

CHAPTER 5
OTHER ENFORCEMENT ISSUES

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CHAPTER 5

OTHER ENFORCEMENT ISSUES

1. PASSENGER RESTRAINTS.

a. Authority.

(1) Section 27315 of the California Vehicle Code (CVC) establishes the Motor Vehicle Safety Act. This section mandates safety belt use by drivers and passengers of motor vehicles. For purposes of this section, motor vehicle is defined as any passenger vehicle, motortruck, truck tractor, or farm labor vehicle, but does not include a motorcycle.

(2) Section 27315.1 CVC states Section 27315 CVC applies to any person in a fully enclosed three-wheeled motor vehicle that is not less than seven feet in length and not less than four feet in width and has an unladen weight of 900 pounds or more.

b. Policy.

(1) It is the Department's intent to enhance motorist safety by encouraging greater use of occupant restraints through aggressive enforcement. Therefore, officers shall take appropriate enforcement action for all observed violations in accordance with the procedures contained in this chapter.

(2) Regardless of the existence of any other violation of law, officers reasonably suspecting a violation of a passenger restraint requirement may stop a vehicle to determine whether or not a violation of Section 27315 CVC exists.

c. General. Title 49, Code of Federal Regulations (49 CFR), Section 571, and Federal Motor Vehicle Safety Standards (FMVSS), Standard Number (No.) 208, requires passenger vehicles manufactured on or after January 1, 1972, and motortrucks and house cars manufactured after January 1, 1976, have safety belts installed at all designated seating positions. Drivers and passengers of vehicles manufactured prior to these respective dates are not subject to the usage provisions of the occupant restraint laws, even if the vehicles are retrofitted with safety belts.

(1) Designated Seating Position. Defined by federal regulations as any plain-view location capable of accommodating a person if the position is likely to be used as a seating position. Auxiliary seating accommodations, such as temporary or folding jump seats, are not included in this definition.

(2) Passenger Vehicle. Defined in Section 465 CVC as any motor vehicle, other than a motortruck or truck tractor, designed and used for carrying not more than ten persons, including the driver, and used or maintained for the transportation of persons. The term passenger vehicle includes a house car. Section 27315 CVC uses the term motor vehicle which includes any passenger vehicle, motortruck, or truck tractor, but does not include motorcycles.

(3) Motortruck. Defined in Section 410 CVC as a motor vehicle designed, used, or maintained primarily for the transportation of property.

(4) Pickup Truck. Defined in Section 471 CVC as a motortruck with a manufacturer's gross vehicle weight rating of less than 11,500 pounds, an unladen weight of less than 8,001 pounds, and is equipped with an open box-type bed not exceeding nine feet in length. Pickup truck does not include a motor vehicle otherwise meeting the aforementioned definition, which is equipped with a bed-mounted storage compartment unit and commonly called a utility body.

(5) Truck Tractor. Defined in Section 655 CVC as a motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load, other than a part of the weight of the vehicle and the load so drawn.

(6) House Car. Defined in Section 362 CVC as a motor vehicle originally designed, or permanently altered, and equipped for human habitation, or to which a camper has been permanently attached. A motor vehicle to which a camper has been temporarily attached is not a house car except that, for the purposes of Division 11 (commencing with Section 21000 CVC) and Division 12 (commencing with Section 24000 CVC), a motor vehicle equipped with a camper having an axle that is designed to support a portion of the weight of the camper unit shall be considered a three-axle house car regardless of the method of attachment or manner of registration. A house car shall not be deemed to be a motortruck. The Department of Motor Vehicles (DMV) includes van conversions, motorhomes, and campers attached to pickup trucks in this definition.

(7) Farm Labor Vehicle. Defined in Section 322 CVC as any motor vehicle designed, used, or maintained for the transportation of nine or more farmworkers, in addition to the driver, to or from a place of employment or employment-related activities. Excluded is any vehicle carrying only members of the immediate family of the owner or driver thereof, and any vehicle while being operated under specific authority granted by the California Public Utilities Commission (CPUC) or under specific authority granted to a transit system by an authorized city or county agency.

(8) Safety Belts. In general, as defined by the Department, refers to the safety belt system required as original equipment by FMVSS Standard No. 208. For example, the occupant of a passenger vehicle originally equipped with a three-point (lap and shoulder belts) safety belt system with a detachable shoulder harness is not properly restrained by a safety belt if only using the lap belt. Specific equipment requirements are as follows:

(a) Passenger vehicles manufactured on or after January 1, 1972, require three-point systems in front outboard seating positions. Lap-only belts are required in other designated seating positions. Initially, shoulder belts were detachable and, as technology developed, vehicle manufacturers made them a continuous loop (nondetachable) to promote proper use.

1 There are a few vehicles manufactured after January 1, 1972, that do not have the shoulder harness or attachment. These vehicles were manufactured for export, and FMVSS requirements did not apply. Some of these vehicles have been brought back to the U.S. by collectors or U.S. residents living abroad.

2 If confronted with such a passenger vehicle and there appears to be no evidence that a shoulder harness has been removed, no enforcement action should be taken for lack of a shoulder harness or lack of its use.

(b) Trucks and vans manufactured between 1972 and 1975 required lap belts only in designated seating positions (FMVSS Standard No. 208). Trucks and vans manufactured on or after January 1, 1976, require a three-point system in the front outboard seating positions.

(c) Passenger vehicles manufactured on or after September 1, 1989, were required by FMVSS Standard No. 208 to have a three-point system in rear outboard seating positions.

NOTE: Officers may encounter 1987 through 1990 model year Volkswagen, Hyundai, and Yugo vehicles having only a shoulder belt installed in front outboard seating positions, with lap belts in all other seating positions. Do not issue a CHP 215, Notice to Appear, to the registered owner of these vehicles for removal of lap belts in the front outboard positions, since the vehicles were originally equipped this way.

(9) Proper Use of the Safety Belt. Defined in Section 27315 CVC as wearing the lower (lap) portion of the safety belt across the hips or upper thighs and the upper (shoulder) portion of the safety belt, if present, across the chest in front. The following are examples of the improper wearing of the safety belt:

- (a) Extending the length of the shoulder harness to increase the slack in the belt.
- (b) Tucking the shoulder harness behind the wearer's torso.
- (c) Disabling a portion of the safety belt.

(10) Vehicle occupants should afford themselves the full level of protection which the safety belt system was designed to provide.

(11) Mandatory Seat Belt Law. Section 27315 CVC mandates safety belt use by drivers and passengers in motor vehicles, but excludes the following:

- (a) Taxicab operators only when they are operating on a city street and engaged in the transportation of a fare-paying passenger.
- (b) Rural postal carriers while actually engaged in the delivery and collection of mail between their first and last stops along their specified routes.
- (c) Newspaper delivery persons while actually engaged in the delivery of newspapers between their first and last stops along their specified routes.
- (d) Persons with a duly certified physically or medically disabling condition. The certification must: be in the person's possession; describe the nature of the condition; cite the reason why restraint use is inappropriate; and be signed by a licensed physician, surgeon, or chiropractor.
- (e) Public employees, when in an authorized emergency vehicle, as defined in Section 165(b)(1) CVC, or any passenger behind the front seat of an authorized emergency vehicle, unless required by the agency employing the public employee.

NOTE: The operator of an authorized emergency vehicle as defined in Section 165(a) CVC shall not operate the authorized emergency vehicle unless the operator and any passengers are properly restrained.

- (f) Passengers in a sleeper berth as defined in Title 13 of the California Code of Regulations Section 1201(x).
- (g) A driver actually engaged in the collection of solid waste or recyclable materials along their collection route if the driver is properly restrained by a safety belt prior to commencing and subsequent to completing the collection route.

d. Procedure.

