OFFICE OF THE CHIEF OF POLICE

NOTICE
14.5

January 22, 2013

TO: All Sworn Personnel

FROM: Chief of Police

SUBJECT: VEHICLE IMPOUND PROCEDURES FREQUENTLY ASKED QUESTIONS

On April 10, 2012, the Department published Special Order No. 7, *Community Caretaking Doctrine and Vehicle Impound Procedures – Established.* The purpose of this Notice is to provide officers with answers to the most frequently asked questions regarding the Department's vehicle impound procedures.

A copy of the Vehicle Impound Procedures Frequently Asked Questions is attached to this Notice for immediate use and is also accessible on the Department's Local Area Network homepage.

Any questions regarding this Notice should be directed to Traffic Coordination Section, Emergency Operations Division, at (213) 486-0690.

CHARLIE BECK
Chief of Police

Attachment

DISTRIBUTION "D"

LOS ANGELES POLICE DEPARTMENT
VEHICLE IMPOUND PROCEDURES FREQUENTLY ASKED QUESTIONS

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Should you have any further questions, please contact Traffic Coordination Section, Emergency Operations Division, at (213) 486-0690.

(12/12)

I. SUSPENDED/REVOKED OR UNLICENSED DRIVER ARREST

Q: ***May a suspended/revoked or unlicensed driver be arrested?***

A: Yes. Per Section 14602.6(a) (1) VC. This Section allows the arrest of a suspended/revoked driver and unlicensed driver who has **never been issued a license** (foreign or domestic). This Section does **not** include a driver with an expired license, withheld, or out-of-class California Driver's License (CDL). The following are the booking charges and bail amounts for unlicensed driver and suspended or revoked driver:

- Unlicensed Driver – Section 12500(a) VC:
  Bail Amount: $100.00
- Suspended or Revoked Driver – Section 14601(a) VC:
  Bail Amount: $1,000 / one prior $2,500 / two or more priors $5,000

Note: Section 12801.5 VC states that officers may not detain a person solely on the belief that the person may be an unlicensed driver, unless, the officer has reasonable cause to believe the person driving is under the age of 16 years.

II. PRIOR MISDEMEANOR CONVICTIONS, FAILURE TO APPEAR & WARRANTS

Q: ***Do all citations issued for Section 12500(a) VC result in a misdemeanor conviction?***

A: No. The Superior Court processes these citations as infractions. The courts have indicated that in order for Section 12500(a) VC to be considered for a misdemeanor filing, the violator needs to be booked or an Application for Complaint, Form 05.15.00, must be completed.

Q: ***How do I determine if a violator has a prior misdemeanor conviction for Section 12500(a) VC in the field?***

A: The DMV inquiry via the MDC will list all convictions. In the "Convictions" field, there is a "DISP" or disposition column. If the "DISP" has a G or J, then the conviction was handled as a misdemeanor (G=Probation and J=Jail, Prison or CYA). Additionally, some DMV inquiries will include a "Misdemeanor Conviction" field. In these instances, the conviction has been specifically identified as a misdemeanor.

Q: ***Are there other methods to determine if a violator has a prior misdemeanor conviction for Sections 12500(a) or 14601 VC?***

A: Officers may conduct a Criminal History query via NECS.

Q: ***How do I determine if a violator has a Failure to Appear or warrants for being unlicensed or suspended/revoked?***

A: The DMV inquiry via the MDC will list this information. However, the DMV return might not list all sections regarding the Failure to Appear. Furthermore, traffic citations rarely result in an actual warrant and most go to the Court's private collection agency.

III. IMPOUND AUTHORITIES

Q: ***Is vehicle impoundment mandatory for unlicensed or suspended/revoked driver's license with no priors?***

A: No. Officers shall be guided by Department Manual Section 4/222.05, Community Caretaking Doctrine and the Vehicle Impound Procedures, as established by Special Order No. 7, dated 2012.

Officers shall release the vehicle in lieu of impoundment for **unlicensed drivers** or **suspended/revoked driver's license** with **no** prior misdemeanor conviction, failure to appear, or warrant for Sections 12500 (a), 14601, 14601.1, 14601.2, 14601.3, 14601.4, or 14601.5 VC, provided **all** of the following conditions are met:

- The R/O or his/her designee has a California Driver's License, or is a non-resident with a valid license or otherwise exempt under the Vehicle Code;
- The registered owner and licensed driver are **IMMEDIATELY AVAILABLE**;
- The registered owner authorizes the licensed driver to drive the vehicle; and,
- The vehicle's registration is not expired over six (6) months.

