

Vehicle-Based Enforcement Works in California

*Addressing Unlicensed
Drivers: What needs to be
done?*

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Unlicensed drivers pose a clear and present danger to the safety of the prevailing society. Current and newly enacted impounding laws have allowed for actions of remiss to go unpunished; costing taxpayers' money, and families' lives. This detailed analysis will evoke statistics and scenarios that promote the detainment of unlicensed drivers' vehicles. Additionally, alternatives outlined in this paper were done with great deference – the paradigm that society faces with such drivers is not explicit to an identity, but an intent to drive illegally, which has led to incriminating actions and statistics.

Background

In California, driving is a privilege, not a right. An individual must have a valid license to drive. A valid license is one that is not suspended, revoked, or expired, and is issued to you by the California Department of Motor Vehicles. Driving without a license is a punishable offense under California Vehicle Code 12500 (a). While the legality of driving has not yet changed over the past two decades, impoundment policy involving unlicensed drivers has vacillated greatly, putting the lives of many in jeopardy. The heightened risks imposed on society by unlicensed drivers propound the need for justifiable solutions to current impoundment policy.

Legislative History

In 1994 the California legislature passed two bills allowing vehicle impoundment and forfeiture of vehicles operated by subjects driving while unlicensed or with suspended licenses. The first bill, Senate Bill 1758 allowed peace officers to seize and impound for 30 days vehicles driven by a person whose license had been suspended, revoked; or a person who had never been issued a license. Police could impound the vehicle whether the driver was the registered owner of the vehicle or not.

Under the law, the impoundment of the vehicle was considered administrative in nature and did not require a judicial hearing. A subject who had his or her vehicle impounded was entitled to an administrative hearing, but the hearing officer could be anyone appointed by the impounding agency. This meant that the agency could conduct hearings with existing personnel and did not require incurring the expense of paying for either a court hearing, or an independent hearing officer.

The second law, Assembly Bill 3148, authorized the forfeiture of vehicles driven by certain repeat offenders. The law placed a significant burden on prosecutors, who had to obtain

court permission for the forfeiture and pay the cost of the hearing. Few police agencies and prosecutor's offices have attempted to implement forfeiture under this provision.

Two years after Senate Bill 1758 became law, the California Department of Motor Vehicles commissioned a study on the effectiveness of the law as a deterrent to driving with a suspended license or without a license in California. The study found that first-time offenders who had their vehicles impounded were 18 percent less likely to have additional convictions than those who received citations, but did not have their vehicles impounded.

According to the study, repeat offenders who had their vehicles impounded were twenty two percent less likely to have additional convictions than those who just received citations but did not have their vehicles impounded. The study also found that first-time offenders were twenty-five percent less likely to be involved in a subsequent collision if their vehicles were impounded. Repeat offenders were thirty-eight percent less likely to be involved in a subsequent collision if their vehicles were impounded.¹

In October 2011, impounding legislation was fundamentally altered, diminishing the repercussions of driving while unlicensed. Assembly Bill 353 made previous impoundment laws unenforceable. The bill blocks police from combining driver's licenses checks with DUI checkpoints – in turn, dismantling the 30-day impoundment policy completely. This comes as a detriment to society. If the legislation stands, dangerous drivers will continue to partake in acts of impropriety.

Facts & Statistics

There have been a number of studies conducted during the past three decades that convincingly demonstrate that license suspension and revocation are some of the most effective counter measures currently available for attenuating the traffic safety risk of problem drivers. At the same time, it is commonly understood that most suspended/revoked drivers violate their illegal driving status and continue to drive, accruing traffic convictions and becoming involved in crashes. Consequences need to parallel the severity of such actions, and only one legal exercise has proven to consistently deter such illegal behavior: impoundment.

Stopping Dangerous Drivers

A study titled "An examination of the characteristics and traffic risks of drivers suspended/revoked for different reasons,"² evaluated the impact of vehicle impoundment on the 1-year subsequent driving behavior of suspended/revoked and unlicensed drivers who experienced impoundment. The results show that drivers whose vehicles were impounded have, relative to similar drivers whose vehicles were not impounded: 23.8 percent fewer driving convictions; 18.1 percent fewer traffic convictions; and 24.7 percent fewer crashes.

¹ California Department of Motor Vehicles, "Evaluation of the Specific Deterrent Effect of Vehicle Impoundment on Suspended, Revoked, and Unlicensed Drivers in California," RSS-97-171, by D. J. DeYoung (Sacramento, Calif.: 1997).