(1) Any driver not properly using a safety belt system that is required by FMVSS Standard No. 208 should be issued a CHP 215 for a violation of Section 27315(d)(1) CVC.

(2) Any passenger 16 years of age or older who is not properly using a safety belt system which is required by FMVSS Standard No. 208 should be issued a CHP 215 for a violation of Section 27315(e) CVC.

NOTE: Normally, the driver should not be issued a CHP 215 for a passenger 16 years of age or older not wearing a safety belt when the passenger has been issued a CHP 215 for a violation of Section 27315(e) CVC.

(3) For passengers under age 16, please refer to paragraph 2. of this chapter.

(4) A CHP 215 for a violation of Section 27315(f) CVC should normally be issued to the registered owner when the required safety belts have been removed or have not been properly maintained in good working order for the use of vehicle occupants. The Department interprets "good working order" to mean:

(a) The webbing is not excessively worn, is free of any significant cuts, and the buckles and inertia-reel assemblies are functional. Officers need not go beyond a cursory inspection to determine the integrity of those systems.

(b) Safety belts are present and accessible in those seating positions required by federal regulation to have safety belts installed.

(5) Officers may encounter vehicles in which the safety belts have been removed in conflict with federal regulation. In such an instance, a citation for a violation of Section 27315(f) CVC should normally be issued to the registered owner of the vehicle. Additionally, drivers and passengers 16 years of age or older in a vehicle in which the required safety belts have been removed may be issued a citation for a violation of Sections 27315(d)(1) or 27315(e) CVC, respectively (not using a safety belt).

(6) A complaint may be filed for an occupant restraint violation after a traffic crash investigation if the officer deems such action is appropriate. However, nonuse of the vehicle's safety belt must be clearly evident (e.g., safety belts tucked behind the seats, safety belts removed, or occupants ejected with no evidence the safety belts are defective).

(7) A verbal warning should normally be issued when all elements of the offense are not clearly present, such as:

(a) Requirements to have safety belts in the vehicle, as required by FMVSS Standard No. 208, are in question.

(b) It is unclear whether or not the safety belt was actually in use prior to the enforcement stop.

(8) Some instances may be encountered in which safety belts are not in use and the issuance of a CHP 215 may serve no useful purpose. An example might be a distraught driver transporting an injured or sick person to a medical facility for treatment. A verbal warning might be more appropriate than the issuance of a CHP 215 in such a case.

2. CHILD PASSENGER RESTRAINTS.

a. Authority. Children are subject to the Child Safety Belt and Passenger Restraint requirements contained in Sections 27360 and 27360.5 CVC.

(1) Effective January 1, 2017, except as provided in Section 27363 CVC, a parent, legal guardian, or driver who transports a child under eight years of age on a highway in a motor vehicle shall properly secure that child in a rear seat in an appropriate child passenger restraint system meeting applicable FMVSS.

(2) Effective January 1, 2017, all children under the age of two shall be properly secured in a rear-facing child passenger restraint system which meets applicable FMVSS, unless the child weighs 40 or more pounds or is 40 or more inches tall. The child shall be secured in a manner that complies with the height and weight limits specified by the manufacturer.

(3) Children less than eight years of age are subject to the requirements of Section 27360 CVC. 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, Section 27363(b) CVC provides that a child may be transported without the use of such a system, but shall be secured by a seat belt.

(4) Children eight years of age or older, but less than 16 years of age, are subject to the requirements of Section 27360.5 CVC.

(5) Section 27368 CVC provides that Division 12, Chapter 5, Article 3.3, Child Safety Belt and Passenger Restraint Requirements, applies to child passengers in a fully enclosed three-wheeled motor vehicle that is not less

than seven feet in length and not less than four feet in width and has an unladen weight of 900 pounds or more.

(6) Section 27363 CVC provides that a child or ward who is under the age of eight and is four feet nine inches in height or taller may be restrained by a safety belt rather than by a child passenger restraint system. A child or ward under eight years of age may ride in an appropriate child passenger restraint system in the front seat of a motor vehicle under the following conditions:

- (a) There is no rear seat.
- (b) The rear seats are side-facing jump seats.
- (c) The rear seats are rear-facing seats.
- (d) The child passenger restraint system cannot be installed properly in the rear seat.
- (e) All rear seats are already occupied by children seven years of age or younger.
- (f) 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.

(7) A child or ward may not ride in the front seat of a motor vehicle with an active passenger air bag if the child is riding in a rear-facing child passenger restraint system.

b. Policy.

(1) It is the Department's intent to enhance motorist safety by encouraging greater use of occupant restraints through aggressive enforcement. Therefore, officers shall take appropriate enforcement action for all observed violations of Section 27360 or 27360.5 CVC in accordance with the procedures contained in this chapter.

(2) Regardless of the existence of any other violation of law, officers reasonably suspecting a violation of the child passenger restraint requirements may stop a vehicle to determine whether or not a violation of Sections 27360 or 27360.5 CVC has occurred.

c. General.

(1) Vehicle Criteria. Sections 27360 and 27360.5 CVC apply to all passenger vehicles (Section 465 CVC), all motortrucks (Section 410 CVC), and all truck tractors (Section 655 CVC), regardless of the state in which the vehicle is registered.

NOTE: Unlike the provisions of Section 27315(e) CVC, children are not exempt from the requirement to be properly restrained in a sleeper berth.

(2) Child Age Criteria.

(a) Section 27360 CVC applies to all children who are less than eight years of age.

(b) Section 27360.5 CVC applies to all children eight years of age or older, but less than 16 years of age.

(3) Device Approval Criteria. Section 27360 CVC requires that the child restraint system meet FMVSS. Devices manufactured since 1971 are required to have a sticker attached at the time of manufacture indicating federal approval. Devices manufactured prior to 1971 may have met federal standards but might not have a sticker attached indicating federal approval.

(a) As a matter of practicality, it will often not be possible to determine at the scene of an enforcement action or traffic crash whether or not the device in use has been approved. If, in the officer's opinion, a restraint system appears to be adequate, it should be accepted as an approved device.

(b) In critical cases, such as a fatal or major injury traffic crash in which the approved design of the child restraint system may be an issue, appropriate evidence should be collected for follow-up investigation.

(c) Violations relating to approved devices should be prosecuted in the same manner as any other violation of law.

(4) Device Use Criteria. Section 27360 CVC requires that the child restraint system be properly used. The difference between proper and improper use of a particular restraint system depends on such factors as the weight of the child, the manner of placement of the device in the vehicle, and the manner in which the device is secured to the vehicle itself. Such factors may vary from one manufacturer or model to another.

(5) Exemptions. Section 27363(a) CVC provides that a court may exempt any 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. Section 27363(b) CVC provides that in a life-threatening emergency, or when a child is being transported in an authorized emergency vehicle, a child shall be transported using a safety belt if there is no child passenger restraint system available. Department members transporting children in rented or private vehicles or in authorized emergency vehicles should refer to General Order 100.40, Use of Occupant Restraints in Vehicles Used for State Business.

(6) Enforcement Guidelines. Citations or verbal warnings issued for violations of Sections 27360(a) or 27360.5(a) CVC shall be issued to the parent or legal guardian when they are present in the vehicle in which the violation occurred. Citations or verbal warnings issued for violations of Sections 27360(a) or 27360.5(a) CVC shall be issued to the driver of the vehicle when the parent or legal guardian is not present in the vehicle.

d. Procedure.

(1) Any parent or legal guardian should be issued a CHP 215 for a violation of Section 27360(a) CVC when present in a passenger vehicle occupied by their child or ward less than eight years of age who is not properly secured in a child passenger restraint system meeting FMVSS Standard No. 213 (49 CFR, Section 571).

(2) If the parent or legal guardian is not in the vehicle, the driver of a vehicle occupied by a child less than eight years of age who is not properly secured in a child passenger restraint system meeting FMVSS Standard No. 213 should be issued a CHP 215 for a violation of Section 27360(a) CVC.

