

**Excerpted from Chapter 5 of
CALIFORNIA DRUNK DRIVING LAW
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"The Bible of Drunk Driving Defense"TM
by Ed Kuwatch, Attorney at Law
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§10 OTHER RECORDS

10(A) D.M.V. Records

Veh. C. §1808 describes what D.M.V. records are available for public disclosure. In 1997, the California legislature amended §1808 (Stats. 1997, Chap. 619 (SB 506, Cmte. on Trans.), §7, to simplify the statute and make it conform to the requirements of 18 U.S.C. §§ 2721 et seq. (set forth in full in Appendix B) (see §1808(e)). Section 1808 now reads (new underlined, old ~~struck out~~):

- ~~(a) Notwithstanding Sections 16005 and 20012, and except as provided in Sections 1808.4, 1808.5, 4750.2, and 4750.4 Except where a specific provision of law prohibits the disclosure of records or information or provides for confidentiality, all records of the department relating to the registration of vehicles, other information contained on an application for a driver's license, abstracts of convictions, and abstracts of accident reports required to be sent to the department in Sacramento, except for abstracts of accidents where, in the opinion of a reporting officer, another individual was at fault, shall be open to public inspection during office hours. All abstracts of accident reports shall be available to law enforcement agencies and courts of competent jurisdiction.~~
- ~~(b) The department shall make available or disclose abstracts of convictions and abstracts of accident reports required to be sent to the department in Sacramento, as described in subdivision (a), if the date of the occurrence is not later than the following:~~
- ~~(1) Seven years for any violation designated as two points pursuant to Section 12810.~~
 - ~~(2) Three years for accidents and all other violations.~~
- ~~(c) The department shall make available or disclose suspensions and revocations of the driving privilege while the suspension or revocation is in effect and for three years following termination of the action or reinstatement of the privilege, except that drivers license suspension actions taken pursuant to Sections 13202.6 and 13202.7, or Section 256 or 11350.6 of the Welfare and Institutions Code shall be disclosed only during the actual time period in which the suspension is in effect.~~

- (d)The department shall not make available or disclose any suspension or revocation that has been judicially set aside or stayed.
- (e)The department shall not make available or disclose personal information about any person unless the disclosure is in compliance with the Driver's Privacy Protection Act of 1994 (18 U.S.C. Sec. 2721 et seq.).

10(A)(a) Driver's License Records

Apparently in response to the new language of Veh. C. §1808, set forth above, the D.M.V. released COURT INFORMATIONAL MEMO 98-4 (May 15, 1998) - Reportability of Driving Record Information. It states, in part:

Overview of Procedures

Suspensions and revocations shall appear on the record for *three years* following *termination* of the action or *reinstatement* of the driving privilege, **except non-driving convictions** taken pursuant to Sections 13202.6 and 13202.7 of the Vehicle Code or Section 256 and 11350.6 of the Welfare and Institutions Code which are shown *only* when the action *is in effect*.

- Violations designated as two points pursuant to VC §12810 will be reported for *seven years from the date of violation*.
- All other violations shall be reported for *three years from the date of violation*.
- Accidents shall be reported for *three years*.
- Failure to Appear (FTA) violations shall be reported for *five years from the date of violation*. (No changes from existing policy.)

DMV will disclose suspension and/or revocation actions that have not been reinstated or terminated until the action has been reinstated, terminated (**see above**), or *there has been 10 years of inactivity* - whichever occurs **first**.

Exception: An FTA reported under **VC §40509.5(c)** shall be reported for *ten years from the date of violation*.

Effective January 1, 1998, a felony DUI conviction or a felony manslaughter conviction shall be **reported to the courts and law enforcement** for *ten years from the violation date* (AB 130).

Note: Current fifty-five and ten-year reporting requirements for specified violations involving commercial vehicles remain unchanged.

Contact

Questions regarding the information contained in this memo may be directed to the Justice and Government Liaison [sic] at (916) 657-7732 or CALNET 8-437-7732.

