



Guidelines for Actions Against Driver License Certificates and Endorsements



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PURPOSE

This disciplinary guideline contains information on discretionary actions against certificates and license endorsements which are subject to departmental hearings. Mandatory actions under the Vehicle Code are not subject to departmental hearings, and are not the subject of this disciplinary guideline.

BACKGROUND

A driver who transports passengers or hazardous cargo is required to have a certificate or license endorsement. A driver license of the appropriate class is also required as evidence that the driver meets any additional qualifications required by law or regulation.

The Department of Motor Vehicles is responsible for monitoring the driver record of persons holding and applying for endorsements or certificates. The department notifies employers of additions to the driver record and takes appropriate action to protect the public. When the department refuses, suspends or revokes a certificate or endorsement, a hearing is provided to a driver upon request, except for mandatory actions.

CERTIFICATE OR ENDORSEMENT

A *certificate* is issued as a separate document that the driver must have, in addition to the driver license, to operate specified vehicle(s).

An *endorsement* is not a separate document. Instead, the department marks it directly on the driver license and, if it is revoked, the license must be surrendered. A new license application is required for issuance of another license.

The current certificates and endorsements issued by the department that are the subject of this document, and their abbreviation codes, are listed below.

Abbreviation	Certificate
AMB	Ambulance
F/L	Farm Labor
GPPV	General Public Paratransit Vehicle
HAM	Hazardous Agricultural Materials
RM	Radioactive Materials
SCH	School Bus
SPAB	School Pupils Activity Bus
VDDP	Vehicle for Developmentally Disabled Persons

YOB	Youth Bus
TTD	Tow Truck Driver Clearance

Code	Endorsement
D	Double Trailer
HM	Hazardous Materials
TV	Tank Vehicle
PV	Passenger Transportation
T	Triple Trailer

HIGHER STANDARDS

Each certificate and endorsement has different requirements, tailored to ensure the safe transportation of a specific passenger group or hazardous cargo. In general, each certificate or endorsement requires special training and testing. Each also requires higher medical standards and driver record standards than a class C non-commercial driver license.

Criminal Background Check

AMB, SCH, F/L, SPAB, GPPV, VDDP, YOB, and TTD certificate applicants require both an initial criminal background check and an ongoing criminal record review by the Department of Justice.

Negligent Operators

With the exception of tow truck drivers, drivers with any of the certificates and endorsements addressed in this guideline are prima facie negligent operators if their negligent operator point count is 4 in 12 months, 6 in 24 months, or 8 in 36 months (Vehicle Code Section 12810.5[a]).

Additionally, an SB, SPAB, YOB, F/L, GPPV, VDDP or AMB certificate is refused or revoked if the driver has a two point conviction or is suspended, revoked, or placed on probation for any reason involving the safe operation of a motor vehicle within three years (Vehicle Code Sections 13369[a] and 13372[b]).

DEPARTMENT ACTIONS

Action may be taken against certificates or endorsements for reasons which may or may not be related to driving ability.

Unrelated to Driving

Unlike a driver license action, the reason for a certificate denial or revocation need not be directly related to driving. Instead, the reason may be related to the vulnerable nature of the passengers.

Example: A driver with a specified sex offense may have a perfect driving record and excellent driving skills. However, the driver does not qualify for an SB, SPAB, YOB, GPPV, VDDP, AMB certificate or TTD clearance. Such a driver should not be in charge of vulnerable passengers, such as children or ill, injured, or unconscious adults.

Related to Driving

When a certificate action is related to driving, the certificate holder is treated differently than a Class C driver with no certificates or endorsements.

Example: A Class C driver with an otherwise clear driving record receiving a two point conviction, such as reckless driving, would receive a NOTS warning letter. However, a certificate holder with the same conviction would also have the certificate revoked.

ORIGIN OF ACTIONS

If an original applicant is not qualified for issuance of the certificate or endorsement, the application is refused. The California Highway Patrol checks for any criminal record through the Department of Justice (and FBI, if applicable) on each original application it receives for a F/L, SB, SPAB, YOB, VDDP or GPPV certificate or TTD clearance.

Information affecting existing certificates and endorsements is received by the department from numerous sources, including the automated driver record, Department of Justice, physicians, law enforcement, employers, and the media.

The department reviews any disqualifying information and determines the appropriate action, such as issuing a warning letter, or processing an order of refusal, cancellation, restriction, term suspension, or revocation of the certificate or endorsement.

