction to drink any alcoholic beverage or smoke/ingest marijuana while in a motor vehicle that is being driven upon a highway.

Vehicle Code Section 23221(a) prohibits the driver while driving
Vehicle Code Section 23221(b) prohibits the passenger while riding

Exception

This section does not apply to a passenger in any bus, taxicab, or limousine for hire or the living quarters of a house car or camper. [*Vehicle Code Section 23229(a)]*

Continued on next page

Possession of open container

It is an infraction to have an open container of alcohol in a motor vehicle even if the individual is not in the process of drinking the beverage. *Vehicle Code Section 23223(a)* states that:

- no driver
- shall have *in that person's possession*
- in a motor vehicle upon any highway or lands as described in *23220(b)*
- any receptacle containing any alcoholic beverage
- that has:
  - been opened
  - had a seal broken
  - had the contents partially removed

It is also an infraction for any *passenger* to have *in that person's possession* an open container of alcohol in a motor vehicle. [*Vehicle Code Section 23223(b)]*

Exceptions

This section does not apply to the passenger in any bus, taxicab, or limousine for hire or the living quarters of a house car or camper. [*Vehicle Code Section 23229(a)]*

Vehicle Code Section 23223 does not apply to any open container of alcohol:

- in a vehicle which is parked in a public parking lot
- possessed by passengers in for-hire vehicles, such as limousines, buses, or taxicabs (except for individuals under 21 years)

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Possession of marijuana/ open container while driving

It is also an infraction to possess marijuana or an open container of alcohol in the vehicle while driving that vehicle even though the driver is not actually drinking the alcohol or using the drug at the time. *Vehicle Code Section 23222(a)* states:

- no person
- shall have on their person
- *while driving* a motor vehicle upon a highway or lands as described in *23220(c)*
- any receptacle containing any alcoholic beverage
- which has:
  - been opened
  - had the seal broken
  - had the contents partially removed

Vehicle Code Section 23222(b) states:

- no person
- shall possess on their person marijuana
- which has been opened or a seal broken or loose cannabis flower
- while driving a motor vehicle.
- Possession of any amount (on their person) is an infraction.

NOTE: Unless the driver demands to be taken before a magistrate, the driver shall be released on a written promise to appear in court upon satisfactory evidence of identity and shall not be subjected to booking.

NOTE: Unauthorized possession of a controlled substance is also a violation of *Health and Safety Code 11357*. For further information on violations relating to controlled substances, refer to LD 12: *Controlled Substances*.

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Possession of alcohol by persons under 21 years

If a person under the age of 21 years possesses alcohol in a motor vehicle, that person may be guilty of a misdemeanor. *Vehicle Code Sections 23224(a)* and *(b)* state that:

- no person *under the age of 21 years* shall
- *knowingly* drive any motor vehicle anywhere
- carrying any alcoholic beverage

Vehicle Code Section 23224(b) applies to all passengers under the age of 21.

Vehicle Code Section 23224 provides exemptions to this requirement for underage persons who are:

- accompanied by a parent or legal guardian
- employed by an ABC licensee
- driving the motor vehicle during regular hours in the course of the underage person's employment

NOTE: If the driver or passenger was unaccompanied, he or she shall have a complete defense if he or she were following in a timely manner the reasonable instructions of a parent, legal guardian, responsible adult relative, or adult designee relating to the disposition of the alcoholic beverage.

Limousines

Individuals under 21 years are not allowed to possess alcohol even when riding in a rented limousine. *Vehicle Code Section 23229.1* makes it unlawful to:

- possess or store
- opened containers of alcohol
- in limousines for hire
- when the driver transports any passenger under the age of 21

NOTE: It is not a violation if the alcohol is stored in a locked utility compartment.

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Storage of opened container

It is an infraction for the owner or driver of a vehicle to allow an open container of alcohol in the passenger area of a motor vehicle. *Vehicle Code Section 23225(a)(1)* states that:

- it is unlawful for the registered owner (or driver if the registered owner is not present in the vehicle)
- of any motor vehicle upon a highway or public lands
- to keep any bottle, can, or other receptacle
- containing any alcoholic beverage that has:
  - been opened, or
  - had the seal removed, or
  - had the contents partially removed
- in the vehicle

NOTE: Public land is land which is open and accessible to the public. (*Vehicle Code Section 38001(a)*)

Exception

This section does not apply to the driver or owner of a bus, taxicab, living quarters of a house car, camper, or limousine for hire. (*Vehicle Code Section 23229(b)*)

Storage of open containers by passengers

It is also an infraction for any driver to possess an open container of alcohol in the passenger area of a motor vehicle. *Vehicle Code Section 23226(a)* states:

- it is unlawful for any driver to keep in the passenger compartment
- of any motor vehicle upon a highway or public lands
- any bottle, can, or other receptacle
- containing any alcoholic beverage that has:
  - been opened
  - had the seal removed
  - had the contents partially removed

It is a violation of *Vehicle Code Section 23226(b)* for any passenger to possess an open container of alcohol in the passenger area of a motor vehicle.

Continued on next page

Exceptions regarding storage of open containers

The requirements noted under *Vehicle Code Sections 23225* and *23226* regarding storage of open containers of alcohol in the passenger area of a motor vehicle *do not* apply to:

- living quarters of a house car or camper
- the driver or owner of a for-hire vehicle, and all individuals being transported are *under* 21
- containers kept in trunk of vehicle
- areas of the vehicle not normally occupied by driver or passengers (e.g., rear of station wagon or van farthest removed from the occupants)
- a limousine's locked utility compartment within the area occupied by the driver and passengers

Driving Under the Influence

Introduction

It has been estimated that California may have up to ten percent of the nation's licensed drivers, but it also accounts for as much as thirty percent of the nation's total arrests for driving while **under the influence**.

Driving under the influence

A person is under the influence of alcohol, drugs, or a combination of alcohol and drugs when:

- as a result of using alcohol and/or drugs
- that person's physical and/or mental abilities
- are impaired to such a degree that
- the person no longer has the ability to drive a vehicle
- with the caution that is characteristic of a sober person of ordinary prudence under the same or similar circumstances

Blood alcohol levels

Vehicle Code Section 23610 articulates the presumptions in *Vehicle Code Sections 23152* and *23153* that can be made about a person's level of being under the influence based on blood alcohol levels.

