

**DEPARTMENT TRAFFIC COORDINATOR
TRANSIT SERVICES BUREAU**

NOTICE
8.1.3

December 21, 2022

TO: All Sworn Personnel

FROM: Department Traffic Coordinator, Transit Services Bureau

SUBJECT: REVISION TO CITING FOR UNLICENSED DRIVERS – PURSUANT TO ASSEMBLY BILL 2746 DRIVING PRIVILEGE: SUSPENSION

PURPOSE

The purpose of this Notice is to provide citation issuance guidance when encountering a community member driving a motor vehicle and never issued a California Driver's License.

BACKGROUND

On September 29, 2022, Governor Newsom signed Assembly Bill (AB) 2746 into law that revises the California Vehicle Code (CVC). This Bill advances recommendations made by the Committee on Revision of the Penal Code that seeks to eliminate incarceration and reduce fines for certain traffic offenses. According to the authors of AB 2746, violations for driving without a license are generally filed as a misdemeanor, even though it is a technical violation and not connected to unsafe driving. By contrast, driving-related offenses that pose an immediate danger to public safety such as speeding or unsafe lane changes are filed as infractions. This distinction has frustrated community members as those convicted of this administrative misdemeanor can face jail time, significant fines, and a criminal conviction; while infractions carry only fines and are not criminal convictions.


It is important to note that the California State Legislature continues to recognize that driving a motor vehicle is a privilege and not a right as delineated in Section 14607.4 of the CVC. In 2013, the California State Legislature recognized that non-citizen community members were prevented from enjoying this privilege. As a result, the required documents necessary to obtain a driver's license were modified to accommodate all community members. Despite recent changes, the CVC still mandates that all community members must have a valid license to drive a motor vehicle.

PROCEDURE

Effective January 1, 2023, all citations issued for Section 12500(a) "Unlicensed Driver" CVC shall be cited as an infraction. The California State Legislature has revised and added Section 40000.10 to the CVC, which eliminates the past practice of citing Section 12500(a) "Unlicensed Driver" CVC as a misdemeanor offense. The new law provides limited


exceptions to this infraction rule, such as prior suspensions or revocations for various violations. However, out of an abundance of caution, officers issuing a Traffic Notice to Appear, Form 04.50.00, for an unlicensed driver (Section 12500 CVC) violation shall classify the offense as an infraction. The decision to file a charge for Section 12500(a) CVC as a misdemeanor offense will be at the discretion of the City Attorney's Office and the Superior Court.

If you have any questions regarding this Notice, please contact Traffic Coordination Section, Traffic Group, at (213) 486-0690.



DONALD R. GRAHAM, Jr., Deputy Chief
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APPROVED:



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