(3) Any parent or legal guardian who is present in a vehicle occupied by their child or ward who is at least eight years of age, but not yet 16 years of age, and who is not properly secured in an appropriate child passenger restraint system or safety belt, should be issued a CHP 215 for a violation of Section 27360.5(a) CVC.

(4) Any driver, other than the parent or legal guardian, of a vehicle occupied by a child who is at least eight years of age, but not yet 16 years of age, and who is not properly secured in an appropriate child passenger restraint system or safety belt, should be issued a CHP 215 for a violation of Section 27360.5(a) CVC.

(5) A CHP 215 should normally be issued when all elements of the offense are present.

(6) A verbal warning should normally be issued when reasonable doubt exists regarding whether or not all elements of the offense are present, such as:

- (a) Age of the child.
- (b) Approved nature of the child restraint system device.
- (c) Method of installation and securement of the child restraint system device.

(7) Some instances may be encountered in which the child is not properly restrained, and the issuance of a CHP 215 may serve no useful purpose. An example might be the emergency transportation of a sick or injured child to a medical facility.

(8) Officers shall not recommend the use of a particular child passenger restraint system.

(9) Unless trained in the installation of child restraint systems, officers shall not provide directions for the installation of a child restraint system device.

3. PASSENGERS IN CARGO AREAS OF PICKUPS AND FLATBED MOTORTRUCKS.

a. Policy.

(1) Section 23116(a) CVC prohibits any person from transporting any person in or on the back of the truck, and Section 23116(b) CVC prohibits any person from riding in or on the back of a pickup truck or flatbed motortruck being driven on a highway, unless one of the following conditions exist:

(a) The person in the back of the truck is secured with a restraint system which meets or exceeds FMVSS Standard Nos. 207, 209, and 210 (49 CFR, Section 571).

(b) The person is being transported by a public agency, or pursuant to the direction of a public agency, to prevent injury or death to persons or to prevent, confine, or mitigate damage or destruction to property in response to an emergency situation.

(c) The person is being transported in the back of the pickup or flatbed motortruck owned by a farmer or rancher, and the vehicle is being used exclusively within the boundaries of land owned or managed by that farmer or rancher. This includes incidental use of that vehicle on not more than one mile of highway between one part of the farm or ranch to another part of that farm or ranch.

(d) The person is being transported in a parade that is supervised by a law enforcement agency and the speed of the truck while in the parade does not exceed eight miles per hour.

(2) Since applicable FMVSS are performance standards and departmental testing is impractical, departmental employees shall not approve or certify any seat or safety belt device, or installation, for compliance with the FMVSS. Officers should exercise sound professional judgment when evaluating the suitability of seating and restraint systems, and in taking enforcement action.

b. Procedure.

(1) Officers shall take appropriate enforcement action against drivers and/or passengers when an unrestrained passenger is being transported in the cargo area of a pickup or flatbed motortruck on a highway. Since compliance with FMVSS Standard Nos. 207, 209, and 210 can only be determined by laboratory testing, officers should not issue a citation but give a verbal warning to the driver and passengers regarding the dangers involved in riding in the cargo area of a pickup or flatbed motortruck if:

(a) The passengers in the cargo area of the pickup or flatbed motortruck are secured by what appears to be structurally stable and secure seating and safety belt system; and

(b) It appears the owner of the vehicle has made a good faith effort to comply with the requirements. The provisions of FMVSS Standard Nos. 207, 209, and 210 specifically do not apply to aftermarket seating or restraint devices except as replacement parts for original equipment. However, these standards are applicable to aftermarket seating devices that are retrofitted into the rear of pickup and flatbed motortrucks to comply with Section 23116 CVC.

(2) Officers shall not issue a CHP 215 to the driver or passengers for a violation of Section 23116(a) or Section 23116(b) CVC if:

(a) An emergency situation exists such as a fire, flood, earthquake, or hazardous material spill, which may require the movement of persons and/or property to mitigate damage, prevent injury, or assist in an evacuation.

(b) Transported passengers are participating in a parade that is supervised by a law enforcement agency and the speed of the vehicle does not exceed eight miles per hour.

(3) Annex A contains guidelines which may be utilized by the public in attempting to comply with the provisions of Section 23116(c) CVC.

c. Transportation of Employees.

(1) Section 23116 CVC does not apply to person(s) being transported in the back of a pickup or flatbed motortruck owned by a farmer or rancher if the vehicle is being used exclusively within the boundaries of land owned or managed by that farmer. This includes the incidental use of the vehicle on not more than one mile of highway between parts of the farm or ranch.

(2) All trucks used primarily or regularly for the transportation of workers are subject to Section 31400 CVC, which requires:

(a) Seats to be securely fastened to the vehicle;

(b) Motortrucks to be equipped with a railing or other suitable enclosure on the sides and end of the vehicle which are not less than 46 inches above the floor of the vehicle; and

(c) Steps, stirrups, or other equivalent devices to be placed and arranged so that the vehicle may be safely mounted and dismounted.

(3) Additional requirements are imposed by:

(a) Section 142.3 of the Labor Code; and

(b) California Code of Regulations, Article 27, Title 8.

4. FARM LABOR VEHICLES.

a. Authority.

(1) Effective September 28, 1999, Assembly Bill (AB) 1165, Chapter 557, required every farm labor vehicle (FLV) (as defined in Section 322 CVC) to be equipped with a Type 1 (lap) or Type 2 (lap and shoulder) seat belt assembly at each passenger seating position.

(2) Assembly Bill 1165 also modified Section 27315 CVC to include FLVs among the vehicles required to be equipped with seat belts. Section 27315(f) CVC, however, exempts vehicles that were not required to have seat belts installed at the time of original sale. The Department believes the intent of the Legislature was to retrofit older FLVs with passenger seat belts regardless of age.

b. Policy. Officers shall take appropriate enforcement action for any observed violations of FLV occupant restraint laws. Refer to Highway Patrol Manual (HPM) 82.6, Commercial Enforcement Manual, for additional information regarding occupant restraints in FLVs.

c. Procedure. The new FLV statutes impose more severe penalties for violations than Section 27315 CVC. Therefore, all seat belt installation and usage violations for FLVs shall be cited under Sections 31405(a) or 31405(d) CVC, as appropriate.

d. Passenger Seating Positions. Effective March 31, 2002, AB 602, Chapter 308, added Section 31406 CVC which prohibits transporting a person in a FLV that does not have all passenger seating positions in compliance with FMVSS Standard No. 207 (49 CFR, Section 571). Additionally, Section 31406(b) CVC prohibits a person from installing a seat or seating system in a FLV unless that seat or seating system is in compliance with FMVSS Standard No. 207.

5. FINANCIAL RESPONSIBILITY.

a. Authority.

(1) Section 16020(a) CVC requires all owners and drivers of a motor vehicle be able to establish financial responsibility (FR) and carry evidence of the FR in the vehicle.

(2) Section 16025(a) CVC requires every driver of a vehicle involved in a traffic crash exchange FR information with any other involved driver or property owner at the scene, unless rendered incapable.

(3) Section 16028(a) CVC requires every driver who drives a vehicle in California provide, upon demand of a peace officer or traffic crash investigator, evidence of FR for the vehicle. Section 16028(b) CVC requires that the evidence be written or provided electronically using a mobile electronic device.

b. Policy.

(1) Officers shall take appropriate enforcement action, in accordance with the procedures outlined in this manual, against any driver failing to comply with FR laws. Section 16028(a) CVC is the primary enforcement section.

(2) Officers shall not stop a vehicle solely for the purpose of determining whether the driver can provide evidence of FR for the vehicle (Section 16028[a] CVC).

c. Procedure.