If the person's blood alcohol level is:	**a peace officer may:**
less than *0.05%*	• presume the person ***is not*** under the influence of alcohol
0.05% to *0.079%*	• neither presume the person is or is not under the influence of alcohol based on other competent evidence
0.08% or more	• presume the person **is** under the influence of alcohol

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Driving under the influence (DUI)

Driving while under the influence (DUI) of an alcoholic beverage is a violation of *Vehicle Code Section 23152(a)*.

- It is unlawful for
- a person who
- is under the influence of any:
  - alcoholic beverage
- to drive a vehicle

This violation can take place either on public or private property.

Specific conditions

The violation initially established under *Vehicle Code Section 23152(a)* is further refined by the following statutes.

It is unlawful for any person who:	***Vehicle Code Section***
• has *0.08% or more*, by weight, of alcohol in that person's blood to drive a vehicle. If it can be shown by chemical tests performed within three hours that the drivers blood alcohol level is 0.08% or more, it can be presumed that the drivers blood was at least that level when the incident occurred.	*23152(b) Misdemeanor*
• is addicted to the use of any drug to drive a vehicle NOTE: The person does not have to be "under the influence" at the time. NOTE: A person who is participating in an approved methadone maintenance treatment program is exempt from this restriction.	*23152(c) Misdemeanor*

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Specific conditions (continued)

The violation initially established under *Vehicle Code Section 23152(a)* is further refined by the following statutes.

It is unlawful for any person who:	***Vehicle Code Section***
• has 0.04% or more, by weight, in that person's blood to drive a commercial motor vehicle (as defined under Vehicle Code Section 15210)	*23152(d) Misdemeanor*
• has 0.04% or more, by weight, in that person's blood to drive a "passenger for hire" vehicle when a passenger is in the vehicle	*23152(e)*
• is under the influence of any drug to drive a vehicle	*23152(f)*
• is under the combined influence of any alcoholic beverage and drug to drive a vehicle	*23152(g)*

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Felony DUI

Driving while under the influence becomes a felony offense if a person other than the driver sustains any bodily injury because of the driver's driving (*Vehicle Code Section 23153(a)*).

It is unlawful for a person:

- while under the influence of an alcoholic beverage
- to drive a vehicle *and* concurrently do any act forbidden by law
- or neglect any duty imposed by law in driving the vehicle
- while driving
- which act or neglect proximately causes bodily injury
- to any person other than the driver

If it can be shown by chemical tests performed within three hours that the driver's blood alcohol level is 0.08% or more, it can be presumed that the driver's blood was at least that level when the incident causing the bodily injury occurred. (*Vehicle Code Section 23153(b)*)

- *Vehicle Code Section 23153(d)*: has 0.04% or more, by weight, in that person's blood to drive a commercial motor vehicle (as defined under *Vehicle Code Section 15210*)
- *Vehicle Code Section 23153(e)*: has 0.04% or more, by weight, in that a person's blood while driving a "passenger for hire" vehicle and causes injury to anyone other than the driver
- *Vehicle Code Section 23153(f)*: is under the influence of any drug to drive a vehicle
- *Vehicle Code Section 23153(g)*: is under the combined influence of any alcoholic beverage and *drug to drive a vehicle*

NOTE: In proving the driver *neglected any duty imposed by law* when driving the vehicle, it is not necessary to prove that any specific section of this code was violated. *(Vehicle Code Section 23153(c))*

NOTE: A driver may be charged with a felony if the conditions of *Vehicle Code Sections(s) 23550 (a) or 23550.5(a)(b)*. Refer to agency policy prior to booking.

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Drivers under 21 years

Vehicle Code Section 23136 states it is an infraction for any persons under 21 years of age to drive with a blood alcohol concentration as measured by a Preliminary Alcohol Screening (PAS) or chemical test. However, this section shall not be a bar to prosecution under *Vehicle Code Section 23152 or 23153* or any other provision of laws.

Peace officers shall complete a DS367M and forward to DMV for administrative action.

Vehicle Code Section 23140(a) states that it is an infraction for anyone under 21 years of age to drive a vehicle when that person's blood alcohol level is *0.05% or more*.

A person may be in violation of this statute if the person is under the influence *or* affected by an alcoholic beverage, *even if no chemical test was made*. A person under 21 years of age has no right to refuse.

A blood alcohol level of 0.05% or more may be based on other relevant evidence, such as:

- objective symptoms
- field sobriety test
- preliminary alcohol screening test (PAS)

Bicycles

Driving under the influence can also apply to individuals on bicycles. *Vehicle Code Section 21200.5* states:

- it is unlawful
- to ride a bicycle
- upon a highway
- while under the influence of alcohol and/or drugs

If the suspect requests a chemical test, it must be given; though there is no requirement to offer a test. *(Vehicle Code Section 23612)*

DUI Detection

Introduction

Detection is the most important, yet the most difficult, task in the enforcement of laws related to driving under the influence (DUI). If peace officers fail to detect DUI violators, those drivers will avoid prosecution, and, more importantly, could injure or kill innocent people.

Detection process

Detection is the process of identifying and gathering evidence to determine if a suspect should be arrested for a DUI violation.

There is a multi-phase process that a peace officer should complete for successful DUI detection, arrest, and prosecution of a person. Each phase provides additional information and facts to support the peace officer's probable cause to arrest.

The following table identifies steps in the detection process.

	Description
Vehicle Observation	• initial action(s) of the driver of a vehicle that draw(s) the attention of a peace officer
Vehicle Pullover	• driver's actions while the vehicle pullover is being executed
Initial Contact	• signs of impairment during initial contact with the driver
Field Sobriety Test (FST)	• series of Field Sobriety Tests (FSTs) and, if necessary, chemical sobriety tests
Arrest Decision	• based on the results of the four previous phases, the peace officer decides if an arrest is warranted

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Vehicle observation

A driver operating the vehicle in any manner which would raise a doubt to the driver's sobriety or other abnormal condition should be stopped.

