

**CHAPTER 2**  
**ARREST POLICIES**  
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**CHAPTER 2**  
**ARREST POLICIES**

1. PURPOSE. This chapter provides direction to officers when considering a physical arrest as an enforcement action during a traffic stop.

2. ARRESTS OF UNLICENSED, SUSPENDED, OR RESTRICTED DRIVERS.

a. Policy.

(1) Officers who arrest a driver for a violation of Section 12500 of the California Vehicle Code (CVC), Sections 14601 through 14601.5 CVC, or Section 14603 CVC, are responsible for preventing that driver from repeating the same offense in their presence.

(2) Physical arrests for these violations shall only be made with the concurrence of a supervisor or in response to a warrant.

(3) Officers should provide reasonable assistance to drivers charged only with Section 14603 CVC and shall not take the driver into custody only to prevent the recurrence of the offense in their presence.

(4) Officers shall not detain or arrest a person solely on the belief that the person is an unlicensed driver, unless the officer has reasonable cause to believe that the person is under 16 years of age (Section 12801.5[f] CVC).

b. Procedure. Upon determining that a driver is in violation of Sections 12500, 14601 through 14601.5, or 14603 CVC, officers shall:

(1) Take appropriate enforcement action. In most cases, this will mean issuing a CHP 215, Notice to Appear.

(2) Take reasonable steps to prevent recurrence of the offense.

(a) For Section 14603 CVC violations, this can be accomplished by:

1 Admonishing the person that each instance of driving in violation of the license restrictions constitutes a new and distinct offense.

2 Allowing a licensed passenger to drive.

3 Providing reasonable assistance, as necessary, to secure alternate transportation to a nearby residence or other safe location where alternate transportation can be arranged.

(b) For violations of Sections 12500 and 14601 through 14601.5 CVC, this can be accomplished by:

1 Admonishing the person that each instance of driving in violation of the license restrictions constitutes a new and distinct offense.

2 Allowing a licensed passenger to drive.

3 Impounding the vehicle pursuant to Sections 22651(p), 14602.6, or 14607.6 CVC and the procedures in Highway Patrol Manual 81.2, Vehicle Procedures Manual.

(c) Officers are not required to cease normal patrol activity to surveil the driver to preclude the recurrence of an offense.

### 3. GRADUATED PROVISIONAL DRIVER LICENSE.

#### a. Authority.

(1) The Brady-Jared Teen Driver Safety Act of 1997 (enacted by Senate Bill 1329 in 1998) amended, among others, Section 12814.6 CVC. A new subdivision of Section 12814.6 CVC was added specifying additional requirements for a person under 18 years of age obtaining an instruction permit and subsequent provisional driver license.

(2) Effective January 1, 2006, Assembly Bill (AB) 1474, Provisional Licensing Program, revised the provisional driver license restrictions extending the first six month's restrictions to 12 months.

(3) Except as provided in paragraph 3.a.(4), the following restrictions apply to persons issued a provisional driver license pursuant to the Brady-Jared Teen Driver Safety Act of 1997 and AB 1474, effective January 2006:

(a) During the FIRST 12 MONTHS after issuance of the provisional driver license, the driver must be accompanied and supervised by a licensed driver who is the licensee's parent or guardian, a licensed driver 25 years of age or older, or a licensed or certified driving instructor when:

1 Driving between the hours of 11:00 p.m. and 5:00 a.m.

2 When transporting passengers under 20 years of age at any hour.

(4) The following exceptions are granted when reasonable transportation is not available, and it is necessary for the minor to drive. The minor must carry a note signed by the appropriate person (e.g., physician, school authority, employer, parent, legal guardian); the note shall explain why the minor must drive and include the date when the necessity will end.

- (a) Medical necessity.
- (b) School or school-authorized activity.
- (c) Employment necessity.
- (d) Immediate need of family member.
- (e) Emancipated minor.

NOTE: No documentation is needed for the emancipated minor exemption; however, the minor must have already declared emancipation by completing the appropriate Department of Motor Vehicle (DMV) paperwork.

b. Policy.

(1) Officers shall not stop a vehicle for the sole purpose of enforcing provisions of the graduated driver license.

c. Procedure.

(1) Restriction code 47 will appear on any provisional driver license issued pursuant to the Brady-Jared Teen Driver Safety Act of 1997. Restriction code 47 also will appear on the driver record and will be automatically removed after 12 months unless extended by the DMV or a court.

(2) Officers shall determine if the driver is in violation of Section 12814.6(b)(1) CVC by comparing the issue date on the driver license with the current date.

d. Upon determining that a driver is in violation of Section 12814.6(b)(1) CVC, officers shall:

(1) Take appropriate enforcement action.

NOTE: The intent of the California Legislature in enacting Section 12814.6(b)(1) CVC was to establish a method to track the incidence of violations of that section to determine the impact of the legislation on traffic

crashes, fatalities, and injuries among younger drivers and their passengers. Therefore, when issuing a CHP 215, officers shall cite violators for Section 12814.6(b)(1)(A) or (B) CVC as appropriate.

(2) Take reasonable steps to prevent recurrence of the offense.

(a) For Section 12814.6(b)(1) CVC violations, this can be accomplished by:

1 Admonishing the person that each instance of driving in violation of the license restrictions constitutes a new and distinct offense.

2 Allowing an appropriately licensed passenger to drive.

3 Providing reasonable assistance, as necessary, to secure alternate transportation to a nearby residence or other safe location where alternate transportation can be arranged.

(b) Officers are not required to cease normal patrol activity to surveil the driver to preclude the recurrence of an offense.