² J Safety Res. 2004;35(3):287-95. PMID: 15288562

The differences between the “impound and no-impound” groups are even larger when the driving records of repeat offenders (i.e. unlicensed convictions) are examined. Repeat offenders whose vehicles are impounded have 34.2 percent fewer convictions, 22.3 percent fewer traffic convictions and 37.6 percent fewer crashes. These findings provide strong support for impounding vehicles driven by suspended/revoked and unlicensed drivers.³

There are a small number of drivers who appear immune to countermeasures that have proved effective for the majority of highway users. These “hard-core offenders” continue to drive even after losing their license and are over represented in subsequent violations and crashes. It is estimated that as many as three-fourths of suspended and revoked (herein S/R) drivers continue to drive. (van Oldenbeek and Coppin, 1965; Hagen et al., 1980; Ross and Gonzales, 1988; DeYoung, 1990). Even so, they represent a substantially large portion of the individuals in subsequent violations and crashes.

Based on estimated exposure alone, unlicensed drivers are greatly over represented in fatal crashes (DeYoung et al., 1997). In California, based on an analysis of two-vehicle fatal crashes in which only one driver was judged to be at fault, compared with validly licensed drivers, S/R drivers were over involved by a factor of 3.7:1.⁴ In years 2007-2009, this type of negligence resulted in 18.2% of fatal crashes involving a driver who was unlicensed or invalidly licensed: these crashes resulting in the deaths of 21,049 people.⁵

The California Legislature intended to provide safer roads for California’s motoring public by removing the vehicles driven by unlicensed, suspended, or revoked drivers for 30 days. A serious violation of the law calls for a dually serious response. The 30-day impound began on the calendar day the car was towed and was released at the conclusion of the 30th day after the individual obtained a release from the impounding agency.

Deadly Crashes

Drivers with invalid licenses are far more likely to have been driving drunk and to have had multiple suspensions or revocations in the three years before the crash, according to a study done by AAA Foundation for Traffic Safety. The study shows that one in five fatal crashes involves a driver who is not properly licensed. The importance of impoundment is compounded further when alcohol is affixed to the scenario. Close to fifty percent of all unlicensed and invalidly licensed drivers in fatal crashes between the years 2007-2009 had alcohol in their system.⁶ Additionally, a report (Griffen and DelaZerda, 2000) analyzing 5 years of Fatality Analysis Reporting System (FARS) data produced similar results.

Drivers operating on invalid licenses or no license at the time of their fatal crashes are statistically significant when in comparison to their antithesis, according to a study performed by Dr. Lindsay Griffin of the Texas Transportation Institute. Dr. Griffin examined five years of fatal crash data, identifying each driver’s license status. Drivers with invalid

³ (National library for public medicine)

⁴ Volume 2: A Guide for Addressing Collisions Involving Unlicensed Drivers and Drivers with Suspended or Revoked Licenses – Guidance for Implementation of the National Cooperative Highway Program

⁵ AAA Foundation for Traffic Safety. “Unlicensed to Kill”, Washington D.C. (2000, 2008, 2011).

⁶ *ibid.* AAA Foundation for Traffic Safety

licenses were far more likely to have been driving drunk and to have had multiple suspensions or revocations in the three years before the crash.⁷

There are over 1 million drivers operating automobiles in California having never been issued a license.⁸ In response to a high number of collisions, specifically hit-and-run crashes involving unlicensed drivers, law enforcement has emphasized the importance of unlicensed driver enforcement to its officers. While some residents may not see the value in towing away an unlicensed driver's car, law enforcement officials look at it much differently. Unlicensed drivers are, very often, the highway's most dangerous drivers. Capt. Terry Holderness, of the Fontana Police Department, studied the correlation between unlicensed drivers and traffic collisions. His research determined that unlicensed drivers, or those with suspended licenses, are 66.4 times more likely to be involved in a hit-and-run collision.

