OFFICE OF OPERATIONS

OPERATIONS ORDER NO. 16 December 12, 2005

SUBJECT: UNLICENSED DRIVERS AND VEHICLE IMPOUND PROCEDURES

PURPOSE: This Order revises procedures and responsibilities for vehicle impounds of unlicensed drivers at traffic collisions, the enforcement of California Vehicle Code (VC) Sections 22651(p), Unlicensed Driver, and 14602.6(a), 30-Day Hold. This Order supersedes Office of Operations Order No. 7, 1996, *Vehicle Impound Procedures for California Vehicle Code Sections 22651(p), Unlicensed Driver, and 14602.6, 30-Day Hold* and Office of Operations Notice No. 48, 1996, *Department Policy Regarding "Unlicensed Driver" Vehicle Impounds at Traffic Collision Scenes.* In addition, this Order activates the 30-Day Hold Impound Early Release Agreement, Form 16.27.5.

PROCEDURE: California Vehicle Code Section 14607.6(c)(1) makes the impoundment of a vehicle operated by an unlicensed driver **mandatory**. When an officer **observes** the operation of a motor vehicle by a driver and the driver is unable to produce a valid driver license when requested by the officer, the vehicle **shall** be impounded regardless of ownership. Prior to impounding the vehicle, the officer **shall** attempt to verify the license status of a driver who claims to be properly licensed, but is unable to produce the driver license.

I. 30-DAY HOLD IMPOUND EARLY RELEASE AGREEMENT, FORM 16.27.5 – ACTIVATED. The 30-Day Hold Impound Early Release Agreement, Form 16.27.5, is activated.

A. Use of Form. The form is used for early releases on 30-Day Hold impounds.

B. Completion. The form shall be completed by the Area Auto Detective Unit supervisor determining the appropriateness of the release.

C. Distribution.

1 – Original, attached with the original Vehicle Report, California Highway Patrol (CHP) Form 180, (hereafter referred to as Vehicle Report).
1 – Copy, individual the vehicle is released to.

2 – TOTAL

II. UNLICENSED DRIVER IMPOUND AUTHORITIES.

A. Unlicensed Driver. Section 22651(p) VC gives officers the authority to impound vehicles when it has been determined that the driver was involved in the following:

* Not having been licensed by the State of California;
* Driving with an expired driver license;
* Driving with a "withheld" driver license;
* Driving with an out of class driver license (e.g., driver with a class "C" license, operating a motorcycle requiring a class "M1" license); or,
* Driving with a suspended or revoked driver license as a result of a:
    * Reckless or negligent driving;
    * Misdemeanor or Felony Driving Under the Influence (DUI) conviction;
    * Failure to submit or complete the chemical test;
    * Failure to submit or complete the preliminary alcohol screening test for drivers under 21 years of age;
    * Driving a vehicle with a blood alcohol level of 0.08 percent or more by volume in the blood, or 0.01 percent for those under 21 years of age; or,
    * Driving during the period of prior suspension or revocation.

    Note: Section 22651(p) VC requires the issuance of a Traffic Notice to Appear (citation), Form 4.50, when impounding a vehicle under this authority.

B. 30-Day Hold. Section 14602.6(a) VC (30-Day Hold) allows officers to place a 30-Day Hold on a vehicle when they have determined any of the following:

* The driver was unlicensed and had never been issued a driver license;
* Driving on a suspended or revoked driver license as defined under Division 6, Chapter 2, Articles 2 and 3, Sections 13200 – 13376 VC, (see Attachment); and/or,

* Driving on a valid out of state driver license while California driving privilege had been suspended or revoked for one of the reasons listed on Attachment-2.

Officers **shall not** place a 30-Day Hold on a vehicle for the following:

* Person with an expired driver license, Section 12500(a) VC;
* Licensed individuals having no driver license in their possession, Section 12951(a) VC; or,
* Licensed drivers operating vehicles out of their driver license class, Section 12500(b) or (d) VC.

Note: If the 30-Day Hold criteria does not apply to a driver that is arrested and is not issued a Traffic Notice to Appear, the vehicle cannot be impounded pursuant to Section 22651(p) VC (i.e., requires the issuance of a Traffic Notice to Appear). The vehicle shall be impounded for Section 22651(h)(1) VC, Driver Arrested, or other applicable impound authority.