Examples of deviations from normal driving that a peace officer may observe include, but are not limited, to those noted below.

Indicator	Deviations
Movement	• weaving • swerving • drifting • turning with wide radius • turning abruptly or illegally • striking or almost striking an object or another vehicle • driving into opposing or crossing traffic
Speed	• low speed (more than 10-mph below) • stopping (without cause) in a traffic lane • accelerating or decelerating rapidly • stopping inappropriately • braking erratically
Position	• straddling center or lane marker • driving on other than designated roadway (e.g., shoulder) • tires on center of lane marker • following too closely
Driver Action	• appearing to be impaired (e.g., slack facial muscles, drooping eyes) • driving with headlights off • slowly responding to traffic signals • signaling inconsistent with driving actions

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Other methods

Although detection of DUI drivers is usually initiated through the peace officer's direct observation, the peace officer can become aware of DUI drivers through:

- reports from other persons
- calls to collision scenes

NOTE: Peace officers must accurately record, not only the normal actions expected, but also the driver's abnormal or unusual actions.

Vehicle pullover

Once a driver is suspected of being under the influence of alcohol or drugs, peace officers should make every reasonable effort to stop the driver as soon as practical.

To allow the driver to proceed could result in a collision which is a peace officer's duty to prevent. A defense point could be raised on the presumption that the peace officer was "not sure" and had to make a prolonged observation before stopping the suspect.

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Indicators

The peace officer should continue to make observations and gather evidence as the driver is being pulled over. The evidence collected will assist in proving or disproving, beyond a reasonable doubt, the element of being "under the influence."

Example

(1) A peace officer recorded the driver's response to the patrol vehicle's red light or to the red light and siren.

The following table identifies additional observations a peace officer might make during the vehicle pullover of a driver who is suspected of DUI.

Indicator	Deviations
Actions	• an unusually fast compliance to the red light and siren (i.e., "screeching halt"), either on or off the roadway • slowness or hesitancy to comply • apparent ignorance of the attempts made to stop the vehicle • an attempt to outrun the patrol vehicle
Movement	• unusual activity or movement by the occupants within the vehicle that could indicate an attempt to change drivers while the vehicle is still in motion • an attempt to dispose of bottles or cans of alcoholic beverages by: - dropping or throwing them from the vehicle before it comes to a complete stop, or - hiding them in the vehicle • selection of a poor parking location • poor parking maneuver

NOTE: If a driver and a passenger attempt to, or actually change, places before the vehicle stops and both individuals are found to be under the influence, both may be charged with driving while under the influence of alcohol.

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Initial contact

Peace officers should always be alert for signs of impairment, even though the person's driving may not have indicated the probability of such influence. The following table identifies possible indicators a peace officer might look for during the initial contact.

Indicator	Deviation
General Appearance	• appearance associated with the lack of sleep (e.g., drooping eyelids, red, and/or watery eyes, relaxed facial muscles)
Eyes	• apparent difficulty focusing eyes upon an object, or • **refusal** to look directly at the peace officer
Speech	• odor of intoxicants on the breath • poor enunciation, slurred speech
Attitude	• signs of nervousness • cockiness • unusual cheerfulness or friendliness • apparent hesitancy in complying with lawful orders or instructions • appearing agitated • other inappropriate behavior
Actions	• impaired motor skills (poor balance and coordination) • difficulty in understanding simple questions or instructions • manner of getting out of the car • tremor of hands • poor hand coordination

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Medical conditions

Certain physical and medical conditions can cause an individual to act in a manner that could initially lead a peace officer to suspect the use of alcohol or drugs. Such conditions include, but are not limited to:

- fatigue
- diabetes
- previous traumatic head injury
- cerebral palsy
- stroke

NOTE: Additional information regarding peace officer interactions with people with disabilities may be found in LD 37: *People with Disabilities*.

Peace officer actions

It is critical that the possibilities of such conditions be further investigated to:

- ensure the subject receives medical attention, if necessary
- prevent the injustice to an innocent person
- assure that persons who are ill or injured may not suffer aggravation by being incarcerated
- anticipate a possible defense, real or alleged, to the charge of being under the influence

Medical examinations

If a peace officer is not sure that observations indicate possible being under the influence or believes the behavior may be caused by other reasons, the peace officer may:

- delay any further examination and
- seek appropriate medical attention

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Sobriety test

If a peace officer's observations and information gathered during the initial investigation of the detection process (observation, pullover, initial contact), still lead the peace officer to believe that the driver may be DUI, the peace officer may conduct field sobriety tests, and if necessary, initiate the process for chemical testing.

NOTE: Information regarding field sobriety tests and chemical sobriety tests is included in the following sections of this workbook.

Arrest decision

The decision to make an arrest for DUI should be based on the totality of the observations, information gathered, and evidence collected during the earlier phases of the DUI detection process.

NOTE: Information regarding a peace officer's authority to arrest and other actions are included in Chapter 2 of this workbook.

Field Sobriety Tests

Introduction

Field Sobriety Tests (FSTs) are tools used by peace officers to help determine whether a suspect is under the influence of alcohol and/or drugs.

Location

Before any field sobriety test can be administered, peace officers must select an appropriate site for conducting the tests. Although any site can be potentially hazardous, certain locations can pose a greater threat to peace officer safety and the safety of the individual being tested. When possible, the location should:

- have a smooth level, and dry surface
- adequate lighting
- be out of traffic

Examples of potentially hazardous locations include but are not limited to:

- in front of a tavern
- in front of a person's residence, with a gathering of people including family
- in an area which has a history of racial strife and rioting
- within sight of any large gathering of people
- in an area too close to passing traffic, etc.

If such a situation exists, the individual should be removed from the scene as quickly as possible and the examination conducted elsewhere, if legally permissible. In a potentially volatile situation, the tests may need to be conducted at a safer location.