DISCRETIONARY ACTION CRITERIA

Introduction

The following sections list the actions permitted by the department against certificates and endorsements under §§12804.2, 13369, 13370, 13372, 13376, and 13377 of the Vehicle Code.

Bus Driver, F/L, PV, & HM

Vehicle Code §13369(b) applies to bus driver certificates for pupil and disabled passenger transportation, F/L certificates, and PV and HM endorsements. It provides that the department may refuse to issue or renew, or may suspend or revoke the certificate or endorsement of any person who has:

- **Three Accidents in 12 Months:** Vehicle Code §13369(b)(1): Caused or contributed to the cause of the accidents; or
- **Serious Accident in 24 Months:** Vehicle Code §13369(b)(2): Caused or contributed to the cause of an accident resulting in a fatality or serious injury or property damage in excess of \$500.
- **Code Violations:** Vehicle Code §13369(b)(3): Violation of any provision of the Vehicle Code, or any rule or regulation pertaining to the safe operation of a motor vehicle for which the certificate or endorsement was issued.

Actions:

Depending on the nature of the incident and on individual mitigating or aggravating circumstances, the actions listed below may be taken against a certificate or endorsement for violations of Section 13369(b)(1) through 13369(b)(2). These circumstances may include driving history, length of time the certificate has been held, severity of injury or property damage, evidence of negligence or willful disregard for safety, and potential risk.

1. **Warning Letter:** A warning letter may be sent if the driver committed a traffic law violation which was the primary cause of the accident, or there has been only one violation in 36 months and the violation does not indicate willful disregard for safety.
2. **Thirty, Sixty, or Ninety Day Suspension:** A suspension may be warranted if:

- The driver committed a violation of law which was the primary cause of the accident and the driver was cited.
 - The driver has been involved in at least one previous accident in a vehicle requiring a certificate or endorsement within the 12 months immediately preceding the accident.
 - In addition to the current violation, there is one additional violation within 36 months, and neither violation indicates a willful disregard for safety, or if there is one minor violation which caused or contributed to an accident which did *not* result in injury, death, or serious property damage.
3. *Revocation:* The certificate may be revoked or renewal refused if the driver record or other documentation shows one or more acts or omissions which show a wanton disregard for safety, or if the violation resulted in a responsible accident resulting in injury, death, or serious property damage, or the driver has a history of accidents in vehicles requiring a certificate or endorsement.

Example: A major toxic spill in a vehicle that requires an HM certificate, which may reasonably be construed to compromise the driver's ability to operate the vehicle requiring the certificate or endorsement or the safety intent of the law, rule or regulation for the vehicle or load involved in the violation.

NOTE: Employers of SCH, SPAB, YOB, and GPPV drivers often take remedial action against their drivers who are involved in accidents in those vehicles. Employer remedial actions may be taken into account when determining appropriate action.

Restriction Violation:

Vehicle Code §13369(b)(4): Actions that may be taken against the certificate or endorsement for violation of any restriction of the certificate, endorsement, or the commercial driver license include a warning letter, 30-90 day suspension, refusal and revocation.

Vehicle Code §12517.4 authorizes the department and the CHP to place restrictions on a certificate to assure the safe operation of the vehicle and the safe transportation of passengers. The types of restrictions depend on the type of vehicle used in the drive test and the abilities and physical condition of the driver. Examples of restrictions include:

- Automatic transmission
- Hydraulic brakes only
- Type 2 bus only
- Conventional or type 2 bus only
- Two-axle motor truck or passenger vehicle only

False Statement:

Vehicle Code 13369(b)(5): The certificate may be refused, suspended or revoked if the driver has knowingly made a false statement or concealed a material fact on an application for a certificate or endorsement when the truth would have resulted in a department action. If the truth which was falsified or concealed requires refusal, the certificate will be refused on both grounds.

Negligent Operator:

Vehicle Code 13369(b)(6): The certificate may be refused, suspended or revoked if the driver has been determined to be a negligent or incompetent operator pursuant to Vehicle Code 12809(e) and 12810.5, if mandatory action under Vehicle Code 13369(a)(2) is not required. A PV or HM endorsement may be retained or issued, provided the negligent operator or other action imposed was probation only.

Irrational Behavior:

Vehicle Code 13369(b)(7): The certificate may be refused, suspended or revoked if the driver has demonstrated irrational behavior to the extent that a reasonable and prudent person would have reasonable cause to believe that the ability to perform the duties of a driver may be impaired. For action to be warranted, there must be a nexus between the behavior and the applicant or certificate/endorsement holder's ability to perform the duties required in driving the vehicle requiring the certificate or endorsement.