III. **LICENSING REQUIREMENT FOR NEW CALIFORNIA RESIDENTS, SECTION 12505(c) VC.** New California residents with a valid out of state driver license, who do not have a suspended or revoked California driver license, are required to obtain a California driver license within **ten days** of establishing primary residency. If the new resident is in violation of this section, they shall be cited for Section 12500(a) VC (Unlawful to Drive without Valid License) and the vehicle impounded for 22651(p) VC or other applicable impound authority.

Note: Section 14602.6(a) VC shall not apply to a driver in violation of this residency requirement.

IV. **OFFICER'S RESPONSIBILITY.** Officers may use Section 22651(p) VC as the primary authority to impound a vehicle which had been driven by an unlicensed driver. However, when an unlicensed driver's vehicle is impounded and the impound meets the 30-Day Hold criteria, the officer may use Section 14602.6(a) VC as the primary authority.

Note: The decision to place a 30-Day Hold on a vehicle is **discretionary**. If a 30-Day Hold is not placed on an

eligible vehicle, officers shall impound the vehicle for Section 22651(p) VC and articulate their reason in the Vehicle Report (e.g., vehicle needed to transport family member for essential weekly medical treatment).

A. Section 14602.6(a) VC, 30-Day Hold, Vehicle Impounds. Officers impounding a vehicle pursuant to Section 14602.6(a) VC, 30-Day Hold, shall:

* Write **"14602.6(a) VC"** as the impound authority in the "Storage Authority/Reason" box of the Vehicle Report;

  Note: Do not list both 22651(p) VC and 14602.6(a) VC as the impound authority. List **only one** applicable section.

* Write **"**30-Day Hold**"** in red on the top center margin of the Vehicle Report;
* Issue a Verbal Notice By Peace Officer, Department of Motor Vehicles (DMV) Form DL 310A, to drivers with a suspended or revoked driver license;

  Note: A prior proof of service involving notification of suspension/revocation on the driver's DMV printout is not required for a 30-Day Hold.

* Write the driver's name in the "Driver's Name" box of the Vehicle Report if the driver is not arrested;
* Write the arrestee's name in the "Driver's Name" box of the Vehicle Report if a driver is arrested with the appropriate charge noted in the "Arrested/Section" box; and,

  Note: If the driver is booked for an unrelated charge, a filing request for Section 14601(a) VC (Driving When Privilege Suspended or Revoked) or 12500(a) VC shall be made in the Arrest Report narrative.

* Arrest the driver for the unlicensed driver violation or issue a citation for the appropriate VC Section and impound the vehicle.

B. Vehicle Report Narrative Completion. When completing a Vehicle Report, officers shall include the following information in the narrative:

* Probable cause for the traffic stop;
* All information obtained regarding the driver license status and the source(s) of the information;
* The driver's response regarding their driver license status;
* Whether the driver had permission to drive the vehicle and who gave the driver permission;
* Whether or not the driver was in fact the registered owner of the vehicle;
* The booking number when the driver is arrested;
* Whether or not the Official Police Garage (OPG) was notified of the 30-Day Hold either at scene or telephonically;
* Daytime telephone number for the vehicle's registered owner and/or driver, when possible; and,
* Copies of any related reports and Division of Records (DR) numbers.

Upon completion of the Vehicle Report narrative, the officer shall:

* Request Area Records Unit personnel to indicate "30-Day Hold" in the Miscellaneous Section of the impound format when obtaining a Division of Records (DR) number;
* Ensure copies of the driver's DMV driving record and the citation (if issued) are attached to the Vehicle Report when submitted for approval;

  Note: If officers are unable to obtain a DMV driving record, attach the Automated Name Index (PF18) search to the Vehicle Report.

* Notify the concerned OPG of the legal owner information when a 30-Day Hold is placed on a vehicle;
* Complete a Notice of Stored Vehicle, CHP Form 180-insert, or a Notice of Stored/Impounded Vehicle, Form 15.23, and mail a copy to all concerned parties; and,

* Submit the Vehicle Report to a supervisor for approval.