Hit-and-Runs

Hit-and-run accidents kill nearly 1500 annually in the United States. This staggering number of fatalities has provided statistics in overwhelming support of vehicle impoundment. It has been estimated that as many as 50 percent of all traffic collisions in the City of Los Angeles are hit-and-run, due in part to unregistered vehicles and unlicensed drivers. On average in the United States, unlicensed drivers, in comparison with licensed drivers, were 4.4 times more likely to be involved in hit-and-run collisions.⁹ Even more a stark reminder of the lawlessness of driving without a license, the most recent AAA study showed that among fatal-crash involved drivers who were not incapacitated or killed, unlicensed drivers were 9.5 times as likely as validly licensed drivers to have left the scene.¹⁰ With aggressive enforcement of impoundment laws, hit-and-run traffic collisions are greatly reduced.

A 2005 AAA Foundation analysis dictated that approximately eleven percent of all police reported crashes involve a hit-and-run driver, and that the problem is especially alarming for pedestrians. About sixty percent of the people killed in hit-and-run crashes are pedestrians, according to Peter Kissinger, President and CEO of the AAA Foundation for Traffic Safety. One in five pedestrian fatalities involve hit-and-run drivers.

From 1994 to 2003, a total of 14,914 people were killed in hit-and-run crashes in the United States, according to the Foundation's analysis of the National Highway Traffic Safety Administration's Fatality Analysis Reporting System and General Estimates System databases. Deadly hit-and-run crashes most often occur on weekends and during the evening. Fifty-eight percent of fatal hit-and-run crashes occur on Friday, Saturday, or Sunday; forty seven percent of fatal hit-and-run crashes occur between 9 p.m. and 3 a.m. The foundation also found that drivers involved in crashes between the hours of 7 p.m. and 11:59 p.m. were approximately fifty percent more likely to have been unlicensed, and

⁷ *ibid.* AAA Foundation for Traffic Safety

⁸ California VC 14607.4: Legislative Findings, Ch. 113, Stats. 1994. Print.

⁹ Ragland, David. "Sobriety Checkpoints under attack in AB 1389." *Politics and Law*, The Berkeley Blog. June 15, 2011. Web. <<http://blogs.berkeley.edu/2011/06/15/sobriety-checkpoints-under-attack-in-ab-1389/>>

¹⁰ *ibid.* AAA Foundation for Traffic Safety

drivers involved in fatal crashes between midnight and 4:59 a.m. were twice as likely to have been unlicensed, compared to drivers who crashed between 5 a.m. and 6:59 p.m.¹¹

30-Day Hold Impoundment

The California Vehicle Code (CVC), prior to Assembly Bill 353, granted peace officers the authority to impound vehicles under specified conditions, including expired registration over six months and vehicles operated by unlicensed drivers. These impound authorities acted as deterrents, reducing hit-and-run traffic collisions and smog emissions, and increasing public safety and revenue for the State of California.

Section 14602.6(a) of the California Vehicle Code gave a peace officer the authority to impound a vehicle for 30 days when the driver had a suspended license or had never been issued a license. Previous California law and the policy of the Los Angeles Police Department mandated police officers to impound any vehicle that is driven by a person who did not have a valid driver's license.

Law Enforcement believes that an unlicensed driver or a driver with a suspended or revoked license is a threat to public safety. In an effort to reduce the number of drivers without licenses or drivers operating vehicles with suspended or revoked licenses, peace officers were given citation authorities that were supplemented by impound authorities, including the 30-day hold. Law enforcement agencies have stated that these tools have helped decrease the number of unsafe drivers on public roads as well as reduce the number of hit-and-run traffic collisions.

Making Streets Safer

According to the California Department of Motor Vehicles (DMV), there are over six million registered vehicles in Los Angeles County. Within the City of Los Angeles, the LAPD has estimated that as many as fifty percent of all traffic collisions are hit-and-run, due in part to unregistered vehicles and unlicensed drivers. Law enforcement believes that by strongly enforcing these laws, traffic collisions are reduced.

Research conducted in 2002 by the California Department of Motor Vehicles has shown that drivers who have a history of citations or DUI arrests are four times more likely to be involved in collisions than other drivers. The department also found that at any given time there are more than a million persons in California who have suspended or revoked driver's licenses.