Note: If the traffic stop is conducted in the R/O's residential driveway or legal parking space in the immediate vicinity of R/O's residence, impounding the vehicle **would not** be appropriate. If the driver is not the R/O, officer must consider the totality of circumstances to determine if impoundment is reasonable.

If the vehicle cannot be released, then the following impound authority must be used:

- Unlicensed driver = Section 22651(p) VC
- Suspended/revoked driver's license = Section 14602.6(a)(1) VC, 30-day hold

Q: ***What are the impound authorities that are affected by the new policy?***

A: Section 14602.6(a) (1) & Section 22651(p) VC. The new policy will standardize the application of these impound authorities.

Q: ***When should Section 14602.6(a) (1) VC be used as the impound authority?***

A: This Section shall be used in instances when it has been determined that the vehicle cannot be released and when a violator meets any one of the following criteria:

- Driving **without ever** having been issued a driver's license by any jurisdiction (foreign or domestic) and has a prior misdemeanor conviction, failure to appear, or warrant for Section 12500(a) VC;
- Driving without ever having been issued a driver's license and has no satisfactory identification, or no insurance, or at fault in a traffic collision;
- Driving with a suspended license;
- Driving with a suspended "X" number (Section 13205 VC);
- Driving with a revoked license; or,

- Driving with a restricted California Driver's License pursuant to Section 13352 or Section 23575 VC and the vehicle is not equipped with a functioning certified interlock device.

Q: ***When should Section 22651(p) VC be used as the impound authority?***

A: This Section shall be used in instances when it has been determined that the vehicle cannot be released and when a violator meets any one the following criteria:

- Driving without a valid California Driver's License (unless the driver is a non-resident with a valid license), has insurance and satisfactory identification and not at fault in a traffic collision, if applicable;
- Driving with an expired (foreign or domestic), withheld, or out-of-class driver's license; or,
- Driving with a driver's license from another jurisdiction (not visiting and has established residency) regardless of priors.

Q: ***May Section 22655.5 VC be used as the impound authority for a driver who is simply unlicensed or has a suspended or revoked license?***

A: No. Officers shall only use Section 14602.6(a)(1), 30-Day Hold or Section 22651(p) VC as the impound authority for unlicensed drivers or suspended or revoked drivers. Section 22655.5 VC is an evidence hold. Before a vehicle may be impounded as evidence, it must have evidentiary value and the discovery of the vehicle must be made from an area to which the officer has legally gained access.

Q: ***Which impound authority should be used if an individual has been issued an "X" number by DMV and it reveals the individual's driving privilege has been suspended/revoked?***

A: Section 13205 VC states, "The privileges of a non-resident to operate vehicles in this State may be suspended or revoked under the provisions of this chapter in the same manner and to same extent as the privileges of a resident driver." If the driver is a "non-resident" or a "resident," the DMV has the authority to suspend/revoke the driver's privilege to drive in California. Therefore, if an officer encounters a driver and that driver has an "X" number that shows the driver's privilege has been suspended or revoked, then the officer is authorized to impound the vehicle for 30 days under the authority of Section 14602.6(a)(1) VC, if the release criteria are not met.

Q: ***What if the license status shows suspended/revoked but MDC notes indicate that DMV Service is required?***

A: If the vehicle release criteria is not met, impound the vehicle for Section 14602.6(a)(1), 30-Day Hold. Officers must:

- Advise the driver his/her license is suspended/revoked;
- Complete a "Verbal Notice by Peace Officer, DMV or Court Employee" (DMV Form DL 310);
- Provide the driver with the "Pink" color copy;

- Confiscate the license; and,
- Mail the license to the DMV.

Note: When a person's driving privilege has been suspended or revoked, the DMV will notify the driver via first class mail of the effective date of suspension/revocation unless such notification has already been made in person, by the court or by a peace officer.

It is reasonably assumed that a person has knowledge of suspension or revocation if notice has been sent by DMV through first class mail. It is the responsibility of every holder of a driver's license to report changes of address to the DMV pursuant to Section 14600 VC.

Q: ***Did Special Order No. 7, dated 2012, "Community Caretaking Doctrine and Vehicle Impound Procedures – Established" change the release of impounded vehicles by detectives?***

A: No. The Order did not change detective procedures.

IV. DUI CHECKPOINTS

Q: ***Does an unlicensed driver have more time to locate a licensed driver?***

A: Yes. The unlicensed driver has until the conclusion of the checkpoint to locate a licensed driver to retrieve the vehicle. However, the R/O must be present or if the officers are able to, without delay, identify the R/O to obtain his/her authorization to release the vehicle. The R/O or designee must have a valid driver's license, and must be able to lawfully operate the vehicle.