Use of or Addiction to Drugs:

Vehicle Code 13369(b)(8): The certificate may be refused, suspended or revoked if the driver has excessive, habitual use, or addiction to alcoholic beverages, narcotics, or dangerous drugs, or a clinical diagnosis thereof.

Physical & Mental Conditions:

Vehicle Code 13369(b)(9): The certificate may be refused, suspended or revoked if the driver does not meet the minimum medical standards

established by the department in Article 2.1, Sections 28.18 and 28.19, of Title 13, California Code of Regulations. If there is an immediate risk to safety, the action may be taken under the authority of Vehicle Code section 13953.

Reapplication:

Under Vehicle Code §13369(f)(1), reapplication may be made after one year from the effective date of denial or revocation, except in cases where a longer period of withdrawal is required by law.

Bus Driver Certificates

Vehicle Code §13370(b) applies only to bus driver certificates and provides that the department may deny, suspend, or revoke a SCH, SPAB, GPPV, VDDP, or YOB certificate if any of the following causes apply to the applicant or certificate holder:

- **Sex Offenses:** Vehicle Code §13370(b)(1): The certificate may be denied, suspended, or revoked if the driver has been convicted of any crime specified in Section 44424 of the Education Code within the seven years preceding the application date.

Pursuant to Vehicle Code §13376(c)(1), the department may temporarily suspend a certificate if the holder or applicant is arrested for or charged with any sex offense as defined in §44010 of the Education Code. These actions are based on the driver's *arrest*. It is not necessary to wait for court proceedings to determine if there is a conviction. If the court later convicts the driver of a sex offense, the department will revoke the certificate which was previously suspended for the sex offense. If the conviction is of a lesser offense, the department removes the suspension or refusal from the record and may take action on moral turpitude grounds. If the charge(s) is dismissed, the department's action is removed from the record.

- **Moral Turpitude:** Vehicle Code §13370(b)(2) VC: The certificate may be denied, suspended, or revoked if the driver has committed any act involving moral turpitude. A nexus must exist between the act, behavior, or crime and the safe transportation of passengers.
- **Felony Conviction:** §13370(b)(3) VC: The certificate may be denied, suspended, or revoked if the driver has been convicted of any offense not specified in section 13370, and other than a sex offense, that is punishable as a felony, within the seven years preceding the

application date. A nexus must exist between the crime and pupil transportation safety.

- **Employment Dismissal:** Vehicle Code §13370(b)(4): The certificate may be denied, suspended, or revoked if the driver has been dismissed as a driver for a cause relating to pupil transportation safety.
- **Drugs:** Vehicle Code §13370(b)(5): The certificate may be denied, suspended, or revoked if the driver has been convicted, within the seven years preceding the application date, of any offense relating to the use, sale, possession, or transportation of narcotics, habit-forming drugs, or dangerous drugs, except as provided in Vehicle Code Section 13370 (a)(2).

Reapplication: Under Vehicle Code §13370(c), reapplication may be made no sooner than one year from the effective date of a refusal, revocation or suspension except in cases where a longer period of withdrawal is required by law.

BUS DRIVER CERTIFICATE DISMISSAL FOR CAUSE

The "dismissal for cause" certificate revocation under Vehicle Code §13370(b)(4) applies to a school bus (or any other bus driver certificate) driver who has been terminated from employment as a bus driver. "Cause" means that the driver committed an act that compromised pupil transportation safety.

This is a discretionary action and hearings are allowed. The department is required to prove at the hearing that the employer notified the department of the dismissal. This can be done by receiving into evidence the employer's report of dismissal.

The department relies on the employer's determination that the dismissal involved pupil transportation safety, even if the relation to safety is not apparent to the department. If the employer's statement is incomplete or lacking the specific reason for the dismissal, the department can subpoena the employer. At the hearing, it will be determined whether the dismissal was for a cause involving pupil transportation safety.

Ambulance Driver Certificate

Under Vehicle Code §13372, the department may refuse, revoke or suspend an ambulance driver certificate of any person who gives any cause, before or after issuance of the certificate, for discretionary refusal of

certification. If there is an immediate risk to safety due to a physical or mental condition, an action under Vehicle Code §13953 may be taken.