C. Impounding Unlicensed Driver Vehicles at Traffic Collision Scenes and Issuance of a Traffic Notice to Appear, Form 4.50. Section 22651(p) VC may be used at traffic collision scenes when the officer **observes** the vehicle being driven by an unlicensed driver or a driver whose driving privilege was suspended or revoked. The officer **shall** issue a Traffic Notice to Appear for a violation of Section 12500, 14601, 14601.1, 14601.2, 14601.3, 14601.4, 14601.5 or 14604 of the VC in order to impound the vehicle. If the impounded vehicle meets the 30-Day Hold criteria, Section 14602.6(a) VC may be used as the primary authority.

Note: When the operation of the vehicle is not observed by an officer, Section 22651(p) VC cannot be used as this Section requires the issuance of a Traffic Notice to Appear. Department policy and State law precludes the issuance of a Traffic Notice to Appear for the above Sections at traffic collision scenes, when operation of the vehicle is not observed by an officer (Office of Operations Order No. 20, 1996).

D. Impounding Unlicensed Driver Vehicles at Traffic Collision Scenes, 14602.6 VC. A vehicle **may** be impounded for a 30-day hold when the officer **determines** that the vehicle involved in a traffic collision was operated by an unlicensed driver or a driver whose driving privilege was suspended or revoked. The officer's determination may be based upon witness statements, driver admissions and/or physical evidence. The related Vehicle Report, CHP Form 180, shall contain the following:

* A full narrative listing all information/elements to establish the driver's offense; and,
* Name, address, telephone number and statements of witnesses that can establish the driver operating the vehicle.

The unlicensed driver charge and **all** other applicable charges **shall** be filed via a Traffic Collision

Report, CHP Form 555. The Traffic Collision Report shall be cross-referenced in the Vehicle Report.

Note: A Traffic Collision Report **shall** be completed in **all** cases when there is an unlicensed driver involved, including when there is property damage only. When an incident involves property damage only, a CHP Form 555-03 may be completed.

V. SUPERVISOR'S RESPONSIBILITY. Supervisors approving a Vehicle Report with a 30-Day Hold shall ensure:

* The officer has completed a detailed narrative with all required information on the Vehicle Report;
* Copies of all related documents and reports (i.e., driver's driving record, Notice of Stored Vehicle, CHP Form 180-insert, and the citation or arrest report, when applicable) are attached to the Vehicle Report;
* The "Required Notices Sent To Registered Owner and Legal Owner" box is marked on the Vehicle Report; and,
* Arrest information on the driver is included in the Vehicle Report, when applicable.

Questions regarding a 30-Day Hold, including the decision to either add or remove the 30-Day Hold, shall be referred to the concerned Area Auto Detective Unit.

VI. AREA DETECTIVE FRONT DESK RESPONSIBILITY. Department employees reviewing a request for impound release shall:

* Check the Stolen Vehicle System (SVS) to determine if the vehicle returns stolen or on a 30-Day Hold;
* Check with the Area OPG and the computer Record License Search (CC09) for possible vehicle information when none is available from the SVS;
* Notify the requesting party of the 30-Day Hold status, when applicable; and,
* Refer all requests to speak to a supervisor regarding a 30-Day Hold issue to the concerned Area Auto Detective Unit.

VII. AREA AUTO DETECTIVE UNIT SUPERVISOR'S RESPONSIBILITY. Area Auto Detective Unit supervisors shall ensure the following:

* All 30-Day Hold impound reports are reviewed;

* The concerned OPG is notified when a 30-Day Hold is added or removed from a vehicle;
* The concerned OPG has the vehicle's legal owner information, if any;
* A copy of the driver's DMV driving record or Automated Name Index (PF18) search and citation, if applicable, are maintained with the detective's copy of the Vehicle Report;
* Receipt of proof of certified mail service to vehicle's legal owner(s) from the OPGs and return proofs of service or non-service, via the United States Postal Service; and,

  Note: Section 14602.6(a) VC only requires the mailing of a certified mail notice to the vehicle legal owner within **two** business days of the impound. The legal owner requirement is applicable only when a legal owner is actually listed on the DMV registration printout. Section 14602.6(a) VC further requires that a certified mail return receipt be requested. However, a proof of service is not required in order to hold the vehicle under this Section.