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Questions prior to sobriety test

It is recommended that a peace officer ask the driver a series of questions prior to administering the sobriety test. These questions provide needed information and establish whether the driver has physical impairments that may affect the test results.

Examples of appropriate questions might include, but are not limited to, the following.

- Any illness or injuries?
- Any problems with your vehicle?
- Do you have any physical impairment?
- When did you last eat?
- When did you last sleep? For how long?
- Where are you coming from? Going to?
- What have you had to drink? How much?
- Where did you drink?
- When did you start drinking? When did you stop?
- Do you feel the effects of the drinks?
- Are you under the care of a doctor or dentist?
- What, if any, medications are you taking?
- If there's been a collision:
  - Did you bump your head?
  - Were you drinking?
  - Did you drink after the collision?

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Refusal to cooperate

In some cases, the driver may refuse to cooperate in performing the various tests. For example, a driver refuses to take one or more of the coordination tests, or will only submit to a chemical test.

While it is impossible to demand or force a driver to complete one or more field sobriety tests against his or her will, peace officers should:

- make sure the driver understands the significance of participating in the test
- note the driver's lack of cooperation in writing
- testify to such fact at the time of the court trial

Miranda

Peace officers are not required to administer a Miranda warning during a field investigation prior to an arrest. Prior to an arrest, the driver's right to remain silent under the Fifth Amendment does not apply. Peace officers can ask the driver questions such as, "How much have you had to drink?"

NOTE: For additional information regarding arrest and Miranda, refer to LD 15: *Laws of Arrest*.

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Safety

The tests should not be so difficult or complicated that the average sober driver could not perform them. A peace officer should never ask a driver to perform a test which could result in the driver's injury.

Each test should be explained and demonstrated to the driver so that the driver understands what is expected. Peace officers should always consider peace officer safety tactics when demonstrating FSTs while in close proximity to the driver.

Tests should not be given if the driver is obviously under the influence when the attempt could compromise the driver's physical safety. However, the peace officer should describe those obvious signs of impairment in the report.

NOTE: A peace officer should refer to his or her own agency's field sobriety test forms.

Objective observations

Evaluation of the driver being tested is based on the peace officer's objective observations. Tests are used to objectively evaluate the driver's level of impairment.

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Horizontal Gaze Nystagmus (HGN)

In this test, which checks for involuntary eye movements or "bounce," each eye is checked separately. The point where the involuntary eye movement or "bounce" begins is called the "angle of onset." In checking each eye, the peace officer looks closely for three different indicators:

- is the eye able to smoothly track a slowly moving object passing back and forth in the person's field of view?
- when the eye is held as far to the side as it can go, is the jerking distinct?
- does the jerking or angle of onset begin between immediate or extreme deviations?

As a person's blood alcohol concentration increases, the more likely it becomes that these clues will become more pronounced.

The following table identifies the conditions and procedure for examining a person's eye movements.

	Actions/Observations
Light	• There must be enough light to see the reaction • The person should remove glasses, but not contact lenses
Position	• The person's eyes should be raised so that some of the white shows below the iris (color)
Focal Point	• Provide an object for the person to focus on (e.g., top of a penlight, tip of the peace officer's index finger, etc.)
Distance	• Hold an object approximately 12"-15" in front of the person's eyes

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Horizontal Gaze Nystagmus (HGN) (continued)

	Actions/Observations
Movement Light	• Move the object 15" off center. This will approximate 45 degrees • The stimulus should cause the person's eyes to move either to the right or left
	• Move object back to center • Again, the eyes should be moved to maximum deviation and peace officer will note smoothness of pursuit and nystagmus at maximum deviation
	• Repeat process in the opposite direction

Cautions

There are many considerations that a peace officer needs to keep in mind regarding the horizontal gaze nystagmus test:

- If angle of onset is not the same in each eye, the peace officer should check to see if pupil sizes are different-asymmetric
- The nystagmus may be neural and, if warranted, the person should get immediate medical treatment
- Approximately 50% of the population has end-point nystagmus
- Approximately 4% of the population has an angle of onset of 40 degrees, which could be mistaken for being under the influence
- A peace officer should check for eye injuries or the presence of an artificial eye
- Although a person should not remove contact lenses, the use of contact lens should be noted in the report. A peace officer may not want to administer this test as there is a risk that hard contacts may dislodge at extremes
- CNS Depressants (including alcohol), Dissociative Anesthetics, and some inhalants cause horizontal nystagmus and, depending on the amount of dosage, can cause vertical nystagmus

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Field tests

Field tests that can be used during a field sobriety test are noted in the following table.

Tests	Person is directed to:	Tests the person's:
Walk and Turn (WAT)	• imagine or use a straight line • place left foot on line and right foot in front of left with the heel of the right touching the toe of the left • place your arms down by your side • take nine heel-to-toe steps out, turn in a prescribed manner and take nine heel-to-toe steps back Explain to do the following during test: - look down at your feet - count steps out loud - keep your arms down by side - once you start don't stop until you have completed the test	• balance • ability to maintain a straight course and turn smoothly • ability to listen to and follow a series of instructions • attention span
One Leg Stand (OLS)	• raise one foot approximately 6" off the ground • keep the foot parallel to the ground • keep arms at sides • legs straight • look at the raised foot • count out loud in the following manner "1001, 1002," etc. until directed to stop	• balance • ability to accurately count aloud by thousands for 30 seconds

NOTE: Studies have confirmed the considerable accuracy at detecting impairment when the component battery of the HGN, WAT, and OLS tests are administered and evaluated in a standardized manner.

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Additional tests

Additional tests can be administered individually or a driver may be required to perform more than one task at a time. Performing multiple tasks can be a measure of the individual's attention span or ability to divide one's attention.