One of the more common sanctions for DUIs is administrative license revocation. The act of revocation however, does not alone provide a great enough consequence to keep delinquent drivers off the streets. It is statistically noted that fifty to seventy five percent of offenders continue to drive without a license during their suspension/revocation period.¹² Over sixty

¹¹ *ibid.* AAA Foundation for Traffic Safety

¹² Beirness, Douglas, et al. "The Impact of Administrative License Suspension and Vehicle Impoundment for DWI in Manitoba." In C. Mercier-Guyon (Ed.) Proceedings of the 14th International Conference on Alcohol, Drugs and Traffic Safety. Annecy, France: Centre d'Etudes et de Recherches en Medecine du Trafic, 1997: 919-925.

percent of third-time offenders who have their license suspended or revoked commit some form of traffic violation during their suspension/revocation period.¹³

Impounding the offender's car curtails illegal behavior and as a consequence, protects the general public. About one-third of all drivers arrested for DUI each year are repeat DUI offenders¹⁴. Vehicle impoundment has been consistently effective in reducing DWI offenses among convicted drinking drivers.¹⁵ In Ohio, even two years *after* the sanction period, those drivers who had had their vehicles impounded still had at least thirty-five percent fewer DWIs compared with those who had not. This means that vehicle impoundment helps keep convicted drunk drivers from reoffending even once their sanction has been completed. This, in turn, reduces alcohol-related crashes.

California found similar results. First-time offenders who had their vehicles impounded had twenty five percent fewer crashes than those who did not; repeat offenders who had their vehicles impounded had thirty eight percent fewer crashes than those who did not.¹⁶

A Texas Transportation Institute study found that in the United States twenty percent of all fatal collisions involved one or more drivers who were unlicensed or driving with a suspended or revoked license. As a result, statistics have pointed to a significant increasing trend from 1990 through 2009 in the proportion of fatal-crash involved drivers who were unlicensed.¹⁷ The title of that study, "Unlicensed to Kill," sums up the public safety issue created by unlicensed or suspended-license drivers.¹⁸

Positive Effects of Impoundment

Vehicle impoundment works and makes California safer. In a 2005 letter written about the importance of impoundment, California Highway Patrol Commissioner M.L. Brown stated, "Those who choose to drive while unlicensed need a powerful deterrent to stop them from driving and continuously placing the public at risk." In support of Vehicle Code 14502.6 - the ability for a police officer to impound a vehicle for 30 days when that vehicle is operated by a person who is unlicensed or whose driver's license is suspended or revoked - Commissioner Brown said, "although such impoundment is inconvenient and expensive, it serves as a necessary deterrent for suspended and unlicensed drivers. However, when an impound has been determined to be unreasonable or unfair, current law provides for the early release of the vehicle."¹⁹

¹³ National Highway Traffic Safety Administration. "Traffic Safety Facts: Laws: Vehicle and License Plate Sanctions." Washington, DC: National Department of Transportation, National Highway Traffic Safety Administration, May 2003.

¹⁴ Nichols, James, and H. Lawrence Ross. "The Effectiveness of Legal Sanctions in Dealing with Drinking Drivers." *Alcohol, Drugs and Driving* 6(2) (1990)

¹⁵ Voas, Robert, A. Scott Tippetts, and Eileen Taylor. "Temporary Vehicle Immobilization: Evaluation of a Program in Ohio"

¹⁶ National Highway Traffic Safety Administration. "Traffic Safety Facts: Repeat Intoxicated Driver Laws." Washington, DC: National Department of Transportation, National Highway Traffic Safety Administration, May 2003.

¹⁷ *ibid.* AAA Foundation for Traffic Safety

¹⁸ Texas Transportation Institute, Safety and Structural Systems Division, "Unlicensed to Kill," by L. I. Griffin and S. DeLaZarda (College Station, Texas: 2000).

¹⁹ California Highway Patrol Commissioner M.L. Brown, File No: 001.14290.012.AB1132

In 2001 Officer David Whitham of the Santa Barbara Sheriff's Department conducted a study that looked at the "*the effects on offenders who lost their vehicles under the impoundment law*" versus "*the effect on drivers who did not experience vehicle impoundment*" on the entire state of California. The study found that drivers with no prior unlicensed, suspended or revoked convictions had 24.7 percent fewer subsequent convictions, 18.1 percent fewer subsequent traffic convictions, and 24.7 percent fewer subsequent crashes.

For repeat offenders, impoundment had an even larger impact. They had 34.2 percent fewer subsequent unlicensed, suspended or revoked convictions, 22.3 percent fewer subsequent traffic convictions, and 37.6 percent fewer subsequent crashes. However, there was no evidence that simply threatening vehicle impoundment prevented U/S/R driving. The study was definitive; drivers had to experience the impoundment for there to be an impact.

Vehicle impoundment had a positive effect on traffic safety in California, reducing the number of crashes and removing unlicensed drivers from the street. Removing access to the vehicle by way of impounding is a successful exercise in limiting illegal driving during periods of suspension or revocation.