* The proof of certified mail service and return proofs of service or non-service, is filed with the Area Auto Detective Division copy of the Vehicle Report.

A. Release of 30-Day Hold Impounds. Vehicles may be released by an Area Auto Detective Unit supervisor, prior to the termination of the 30-Day Hold period, under any one of the following circumstances:

* The registered owner can establish the vehicle was driven by an unlicensed driver without the registered owner's knowledge or permission;
* The vehicle was seized for a 30-Day Hold and it is not authorized under Section 14602.6(a) VC (Attachment-2);
* There is sufficient proof the vehicle was stolen;
* The concerned driver acquires a valid driver license or has the driver license reinstated and obtains proper insurance and the R/O can provide a valid driver license and proof of current vehicle registration;
* There is sufficient proof the driver of the vehicle was in fact a licensed driver with a valid license

issued prior to the time of impound or the driver had an expired driver license; or,

* The registered owner presents a court order to release the vehicle.

When an Area Auto Detective Unit supervisor determines the release of a 30-Day Hold vehicle is appropriate, a 30-Day Hold Impound Early Release Agreement, Form 16.27.5, shall be completed. Area Auto Detective Unit supervisors are encouraged to use their discretion with business vehicles or business leased vehicles.

Note: Impound release procedures remain the same. All fees must be paid and proof of valid registration and valid driver license must be presented prior to any release. Impound hearings are to determine if an officer had probable cause to impound a vehicle. A decision to release a vehicle does not mean a refund of impound fees is warranted in every case. Impound fee refunds are costs incurred by the Department. A mistake made by another entity outside of the Department (e.g., the DMV) is not a valid reason to refund impound fees. In such instances, violators should be notified to contact the entity that is found to be in error for fee reimbursements.

B. Vehicle Owner Allowing Others to Drive. Section 14604(a) VC (Non-owner driver of vehicle) makes it a misdemeanor for a vehicle owner to knowingly allow an unlicensed driver to operate their vehicle. If a vehicle owner admits to a violation of Section 14604(a) VC, a Complaint Application, Form 5.15, should be completed.

Note: Section 14604(a) VC states that the owner must "make a reasonable effort or inquiry" regarding the license status. A reasonable effort or inquiry requires the owner to see the party's driver license. If the license appears valid on its face, the attempt is deemed as sufficient.

If warranted, Area Auto Detective Unit supervisors may add a 30-Day Hold to a vehicle when it is determined an impound meets the criteria of 14602.6(a) VC. However, any decision to add a 30-Day Hold shall be justified by an articulable reason (e.g., prior impounds, prior citations/arrests for

the same violation, etc.) and documented in the related Vehicle Report. The fact that the vehicle qualifies for a 30-Day Hold alone is not a sufficient reason for Area Auto Detective Unit supervisors to add the hold.

Note: The California Court of Appeals has held that the registered owner's lack of knowledge that the driver of their car was driving without a valid license constitutes "mitigating circumstances" entitling the registered owner to the early release of the car after it has been impounded pursuant to Section 14602.6(a) VC. The registered owner is still responsible for towing fees accrued up to the time of the impound hearing or review by the Area Auto Detective Unit supervisor. A vehicle released pursuant to this exception does not preclude enforcement action against the vehicle's registered owner pursuant to Section 14604 VC.

C. Rental and Leased Vehicles or Vehicle Repossessions. A legal owner is defined as, "A motor vehicle dealer, bank, credit union, acceptance corporation or other licensed financial institution legally operating in this state, or is another person, not the registered owner, holding a security interest in the vehicle."

The registered owner does not need to be delinquent in payments in order for the legal owner to repossess the vehicle. When requesting the release of a vehicle due to repossession, the legal owner or their agent(s) shall provide the following documentation to obtain a vehicle release:

* A completed 30-Day Hold Impound Early Release Agreement, Form 16.27.5, which does not need to be notarized;

  Note: If the agent for the repossession agency refuses to complete and/or sign the 30-Day Hold Early Release Agreement, the Department employee handling the vehicle release shall complete the form and mark "REFUSED" in the L/O, R/O, or L/O's Agent Signature box on the form. A copy of the form shall be provided to the person repossessing the vehicle.