Test	Person is directed to:	Tests the person's:
Modified Romberg Balance	• stand at attention • place heels and toes together • tilt head back slightly • close eyes • estimate the passage of 30 seconds then • open eyes, tilt head forward and say stop NOTE: Peace officer observes and records sway and/or loss of position.	• balance • internal clock
Finger to Nose	• stand at attention • keep heels and toes together • tilt head back slightly • close eyes • touch tip of nose with finger tips	• ability to coordinate movements • balance retention • ability to follow simple directions
Hand Pat	• pat back of right hand into palm of left hand, then • turn hand over and pat palm to palm NOTE: The test should be performed several times in a relatively rapid manner.	• hand movement coordination

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Additional tests (continued)

Additional tests can be administered individually or a driver may be required to perform more than one task at a time. Performing multiple tasks can be a measure of the individual's attention span or ability to divide one's attention.

Test	Person is directed to:	Tests the person's:
Alphabet	• repeat (or write) alphabet from A-Z NOTE: Peace officer should inquire as to person's educational level before administering this test. NOTE: Speech difficulties may negate test.	• motor coordination • memory NOTE: Person should repeat alphabet as would a sober person in a slow concise manner.

Chemical Sobriety Tests

Introduction

A sample of the driver's breath, blood, or urine, taken soon after the act of driving, is the best scientific evidence of being under the influence. Such tests can serve to support and supplement the officer's observations as well.

Implied consent

Any person who drives a motor vehicle is understood to have *already agreed*, at the time the license was issued, to submit to chemical testing for alcohol/drug levels. *(Vehicle Code Section 23612)*

The peace officer does not have to seek any further consent from the person at the time of the arrest.

NOTE: The legislative intent of *Vehicle Code Section 23612* was to avoid confrontations with persons under the influence over evidence collection procedures.

Qualified consent

Because of the presumption of implied consent, a driver is not allowed to further qualify or place conditions on that consent.

For example, a driver who agrees to take a sobriety test only if his or her own physician or attorney can be present has refused the test. Similarly, consent conditioned on taking both tests, the breath and the blood test, is a refusal.

Chemical sobriety tests

Chemical sobriety tests are incidental to arrest. They can be administered when the arresting peace officer has reasonable cause (i.e., probable cause) to believe the person was driving an automobile in violation of:

- alcohol - individuals under the age of 21 *(Vehicle Code Section 23140)*
- driving under the influence of alcohol and/or drugs *(Vehicle Code Sections 23152)*
- driving under the influence of alcohol and/or drugs causing injury *(Vehicle Code Section 23153)*

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Types of tests

- A person lawfully arrested for driving under the influence has the choice of providing a blood sample or a breath sample for testing purposes.

A urine test may be offered when the breath and blood tests are not available. Breath tests *do not* measure for drugs. A person who chooses to submit to a breath test may also be required to submit to a blood test if the peace officer has reasonable cause to believe that the person was driving under the influence of drugs or a combination of alcohol and drugs. When the driver is afflicted with hemophilia or is using an anticoagulant under the direction of a physician, the driver shall submit to and complete a urine test *Vehicle Code Section 23612(b)* and *23612(c).*

NOTE: The peace officer should state in the report the facts of that belief.

Timing

The amount of alcohol or drugs in the blood begins to diminish soon after drinking or ingestion stops. Delay in testing could lead to a result that is lower than the true alcohol/drug level at the time of driving.

For this reason, chemical sobriety tests must be taken as soon as possible, preferably *within three hours*, from the time of the incident.

NOTE: The peace officer should not in any way imply that the driver has a right to delay the test or that the driver has a right to change his or her mind regarding consent.

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Failure to complete a test

If the driver is unable to complete the chosen test, the driver must submit to and complete the other test. Inability or failure to complete a test is considered a *refusal. (Vehicle Code Section 23612)*

If a driver is or claims to be unable to complete the chosen test, the peace officer should advise the person:

- that there is a duty to submit to and complete the chosen test
- if unable to complete the test
- the driver must submit to and complete the other test

Refusal

A refusal to take a chemical sobriety test can be any:

- statement, act, or conduct by the driver which:
  - directly refuses or
  - qualifies compliance by imposing conditions prior to submitting
  - makes compliance unreasonably difficult or impossible
- failure to satisfactorily complete the chosen test or its alternative
- delay in offering to provide a sample

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Recognizing a refusal

A verbal refusal by the driver (i.e., "No") should be very clear to the peace officer. But a driver's refusal may also be implied by the driver's acts or conduct. The following table provides additional information regarding recognition of an implied refusal.

Refusal to submit may be presumed if the driver:	Additional Information
• remains silent	• if a driver indicated a willingness to take a test, but fails to or refuses to specify which test, such action on the part of the driver constitutes a refusal • under these circumstances, it will be up to the peace officer to select the easiest available test
• engages in assaultive or abusive behavior (e.g., shouting, repeatedly interrupting, physically resisting, etc.)	• inoffensive, but uncooperative, conduct amounts to a self-imposed limitation and, therefore, is a form of refusal • if the driver's conduct is clearly non-cooperative, the peace officer is still obliged to complete the standard admonishment
• demands to take more than one test	• such a demand amounts to a self-imposed condition and, therefore, is a form of refusal

Chemical test admonition

If a driver refuses to submit to a chemical test, that driver must be advised of certain information regarding the consequences of refusing.

The only method for giving this admonition is to read the complete statutory admonition directly from the back side of the current DMV DS-367 form. No additional language or admonitions are necessary.

NOTE: DS-367 form is often referred to as the "Officer's Statement" form.

Continued on next page

Admonition content elements

The following table identifies the primary content elements included in the statutory admonition read to drivers.

Element	Description
Consequences	• refusal to submit or failure to complete a chemical test will result in: - a fine and mandatory imprisonment if convicted - suspension or revocation of driving privileges for a period of one to three years (depending on previous driving record)
Choice	• the driver has a choice of either a breath or blood test NOTE: If taken to a medical facility, the driver must submit to tests which are available.
Evidence	• any refusal to submit or failure to complete a chemical test may be used as evidence against the driver
Counsel	• the driver *does not* have a right to counsel in connection with submitting to a chemical test
Alternate Tests	• if a driver is unable to complete one test, that person must then submit to the remaining test

NOTE: A peace officer may elect to record the admonition, as well as the driver's response, on audio or videotape.

NOTE: Individual agency policy may vary regarding when to administer an admonishment. A peace officer is responsible for knowing and complying with his or her own agency's policy.