(1) Officers shall request FR information from the driver of a motor vehicle whenever the officer issues a CHP 215 for a CVC violation that occurred upon a highway, except violations specified in Chapter 9 of Division 11 of the CVC relating to stopping, standing, or parking, or for a violation of a local ordinance adopted pursuant to Chapter 9 of Division 11 (Section 16028[b] CVC). Evidence of FR may be written or provided electronically using a mobile electronic device, defined as a portable computing and communication device that has a display screen with touch input or a miniature keyboard.

(a) If the driver fails to provide written evidence of FR as defined in Section 16020(b) CVC, the officer shall cite Section 16028(a) CVC in addition to the original CVC violation(s) alleged in the CHP 215.

NOTE: The CVC states the officer may cite Section 16028(a) CVC; however, it is the policy of the Department that officers shall cite that violation.

(b) If an officer does not issue a CHP 215 containing a CVC violation, issues a verbal warning, or issues a CHP 281, Notice to Correct Violation, the officer shall not issue a CHP 215 for Section 16028(a) CVC. However, mechanical violations may be cited on a CHP 215 instead of the CHP 281 and a violation of Section 16028(a) CVC may be included.

(2) Officers shall request evidence of FR, either written or by electronic verification using a mobile electronic device, from all drivers of motor vehicles involved in a traffic crash, as defined in Section 16000 CVC, that the officer investigates (Section 16028[c] CVC).

(a) If the driver fails to provide evidence of FR as defined in Section 16020(b) CVC, the officer shall issue a CHP 215 or request a complaint to be filed for a violation of Section 16028(a) CVC.

NOTE: The CVC states the officer **may** cite Section 16028(a) CVC; however, it is the policy of the Department that officers **shall** cite that violation.

(b) Officers should not request FR information and shall not issue a CHP 215 nor request a complaint to be filed for Section 16028(a) CVC if an involved party is not a driver as defined in Section 305 CVC.

(c) Excluded from this policy are uninvestigated counter reports.

(d) Financial responsibility information may be requested and recorded on the CHP 555, Traffic Crash Report, even in those cases where no FR CHP 215 may be issued.

(3) Officers shall inquire whether involved parties at the scene of a traffic crash have exchanged FR information pursuant to Section 16025(a) CVC. A driver who provides FR information to the investigating officer is deemed to have met the requirements of that section.

(4) If a driver requires hospitalization as a result of a traffic crash, officers should request FR information when the driver's statement is taken. If the driver is unable to show proof of FR, the circumstances should be reviewed with the district attorney's office for a possible violation of Section 16028(a) CVC.

(5) If a driver involved in a traffic crash is unable to provide proof of FR, a statement such as "Requested evidence of FR at (place) and (time), but subject unable to provide" should be included on the CHP 555. (Departmental policy based on Section 16025[a] CVC.)

(6) Section 16028(a) CVC is not subject to the provisions of Section 40610(b) CVC. Violation of this section shall be cleared directly with the court and not by departmental personnel.

(7) Violations of Section 16030(a) CVC, providing false evidence of FR, shall only be cited through the complaint process.

d. Owner's Responsibility Citations.

(1) An owner's responsibility CHP 215 for Section 16028(a) CVC can be issued only when an employer/employee relationship exists. Absent an employer/employee relationship, all the policies and procedures contained in this manual relating to FR enforcement apply to a driver operating a vehicle owned or leased by another person. An owner's responsibility CHP 215 for Section 16028(a) CVC may be issued only when all the following are present:

(a) A CHP 215 is issued for a CVC violation other than stopping, standing, or parking.

(b) The motor vehicle is owned, operated, or leased by the driver's employer.

(c) The motor vehicle is being operated with the employer's permission.

(d) The driver cannot provide evidence of the employer's FR. Prior to issuing an owner's responsibility CHP 215, the identity of the registered owner or lessee should be verified by actual registration documentation, lease agreement, or other objective documentation.

(2) Pursuant to Section 16028(d)(1) CVC, the CHP 215 issued to the registered owner or lessee may be signed by the driver. Pursuant to departmental policy, officers should allow the driver to sign the CHP 215 if requested; however, officers shall not solicit the signature.

(a) Drivers who sign the owner's responsibility CHP 215 do not receive a copy. Officers should advise the drivers that, by law (Section 16028[d][2] CVC), they are required to notify their employer of the receipt of the CHP 215 not later than five days after receipt.

(b) All copies of the CHP 215, except the officer's copy, should be submitted and processed according to the procedures contained in HPM 82.6, Chapter 2, Operational Policies.

e. Acceptable Evidence of Financial Responsibility.

(1) Acceptable evidence of FR for the purpose of enforcing Section 16028(a) CVC is defined in Section 16020 CVC. Evidence may be written or provided electronically using a mobile electronic device.

NOTE: Officers shall only view the evidence of FR and are prohibited from viewing any other content on the mobile electronic device.

(a) Pursuant to departmental policy, officers shall not require drivers to produce any of the following to establish proof of FR:

- 1 The effective date of coverage.
- 2 The date of expiration.
- 3 A copy of the insurance covering note.
- 4 The license or vehicle identification number of the vehicle(s) covered by the policy.

(b) Pursuant to departmental policy, officers shall accept expired insurance cards if the driver indicates the policy is still in effect and the card contains the name of the insurance company and the policy number. If an officer believes false FR information has been given, the officer may follow up using local procedures consistent with paragraph 5.f. of this chapter and may file a complaint (refer to paragraph 5.c.[7] of this chapter).

(2) Pursuant to Section 16020(b) CVC, evidence of FR means any of the following:

- (a) A form issued by an insurance company or charitable risk pool, as specified by DMV pursuant to Section 4000.37 CVC.
- (b) The certificate of self-insurance or the assignment of deposit letter issued by DMV if the owner is a self-insurer, as provided in Section 16052 CVC, or a depositor, as provided in Section 16054.2 CVC.
- (c) An insurance covering note or binder pursuant to Section 382 or 382.5 of the Insurance Code.
- (d) A showing that the vehicle is owned or leased by, or under the direction of, the U.S. or a public entity, as defined in Section 811.2 of the Government Code.
- (e) For purposes of this section, evidence of FR may also be obtained by a law enforcement officer and court personnel from an electronic reporting system when that system becomes available for use by law enforcement officers.
- (f) The name of the insurance company and the number of an insurance policy or surety bond that was in effect at the time of the traffic crash, if that information is contained in DMV's vehicle registration records.
- (g) The identifying motor carrier of property permit number issued by the CHP to the motor carrier of property as defined in Section 34601 CVC and displayed as specified.
- (h) The identifying number issued to the household goods carrier, passenger stage carrier, or transportation charter party carrier by the CPUC and displayed as specified.

(3) Evidence of FR does not include an identification number, as described in paragraphs 5.e.(2)(f), 5.e.(2)(g), and 5.e.(2)(h) above, if the carrier is currently suspended by the issuing agency for lack or lapse of insurance or other form of FR.

(4) Section 16020(d) CVC, which required evidence of FR to be in writing and established by writing the name of the insurance company or surety company and the policy number on the vehicle registration card issued by DMV, has been repealed. However, CHP officers shall accept any evidence of FR as long as it is presented to the officer in some sort of written form, **including information written on a plain piece of paper.**

f. Evidence of Financial Responsibility–Follow-up.

(1) Area commanders should develop local follow-up procedures when an officer has reason to believe that obviously incorrect or nonexistent FR information has been given by a driver.

(2) Area commands should coordinate with the local district attorneys and courts in developing procedures for filing follow-up complaints on individuals who provide incorrect or false information of FR.