Q: ***Do prior misdemeanor convictions, failure to appear, or warrant for Section 12500(a) VC, affect whether the vehicle is impounded?***

A: No. Prior misdemeanor convictions, failure to appear, or warrant for Section 12500(a) VC, do not matter and are not taken into consideration at DUI checkpoints due to special legislation (Section 2814.2 VC).

Q: ***Which impound section should be used when an unlicensed driver cannot locate a licensed driver to take possession of the vehicle?***

A: The vehicle shall be impounded for Section 22651(p) VC and **SHALL NOT** be held for 30 days.

Q: ***What if an unlicensed driver has no insurance, the registered owner cannot locate a licensed driver and impound is warranted?***

A: If the vehicle cannot be released to the R/O or his/her designee, the vehicle shall be impounded under Section 22651(p) VC, even if the driver has no prior misdemeanor conviction, failure to appear or warrant for Section 12500(a) VC. The vehicle **SHALL NOT** be held for 30 days.

Q: ***Are drivers with a suspended or revoked driver's license treated similarly?***

A: Yes. However, the registered owner must be present or immediately available, the vehicle must have valid registration and the driver must not have a prior misdemeanor conviction, failure to appear, or warrant for Sections 12500(a), 14601, 14601.1, 14601.2, 14601.3, 14601.4, or 14601.5 VC. If the vehicle cannot be released based on the aforementioned, the vehicle **SHALL** be impounded under Section 14602.6(a) (1) VC, 30-day hold.

V. INSURANCE

Q: ***Can a vehicle be impounded based solely for lack of evidence of financial responsibility (insurance)?***

A: No. Currently, officers issue citations for lack of insurance and do not impound vehicles. Section 16028(a) VC indicates that a Notice to Appear shall be issued and does not authorize the impoundment of the vehicle.

Q: ***When is evidence of financial responsibility required?***

A: Financial responsibility is required:

- When requested by law enforcement.
- When renewing vehicle registration.
- When the vehicle is involved in a traffic collision.

Q: ***Can an individual obtain auto insurance without a driver's license?***

A: Yes.

Q: ***Can I stop a vehicle for the sole purpose of determining if it is insured?***

A: No. Per Section 16028(a) VC, a peace officer shall not stop a vehicle for the sole purpose of determining whether the vehicle is being driven with no insurance.

Q: ***Are insurance tickets correctable ("fix it ticket")?***

A: No. Insurance violation is an infraction and is non-correctable, as delineated in *Operations Order No. 3, Evidence of Financial Responsibility – California Vehicle Code Section 16028- Revised*, dated 2003.

VI. RESTRICTED DRIVER'S LICENSE

Q: ***Why does DMV restrict an individual's driver license?***

A: A restriction or condition is placed on a driver's license when it is necessary to ensure the person is driving within his/her ability. Restrictions and conditions vary and may include:

- Requiring the person to place special mechanical devices on his/her vehicle,
- Limiting when and where a person may drive, or

- Requiring eye glasses, corrective contact lenses, or other physical devices such as leg or arm prosthetics.

Restrictions may be discretionary (imposed by the DMV) or mandatory (required by law).

Q: ***How can you identify a restricted driver license?***
A: A restriction code is listed on the driver license immediately after the date of birth.

Q: ***What do the Restriction Codes represent?***
A: The following is a list and description of the Restriction Codes:

