

## Admin Per Se Immediate Driver License Suspension or Revocation

The administrative license suspension program, known as “Admin Per Se” (APS) was implemented in 1990 as a stronger deterrent to drunk driving. The following information is a general guide for drivers 21 years of age and older who become subject to an APS driver license suspension or revocation. All APS cases are unique, and if this guide does not provide the specific information you are seeking, additional information is available on DMV website at [www.dmv.ca.gov](http://www.dmv.ca.gov).

### Who Is Affected?

The Department of Motor Vehicles (DMV) is required to suspend or revoke the driving privilege of any person arrested for driving under the influence (DUI) of alcohol or a combination of alcohol and drugs, who:

- Takes a chemical (blood or breath) test which shows a blood alcohol concentration (BAC) level of 0.01% while on DUI probation, 0.04% while driving a commercial vehicle, and/or 0.08% or more while driving a noncommercial vehicle, **OR**:
- Refuses to take or fails to complete a chemical test (blood or breath)\* to determine his/ her BAC level.

\*Note: A urine test is not available unless one of the following applies:

- Both the blood and breath tests are unavailable.
- You are a hemophiliac.
- You are taking anticoagulant medication.

### What Happens To My Driver License?

The officer will give you an Order of Suspension/Revocation. If you have a valid California driver license, the officer will take your driver license and send it to DMV (to be destroyed).

The Order of Suspension/Revocation includes a temporary driver license valid for 30 days from the issue date (usually the date of your arrest). At the end of the 30 days, the suspension/revocation action goes into effect. If the officer does not serve you with an Order of Suspension/Revocation, DMV will mail you one.

The temporary driver license does not allow you to drive if there is another DMV or court-imposed driver license action in effect.

**The APS suspension or revocation is independent of any jail, fine, or other criminal penalty imposed in court if you were convicted of a DUI offense.**

### What Does DMV Do?

DMV automatically conducts an administrative review which may include an examination of the officer’s sworn report and any accompanying documents, such as an arrest or traffic collision report.

If the review shows there is no basis for the APS suspension/revocation, it will be set aside. DMV will notify you in writing only if the suspension/revocation is set aside.

### What Can I Do About the Suspension/Revocation?

You have **10 days** from the receipt of the Order of Suspension/Revocation to request a hearing to show that the APS suspension/revocation is not justified. DMV will conduct a telephone hearing unless you request an in-person hearing. The APS suspension/revocation will not be stayed (delayed) unless:

- You request a hearing within 10 days from the issue date of the order **and** DMV cannot provide a hearing before the effective date of the suspension/revocation.

Before the hearing, and upon request, you may see and/or obtain copies of DMV’s evidence. If you want copies released to someone else, such as an attorney, you must give the person signed permission. You have the right to have a sign

or language interpreter present at your hearing. Immediately notify DMV if you require an interpreter.

You may represent yourself or, at your own expense, an attorney or another person may represent you at the hearing. You may present oral testimony and other evidence. Your testimony will be taken under oath or affirmation and the hearing will be recorded.

DMV ordinarily does not arrange to have the peace officer testify. However, DMV reserves the right to call the officer if his/her testimony is needed. You may subpoena the officer or any other witness(es) you feel may help your case and have relevant testimony or evidence to present. You are responsible for paying the required fees and for making sure your witness(es) receives the subpoena.

After the hearing decision, you may submit a written request for a department review within 15 days of the effective date of the notice. The fee for a department review is \$120 (*California Vehicle Code* (CVC) §§14105.5, 14907).

To reinstate your driving privilege after an APS suspension/revocation, you must:

- Pay a \$125 reissue fee to DMV (CVC §14905).
- File proof of financial responsibility (i.e., a California Insurance Proof Certificate [SR 22], \$35,000 cash deposit, surety bond, or self-insurer certificate under CVC §16430).
- Maintain proof of financial responsibility for 3 years.

### Hearing Issues

#### A. If you took a chemical test:

1. Did the peace officer have reasonable cause to believe you were driving a motor vehicle in violation of CVC §§23152, 23153, or 23154?
2. Were you lawfully detained while on DUI probation or lawfully arrested?

3. Were you driving a motor vehicle when you had 0.01% BAC or more while on DUI probation; 0.04% BAC or more while driving a commercial vehicle; or 0.08% BAC or more while driving a noncommercial vehicle?

#### B. If you refused or failed to complete a chemical test:

1. Did the peace officer have reasonable cause to believe you were driving a motor vehicle in violation of CVC §§23152, 23153, or 23154?
2. Were you lawfully detained while on DUI probation or lawfully arrested?
3. Were you told that your driving privilege would be suspended or revoked for 1, 2, or 3 years, if you refused to submit to or failed to complete a chemical test?
4. Did you refuse to submit to, or fail to complete a chemical test or preliminary alcohol screening (PAS) test (while on DUI probation) after being requested to do so by a peace officer?