/s/
 Candy Wohlford, Deputy Director
 Communications Programs Division

In addition to §1808, several other statutes are of interest. Veh. C. §1810.5 provides that a **public defender** is entitled to D.M.V. record information by phone. Pen. C. §987.2 gives private court-appointed attorneys the same right to information as that given to public defenders. But a privately retained attorney is denied this information. One could file a writ and make a stink about this based upon denial of equal protection, but first try the local D.M.V. hearing office by phone and see if they can help. If the problem is stated as a driver's license record clarification or as help in figuring out why the license is suspended, and if you state that you are the person's attorney, they usually will discuss it over the phone.

Frequently the defendant's driver's license record is attached to the police report. Where it is not, it may be obtained by mail, or in person with a wait, by use of D.M.V. forms INF 1125 (for a person requesting their own record), or INF 70 (for a person requesting someone else's record). Unless you use the INF 1125 and have the licensee add to it that he wants a full confidential record (an H6 record), the record you get does not show disposition codes. A person appearing "in person" is entitled to an immediate copy of his or her driver's license record "as soon as the information request is processed" (Title 13, Cal. C. of Regs., §350.40(d), set forth in full in Appendix B).

Veh. C. §1810.2 provides for D.M.V. record access "by commercial account" for a \$50.00 annual fee, if no residence address information needed (otherwise \$250.00). But these records don't have all the information restricted by Veh. C. §1807.5.

Prosecutors use a D.M.V. form DL 252 - LAW ENFORCEMENT REQUEST FOR DRIVER RECORD INFORMATION to get a record with full legal information, such as 10 years of drunk driving offenses and disposition codes. You might try this form, and a Superior Court writ if the D.M.V. refuses to grant the request.

An out-of-state conviction of drunk driving appears on the California driver's license record as either "O/S 17", equivalent to §23152, or "O/S 18", equivalent to §23153. A Federal conviction of drunk driving appears on the California driver's license record as either "36423", equivalent to §23152, or "36FR46", equivalent to §23153.

For more information:

Sankey, Michael, *The MVR Book - Public Records Research Library* (Tempe, AZ: BRB Publications (FEP), updated annually) - "The national reference, detailing in practical terms, the privacy restrictions, access, procedures, regulations, and systems of all state held driver and vehicle records." Includes tables showing membership in various interstate compacts and agreements and how various states record, or fail to record, violations in other states.

Sankey, Michael, *The MVR Decoder Digest - The Public Records Research Library* (Tempe, AZ: BRB Publications (FEP), updated annually) - "The companion to *The MVR Book*, translating the codes and abbreviations of violations and licensing categories that appear on motor vehicle records."

- Chapter 1 (1 of 2) - Understanding the [Driver's License] Record [Printout], in *Driver Safety Manual (DSM)* (Sacramento, CA: D.M.V.). (See page 11-1 for more information on ordering D.M.V. publications.)
- Chapter N, "Printout Terms and Definitions", in *Abstract Reporting Manual (ARM)*, 1998 ed. (Sacramento, CA: D.M.V.) (See page 11-1 for more information on ordering D.M.V. publications.)
- Chapter C, "DUI Reporting", in *Abstract Reporting Manual (ARM)*, 1998 ed. (Sacramento, CA: D.M.V.) (See page 11-1 for more information on ordering D.M.V. publications.)
- 79 Ops Atty Gen 76 (1996, #95-805) - Release of information from DMV records.
- D.M.V., Division of Driver Safety, DS 96-14 (09/26/96) - APS/PAS COMMENTS PURGE DATE - APS/PAS comments should not be purged for 10 years from date of arrest.
- Loving, ____, *DMV Secrecy: Stalking and Suppression of Speech Rights* (Summer 1996) 4 CommLaw Conspect 203.
- Sherrod, J. Thomas, "Sourcebook" in, *Membership Directory and Attorney Sourcebook* (Fremont, CA: California Deuce Defenders, 1996) 36 - Abstracts of judgment - Guide to disposition codes.
- Amer. Pros. Res. Instit., NTLC, *Prior Convictions in DUI Prosecutions—A Prosecutor's Guide to Prove Out-of-State DUI/DWI Convictions* (Charlottesville, VA: Michie, 1997) (reviewed in, Lillie, Richard G., "Prior Convictions in DUI Prosecutions—A Prosecutor's Guide to Prove Out-of-State DUI/DWI Convictions", *the Champion*, XXI No. 10, Dec. 1997 (Washington, D.C.: N.A.C.D.L.) 50).