6. NOTICE TO APPEAR RESULTING FROM TRAFFIC CRASH INVESTIGATION.

a. Authority. Section 40600 CVC establishes a CHP 215 may be issued if, as a result of the officer's investigation, the officer has evidence, either testimonial or real, or a combination thereof, that would be sufficient to issue a written notice to appear if the officer had personally witnessed the events investigated.

b. Policy. Officers investigating a traffic crash **may** issue a CHP 215 to any person involved in the traffic crash whom the officer has reasonable cause to believe committed a CVC violation (not declared to be a felony or a local ordinance) that was a factor in the occurrence of the traffic crash.

(1) Each Area should conform to the requirements of the local prosecuting attorney(s) and courts:

(a) Whether or not to implement procedures authorized by Section 40600 CVC;

(b) Each court jurisdiction may require a different standard of evidence prior to the issuance of a CHP 215; and

(c) When including additional charges as described in this chapter, paragraph 6.c.(8).

(2) Commanders shall ensure procedures are put in place for:

(a) Processing the CHP 215s and subpoenaing necessary witnesses;

(b) Training personnel in the requirements for issuance of a CHP 215, pursuant to Section 40600 CVC; and

(c) Monitoring the issuance of CHP 215s pursuant to Section 40600 CVC.

c. Procedure.

(1) Reasonable cause to believe that a primary crash factor or contributing factor violation was committed may be established through the following:

- (a) Statements of uninvolved witnesses;
- (b) Physical evidence;
- (c) Statements of involved parties, corroborated by physical evidence; or
- (d) A combination of the above which combine to prove the elements of the offense charged.

(2) The violation cited must be a factor in the occurrence of the traffic crash.

(3) A CHP 555 shall be completed when issuing a CHP 215 pursuant to Section 40600 CVC.

(4) A CHP 215 issued to an involved party as the result of a traffic crash investigation shall be handled the same as a citation issued for an observed violation.

- (a) In the "Violation" section of the CHP 215, after the description of the violation, write "Issued per Section 40600 CVC."

- (b) Check the "AI" box.

(5) A CHP 215 issued pursuant to Section 40600 CVC is not considered an arrest. Consequently, no authority exists to take a violator who refuses to sign the CHP 215 issued pursuant to a traffic crash investigation forthwith before a magistrate. In cases where the violator refuses to sign:

- (a) After explaining the violation(s) cited and the court information, write "refused to sign" in the violator's signature box and give the party the violator's copy of the CHP 215.

- (b) Process the document the same as if the violator had signed the CHP 215.

(6) In those cases where the investigating officer does not have sufficient physical evidence and/or independent witness statements to establish the elements of a CVC violation causing or contributing to the cause of the crash, a CHP 215 shall not be issued.

NOTE: If, at a later time, the officer gathers sufficient evidence and/or statements to prove the elements of the offense, a complaint may be filed.

(7) In addition to the standard procedures applied at a traffic crash scene, officers shall document evidence as outlined in HPM 110.5, Crash Investigation Manual, and/or HPM 70.1, Evidence Manual, as appropriate.

(8) Additional Charges.

(a) One enforcement document may be used to include additional charges, providing the officer has the statutory authority to do so. For example:

1 A violation of Section 16028(a) CVC could be included in the same enforcement document.

2 A violation of Section 11357(b) of the Health and Safety Code could be included in the same enforcement document.

3 Section 40600 CVC does not grant authority to cite persons involved in a traffic crash who committed a violation which was not a contributing factor in the crash and not witnessed by the officer.

(b) If the provisions of Section 40600 CVC do not apply (i.e., the driver was in violation of Section 14601 or 12500 CVC), a complaint to be filed may be processed.

7. UNITED STATES MAIL CARRIERS.

a. Policy.

(1) Enforcement action, in accordance with the Department's enforcement policy expressed in this manual, should be taken against drivers of vehicles transporting U.S. mail when those drivers are observed violating the law.

(2) When a mail carrier is placed under physical arrest, the nearest accessible postal authority shall be immediately notified for disposition of the vehicle. The vehicle and its contents shall be safeguarded until released to the custody of the postal service.

(3) Officers shall not unnecessarily impede or obstruct the orderly process of delivering the U.S. mail.

b. General.

(1) Section 22504 CVC is interpreted to mean:

(a) A U.S. mail carrier shall not stop or park on the main traveled portion of a highway when the highway is of sufficient width to allow stopping or parking off the main traveled portion of the highway.

(b) When a highway in an **unincorporated** area is not of sufficient width to allow stopping or parking off the main traveled portion of the highway, a mail carrier may stop on the main traveled portion of the highway. An unobstructed width of the highway must be available opposite the stopped vehicle for the free passage of other vehicles. There must also be a clear view of the stopped vehicle on the highway for a distance of 200 feet in each direction.

(2) A person engaged in transporting U.S. mail is subject to state regulations regarding traffic laws (People v. Don Carlos, 117P.2d 748).

(3) An employee of the U.S. Postal Service does not secure a general immunity from state law while acting in the course of employment (United States v. Hart, Fed. Case No. 15, 1 Pet. c.c. 390; 5 Op. U.S. Atty. Gen. 554).

8. SNO-PARK PERMIT AREAS.

a. Purpose. The California Department of Parks and Recreation (DPR) administers the SNO-PARK program. This program establishes parking facilities throughout the mountains of California and sells permits to individuals wishing to use the parking facilities for winter recreational activities such as cross-country skiing, snowmobiling, and snow play. The SNO-PARK program was established to help alleviate the problem of illegal and unsafe highway parking in snow-play areas, and it stands to benefit all motorists who recreate in snow country.

b. Authority.

(1) Section 5091.15(a) of the Public Resources Code (PRC) provides that enforcement action may be taken against a vehicle not displaying a valid SNO-PARK permit. Permits do not guarantee the holder a parking space; merely the right to lawfully park at any available SNO-PARK site.

(2) Section 40202(a) CVC authorizes the Department to enforce parking regulations provided for in the PRC.

c. Policy.

(1) Enforcement of permit requirements at SNO-PARK sites will be governed by the prioritized needs of those Areas having sites within their commands. Commanders shall develop local enforcement strategies consistent with the

objectives of the Department and availability of personnel. Demands for more urgent services must take priority.

(2) Officers should not actively seek out nontraffic enforcement situations or respond to such incidents when CHP assistance is not needed or requested. However, should the responsible allied agency be unable or unwilling to provide required nontraffic law enforcement services, this Department shall provide those services according to the policy contained in HPM 100.67, Law Enforcement Assistance and Interjurisdictional Operations.

d. Procedure.

(1) The Department has primary responsibility for patrol and enforcement at SNO-PARK sites. In exceptional cases, Area commanders may coordinate with their local sheriff's office to ensure adequate site coverage is maintained, particularly where remote SNO-PARK sites may be more accessible to the sheriff's patrol than to CHP patrol personnel.

(2) Permit requirements will be enforced during the SNO-PARK season which normally runs from November 1 of the current year through May 30 of the following year. The beginning and ending of the season may deviate, however, depending on the amount of snow in the mountains. Affected Areas are notified of the beginning and ending of the season by a Communications Network message.

(a) Motor vehicles not displaying a valid SNO-PARK permit should be issued a CHP 267, Notice of Parking-Registration Violation, for a violation of Section 5091.15(a) PRC. The SNO-PARK permit requirements do not apply to vehicles owned and operated by the U.S. government or any other state or local government.

(b) Officers should ensure regulatory signs at SNO-PARK sites are clearly visible prior to citing vehicles not displaying valid permits. If the officer has reason to believe the signs were not clearly visible (e.g., snow-covered or removed), a citation should not be issued.

(c) Permit parking requirements should not be enforced when there is a lack of snow at areas adjacent to the SNO-PARK site.

(3) Section 5091.15(a) PRC allows overnight camping at SNO-PARK sites if the area has been designated for this use by the DPR. The vehicle must display a SNO-PARK permit.