Present Day Paradigms & Legislation

Resistance to Impoundment Policies

The fusion of DUI checkpoints and the impoundments of unlicensed vehicles have led to backlash from many civil rights activists. Impoundment of unlicensed vehicles, in the eyes of many constituents, has been at the expense of personal property-rights and illegal immigrants.

A disproportional number of the illegal immigrant population is directly affected by these checkpoint operations – the United States not allowing illegal immigrants to obtain driver's licenses in California. Mark Silverman, director of immigration policy at the Immigrant Legal Resource Center has dictated that, "immigrant drivers without licenses will be driving anyway because of the necessity. The towing of cars will not stop people from driving."²⁰ In 2009, Oakland sobriety checkpoints impounded eleven cars for every one DUI arrest.²¹

City scandals and government corruption has also spawned severe criticism for the California impoundment policies currently in place. California officials, in conjunction with investigative reporting done over the past two years, found officials in Maywood and Bell had been improperly directing police to seize vehicles for the cash they bring.²² The

²⁰ Ho, Vivian. "Calif. Bill would protect unlicensed drivers from arrest," SFGate. 12 September 2011. Web. < http://articles.sfgate.com/2011-09-12/bay-area/30144079_1_unlicensed-drivers-immigrant-drivers-towing-and-storage-fees>

²¹ Gabrielson, Ryan. "Oakland joins cities that won't impound at DUI checkpoints," California Watch. 26 January 2011. Web. < <http://californiawatch.org/dailyreport/oakland-joins-cities-won-t-impound-dui-checkpoints-8262>>

²² Gabrielson, Ryan. "Like Bell and Maywood, Montebello reaps funds from car seizures," California Watch. 24 April 2011. Web. < <http://californiawatch.org/dailyreport/bell-and-maywood-montebello-reaps-funds-car-seizures-9989>>

corruption of government officials coupled with the disproportion between the number of drunk driving arrests and the number of vehicle seizures at DUI checkpoints has – for some – warranted legislative change. The response to such acts has led to Assembly Bill 353.

Assembly Bill 353

California Assembly Bill 353; presented to the governor in late September 2011 and signed in October, is a legislative change and addition to the vehicle code in response to the impoundment of vehicles owned and/or driven by unlicensed individuals. Assembly Bill 353 (Assemblymen Gil Cedillo, D-Los Angeles) restricts local police from impounding cars at sobriety checkpoints solely because a driver is unlicensed.

The bill fundamentally alters many of the previous vehicles codes, while making some additions as well. AB 353 “blocks cities from combining driver’s license checks with sobriety operations. At checkpoints, police would not be allowed to impound a car solely because a driver is unlicensed, and motorists driving illegally would have time to find a licensed driver. If a legal driver cannot be found to remove a car, police still could not impound, only tow away for the night.”²³

Bill Opposition

The dissenting views associated with the bill were tied firmly with the need for continued vehicle safety in the community. Opposition site the statistical detriment unlicensed drivers present to the well being of the community and the subsequent decrease in DUI related deaths associated with unannounced checkpoints.

Opponents of the bill were: California State Sheriffs’ Association; California Police Chiefs Association; the California Peace Officers’ Association; California District Attorneys Association; MADD California; San Bernardino County Sheriff; City of Fresno; Supervisor Dianne Jacob; and the San Diego County Board of Supervisors. The concerns voiced by the opposition focused on the endangerment of family safety and legal gridlock that would ensue from passing the bills.

Necessary and Sufficient Conditions for Unlicensed Driver Abatement

Impoundment of unlicensed vehicles is necessary for driving accident abatement, but is not sufficient for its complete demise. David Ragland, an adjunct professor emeritus of epidemiology at the University of California, Berkeley, argues that impoundment saves lives and dollars. He has said that “a comprehensive checkpoint program such as the one run by our California agencies combines education with enforcement: by raising motorists’ awareness of the risk of arrest for DUI, they prevent DUI from happening.”²⁴ As well, using data from the AAA Foundation for Traffic Safety’s “Unlicensed to Kill” study, Ragland stated that as a society, “we recognize the importance of balancing personal freedom with

²³ Gabrielson, Ryan. “After city scandals, lawmakers crack down on car impounds,” California Watch. 13 September 2011. Web. <<http://californiawatch.org/dailyreport/after-city-scandals-lawmakers-crack-down-car-impounds-12591>>