The department may refuse, revoke or suspend an ambulance driver certificate under the following conditions:

- **Felony Conviction:** Vehicle Code §13372(b)(1): The driver has been convicted during the preceding seven years of any offense punishable as a felony or has been convicted during that period of any theft.
- **Moral Turpitude:** Vehicle Code §13372(b)(2): The driver has committed any act involving moral turpitude, including fraud or intentional dishonesty for personal gain, within the preceding seven years.
- **Use of Alcohol:** Vehicle Code §13372(b)(3): The driver habitually and excessively uses intoxicating beverages.
- **Drugs:** Vehicle Code §13372(b)(4): The driver has been convicted within the preceding seven years of any offense relative to the use, sale, possession, or transportation of narcotics or addictive or dangerous drugs, or of any misdemeanor involving force, violence, threat, or intimidation.
- **On Probation:** Vehicle Code §13372(b)(5): The driver is on probation to the department for a cause involving the unsafe operation of a motor vehicle.
- **Sanction for Unsafe Driving:** Vehicle Code §13372(b)(6): Within the three years immediately preceding the application, the driver has had his or her driver's license suspended or revoked by the department for a cause involving the unsafe operation of a motor vehicle, or, within the same period, has been convicted of any of the following:
 - a) Failing to stop and render aid in an accident involving injury or death.
 - b) Driving under the influence of intoxicating liquor, any drug, or under the combined influence of intoxicating liquor and any drug.
 - c) Reckless driving, or reckless driving involving bodily injury.
- **Fraudulent Application:** Vehicle Code §13372(b)(7): The driver has knowingly falsified or failed to disclose a material fact in his and her application. An applicant refused certification under this provision

shall not be issued an ambulance driver certificate within 12 months of the refusal.

- **Accident(s):** Vehicle Code 13372(b)(8): The driver has been involved as a driver in any motor vehicle accident causing death or bodily injury or in three or more motor vehicle accidents during the preceding one year period.
- **Medical:** Vehicle Code 13372(b)(9): The certificate may be refused, suspended or revoked if the driver does not meet the minimum medical standards established by the department in Article 2.1, Sections 28.18 and 28.19, of Title 13, California Code of Regulations.
- **Irrational Behavior:** Vehicle Code 13372(b)(10): The driver has demonstrated irrational behavior or incurred a physical disability to the extent that a reasonable and prudent person would have reasonable cause to believe that the ability to perform the duties normally expected of an ambulance driver may be impaired.
- **Code Violation:** Vehicle Code 13372(b)(11): The driver has violated any provision of the Vehicle Code or any regulation adopted by the Commissioner of the California Highway Patrol relating to the operation of emergency ambulances during the preceding one-year period.
- **Employment Dismissal:** Vehicle Code 13372(b)(12): The driver has committed any act that warrants dismissal, as provided in 13373.

Reapplication: Under Vehicle Code 13372(b), reapplication depends on the time period indicated by each of the above subdivisions. Some time periods are indefinite.

Example: Reapplication under Vehicle Code 13372(b)(9) or 13372(b)(10) depends on the applicant meeting the medical standards or removal of the cause for irrational behavior or physical disability.

MORAL TURPITUDE

- Moral turpitude is defined as "The act of baseness, vileness, or the depravity in private or social duties which man owes to his fellow man, or to society in general, contrary to accepted and customary rule of right and duty between man and man. Act or behavior that gravely violates moral sentiment or accepted moral standards of community

and is a morally culpable quality held to be present in some criminal offenses as distinguished from others." (*Black's Law Dictionary*, Sixth Edition)

- An action based on commission of acts where moral turpitude is involved does not require conviction of a crime. Some acts involving moral turpitude include activity such as immoral sexual behavior, or crimes for personal gain, fraud, or theft.
- The concept of moral turpitude depends on the degree of public harm produced by the act in question. In evaluating the conduct, the purpose for which the moral turpitude standard was established must be recognized, which was to insure that the public and other persons dealing with the licensee be protected against him/her.
- A working definition of moral turpitude used by driver safety hearing officers, is: "Conduct which is contrary to justice, honesty, modesty, or good morals."
- Current law requires more than the fact that a person was convicted of a crime; there must be a nexus, or logical relationship between the criminal conduct and the licensee's fitness to engage in the profession at issue.

DISMISSALS UNDER PENAL CODE §1203.4

A court dismissal of a criminal conviction under Penal Code section 1203.4 is not treated as a dismissal for purposes of the certificate action. Such a dismissal means the applicant has successfully completed court imposed probation. However, the offense still remains a conviction for license and certificate purposes and must be disclosed on the certificate application.