**NOTE:** Your need for a driver license is not an issue at the APS hearing.

### How Long Will I Be Suspended or Revoked?

#### A. If you took a chemical test, and the results showed a BAC of 0.04% while operating a commercial motor vehicle, or 0.08% or more while operating a noncommercial vehicle, your driving privilege will be suspended for:

- 4 months—first offense.
- 1 year—1 or more separate offenses in 10 years.

A court-ordered DUI probation prohibits a person previously convicted of a DUI from operating a motor vehicle with any measurable amount of alcohol in the driver’s blood (0.01% BAC).

- **If you took a PAS or chemical test**, and the results showed a BAC level of 0.01% or more, **and** you were on a court-ordered probation for a prior DUI conviction of CVC §§23152 or 23153, in addition to the APS suspension, DMV will impose a concurrent **1-year suspension** based on violation of your DUI probation. You are **not** eligible for a restricted driver license during the 1-year period.

**B. If you refused or failed to complete a PAS or other chemical test, and you were on a court-ordered probation for a DUI conviction of CVC §§23152 or 23153, the following licensing sanctions will apply:**

- **First offense**—a 1-year suspension; a 2-year revocation if on DUI probation.
- **Second offense**—within 10 years of a separate violation of driving under the influence will result in a **2-year revocation; a 3-year revocation while on DUI probation.**
- **Three or more offenses**—within 10 years of any combination of the above violations, convictions, or separate administrative determinations will result in a **3-year revocation.**

### Restricted License Eligibility

You may be eligible for a **noncommercial** restricted driver license if all of the following apply:

- This is your first offense.\*\*
- You completed a chemical test.
- The results showed a BAC level of 0.04% while operating a commercial vehicle, or 0.08% or more while operating a noncommercial vehicle.
- You were 21 years of age or older (CVC §13353.7).
- Your driving privilege is not suspended or revoked for some other reason.

\*\* FIRST OFFENSE. You must not have had another offense within 10 years of a separate DUI violation. This includes a charge reduced to reckless driving, vehicular manslaughter, or violation of CVC §23140, which resulted in a conviction or separate administrative determination that you were driving with a BAC of 0.01% or more while on DUI Probation, driving a noncommercial vehicle with a BAC of 0.08% or more, driving a commercial vehicle at any age with a BAC of 0.04% or more, **OR** you refused a chemical test.

**NOTE:** Holders of a commercial driver license must down-grade to a Class C non-commercial driver license. You may then request the applicable restriction Noted below which shall remain in effect for 5 months.

If you were cited in a:

- **Noncommercial vehicle**, you may be eligible for a restriction to drive to/from a DUI treatment program, and to/from/ during course of employment only.
- **Commercial vehicle**, you may be eligible for a restriction to drive to/from a DUI treatment program only.

### Noncommercial Restricted License

To be issued a **noncommercial** restricted driver license, you must:

- Enroll in a licensed DUI First Offender program. (You must notify the program provider that you intend to apply for a restricted driver license.)
- Ask the program provider to file a Proof of Enrollment Certificate (DL 107) in a licensed DUI First Offender program with DMV (CVC §23538(b)).
- File proof of financial responsibility (i.e., a California Insurance Proof Certificate [SR 22], \$35,000 cash deposit, surety bond, or self-insurer certificate under CVC §16430).
- Pay a \$125 reissue fee.

- Wait until the end of the mandatory 30-day suspension period before applying for a restricted driver license.
- Request a **to/from/during course of employment and DUI program restriction**. Your driving privilege will be restricted to allow you to drive to, from, and during the course of your employment **and** to and from the DUI program. **This restriction is valid for 5 months from the issuance date.**

**NOTE:** If you enroll and fail to participate **or** do not complete the DUI program, DMV will suspend your driving privilege for up to 4 months.

### Questions?

If you have any questions, contact one of the following Driver Safety Offices in the city closest to your arrest:

LOCATION	TELEPHONE
Bakersfield	(661) 833-2103
City of Commerce	(323) 724-4000
City of Orange	(714) 703-2511
Covina	(626) 974-7137
El Segundo	(310) 615-3500
Fresno	(559) 445-6399
Oakland	(510) 563-8900
Oxnard	(805) 988-3050
Redding	(530) 224-4755
Sacramento	(916) 227-2970
San Bernardino	(909) 383-7413
San Diego	(858) 627-3901
San Francisco	(415) 557-1170
San Jose	(408) 229-7100
Stockton	(209) 948-7715
Van Nuys	(818) 376-4217



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