²⁴ *ibid.* Ragland, David.

enforcement of rules to protect the public's health... that is why it is so crucial that people understand the seriousness of driving without a license."²⁵

The system that is in place in California is not without its imperfections. As strong of a deterrent as the current 30-day impoundment was for those found operating a vehicle without a license, it did not completely mitigate the reoccurrence of such behavior. The AAA study mirrored this inconvenient truth. The report acknowledged that, "although the results of California's vehicle impoundment program are impressive, it should also be noted that during a one-year follow-up period, many unlicensed, suspended, and revoked drivers whose vehicles had been impounded for 30 days continued to drive; continued to be convicted of unlicensed driving and driving with a suspended or revoked license; and continued to be involved in crashes."²⁶ The problem will not be completely solved by impoundment, but the act of doing so still drastically helps maintain a safer status quo.

Current Policy Threatens Public Safety – Increases Liability

Assembly Bill 353 deters peace officers from maintaining the safety of their communities and creates unjust financial liability on cities. A stipulation of the bill is that; at any traffic stop where the driver has been found to be unlicensed, an officer must attempt to identify the registered owner, and if the owner is able to respond to the scene "within a reasonable amount of time," release the vehicle to the owner or the owner's licensed designee. This amendment to the vehicle code presents a problem to both taxpayers and law enforcement.

Firstly, the risk still remains that the unlicensed driver will drive the vehicle a short time after the initial police stop. Without detaining the vehicle, the opportunity for an unlicensed driver to get behind the wheel still remains – assuming a licensed individual came to pick up the car "within a reasonable amount of time." Secondly, a police officer's time is wasted waiting for registered owners. Lastly, culpability falls upon police officers and cities if the unlicensed driver were to put in jeopardy the safety of themselves or others.

The consequences that face cities and their peace officers because of the new legislation are extreme. Liability for potential injury or vandalism is under the jurisdiction of the city where the incident took place. The city opens itself up to a variety of possible lawsuits. Whether it is a possible discriminatory exercise of discretion by an officer or the potential for injury that incurred from the release of a vehicle driven by an unlicensed driver, cities across California will be victim to the actions of illegal drivers. In *Johnson v. Casetta*, 197 Cal.App.2d 272 (1961), "liability was imposed upon an automobile seller and his salesman for selling an automobile to an inexperienced and incompetent driver, providing the seller and salesman had actual knowledge of the driver's incompetency or knowledge of facts from which they should have known such."²⁷ This case is a parallel to a suit that could be brought against a city if an officer were to release a vehicle back to an unlicensed driver.

In Montgomery, Alabama, an unlicensed driver with a previous DUI conviction caused a collision that injured five and killed one minor. In *Norris v. City of Montgomery*, 821 So. 2d 149 (2001), "a police officer had stopped the unlicensed driver's vehicle earlier the same

²⁵ *ibid.* Ragland, David.

²⁶ *Ibid.* AAA Foundation For Traffic Safety.

day, but did not impound the car pursuant to a state statute mandating impoundment.”²⁸ The injured passengers filed a statutory negligence suit against the city and were successful. The city will have to begin taking responsibility for the actions of the irresponsible. California has put in place a vehicle code that puts lives in jeopardy and places unjust consequences on the cities legally enforcing such laws.

Present-day Ramifications

As a consequence of the newly enacted legislation, many illegal drivers have been without recourse, devastating the lives of innocent civilians. In late September of this year, a four-year-old boy in Santa Rosa, California, was hit and killed by an unlicensed driver. The perpetrator had been - only a month before - pulled over and allowed the opportunity for a licensed person to retrieve his vehicle.²⁹ In allowing for the vehicle’s retrieval, the unlicensed driver was able to get back behind the wheel, causing the devastation that was soon to follow. This scenario parallels the costly externalities associated with the legislation and the desperate need for an alternative.

An unlicensed and suspected drunken driver crashed into a front yard of a Stony Point Road in Sonoma County one late October evening. The driver, like many other unlicensed motorists, fled the scene due to prior and present legal troubles. The suspect was arrested on suspicion of drunken driving, giving a false name, violating his probation, hit-and-run driving, driving while unlicensed and possessing false government documents.³⁰ Unlicensed drivers offer compounding variables that make them high-risk drivers. A driver whom has had prior legal trouble and is driving without a license is statistically more likely to be involved in a hit-and-run.