* Either lawful foreclosure documents **or** an affidavit of repossession for the vehicle; and,
* A security agreement **or** title showing proof of legal ownership for the vehicle.

Note: Department personnel may request to see a vehicle repossession license before releasing the vehicle to the repossession agent (Section 7502 of the Business and Professions Code).

All vehicle registration and impound fees must be paid in full before the vehicle release can be obtained. A DMV issued Special Moving Permit is not sufficient documentation for obtaining the release of an impounded vehicle. The DMV issues these permits on occasion when all fees have not been paid. Persons wishing to obtain a vehicle release must show a DMV receipt showing all registration fees paid.

Note: Section 4022 VC exempts a vehicle repossessed pursuant to the terms of a security agreement from registration solely for the purpose of transporting the vehicle from the point of repossession to the storage facilities of the repossessor, and from the storage facilities to the legal owner or a licensed motor vehicle auction, provided that the repossessor transports with the vehicle the appropriate documents authorizing the repossession and makes them available to a law enforcement officer on request.

VIII. AREA RECORDS UNIT'S REPONSIBILITY. Area Records Unit personnel shall ensure that:

* Vehicle impound information is immediately entered into the Department's database as the reports are received;
* When notified a vehicle is under a 30-Day Hold, enter "30-Day Hold" in the Miscellaneous Section of the impound field when the DR number is obtained;
* All 30-Day Hold vehicle impound reports are forwarded to the concerned Area Auto Detective Unit in an expeditious manner; and,
* A sufficient supply of the following forms are maintained in stock:

  1 - Notice of Stored/Impounded Vehicle (Form 15.23);
  2 - 30-Day Hold Impound Early Release Agreement, Form 16.27.5;

3 - Verbal Notice by Police Officer, (DMV Form DL 310A); and,
4 - Vehicle Report (CHP Form 180), complete packets including the insert, Notice of Stored Vehicle.

IX. OFFICIAL POLICE GARAGE'S (OPG) RESPONSIBILITY. The OPGs have agreed to the following responsibilities:

* Each Area OPG will assign an employee to liaise with the concerned Area Auto Detective Unit;
* The OPG liaison must mail a completed Notice of Stored Vehicle, (CHP Form 180 – insert) or a Notice of Stored/Impounded Vehicle, (Form 15.23) via certified mail to the legal owner, (return receipt requested only to the legal owner of any vehicle impounded for a 30-Day Hold);

  Note: The notice by certified mail must be mailed within **two** business days (excluding holidays and weekends) of the impound. This certified mailing to the legal owner is required by law and may duplicate the mailing notification sent by the impounding officer. The OPG liaison may send a copy of an already completed Notice of Stored Vehicle (CHP Form 180 – insert), a Notice of Stored/Impounded Vehicle, Form 15.23, or the concerned liaison may complete his/her own copy of these forms.

* The OPG liaison must also deliver, in person, the certified mail receipts and a copy of the mailed notification form(s) to the Area Auto Detective Unit as completed; and,
* The OPG liaison will be responsible for placing the Area Auto Detective Unit's address on the certified mail return receipt. Any return proofs of service (or non-service) returned to the OPG shall be delivered, in person, to the Area Auto Detective Unit in an expeditious manner.

The OPG considers the vehicle's legal owner(s) (L/O) to be the persons or entities listed as the L/O on the DMV vehicle registration printouts. Additionally, OPGs have agreed to waive any fees incurred in excess of 15 days of storage on a vehicle if the notice is not sent by certified mail within the two business day period and the legal owner is requesting the early release of a 30-Day Hold vehicle. The certified mail requirement and fee

waiver do not apply to vehicle's registered owner(s), drivers or buyers.

Questions regarding 30-Day Hold procedures may be directed to Special Operations Support Division, Traffic Coordination Section, at (213) 473-7788.

FORM AVAILABILITY: The 30-Day Hold Impound Early Release Agreement, Form 16.27.5, will be available for ordering from the Department of General Services, Distribution Center, in about 90 days. A copy of the form is attached for duplication and use until available for ordering.