Code Descriptions

01 Must wear corrective lenses when driving

02 No freeway driving

04 Suspended except when driving during course of employment per California Vehicle Code (CVC) Section 16073

06 Restricted to driving vehicle with additional right side mirror

07 Restricted to driving from sunrise to sunset

09 Restricted to driving vehicle with adequate signaling device

10 Class C limited to vehicle with automatic transmission

11 Must use adequate support to ensure proper driving position

13 Area restriction - Use restriction 50

16 Restricted to driving vehicle with hand

17 Restricted to driving vehicle with knob attachment on steering wheel

18 Restricted to driving vehicle within scope of employment

19 Must wear leg prosthesis when driving

22 Restricted to driving vehicle equipped with full hand controls

24 May not drive interstate commerce until age 21

25 PV restricted to operating buses as defined in CVC Section 15250(g)

27 Class B may operate a bus subject to restrictions on special certificate

30 May drive interstate if medically qualified pursuant to 49 CFR 391.64 and medical certificate is renewed annually

32 Must wear hearing aid when driving controlled brakes commercially

34 Must wear corrective lenses when driving an employment ambulance

36 Restricted to driving to/from/during course of employment

37 Restricted to driving to and from school

38 Must not drive on Saturday/Sunday and any holiday

41 May tow fifth wheel recreational trailer between 10,001 and 16,000 pounds GVWR (gross vehicle weight rating)

43 Restricted to driving motorized bicycle

44 Must wear bioptic telescopic lens when driving/restricted to driving from sunrise to sunset.

45 May not operate vehicles requiring a passenger endorsement or transporting material requiring placards/markings per CVC Section 27903, or hazardous waste as defined in Health and Safety Code Sections 25115 and 25117

46 Must wear corrective lenses when driving commercially

47 First 6 months of license issuance may not transport passengers under age 20 and first 12 months of license issuance may not drive between the hours of 12:00 a.m. and 5:00 a.m. as specified in CVC Section 12814.6

48 Limited to vehicles without air brakes when driving commercially

50 Customized restrictions on file - contact DMV

51 Restricted to driving to/from medical treatment per CVC Section 16077

52 Restricted to driving to/from/during course of employment per CVC Section 16072

53 Class A limited to tow truck towing disabled vehicles

54 Court Restriction - drive to and from employment

55 Court Restriction - drive during course of employment

56 Court Restriction - drive to and from treatment program

57 Court Restriction

58 Must be accompanied by licensed driver age 25 or older required except when driving Class M vehicle with no passengers

59 Provisional Licensee

62 May tow livestock trailer weighing 10,000 to 15,000 lbs., limited to those controlled/operated by a farmer/transport livestock to and from a farm within 150 miles radius not used by common or contract carrier

63 Class C vehicle only to/from/during course of employment and treatment program

64 Class A/B - limited to vehicle with automatic transmission

65 Class A/B limited to vehicles with an automatic or automated transmission when driving commercially

67 May not drive in interstate commerce

68 Disqualified from driving commercially

69 Disqualified for life from driving commercially

71 Class A restricted to towing single trailer coaches only, not for compensation - not valid for Class B vehicles

72 Class A restricted to towing single trailer coaches only, not for compensation - may operate Class B vehicles

73 Class A restricted to towing single trailer coaches only, not for compensation - may operate commercial CI C vehicles not valid for Class B vehicles

74 Class B limited to bus designed to carry not more than 15 passengers including the driver or to limit of the certificate

75 Passenger vehicle endorsement limited to a bus designed to carry not more than 15 passengers including the driver or to limit of certificate

76 Class B and passenger vehicle endorsement limited to buses weighing less than 26001 lbs. (GVWR)

77 Restrict driving to/from/and during course of employment per CVC Section 13353.7

78 Restricted to driving to and from treatment program per CVC Section 13353.7A

79 Class B limited to three-axle vehicles weighing less than 26001 lbs. (GVWR)

80 Class B restricted to operating firefighting equipment only

81 Class A restricted to operating firefighting equipment only

82 Class B operating firefighting equipment only - May drive commercial Class C

83 Class A operating firefighting equipment only - May drive commercial Class C

84 Class A operating firefighting equipment only - May drive commercial Class B

85 Class A operating firefighting equipment or towing non-COL single trailers only

86 Class A operating firefighting equipment or towing non-COL single trailers only - may drive commercial Class B

87 Class A operating firefighting equipment or towing non-COL single trailers only - may drive commercial Class C

88 Class A restricted to combination vehicles with a gross combined weight rating (GCWR) of less than 26,001 lbs. and the GVWR of the vehicle(s) being towed is in excess of 10,000 lbs.

90 Vehicles equipped with ignition interlock

91 Restricted to driving family member to/from medical treatments per CVC Section 16077

92 Restricted to driving minor dependent to/from school per CVC Section 16072

93 Passenger Vehicle Endorsement driving restricted to transit bus only

94 Ignition Interlock required per CVC Section 23246B

95 May tow recreational boat trailer weighing 10,000 to 15,000 lbs./limited to towing a boat for recreational purposes or to/from a place of repair/not used by a common or contract carrier/not for compensation/is not of a size that requires a permit pursuant to CVC Section 35780

96 Court ordered ignition interlock device

97 Suspended from driving a vehicle with hazardous materials per CVC Section 22406.5

98 Suspended from driving a tank vehicle per CVC Section 22406.5

99 Restricted to operating vehicles equipped with an ignition interlock device