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License suspension

If, after a lawful arrest and the standard admonition, a driver refuses to submit to and promptly complete a chemical test, the driver's license ***will*** be suspended.

The arresting peace officer has no obligation to make a second offer or to accommodate a driver if that person subsequently changes his or her mind.

Incapable or unconscious driver

A person who is unconscious or otherwise in a condition that renders them incapable of refusal is deemed not to have withdrawn their consent and a test or tests may be administered whether or not the person is told that their failure to submit to, or the non-completion of, the test or tests will result in the suspension or revocation of their privilege to operate a motor vehicle. A person who is dead is deemed not to have withdrawn their consent and a test or tests may be administered at the direction of a peace officer. *(Vehicle Code 23612(a)(5)*

NOTE: It is advisable that under such conditions, the peace officer request *a* blood test.

Driver confusion

A driver may show signs of confusion or lack of understanding that is not due to being under the influence, but is caused by the language used in the admonition. When this occurs, the peace officer has the duty to clarify the situation for the driver. The peace officer should emphasize that a suspension of the driver's license for refusal is not just a possibility, but is *mandatory*.

If the peace officer fails to eliminate the person's confusion, there may be a legitimate basis for the refusal and the driver's license may not be suspended.

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Right to counsel

The Miranda warning includes the advice that once arrested, the driver has the right to counsel before answering any questions or making any statements. Since a chemical test does not fall into either of these categories, the right to counsel does not apply.

The driver does not have the right to have an attorney present:

- before stating whether to submit to a test
- when deciding which test to take
- during the administration of the test

Personal physicians

The driver does have a right to have a medically qualified person of that driver's own choice to administer a second blood test. However, the peace officer is not required to advise the driver of this right. *(Vehicle Code Section 23158(b))*

During the initial test, the person has *no right* to have the test witnessed or performed by a *personal physician*. Making the test conditional on this request constitutes a *refusal* to submit to a chemical test.

If the person makes such a request, the peace officer should:

- advise that no such right exists
- inform the person that making the request as a condition would be the same as refusing to submit
- read the statutory admonishment to the person
- if necessary, ask the person what part of the admonition is not clear and explain only that portion of the admonition in the peace officer's own words

The peace officer should also explain that such tests are at the person's own expense, and an opportunity will be provided to obtain one within a reasonable amount of time.

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Administration requirements

The following table identifies the basic requirements for each of the three types of chemical tests.

	Requirements
Breath Test	• a certified operator must administer the test • the person must be observed 15 minutes prior to the test • two valid samples must be within 0.02% or a third sample is required
Blood Test	• the blood sample must be taken by a licensed physician, nurse, clinical laboratory technician, etc. • the sample must be collected in a medically approved manner NOTE: This test is not applicable to a person with hemophilia or a heart condition.
Urine Test	• the person is required to urinate twice for blood alcohol content • first, the person must void the bladder to remove previously accumulated urine which would not reflect the present blood alcohol level • the second sample must be taken no less than 20 minutes later; failure to produce this sample is considered a refusal

NOTE: Specific agency policies and procedures may vary regarding the administration of chemical sobriety tests. A peace officer is responsible for knowing and complying with his or her own agency's policy.

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Reasonable privacy

If a blood or breath test is not available, the person must be given a urine test. In these instances, a peace officer needs to be aware of the person's right to reasonable privacy in the taking of the urine sample. *(Vehicle Code Section 23158(e))*

When a peace officer requests a urine sample, the person should be given privacy in the taking of the urine specimen that will ensure the accuracy of the specimen and, at the same time, maintain the dignity of the person involved.

NOTE: The courts have held that an intrusion into a person's privacy, not greater than that usually experienced in a public restroom, complies with the statute.

Drug admonition

The drug admonition is given following a completed breath test when the arresting peace officer believes the driver is under the influence of drugs.

The admonition is on the back of the DMV "Officer's Statement" form. A peace officer must read this admonition verbatim to the suspect.

Retention of samples

If a driver chooses to submit to a breath test, that person shall be informed that:

- the test equipment does not retain any breath sample for later analysis by the driver or anyone else
- if the driver wants a sample retained, the driver may provide a blood sample which will be retained at no cost to him or her
- if the driver does so, the blood sample may be tested for alcohol or drug content by either party in any criminal prosecution

This retention admonition is not included in the DS-367 form, but may appear on an arrest form prepared by local agencies. When giving the admonishment, it is always better to read it directly from the form whenever possible.

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Seizure of license

The Department of Motor Vehicles has the authority to suspend or revoke the driving privilege of any person found to be driving with a blood alcohol content of 0.08% or more.

Driving privileges may be suspended, if the driver:

- refuses to submit to, or fails to complete, a chemical test to determine a blood alcohol concentration level
- takes a breath test which shows an immediate blood alcohol concentration level of 0.08% or more
- takes a blood or urine test, and the peace officer has reason to believe the results will show a blood alcohol concentration level of 0.08% or more

Peace officers may not seize out-of-state licenses. Instead they should complete the DS-367 form, give a copy to the driver, and DMV will notify the driver's home state.

NOTE: Persons who are under 21 years will have their licenses suspended when driving with a blood alcohol concentration level of 0.01% or more.

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Temporary license

When a driver's license is confiscated by a peace officer, that officer must hand the driver an Order Suspension Endorsement (DMV form DS-367). This document will serve as a temporary license good for 30 days from the date of the arrest.

Determination as to whether the person will lose driving privileges for a longer period will be made at a later DMV administrative review to ensure that all the elements of the law have been met.

Unless the order is successfully challenged, and assuming it is the driver's first offense for DUI, the person's license will be suspended for up to four months. *(Vehicle Code Section 13353.3)*

NOTE: A temporary license is valid only if the person's original license is valid.

NOTE: If the driver has an out-of-state license, the DMV will notify the driver's home state of the California suspension/revocation action.

NOTE: Order Suspension Endorsement (DMV form DS-367M) should be used when serving an order of suspension to a driver who is under the age of 21 years.