AUDIT RESPONSIBILITY: The Commanding Officer, Special Operations Bureau, shall monitor compliance with this directive in accordance with Department Manual Section 0/080.30.

GEORGE GASCÓN, Assistant Chief
Director, Office of Operations

Attachments

DISTRIBUTION "D"

ATTACHMENT

The below listed Sections of the California Vehicle Code (CVC) permit an officer to hold an impounded vehicle for 30 days when the driver has a suspended or revoked driver license. **This is not an all-inclusive list as the CVC changes yearly.**

SUSPENSION OR REVOCATION BY THE COURT

*	13200 CVC	Speeding or Reckless Driving.
*	13200.5 CVC	Driving In Excess of 100 Miles Per Hour.
*	13201 CVC	1. Misdemeanor Hit and Run. 2. Reckless Driving Causing Injury. 3. Failure to Stop at Railroad Crossing. 4. Any Evading a Peace Officer Section. 5. Involvement in traffic collision fraud (Staged Collisions).
*	13201.5 CVC	Conviction for 647(b) PC (soliciting or engaging in prostitution).
*	13202 CVC	Court ordered suspension for a controlled substance conviction (Health & Safety Code violations).
*	13202.4 CVC	Minor's unlawful use of firearms.
*	13202.5 CVC	Controlled substance and alcohol offenses committed by minors.
*	13202.6 CVC	Vandalism offenses.
*	13202.7 CVC	Habitual Truant.

SUSPENSION OR REVOCATION BY THE DEPARTMENT OF MOTOR VEHICLES

*	13350 CVC	1. Felony Hit and Run. 2. Commission of Felony with Vehicle. 3. Reckless driving involving injury. 4. Any Felony DUI conviction or a Habitual Traffic Offender under 193.7 PC.
*	13351 CVC	1. Vehicular Manslaughter. 2. Multiple convictions for Hit and Run and/or Reckless Driving. 3. Gross Vehicular Manslaughter While Intoxicated or Evading a Peace Officer causing serious bodily injury.
*	13351.5 CVC	ADW with a vehicle.
*	13351.8 CVC	Road Rage.
*	13351.85 CVC	Unlawful Acts of Towing Service.
*	13352 CVC	Misdemeanor/Felony DUI and Speed Contest.
*	13352.3 CVC	DUI conviction for minor.
*	13352.4 CVC	Failure to complete DUI program or to provide proof of insurance.

*	13352.5 CVC	Violation of Court Ordered CDL Restrictions.
*	13352.6 CVC	DUI conviction for persons under 21 yrs.
*	13353 CVC	Refusal of Chemical Test.
*	13353.1 CVC	Refusal to take PAS test.
*	13353.2 CVC	BAC over .08 / Person under 21 yrs over .01 BAC.
*	13353.6 CVC	Suspension/Restriction of Commercial Driver License.
*	13353.7 CVC	Violation of CDL restrictions.
*	13354 CVC	Refusal or Failure to Complete Breath Test.
*	13355 CVC	Driving over 100 MPH.
*	13357 CVC	Driving without owner's consent.
*	13359 CVC	Grounds for license refusal.
*	13360 CVC	Violation of license restriction.
*	13361 CVC	1. Misdemeanor Hit and Run. 2. Second or subsequent conviction for reckless driving. 3. Vehicular Manslaughter.
*	13362 CVC	Failure to surrender erroneously issued license.
*	13363 CVC	Conviction in another state.
*	13364 CVC	Dishonored checks to DMV.
*	13365 CVC	Failure to appear in court.
*	13365.2 CVC	Failure to appear in court.
*	13365.5 CVC	Failure to comply with court order.
*	13369 CVC	License suspensions for buses, public transport, farm labor or hazardous material vehicles.
*	13370 CVC	License suspensions for school buses and public transit.
*	13372 CVC	License suspension for ambulance driver.
*	13376 CVC	Revocation of school bus or public transit driving certificate.

NOTE: Section 14602.6 CVC does **not** apply to license suspensions for no insurance. The applicable Sections are listed in the California Vehicle Code, Division 6, Chapter 2, Articles 2 and 3 (CVC Sections 13200 through 13376).