(a) At all undesignated SNO-PARK sites, overnight camping in a vehicle is prohibited whether or not a valid parking permit is displayed. Unless

signs are posted indicating overnight parking/in-vehicle camping is prohibited, officers shall give verbal warnings to people observed camping overnight.

(b) Unless otherwise posted, parking overnight is permitted while occupants are on cross-country ski trips or are involved in back-country snow camping or hiking. Tent camping or sleeping outside a vehicle in the parking area is prohibited at all SNO-PARK sites.

(4) Officers should not tow vehicles from SNO-PARK sites unless the provisions of Section 22651 or 22659 CVC apply.

e. Special Program Codes.

(1) The DPR SNO-PARK program administrator needs information on the number of citations issued by the CHP for SNO-PARK permit violations. The program administrator uses the number of citations issued in each county to be sure the county treasurers are transferring the appropriate funds to the Winter Recreation Fund.

(2) The Management Information System (MIS) does not capture violator- or violation-specific data with respect to the CHP. Therefore, the Department has developed Special Program Codes for use on the automated CHP 415, Daily Field Record. These codes will enable the MIS to capture the number of CHP 267s issued, by county, for each Area for violations of Section 5091.15(a) PRC.

(3) When a CHP 267 is issued for a SNO-PARK permit violation, officers in Amador (295), Bridgeport (820), Fresno (435), Gold Run (221), Grass Valley (230), and Sonora (425) Areas shall:

(a) In the Primary Activity Code box of the automated CHP 415, select CHP 267, tab to the Additional Count Code box, select HQ Code, and select code 002. This will automatically enter that CHP 267 as a SNO-PARK permit violation count on line W in the Enforcement Services Count section of the automated CHP 415.

(b) Do not make an entry on line W in the Activity Time Summary section. Negative reporting is not required.

(4) When a CHP 267 is issued for a SNO-PARK permit violation, officers in Truckee (222) Area shall:

(a) Donner Summit SNO-PARK (Nevada County). In the Primary Activity Code box of the automated CHP 415, select CHP 267, tab to the

Additional Count Code box, select HQ Code and select code 002. This will automatically enter that CHP 267 as a SNO-PARK permit violation count (at the Donner Summit SNO-PARK [Nevada County]) on line W in the Enforcement Services Count section of the automated CHP 415.

(b) Blackwood Canyon SNO-PARK (Placer County). In the Primary Activity Code box of the automated CHP 415, select CHP 267, tab to the Additional Count Code box, select Area Code and select code 002. This will automatically enter that CHP 267 as a SNO-PARK permit violation count (at the Blackwood Canyon SNO-PARK [Placer County]) on line Y in the Enforcement Services Count section of the automated CHP 415.

(c) Yuba Pass SNO-PARK (Sierra County). In the Primary Activity Code box of the automated CHP 415, select CHP 267, tab to the Additional Count Code box, select Area Code and select code 003. This will automatically enter that CHP 267 as a SNO-PARK permit violation count (at the Yuba Pass SNO-PARK [Sierra County]) on line Y in the Enforcement Services Count section of the automated CHP 415.

(d) Do not make any entries on lines W or Y in the Activity Time Summary section. Negative reporting is not required.

(5) When a CHP 267 is issued for a SNO-PARK permit violation, officers in South Lake Tahoe (246) Area shall:

(a) Taylor Creek or Echo Lake SNO-PARKS (El Dorado County). In the Primary Activity Code box of the automated CHP 415, select CHP 267, tab to the Additional Count Code box, select HQ Code and select code 002. This will automatically enter that CHP 267 as a SNO-PARK permit violation count (at the Taylor Creek or Echo Lake SNO-PARK [El Dorado County]) on line W in the Enforcement Services Count section of the automated CHP 415.

(b) Carson Pass, Meiss Meadow, or Hope Valley SNO-PARKS (Alpine County). In the Primary Activity Code box of the automated CHP 415, select CHP 267, tab to the Additional Count Code box, select Area Code and select code 002. This will automatically enter that CHP 267 as a SNO-PARK permit violation count (at the Carson Pass, Meiss Meadow, or Hope Valley SNO-PARK [Alpine County]) on line Y in the Enforcement Services Count section of the automated CHP 415.

(c) Do not make any entries on lines W or Y in the Activity Time Summary section. Negative reporting is not required.

(6) When a CHP 267 is issued for a SNO-PARK permit violation, officers in San Andreas (255) Area shall:

(a) Spicer SNO-PARK (Calaveras County). In the Primary Activity Code box of the automated CHP 415, select CHP 267, tab to the Additional Count Code box, select HQ Code and select code 002. This will automatically enter that CHP 267 as a SNO-PARK permit violation count (at the Spicer SNO-PARK [Calaveras County]) on line W in the Enforcement Services Count section of the automated CHP 415.

(b) Lake Alpine or Round Valley SNO-PARKS (Alpine County). In the Primary Activity Code box of the automated CHP 415, select CHP 267, tab to the Additional Count Code box, select Area Code and select code 002. This will automatically enter that CHP 267 as a SNO-PARK permit violation count (at the Lake Alpine or Round Valley SNO-PARK [Alpine County]) on line Y in the Enforcement Services Count section of the automated CHP 415.

(c) Do not make any entries on lines W or Y in the Activity Time Summary section. Negative reporting is not required.

(7) These special counts do not affect any other CHP 267 or CHP 415 reporting requirements. Specifically, line D in the Enforcement Services Count and Activity Time Summary sections will still reflect the total number of CHP 267s issued during the shift and the total time preparing enforcement documents.

f. Reciprocity Agreement. The PRC permits DPR to negotiate reciprocity agreements with other states having similar programs if the agreements are in the best interests of the California SNO-PARK program. The DPR has entered into a reciprocity agreement with the states of Oregon, Washington, and Idaho. A vehicle registered in Oregon, Washington, or Idaho may be parked at a California SNO-PARK if it displays a valid state SNO-PARK permit. Officers shall withhold enforcement for the period covered by their state permit.

9. BLOCKING OF PUBLIC GRADE CROSSINGS BY RAILROAD OPERATIONS.

a. Authority.

(1) There is no codified law regarding blocking of grade crossings by railroads. The district attorney can initiate criminal proceedings for noncompliance with CPUC General Order No. 135.

(2) Effective November 1, 1974, CPUC General Order No. 135 requires all railroad corporations operating in the state to observe the following regulations:

(a) Train Movements. Except as provided in paragraph 9.a.(2)(e), a public grade crossing which is blocked by a stopped train, other than a passenger train, must be opened within ten minutes, unless no vehicle or pedestrian is waiting at the crossing. Such a cleared crossing must be left open until it is known that the train is ready to depart. When recoupling such a train at the crossing, movement must be made promptly, consistent with safety.

(b) Switching Movements. Switching over public grade crossings should be avoided whenever reasonably possible. If not reasonably possible, such crossings must be cleared frequently to allow a vehicle or pedestrian to pass and must not be occupied continuously for longer than ten minutes unless no vehicle or pedestrian is waiting at the crossing.

(c) Grade Crossing Protection Circuits. Cars or locomotives must not be left standing, nor switches left open, within the controlled circuits of automatic gate protection devices unless time-out features are provided to allow the gate arms to rise.

(d) There are no time crossing restrictions for a moving train continuing in the same direction.

(e) These time limit provisions shall not apply to any blocking resulting from compliance with state and federal laws and regulations, terrain and physical conditions, adverse weather conditions, conditions rendering the roadbed or track structure unsafe, mechanical failures, train accidents, or other occurrences over which the railroad has no control, except that such crossing shall be cleared with reasonable dispatch.

(f) In the event of any uncontrolled blockage involving more than one grade crossing with a peace officer on the scene, primary consideration shall be given to the clearing of that crossing which, in the peace officer's judgment, will result in the minimum delay to vehicular traffic.