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"Officer's Statement"

The Department of Motor Vehicles will make a final decision on the suspension/revocation of the driver's license based solely on the "Officer's Statement" (DMV form DS-367). Accordingly, peace officers need to complete this document as accurately and completely as possible.

Since the DMV may not see the peace officer's crime and arrest reports, it is important to repeat the information from the arrest report on the DMV form. For example, the peace officer should identify the citizen or peace officer who advised that the vehicle was not being driven properly, and the actions which the individual observed.

If the peace officer filling out DMV DS-367 personally observed the driver before initiating the stop, the peace officer should spell out what was observed. For example, "erratic driving" is not sufficient. Instead the peace officer should describe exactly what the driver did and use appropriate Vehicle Code sections that were violated.

Chapter Synopsis

Learning need	Peace officers must know the laws to detect and apprehend drivers whose behavior indicates that they may be driving under the influence of alcohol and/or drugs.
Possession of alcohol [28.05.1]	Any driver who has *in their possession*, in a motor vehicle upon any highway or public lands, any receptacle containing any alcoholic beverage that has been opened, or had a seal broken, or had the contents partially removed is guilty of an infraction.
Driving under the influence [28.05.2, 28.05.3]	A person is under the influence of alcohol, drugs, or a combination of alcohol and drugs when, as a result of using the alcohol and/or drugs, that person's physical and/or mental abilities are impaired to such a degree that the person no longer has the ability to drive a vehicle with the caution that is characteristic of a sober person of ordinary prudence under the same or similar circumstances.
DUI detection [28.05.4, 28.05.5]	Deviations from normal driving may include weaving, swerving, drifting, turning with wide radius, turning abruptly or illegally, striking or almost striking an object or another vehicle, driving into opposing or crossing traffic, slow speed (more than 10-mph below), stopping (without cause) in a traffic lane, accelerating or decelerating rapidly, stopping inappropriately, or braking erratically.
Medical conditions [28.05.6]	Certain physical and medical conditions can cause a person to act in a manner that could initially lead a peace officer to suspect the use of alcohol or drugs, such as fatigue, diabetes, previous traumatic head injury, cerebral palsy, and stroke.

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Observations during field sobriety tests [28.05.7]	Performance of the driver being tested is based on the peace officer's objective observation. Tests are used to objectively observe the driver's attention span, balance, coordination, memory, and the ability to concentrate and follow instructions.
Types of field sobriety tests [28.05.8]	There are several field sobriety tests that peace officers may administer, such as modified position of attention, walk and turn, finger to nose, hand pat, one leg stand, alphabet, and horizontal gaze nystagmus.
Chemical sobriety test admonition [28.05.9]	Refusal to submit or failure to complete a chemical test can result in a fine and mandatory imprisonment if convicted, and suspension or revocation of driving privileges for one to three years. Driver has a choice of either a breath or blood test. Any refusal to submit or failure to complete a chemical test may be used as evidence against the driver. Driver does not have a right to counsel in connection with submitting to a chemical test. If a driver is unable to complete one test, that person must then submit to the remaining test.

Workbook Learning Activities

Introduction

To help you review and apply the material covered in this chapter, a selection of learning activities has been included. No answers are provided. However, by referring to the appropriate text, you should be able to prepare a response.

Activity questions

1. Must a driver have a blood alcohol level of at least 0.08% to be considered DUI? Does a vehicle have to be moving for a driver to be arrested for DUI? Explain your responses and cite relevant Vehicle Code sections.

2. Peace officers pull over a driver on suspicion of DUI after observing the car driving 15-mph over the posted speed limit and straddling the traffic lanes. After making contact and administering field sobriety tests, peace officers decide that the driver is not under the influence and believe her explanation that something flew into her eye. However, they also discover that the passenger in the vehicle, though not apparently intoxicated, has an open container of beer in her possession. What, if any, violations have occurred? (Include Vehicle Code sections, if appropriate.) How should peace officers proceed?

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Activity questions (continued)

3. Describe at least three instances in which the laws governing DUI or alcohol consumption in motor vehicles differ for minors and adults.

4. List at least four actions taken by a driver that would cause you, as a peace officer, to pull the driver over on suspicion of DUI. Why is it important for peace officers to act quickly and trust their assessment that an erratic driver is in some way impaired?

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Activity questions (continued)

5. In your own words, describe the difference between possession of an open container of alcohol in a vehicle *(Vehicle Code Section 23223)* and storage of an open container of alcohol in a vehicle (*Vehicle Code Section 23225*).

6. Under what circumstances would DUI be a felony? A misdemeanor?

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Activity questions (continued)

7. Peace officers pull over a 24-year-old male for suspicion of DUI. The man denies being impaired, saying he only had a "few beers." The man performs the field sobriety tests in a manner indicating slight impairment. When the peace officers request that the man take a breath test, the man refuses and demands to take a blood alcohol test. How should the peace officers proceed? Cite Vehicle Code sections, as appropriate, to support your response.

Problem Solving

Problem solving activity

1. You conduct a traffic stop on a motorist for running the red traffic signal. You contact the solo driver and subsequently determine the driver is under the influence. What should your course of action be?

   Answers shall minimally include Vehicle Code Sections violated and/or authorities used.

Continued on next page

Problem Solving, Continued

Classroom discussion

1. Add to the above activity that the driver under the influence is one of your neighbors. What would be your ethical decision before taking action?

2. Add to the above activity that driver is the responsible party for a collision and is an off-duty peace officer from another law enforcement agency. What is the ethical, professional, and legal decision you must make?

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Problem Solving Activities

Answers to problem solving

Chapter 1. Description shall include at a minimum "A four-way intersection controlled by an Official Traffic Control Signal."

Possible solution in back of book:

Red Lights - *Vehicle Code 21453(a)*
Right Turn on Red Light - *Vehicle Code 21453(b)*
Speed for Conditions - *Vehicle Code 22350*

Chapter 2. Physical Conditions?

1. Tree blocking the view of signal lights (tree department)?
2. Delivery trucks always parked on northwest corner obstructing view of signal light... (paint curb red otherwise prohibit parking of vehicles over 6 ft. high (Engineering Department)?

