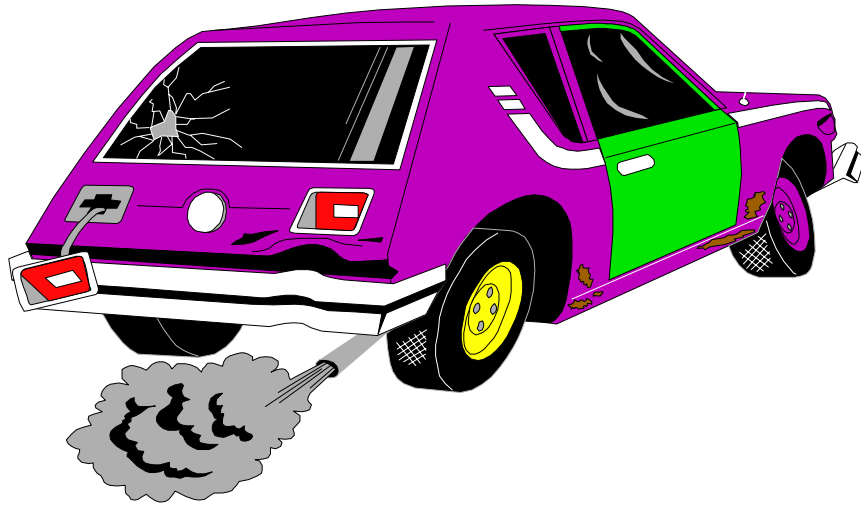




Guidelines for Actions Against the Driving Privilege Based on Financial Responsibility



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PURPOSE

This document contains information on financial responsibility (FR) disciplinary guidelines, and hearing procedures and issues.

BACKGROUND

California's compulsory financial responsibility laws require that those owning or operating motor vehicles in the state shall be financially capable of providing monetary protection to those injured or having property damaged in vehicle accidents, without regard to negligence, liability, carelessness or culpability.

If the driver or owner receives a notice of intent to suspend the driving privilege for failure to provide evidence of financial responsibility, he/she is entitled to a hearing upon request.

AUTHORITY

Vehicle Code Section 16020 states: "...every driver and every owner of a motor vehicle shall at all times be able to establish financial responsibility pursuant to Section 16021, and shall at all times carry in the vehicle evidence of the form of financial responsibility in effect for the vehicle."

Vehicle Code Section 16070 provides for suspension of a driver or owner who fails to show financial responsibility was in effect for a reportable accident.

Vehicle Code Section 16075(c) requires that the department hold a hearing and make a determination before the effective date of the suspension.

REPORTABLE ACCIDENTS

Vehicle Code Section 16000(a) requires every driver of a motor vehicle involved in an accident on a public street or highway, to report the accident within 10 days to the Department of Motor Vehicles, if any person was injured or killed, or if the property of any one person had over \$500 damage.

Vehicle Code Section 16000.1(a) also requires certain off-highway accidents to be reported if they meet all of the following criteria:

- Occur off the street or highway.
- Involve a vehicle subject to registration (includes vehicles not currently registered).

- Involve damage to the property of any one person over \$500, an injury of any degree, or the death of any person.

However, an off-highway accident on private property in which damages occur only to the property of the driver or owner of the motor vehicle and no bodily injury or death occurs is not required to be reported to the department.

ESTABLISHING FINANCIAL RESPONSIBILITY

Under Vehicle Code Section 16021, financial responsibility is established if the driver or owner is:

- Holder of a department-issued certificate of self-insurance, pursuant to Vehicle Code Section 16052.
- An insured or principal under a form of liability insurance policy or surety bond pursuant to Vehicle Code Section 16054, which covers the driver for the vehicle involved in the accident.
- The United States of America, this state, any municipality or subdivision thereof, or the lawful agent thereof (owned, leased by, or under the direction of these entities, pursuant to Vehicle Code Section 16052).
- A depositor under Vehicle Code Section 16054.2(a).
- In compliance with the requirements authorized by the department by any other manner which effectuates the purposes of the financial responsibility laws in Division 7, Chapter 1 of the Vehicle Code.

Regardless of the form of FR evidence claimed, the hearing officer must determine whether or not an acceptable form of financial responsibility covering the driver and vehicle was in effect at the time of the accident.

REQUEST FOR HEARING

The order of FR suspension the department sends to a driver or owner is accompanied by a request for hearing form. Failure to respond to a notice of suspension within 10 days of receiving the order is a waiver of the person's right to a hearing (Vehicle Code 16075).

STAYS

Vehicle Code Section 16075(d) provides that if the department does not hold a hearing and make a determination before the effective date of the suspension, it shall grant a stay. A hearing request does not automatically stay the suspension of a person's driving privilege. However, if the request is timely and the department is unable to conduct a hearing and make a determination within 30 days after mailing the order of suspension, the law requires the suspension to be stayed pending the determination.

FAULT

Many drivers believe that since the accident was "the other driver's fault" they should not be suspended. Assignment of fault is not the basis of the proposed action. The action is taken when the driver did not provide evidence of financial responsibility as required by Vehicle Code Section 16020.

HEARING ISSUES

The issues to be considered in a hearing are limited to:

- (1) Was the respondent the driver or owner of the vehicle involved in the accident?
- (2) Was there property damage over \$500 or was any person injured or killed?
- (3) Did respondent have automobile liability insurance or one of the other approved types of financial responsibility in effect at the time of the accident?

NOTE: Who was to blame for the accident or the need for a driver license has no bearing on the outcome of the hearing.

SUSPENSION OF REGISTERED OWNER

The driver may believe the registered owner should be responsible and be suspended because the driver had no knowledge of the registered owner not having insurance coverage on the vehicle. The driver's request in this situation cannot be honored. It is the responsibility of the driver who was involved in the accident to show evidence of financial responsibility. The FR laws also apply to the registered owner.

The registered owner of the vehicle involved in the accident will have his or her driving privilege suspended when there is no evidence of financial responsibility under the following conditions:

- The vehicle was a driverless runaway (Vehicle Code Section 16001); or

- The driver cannot be identified.

A financial responsibility action is taken against the driver when the driver is known. If the driver cannot be identified in situations of hit and run, or uses false identification, and the registered owner does not identify the driver, the owner must then submit the required evidence of FR or his or her driving privilege will be suspended.

RESTRICTIONS AND EXEMPTIONS

The period of the FR suspension under Vehicle Code Section 16070 is a minimum one year. At the end of the suspension, proof of financial responsibility must be filed and maintained with the department for three years, pursuant to Vehicle Code Section 16430.

In lieu of the suspension, a person may apply for a restricted license under the provisions of Vehicle Code Sections 16072 and 16077. A driver license suspension or revocation in effect for any cause other than a financial responsibility suspension will prevent the issuance of a restricted license. The restriction remains in effect for the period of suspension and evidence of insurance must be maintained with the department. After the restriction period ends, proof of insurance must continue to be on file for three years.

A person who is required to drive during employment may apply for a course of employment exemption which allows for the operation of a motor vehicle for compensation not registered in the person's name in order to perform job duties in the course of employment (Vehicle Code Section 16073). The suspension remains in effect, and the exemption does not authorize driving to and from work.

Any driving other than that permitted by the restriction or exemption is citable under the Vehicle Code.