(g) A crew member of a train blocking a public crossing shall immediately take all reasonable steps, consistent with the safe operations of such train, to clear the crossing upon receiving information from a peace officer, a member of any fire department as defined in Section 2801 CVC, or the operator of an emergency vehicle as defined in Section 165 CVC, that emergency circumstances require the clearing of the crossing.

(h) Any agreement between a railroad and public agency approved by the CPUC permitting certain crossings to be blocked for a time other than specified herein shall prevail.

(i) Any railroad or public agency may, by formal application to the CPUC, request a variance from the regulations prescribed herein or have different regulations provided in connection with operations over a specific crossing where local conditions so require. The contents of the application shall be in accord with Rule 15 of the commission's Rules of Practice and Procedures. The application shall detail any previous steps that may have been taken in an attempt to reach an agreement of the proposed variance and shall list any public agencies within the geographic area or any railroads that might be affected by the variance. A copy of the application shall be mailed to all such public agencies and railroads, and a certificate of service regarding such mailing shall accompany the application filed with the commission.

(j) The prosecuting attorney shall prosecute noncompliance with CPUC General Order No. 135 by means of a misdemeanor complaint issued against the railroad corporation in accordance with Chapter 11, Part 1, Division 1, of the Public Utilities Code (PUC).

b. Policy.

(1) Officers observing violations of the blocking of public grade crossings by railroad operations should document the circumstances on a memorandum to the Area commander. The memorandum must contain such information as the time, date, location, locomotive or car number, responsible railroad, and if possible, name of the conductor responsible for the train.

(2) The Area commander should forward the memorandum to the prosecuting attorney for appropriate action.

(3) Officers are not to initiate prosecution of these regulations by issuing a CHP 215 or making a physical arrest.

10. DISABLED PERSON PARKING AND ACCESS.

a. Authority.

(1) Section 22522 CVC prohibits parking any vehicle within three feet of any sidewalk access ramp constructed adjacent to a crosswalk accessible to and usable by the physically disabled, if the access ramp is designated by either a sign or red paint.

(2) Section 22507.8(a) CVC makes it unlawful to park or leave standing any vehicle in a stall or space designated for disabled persons unless the vehicle displays either a distinguishing license plate or placard issued by DMV as depicted in Annex B.

(3) Section 22507.8(b) CVC makes it unlawful for any person to obstruct, block, or otherwise deny access to disabled parking stalls or spaces on public roads or off-street parking facilities. This section was added to discourage local merchants from blocking disabled spaces with equipment or merchandise displays. Enforcement action under this section can be taken against vehicles blocking access to disabled spaces.

(4) Effective January 1, 2009, Section 22511.3 was added to the CVC to permit veterans displaying specialized license plates to park, without charge, in a metered parking space, as specified, upon approval of the local governing body. The specialized license plates are as follows:

- (a) Pearl Harbor Survivor (Section 5101.3 CVC).
- (b) Legion of Valor (Section 5101.4 CVC).
- (c) Former American Prisoner of War (Section 5101.5 CVC).
- (d) Congressional Medal of Honor (Section 5101.6 CVC).
- (e) Purple Heart Recipient (Section 5101.8 CVC).

(5) Sections 22511.5(a) and (b) CVC permit a disabled person or disabled veteran displaying a special license plate or distinguishing placard issued by DMV or a foreign jurisdiction to park for unlimited periods:

- (a) In any restricted zone described in Section 21458(a) CVC (blue curb markings);
- (b) On streets upon which preferential parking privileges for residents and merchants have been granted pursuant to Section 22507 CVC;
- (c) In parking zones restricted as to the length of time parking is permitted as indicated by a sign erected pursuant to a local ordinance; and
- (d) In any metered parking space without being required to pay parking meter fees.

(6) Section 22511.85 CVC permits any vehicle equipped with a side-loading lift or ramp that is used for loading and unloading disabled persons to park in

not more than two adjacent stalls or spaces in any public off-street parking facility when loading and unloading disabled persons, provided there is no single parking space immediately available within that facility that is suitable for that purpose. This includes, but is not limited to, when there is insufficient space to operate a vehicle lift or ramp or insufficient room for a disabled person to exit the vehicle or maneuver once outside the vehicle.

(7) Section 4461(c) CVC makes it unlawful for any person to display a disabled placard that was not issued to them or that has been canceled or revoked, except for the purpose of transporting the disabled person.

(8) Section 4461(d) CVC makes it unlawful for any person using a vehicle displaying a special identification license plate issued to another person to park in parking stalls or spaces designated for disabled persons, unless transporting the disabled person.

b. Policy.

(1) While it is not the Department's responsibility to routinely patrol off-street parking facilities, officers should be alert for violations of Sections 22507.8(a) and 22507.8(b) CVC in the course of their regularly assigned duties.

(2) Officers should not routinely stop to check off-street parking facilities.

(3) Area commanders shall ensure complaints of violations within the Department's jurisdiction are responded to in a timely manner.

c. Procedure.

(1) Officers should issue a CHP 267 for a violation of Section 22507.8(a) CVC to persons/vehicles using a disabled parking space when there is not a permit displayed and the space is clearly marked.

(2) Officers should issue a verbal warning when:

(a) A nonqualified disabled person uses an inadequately or improperly marked designated space; or

(b) An apparently disabled person uses a designated parking space but does not display a permit.

NOTE: Although permits can be obtained the same day at the public counter of any DMV office, it may take as long as 60 days to receive a permit if the disabled person applies for it by mail.

(3) Officers should issue a CHP 267 for a violation of Section 22507.8(b) CVC to those persons who obstruct access to and/or exit from disabled parking spaces with merchandise displays, vehicles, or other equipment.

(4) Officers should issue a CHP 215 for a violation of Section 4461(c) CVC to a person who parks in a designated disabled parking space using a placard that was not issued to them unless they are transporting the disabled person.

(5) Officers should issue a CHP 215 for a violation of Section 4461(d) CVC to a person who parks a vehicle, displaying a special identification license plate issued to another person, in a designated disabled parking space, unless they are transporting the disabled person.

11. WIRELESS TELEPHONE/DEVICE USE WHILE DRIVING.

a. General. In 2006, the Legislature declared there were significant safety benefits associated with wireless communication technologies (e.g., the ability to report). However, growing public concern regarding the safety implications of using handheld wireless telephones while operating vehicles led to the enactment of the California Wireless Telephone Automobile Safety Act (Senate Bill [SB] 1613), which went into effect July 1, 2008.

b. Authority.

(1) Section 23123 was added to the CVC making it unlawful to use a handheld wireless telephone while driving, except in the following circumstances:

(a) A person using a wireless telephone for emergency purposes, including, but not limited to, an emergency call to:

- 1 A law enforcement agency;
- 2 Health care provider;
- 3 Fire department; or
- 4 Other emergency services agency or entity.

(b) An emergency services professional using a wireless telephone while operating an authorized emergency vehicle, in the course and scope of employment.

(c) Persons driving a vehicle on private property.

(2) Effective January 1, 2017, Section 23123.5 CVC was amended by AB 1785, which generally prohibits a driver from holding and operating a handheld wireless telephone or an electronic wireless communications device while driving.

(a) Assembly Bill 1785 substantially expanded the scope of Section 23123.5 CVC, from simply prohibiting the use of a wireless telephone to text while driving, to prohibiting holding and operating a handheld wireless telephone or an electronic wireless communications device while driving. However, a driver may still use a handheld wireless telephone or an electronic wireless communication device while driving when:

1 The handheld wireless communication device is mounted to a windshield (in compliance with Section 26708[b] CVC), dashboard, or center console in a manner which does not interfere with the driver's view of the road; **and**

2 The driver's hand is used to activate or deactivate a feature with a single tap or swipe of the driver's finger.

NOTE: Section 23123.5 CVC does not apply to manufacturer-installed systems which are "embedded in the vehicle."