Chapter 4. Traffic Stop: Driver has a suspended California Drivers License.

- Cite driver
- Tow vehicle

Chapter 5. DUI driver:

- Arrest and tow vehicle

Glossary

Introduction	**The following glossary terms apply only to Learning Domain 28: Traffic Enforcement.**
alcoholic beverage	any liquid or solid material intended to be ingested which contains alcohol, ethyl alcohol, or drinking alcohol
bicycle	a device upon which any person may ride, propelled exclusively by human power through a belt, chain, or gears, and having one or more wheels. Persons riding bicycles are subject to the provisions of this code specified in Sections 21200 and 21200.5
bikeway	all facilities that provide primarily for bicycle travel as defined in *Vehicle Code Section 890.4*
business district	that portion of a highway and property along the highway of which 50 percent is occupied by buildings used for business, either on one side of the highway, for a distance of 600 feet, or on both sides of the highway, for a distance of 300 feet
collision	an unintended event involving a vehicle in motor that produces damage or injury (including fatal injury)
crosswalk	any portion of a roadway distinctly indicated for pedestrian crossing; at intersections of two roads which meet at approximate right angles, the crosswalk is the area within the prolongations of sidewalk boundary lines from one side of the road to the other
darkness	any time one-half hour after sunset to one-half hour before sunrise, or when visibility is not sufficient to see a person or vehicle at a distance of 1,000 feet
detection	the process of identifying and gathering evidence to determine whether or not a suspect should be arrested for a DUI violation

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driver	the person who is in actual physical control of a vehicle
driver's license	a valid license to drive the type of motor vehicle or combination of vehicles for which a person is licensed under this code or by a foreign jurisdiction
exhibition of speed	exhibiting to another person an overt act involving speed on a highway *(Vehicle Code Section 23109 et. Seq.)*
freeway	a limited access highway
highway	a way or place of whatever nature (paved, gravel, etc.) that is publicly maintained and open to the use of the public for purposes of vehicular travel. A highway can include roadway(s), shoulders, and sidewalks
inclement weather	a condition that prevents a driver of a motor vehicle from clearly discerning a person or another motor vehicle on the highway from a distance of 1,000 feet
impound	the removal of a vehicle from public or private property while an investigation is still in progress or when forfeiture or 30-day hold procedures are in progress
intersection	the point where two highways join one another at approximately right angles; may also include the area where two highways join at any other angle
lawfully available lane	any lane that is available in the appropriate direction of travel in which the driven vehicle does not interfere with the lawful movement of any other vehicle
limit line	solid white line (12"-24" wide) on surface of the roadway indicating the point at which traffic is required to stop

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official traffic control device	any sign, signal, or marking placed by public authority, for the purpose of regulating, warning, or guiding traffic
official traffic control signal	any device that directs traffic to alternately stop and proceed, which is erected by authority of a public body or official having jurisdiction
off-street parking facility	a person may not drive a motor vehicle in or upon any off-street parking facility held open for use by the public for parking vehicles
pedestrian	any person who is afoot, or using a means of conveyance other than a bicycle due to a physical disability
prima facie	good and sufficient on its face, or that which suffices for the proof of particular fact until contradicted and overcome by other evidence
prima facie speed limit	the speed limit in a specific area, unless posted otherwise
probable cause	a set of facts that would cause a person of ordinary care and prudence to entertain an honest and strong suspicion that the person to be arrested is guilty of a crime
refusal	statement, act, or conduct by the driver directly refusing to take a chemical sobriety test which qualifies compliance by imposing conditions prior to submitting, or makes compliance unreasonably difficult or impossible: failure to satisfactorily complete the chosen test or its alternative: or delay in offering to provide a sample

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residence district	that portion of a highway and of the contiguous property which has on one side within 1/4-mile, 13 or more separate dwelling houses or business structures, or on both sides within 1/4-mile, 16 or more separate dwelling houses or business structures. A highway or portion of a highway shall not be deemed to be within a district regardless of the number of buildings upon the contiguous property if there is no right to access to the highway by vehicles from the contiguous property
right-of-way	the privilege of the immediate use by a driver of a given space on the highway
roadway	that portion of a highway designed or ordinarily used for vehicular traffic
school bus	any motor vehicle used for transporting school pupils at or below the 12th grade level to or from a public or private school or school activities
service of suspension/ revocation	notification of suspension/revocation of license either by court, peace officer, or the DMV
sidewalk	the portion of a highway, other than the roadway, set apart by curbs, barriers, marking, or other delineation for pedestrian travel
speed contest	a single vehicle racing against the clock, timing device, or two or more vehicles racing against each other
Stolen Vehicle System (SVS)	criminal Justice Information System (CJIS) database containing records related to vehicles, license plates, and vehicle parts that are under investigation

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stop	the cessation of movement of the vehicle
storage	the removal of a vehicle from public or private property
street	one type of highway
terminating highway	a highway which intersects but does not continue beyond the intersection with another highway which continues through the intersection, commonly known as a T intersection
traffic	pedestrians, ridden animals, vehicles, streetcars, and other conveyances, either singly or together, using any highway for purposes of travel
under the influence	a person is *under the influence* of alcohol, drugs, or a combination of alcohol and drugs when as a result of using the alcohol and/or drugs that person's physical and/or mental abilities are impaired to such a degree that the person no longer has the ability to drive a vehicle with the caution characteristic of a sober person of ordinary prudence under the same or similar circumstance
unmarked crosswalk	the portion of a roadway included within the prolongation or connection of the boundary lines of a sidewalk at an intersection where the roads meet at approximate right angles
U-turn	the turning of a vehicle upon a highway so as to proceed in the opposite direction, whether or not accomplished by one continuous movement

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vehicle	a device by which any person or property may be propelled, moved, or drawn upon a highway
wanton	being conscious of one's conduct, intent to commit or omit the act in question, realization of probable injury to another, and reckless disregard of the consequences
willful	an act performed with intentional disregard for safety and not merely an act done in disregard of safety