

**RESOLUTION 10-07-2017 (REVISED)**

**DIGEST**

Vandalism Offenses: Repealing Suspension of Driver’s Licenses for Vandalism Offenses  
Deletes Vehicle Code section 13202.6 to prohibit the suspension of a driver’s license for vandalism offenses including graffiti.

**RESOLUTIONS COMMITTEE ANALYSIS**

History:

No similar resolutions found.

Reasons:

This resolution deletes Vehicle Code 13202.6 to prohibit the suspension of a driver’s license for vandalism including graffiti.

The proponent claims some research indicating that suspension of driving privileges as a punishment might be less ineffective than hoped for as a deterrent for graffiti offenses. This is apparently because minors, who are often the perpetrators of such vandalism, are now foregoing obtaining a driver’s license until they are older.

This resolution is related to Resolution 10-03-2017, which gives the judicial officer discretion to suspend a driver’s license.

The Resolutions Committee initially recommended disapproval of this resolution. The full Conference voted to approve.

**TEXT OF RESOLUTION**

**RESOLVED** that the Conference of California Bar Associations recommends that legislation be sponsored to delete Vehicle Code section 13202.6 to read as follows:

1 § 13202.6  
2 ~~(a) (1) For every conviction of a person for a violation of Section 594, 594.3, or 594.4 of~~  
3 ~~the Penal Code, committed while the person was 13 years of age or older, the court shall suspend~~  
4 ~~the person’s driving privilege for not more than two years, except when the court finds that a~~  
5 ~~personal or family hardship exists that requires the person to have a driver’s license for his or her~~  
6 ~~own, or a member of his or her family’s, employment, school, or medically related purposes. If~~  
7 ~~the person convicted does not yet have the privilege to drive, the court shall order the department~~  
8 ~~to delay issuing the privilege to drive for not less than one year nor more than three years~~  
9 ~~subsequent to the time the person becomes legally eligible to drive. However, if there is no~~  
10 ~~further conviction for violating Section 594, 594.3, or 594.4 of the Penal Code in a 12-month~~  
11 ~~period after the conviction, the court, upon petition of the person affected, may modify the order~~  
12 ~~imposing the delay of the privilege. For each successive offense, the court shall suspend the~~  
13 ~~person’s driving privilege for those possessing a license or delay the eligibility for those not in~~  
14 ~~possession of a license at the time of their conviction for one additional year.~~

15           ~~(2) A person whose driving privilege is suspended or delayed for an act involving~~  
16 ~~vandalism in violation of Section 594, 594.3, or 594.4 of the Penal Code, may elect to reduce the~~  
17 ~~period of suspension or delay imposed by the court by performing community service under the~~  
18 ~~supervision of the probation department. The period of suspension or delay ordered under~~  
19 ~~paragraph (1) shall be reduced at the rate of one day for each hour of community service~~  
20 ~~performed. If the jurisdiction has adopted a graffiti abatement program as defined in subdivision~~  
21 ~~(f) of Section 594 of the Penal Code, the period of suspension or delay ordered under paragraph~~  
22 ~~(1) shall be reduced at the rate of one day for each day of community service performed in the~~  
23 ~~graffiti abatement program when the defendant and his or her parents or legal guardians are~~  
24 ~~responsible for keeping a specified property in the community free of graffiti for a specified~~  
25 ~~period of time. The suspension shall be reduced only when the specified period of participation~~  
26 ~~has been completed. Participation of a parent or legal guardian is not required under this~~  
27 ~~paragraph if the court deems this participation to be detrimental to the defendant, or if the parent~~  
28 ~~or legal guardian is a single parent who must care for young children. For purposes of this~~  
29 ~~paragraph, “community service” means cleaning up graffiti from any public property, including~~  
30 ~~public transit vehicles.~~

31           ~~(3) As used in this section, the term “conviction” includes the findings in juvenile~~  
32 ~~proceedings specified in Section 13105.~~

33           ~~(b) (1) Whenever the court suspends driving privileges pursuant to subdivision (a), the~~  
34 ~~court in which the conviction is had shall require all drivers’ licenses held by the person to be~~  
35 ~~surrendered to the court. The court shall, within 10 days following the conviction, transmit a~~  
36 ~~certified abstract of the conviction, together with any drivers’ licenses surrendered, to the~~  
37 ~~department.~~

38           ~~(2) Violations of restrictions imposed pursuant to this section are subject to Section~~  
39 ~~14603.~~

40           ~~(e) The suspension, restriction, or delay of driving privileges pursuant to this section shall~~  
41 ~~be in addition to any penalty imposed upon conviction of a violation of Section 594, 594.3, or~~  
42 ~~594.4 of the Penal Code.~~

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

**PROPONENT:** Bar Association of San Francisco

## **STATEMENT OF REASONS**

The Problem: When a minor is convicted of a graffiti offense under Penal Code section 594, then Vehicle Code § 13202.6 requires the court to suspend or to delay the issuance of the minor driver’s license. In addition, Vehicle Code § 13202.6 allows the court to force the minor’s family members to perform community service – when they were not the ones who created the graffiti.

According to an AAA Foundation for Traffic Safety report from 2013 (available at: <http://newsroom.aaa.com/wp-content/uploads/2013/07/Teens-Delay-Licensing-FTS-Report.pdf>), many teenagers are not obtaining their driver’s licenses until they are older. The report found that only 44% of the survey respondents reported obtaining a driver’s license within one year of

the minimum age for licensing, and only 54% reported obtaining a license before age 18. The main reasons were: lack of access to a car, alternative transportation options, and costs associated with driving.

Vehicle Code § 13202.6 was created to be “tough on crime” by taking driving privileges away from offending teenagers. However, this approach is not effective because so many teenagers are not motivated to earn a driver’s license or do not have access to a car.

The Solution: Penal Code §§ 594 et al. allow a court to order “community service or graffiti removal ... or to undergo counseling.” Because this rehabilitation approach is ideal, then Vehicle Code § 13202.6 should be repealed.

In addition, the American Association of Motor Vehicle Administrators (AAMVA) recommends that legislatures should repeal state laws requiring the suspension of driving privileges for non-highway safety related violations. *See* “Best Practice Guide to Reducing Suspended Drivers (2013),” available at: <http://www.aamva.org/best-practices-and-model-legislation/>.

#### **IMPACT STATEMENT**

The resolution does not affect any other law, statute or rule other than those expressly identified.

#### **CURRENT OR PRIOR RELATED LEGISLATION**

Penal Code sections 594, 594.1, 594.6, and 594.8.1: to allow courts to order community service, graffiti removal, or counseling.

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