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PLANNING AND RESEARCH
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OFFICE OF OPERATIONS

NOTICE NO. 22

May 15, 1997

TO: All Concerned Personnel, Office of Operations

FROM: Director, Office of Operations

SUBJECT: "EVIDENCE OF FINANCIAL RESPONSIBILITY," CALIFORNIA
VEHICLE CODE SECTION 16028 - REVISED

EFFECTIVE: Immediately

PURPOSE

This Notice revises and clarifies procedures for enforcement of the new California Vehicle Code (CVC) Section 16028 - "Evidence of Financial Responsibility."

NOTE: This Notice also supersedes Office of Operations (O.O.) Notice No. 55, dated December 20, 1996.

INFORMATION

In January 1997, legislation was passed in an attempt to ensure that all motor vehicles registered in California are insured. In addition, effective March 30, 1997, evidence of liability insurance will be required on all registration renewal applications of motor vehicles. Liability insurance covers damages to others while comprehensive and collision insurance covers only the policy holder and does not meet the liability insurance requirement. The new legislation requires that evidence of liability insurance be kept with the motor vehicle at all times. The issuance of citations for a violation of this section remains discretionary. However, if an officer should decide to issue a citation, the procedures outlined in this Notice shall apply.

PROCEDURE

Under Section 16028 CVC, law enforcement officers may request evidence of financial responsibility from motorists who are stopped for any Vehicle Code violation other than parking. However, vehicle operators may not be stopped solely to determine whether a vehicle is being operated without insurance.

Citation Issuance Guidelines

Department personnel issuing Personal Service Citations for "No Evidence of Financial Responsibility" shall ensure that Section 16028(a) CVC is entered in the violation section of the citation, and an "X" is marked in the No box under the "Eligible for Dismissal" column. In addition, the word "None" shall be written in the Evidence of Financial Responsibility box.

If any other CVC violations are enforced as a result of the traffic stop, the appropriate section(s) shall be written on the same citation/continuation. If however, other circumstances exist such as a physical arrest, or in situations where charges are being filed such as in a traffic collision report, the violation of "No Evidence of Financial Responsibility" shall be requested under a filing request in the appropriate box(es) of the report and not cited separately.

Financial Responsibility Enforcement Restrictions

Section 16028 CVC shall not be enforced:

- * In instances where vehicles are not registered in the State of California;

NOTE: However, when appropriate, officers may continue to enforce a registration requirement violation. As required by this law, the violator must provide proof of financial responsibility when registering the vehicle.

- * As the primary cause for a vehicle stop;
- * At checkpoints;
- * For incidents which occur on private property; and/or
- * Parking violations.

Acceptable Proof of Insurance Coverage

Section 16020 CVC requires drivers to possess written evidence of financial responsibility in one of the following forms:

- * The name of an insurance/surety company and policy number;

NOTE: This information shall be written (in any manner) on the vehicle registration card that is issued by the DMV.

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EXCEPTION: An officer may also accept an insurance card issued by an individual's insurance carrier, however, drivers are not required by law to carry this card.

- * A certificate of deposit number, issued by the DMV, for self-insured and depositor vehicle owners;
- * An insurance covering note issued by an insurance company;
- * Evidence showing that the vehicle is owned or leased by the United States Government or any other public entity; or,
- * The identifying symbol issued to a highway carrier by the Public Utilities Commission which is displayed on the vehicle.

Drivers Operating an Employer's Vehicle

Citing an employer in absentia on a Personal Service Citation is authorized under Section 16028(d) CVC -- Owner Responsibility. As a result, in cases where an employee commits a traffic violation while operating an employer's vehicle, the need for two citations will arise. Officers are, in effect, enforcing CVC violations against both the driver (who is present) and the employer (in absentia). In these instances, in his/her absence, the employer shall be cited for Section 16028(a) CVC and the employee shall be cited for the appropriate traffic violation. Both citations are signed by the driver (employee/traffic violator) and each citation shall be cross referenced in the narrative sections.

In the above circumstances, the following procedures shall be followed when completing the employer's citation:

- * Enter Section 16028(a) CVC in the violation section of the citation.
- * Enter the employer's information in the violator's section of the citation. This information shall include at least the company name, address and phone number. If the employer descriptions are not available, place a dash in the space.
- * Enter the driver's identifying information in the violation narrative portion of the citation. This information shall include at least the name, address, driver's license number, date of birth and the cross reference (citation number and violation) that the driver was cited under.
- * Obtain the signature of the driver on the citation. If the driver refuses to sign the citation, enter "DRIVER REFUSED" in the signature section.

NOTE: There is no requirement for supervisory approval for the violator refusing to sign the citation, as the law specifically permits this procedure.

- * Advise the driver that he/she must notify the employer of the citation/violation within five (5) days of issuance.

NOTE: Officers should record the above admonition on the reverse side of the book copy of their citation for court purposes.

EXAMPLE: Officer advised violator of the requirement to inform his/her employer of the citation within five days. Violator stated that he/she understood this requirement and will comply.

Rental Vehicles

Operators of rental vehicles are also required to possess written proof of financial responsibility. However, the burden of liability is upon the rental company to ensure financial responsibility prior to the release of a rented vehicle. Most rental companies provide the operator with a copy of the appropriate insurance information. If the operator is not able to present evidence of financial responsibility, a copy of the rental contract or verbal confirmation will suffice. As a result, absent a traffic collision situation, officers shall not cite rental vehicles for this section.

Issuance of citations for 16028(a) at traffic collision scenes, remains discretionary. Department policy also requires officers to write a party's insurance information, rental information, or the word "NONE" in the insurance information box when completing a Traffic Collision Report (CHP Form 555). If the violator can not provide a copy of the rental contract, the required information shall be verbally obtained and noted on the traffic report.

NOTE: Sections 16020 CVC (Evidence of Financial Responsibility) and 16025 CVC (Mandatory Exchange of Information) shall not be used for enforcement purposes.

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Releasing Impounded Vehicles

Vehicle release procedures remain unchanged. Proof of insurance is not required in order to obtain a vehicle release from Police Department personnel.

If you have any questions, please contact Traffic Coordination Section, Traffic Legislative/Special Projects Unit at (213) 893-8118.



BAYAN LEWIS, Assistant Chief
Director
Office of Operations

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