(b) An emergency services professional using a wireless telephone while operating an authorized emergency vehicle, in the course and scope of employment, is exempt from this section.

(c) Pursuant to Section 23123.5(f) CVC, the definition of an electronic wireless communications device includes, but is not limited to: a broadband personal communication device, a handheld device or laptop computer with mobile data access, or a pager.

(d) For the purposes of Section 23123.5(f) CVC, a radio installed and mounted in a vehicle with a wired hand microphone (e.g., business band or citizen band radio) is not considered a wireless communication device, and, therefore, is not subject to enforcement under this section.

(3) Minor Drivers.

(a) Pursuant to SB 33 and effective July 1, 2008, Section 23124 was added to the CVC making it unlawful for persons under the age of 18 to use a wireless telephone or electronic wireless communications device, even if equipped with a hands-free device, while operating a motor

vehicle, except for emergency purposes, including, but not limited to, an emergency call to:

- 1 A law enforcement agency;
- 2 Health care provider;
- 3 Fire department; or
- 4 Other emergency services agency or entity.

(b) For the purposes of this section, an electronic wireless communications device includes, but is not limited to:

- 1 A broadband personal communication device.
- 2 A handheld device or laptop computer with mobile data access.
- 3 A pager.

(c) Law enforcement officers are prohibited from making an enforcement stop for the sole purpose of determining if the driver is violating this section.

(4) School Bus and Transit Vehicle Drivers.

(a) School bus and transit vehicle drivers are exempt from the provisions of Section 23123 CVC as they are subject to Section 23125 CVC.

(b) Section 23125 CVC makes it unlawful for a person to use a wireless telephone (handheld or hands-free) while driving a school bus or transit vehicle (defined in Section 99247[g] PUC), except for:

- 1 Work-related purposes, or
- 2 Emergency purposes, including, but not limited to, an emergency call to a law enforcement agency, health care provider, fire department, or other emergency service agency or entity.

c. Policy.

(1) Officers should use sound professional judgment when initiating an enforcement stop for the sole purpose of a violation of Section 23123, 23123.5, or 23124 CVC.

(2) Officers shall not initiate an enforcement stop for a violation of Section 23124 CVC for the sole purpose of determining if a driver is under the age of 18.

(3) Upon determining the driver is in violation of Section 23123, 23123.5, or 23124 CVC, officers may issue a CHP 215.

(4) Officers shall not seize a wireless telephone to determine if the driver is using it for emergency purposes as listed in paragraphs 11.b.(1)(a) and 11.b.(3)(a).

ANNEX A

GENERAL GUIDELINES FOR THE INSTALLATION OF SEATING AND SAFETY BELT SYSTEMS FOR COMPLIANCE WITH SECTION 23116 OF THE CALIFORNIA VEHICLE CODE

General Guidelines for the Installation of Seating and Safety Belt Systems in the Rear Cargo Areas of Pickup Trucks and Flatbed Motor Trucks.

Section 23116 CVC requires that passengers in the rear cargo areas of pickups and flatbed motor trucks be seated in, and restrained by, a seating system and safety belt system which meets the requirements of FMVSS, Standard Numbers 207, 209, and 210. This information is being provided as a guide to the equipment and installation requirements for compliance with Section 23116 CVC. This information is not intended to supplant, replace, or supersede those standards which are contained in 49 CFR, Section 571. Retail aftermarket installation of seat and restraint systems requires manufacturer and installer certification of compliance. The CHP does not certify the proper installation of this equipment.

Seating Systems

Acceptable

Seats of automotive original equipment origin (cars, trucks, buses, etc.) which can be purchased from aftermarket retailers or obtained from wrecking yards. Aircraft seats which are similar or stronger in construction than automotive seats. Seats must be securely fastened to the bed of the truck using suitable bolts, nuts, and washers. Seats may be facing in any direction within the pickup or flatbed motor truck.

Safety Belt Systems Acceptable

Safety belts may be three-point or lap-only belt systems and must be installed in a secure manner similar to the original equipment installation. Safety belts must be attached to the truck bed or frame with bolts, nuts, and washers. Bolts should be 7/16-inch fine thread or 1/2-inch coarse thread minimum. Safety belts attached to the bed must be installed using 2-inch by 2-inch square reinforcement plates, or 2 1/4-inch diameter washers, both at least 1/16-inch thick, to prevent the bolt from being pulled through the bed at the anchor point. A separate attachment point must be used for each portion of the belt.

Not Acceptable

Nonautomotive seats such as patio chairs, park benches, home furnishings, or other improvised seating devices are not acceptable. Seats secured with self-tapping sheet metal screws are not acceptable.

Not Acceptable

Safety belts may not be attached using sheet metal screws. The belt webbing and hardware must be of automotive or aircraft origin. Rope, twine, bungee cord, leather, or any other material not specifically used as safety belt webbing is unacceptable. Any belt with webbing less than 1 3/4 inches wide is unacceptable.

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ANNEX B

DISABLED PERSON PARKING PERMIT – LICENSE PLATES



Disabled Person

Issued, upon request, to disabled persons (DP) as defined in Section 295.5 CVC. These plates allow certain parking privileges. Plates must be surrendered to the DMV upon the death of the disabled person.

Alpha-Numeric Series

Auto/Commercial: 30000DP – 9999DP
DP60000 – DP99999

Motorcycle: 3000DP – 9999DP

The DP plates without the International Symbol of access (wheelchair symbol) became invalid July 1, 1995.

Statutory Authority

Sections 295.5, 5007, 9410, and 22511.5 CVC.



This revised DP license plate began to be issued in 2000. It added an alpha character at the beginning of the numerical series. The new series numbers are listed below:

Auto/Commercial: DPA0000 – DPZ9499
Motorcycle: DPZ950 – DPZ999



Effective May 2011, the DP license plate issued displays a new configuration. The new configuration adds two alpha characters at the end of the numerical series. The new numbers are listed below:

Auto/Commercial: DP000AA – DP999ZZ

All of these license plates are valid.

Disabled Veterans

Issued, upon request, to disabled veterans (DV) as defined in Section 295.7 CVC. This license plate allows certain parking privileges. These plates must be surrendered to the DMV upon the death of the DV.



Alpha-Numeric Series

Auto/Commercial: 00000 – 29999DV

Motorcycle: 00000 – 29999DV

The DV plates without the International Symbol of Access (Wheelchair symbol) became invalid July 1, 1995.

Statutory Authority

Sections 295.7, 5007, and 22511.5 CVC.



Although this decal is no longer issued and DP parking privileges do not extend to vehicles displaying this decal, some special plate owners choose to leave the DP decal attached to their plates.

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ANNEX C

DISABLED PERSON PARKING PERMIT – PLACARDS



Disabled Persons Parking Placard Permanent (Blue) and Temporary (Red):

Permanent placards are subject to renewal on June 30 of every odd-numbered year. Temporary placards are issued for a period of not more than 6 months.

Special Characteristics:

Size: 9 inches x 4 inches

- The expiration date on a permanent placard is printed in the center of the placard.
- The expiration day, month, and year on a temporary placard are hole-punched.
- The placard is displayed on the rearview mirror.
- Placards permit parking:
 - ❖ Adjacent to a blue curb.
 - ❖ In zones displaying the International Symbol of Access (wheelchair symbol).
 - ❖ Metered zones without payment of fees.
 - ❖ Limited time zones (green curb) with no time limit.
 - ❖ In an area regulatory requiring a resident or merchant permit.

Statutory Reference:

Sections 4461, 4463, 21458, 22511.5, and 22511.6 CVC.

Section 13660 of the Business and Professions Code.