MEDICAL DISABILITY

The certificate may be refused, suspended or revoked if the driver does not meet the minimum medical standards established by the department in Article 2.1, Sections 28.18 and 28.19, of Title 13, California Code of Regulations. In addition to determining whether the driver meets the standards, the demands of the duties and responsibilities of an ambulance or school bus driver are considered.

These drivers must possess skills and abilities which exceed those of a regular commercial vehicle driver. Ambulance drivers must perform under emergency conditions, which may involve moving patients on

stretchers for unknown distances and in situations such as stairways and other hazards. School bus drivers must cope with hazardous road conditions and children of various ages and degrees of physical mobility.

In evaluating the medical condition, elements such as the hours the driver works, scope of driving, mileage, driving record, and whether the driver compensates for the disability are considered.

HAM CERTIFICATE

The Hazardous Agricultural Materials Certificate (HAM) under Vehicle Code §12804.2 is required by persons who transport agricultural hazardous material or waste without a commercial license. Individuals who are qualified for the HAM certificate are exempt from the HM endorsement requirement which is normally required to transport hazardous materials or waste.

To qualify, applicants must meet the commercial driver medical standards under Vehicle Code §§12804 and 12804.9, or be capable of compensating for any medical disability, and complete specialized training approved by the CHP. They must also meet the exemption criteria listed below:

- Applicant is hauling hazardous waste or transporting a load which requires placards.
- Applicant is at least 21 years old.
- Applicant is employed in an agricultural operation.
- Applicant is operating a vehicle which is an implement of husbandry or requires a Class 3/C driver license and the vehicle is controlled (owned or leased) or operated by a farmer.
- Applicant is not traveling more than 50 miles from one point to another.
- Applicant submits a completed Health Questionnaire (form DL 546) and a HAM program form.

HAM Sanctions: If the applicant does not meet the medical standards, the department will refuse to issue the HAM certificate. If the person becomes medically unqualified after the HAM certificate is issued, a restriction that “the driver may not transport material requiring placards/markings per Vehicle Code §27903” is added to the driver

license and the driving record. The driver license must be surrendered to add the restriction.

- **Appeal Rights:** If a person does not meet the medical standards at the time of filing an application or at any time after the certificate is issued, and the department takes the above described sanction(s), he or she is entitled to a hearing.
- **Possible Decisions:** The hearing officer may sustain the action if it is warranted as stated in the issues. A set aside may be warranted if the driver is qualified based on ability to compensate for the disability, provided it is a waivable condition. An area type restriction may be appropriate, depending on the medical condition and compensating factors. If appropriate, probation may also be imposed.

HEARING REQUESTS AND STAYS OF ACTION

Hearing requests are granted by the department under the following guidelines. Pursuant to Vehicle Code §13371, hearing request must be made in writing within 15 days from the date the order of action against the certificate is mailed. However, hearing requests for AMB certificate actions pursuant to Vehicle Code §13374 must be made in writing within 10 days from the mail date. Refusals of original certificate and AMB certificates are not granted stays if there is reasonable cause to believe the stay would pose a significant risk to the safety of persons being transported.

BUS DRIVER CERTIFICATE STATEMENT OF EXCEPTION

Under Vehicle Code §13371(c) a person who has had a department hearing regarding a SCH, SPAB, YOB, VDDP or GPPV certificate, has an opportunity, following the hearing, to submit a written "statement of exception" to the hearing officer's findings and proposed decision.

Upon receipt of the findings and proposed decision, the driver has 24 days after the mailing date to submit a written statement to the department. If the driver submits a statement, it is forwarded to the review board. The statement cannot contain new evidence or testimony not presented at the department hearing, unless the driver establishes to the satisfaction of the review board that the new evidence could not have been obtained with due diligence prior to the hearing.

REVIEW BOARDS

Upon conclusion of a SCH, SPAB, YOB, GPPV, VDDP or AMB certificate hearing, the hearing officer submits written findings and a proposed decision to a review board located in Sacramento.

The bus driver Certificate Action Review Board and the Ambulance Review Board are each comprised of three members. Each board has a member appointed by the department and California Highway Patrol. In addition, the ambulance driver committee has a member from the Emergency Medical Health Service Authority, and the school bus driver board has a member from the Department of Education.

The members of the review boards render a final decision after a review of the findings and proposed decision. The board's decision may be to sustain, modify, or set aside the department's action. They may also remand a hearing back to the hearing officer if the hearing is incomplete or the recommendation is lacking soundness.

The department notifies the driver of the board's decisions.