

## RESOLUTION 01-02-2016

### DIGEST

Vehicle Code: Adjustment of DMV Points for Section 14601.1 Violations

Amends Vehicle Code section 12810 to reduce points for suspended license violations not related to bad driving.

### TEXT OF RESOLUTION

**RESOLVED** that the Conference of California Bar Associations recommends that legislation be sponsored to amend Vehicle Code section 12810 to read as follows:

#### §12810

1 In determining the violation point count, the following shall apply:

2 (a) A conviction of failure to stop in the event of an accident in violation of Section  
3 20001 or 20002 shall be given a value of two points.

4 (b) A conviction of a violation of Section 23152 or 23153 shall be given a value of two  
5 points.

6 (c) A conviction of reckless driving shall be given a value of two points.

7 (d) (1) A conviction of a violation of subdivision (b) of Section 191.5 or subdivision (c) of  
8 Section 192 of the Penal Code, or of Section 2800.2 or 2800.3, subdivision (b) of Section 21651,  
9 subdivision (b) of Section 22348, subdivision (a) or (c) of Section 23109, Section 23109.1, or  
10 Section 31602 of this code, shall be given a value of two points.

11 (2) A conviction of a violation of subdivision (a) or (b) of Section 23140 shall be given a  
12 value of two points

13 (e) A conviction of a violation of Section 14601, ~~14601.1~~, 14601.2, 14601.3, or 14601.5  
14 shall be given a value of two points.

15 (f) Except as provided in subdivision (i), any other traffic conviction involving the safe  
16 operation of a motor vehicle upon the highway shall be given a value of one point.

17 (g) A traffic accident in which the operator is deemed by the department to be responsible  
18 shall be given a value of one point.

19 (h) A conviction of a violation of Section 14601.1, 27360 or 27360.5 shall be given a  
20 value of one point.

21 (i) (1) A violation of paragraph (1), (2), (3), or (5) of subdivision (b) of Section 40001  
22 shall not result in a violation point count being given to the driver if the driver is not the owner of  
23 the vehicle.

24 (2) A conviction of a violation of paragraph (1) or (2) of subdivision (b) of Section  
25 12814.6, subdivision (a) of Section 21116, Section 21207.5, 21708, 21710, 21716, 23120,  
26 24800, or 26707 shall not be given a violation point count.

27 (3) A violation of subdivision (d) of Section 21712 shall not result in a violation point  
28 count.

29 (4) A violation of Section 23136 shall not result in a violation point count.

30 (5) A violation of Section 38301, 38301.3, 38301.5, 38304.1, or 38504.1 shall not result  
31 in a violation point count.

32 (j) A conviction for only one violation arising from one occasion of arrest or citation shall  
33 be counted in determining the violation point count for the purposes of this section.

(Proposed new language underlined; language to be deleted stricken)

**PROPONENT:** Los Angeles County Bar Association

## **STATEMENT OF REASONS**

The Problem: The current version of this statute is overbroad and requires the suspension of drivers' licenses for administrative reasons that have nothing to do with bad driving. Under current law, for example, a driver's license is suspended when a driver forgets to appear in court on a fix-it ticket, fails to pay sufficient child support, or is convicted of vandalism or prostitution. These suspensions disproportionately affect the poor, and are particularly problematic for low-income drivers who need to drive in order to maintain employment or who need transportation in order to handle child-care.

The particular problem addressed by this Resolution is that current law also disproportionately penalizes such "administrative suspension" drivers by assigning them 2 DMV points if they drive following such a suspension (this is in addition to criminal prosecution). If the driver receives 4 points, their license is immediately suspended again. (By way of comparison, the 2 point category is generally reserved for drunk drivers, those who lead the police on a high-speed chase, illegally transport explosives in their vehicle, or kill someone while driving.)

The Solution: The proposed resolution would place driving on a suspended license for reasons OTHER than dangerous driving on the "one point" DMV list rather than the "two point" DMV list. Since driving on a suspended license because you previously missed a court date is inarguably less serious than driving on a suspended license because you previously drove drunk, such a move is a step towards fairness. In addition, because the current point system creates a "Catch 22" in the plea-bargaining process where a driver obtains his license and lifts the suspension, only to immediately be re-suspended, such a step will benefit both the driver (by keeping him licensed) and the state (by preventing the pointless and expensive prosecution of otherwise qualified drivers).

## **IMPACT STATEMENT**

This proposed resolution does not affect any other law, statute or rule.

## **CURRENT OR PRIOR RELATED LEGISLATION**

Not known.

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**RESPONSIBLE FLOOR DELEGATE:** Nick Stewart-Oaten

RESOLUTIONS COMMITTEE RECOMMENDATION  
APPROVE IN PRINCIPLE

History:

No similar resolutions found.

Reasons:

This resolution amends Vehicle Code section 12810 to reduce points for suspended license violations not related to bad driving. This resolution should be approved in principle because current law drastically penalizes drivers whose licenses are suspended for administrative reasons having nothing to do with bad driving, disproportionately impacting low-income drivers who need to drive.

Under the current Negligent Operator Treatment System (“NOTS”), two violation points are charged for drivers who drive with a suspended license, suspended for convictions such as drunk driving, reckless driving, high speed police chase, or driving-related death, as well as on less egregious grounds. But for driving with a license that has been suspended for an administrative reason having nothing to do with bad driving – such as failure to appear in court for a fix-it ticket, failure to pay child support, vandalism or prostitution – a more balanced and equitable approach would be to only charge one point. Further, these administrative suspensions often affect the poor, who need to drive for work and child-care related transportation.