Similarly, in early November 2011 in Santa Ana, California, a family was struck by an unlicensed, hit-and-run driver killing a two-year-old boy.³¹ The driver had never possessed a driver’s license and had been drinking in excess before getting behind the wheel (the driver had failed a sobriety test when law enforcement apprehended him at his place of residence). Stories such as the ones portrayed are frequent and tear away the fabric of society. A strong legal presence is needed to curtail and make culpable the deplorable consequences of driving while unlicensed.

Alternatives & Solutions

Solutions and alternatives are needed to circumvent the residual of AB 353’s inception. The process of acquiring a solution; however, must take into consideration the many different variables that come with obtaining a licenses and the consequences of driving illegally. The solutions provided look at processes used successfully in other states and the development of new technology that would help alleviate the spawn of new, problem drivers.

²⁹ LAPPL Board of Directors. “Disregarding state law proves deadly – again,” LAPPL Blog.

³⁰ Rossman, Randi. “Suspect Hit-and-Run Driver Arrested near Stony Point Road,” The Press Democrat. 31 October 2011. Web. < <http://www.pressdemocrat.com/article/20111031/ARTICLES/111039951>>

³¹ “2-Year-Old Killed By Hit-And-Run Driver in Santa Ana,” CBS Santa Ana. 09 November 2011. Web. <<http://losangeles.cbslocal.com/2011/11/09/2-year-old-killed-by-hit-and-run-driver-in-santa-ana/>>

Driving Privilege Card

The Driving Privilege Card is a form of driving identification that gives illegal immigrants the legal right to drive an automobile. A group that was most negatively affected by prior impounding law, illegal immigrants in California have no alternative to driving illegally. Their alien status makes it impossible for them to legally garner a driver's license and therefore drive in the state of California.

Established in Washington, New Mexico, and Utah, the Driving Privilege Card is a resolution that would provide illegal immigrants the chance to drive legally and help aid peace officers in reducing the ramifications of driving without a license.

All that would be required from the recipient of the card would be: evidence of a driving privilege issued in another state or country or evidence of completion of a course in driver training; two proofs of state residency (for a period of six months or more); evidence of social security number or Individual Tax Identification Number; evidence of identity; completed fingerprint card and photograph from local agency; and most importantly, completion of required written knowledge/skills tests.

The requirements provided would help ensure that those on the road are competent, while providing an opportunity for those currently unable to obtain a license to drive legally. Those operating vehicles under this type of license would also have to provide proof of automobile insurance. The only way to truly reap the benefits of a Driving Privilege Card however would to reinstate the prior vehicle code as well. The card must be coupled with a return of old policy. The law needs to prosecute those who drive without a license or Driving Privilege Card to the fullest extent of the law. The 30-day impound would need to be strictly enforced for those who are unlicensed and therefore driving illegally.

Provisional License

Similar to the Driving Privilege Card, provisional drivers licenses could also be used to aid illegal immigrants and help dilute the number of unlicensed accidents. Provisional licensing would require illegal immigrants to provide much of the same documentation as the privilege card and follow some of the laws outlined in the California Vehicle Code Section 12814.6. (let the record reflect that Section 12814.6 distinguishes provisional licensing for minors, and albeit would not suffice or be entirely representative of the vehicle code needed for illegal immigrants). Provisional licenses would have greater restrictions than the privilege card and would not act as a form of identification.

Impoundment policy would inevitably need to be enforced with provisional licensing as well. Without restrictive consequences, the same driving behavior and danger will continue to plague California streets. Both the provisional license and driving privilege card would make equal driving rights across the board – giving equal opportunity to anyone living in California, regardless of their status. This, in turn, would allow for the reinstatement of impoundment punishment to hold responsible individuals who would drive with illegal intent.

Cameras & Technology

The state of Indiana has begun piloting a new software and camera system that tracks unlicensed drivers. The project that was initiated in June of 2011 was made up of a camera with license plate reader software that could automatically check the status of drivers. With the knowledge of who was driving illegally, the Indiana State Troopers could take dangerous drivers off the road. Richard Myers, the Indiana State Police Sergeant, denoted that “identifying the unlicensed or unqualified driver with this technology would help make the roads safer for everyone.”³²

The technology is “capable of scanning up to 1,800 license plates per minute as a cruiser passes moving or parked vehicles... [And] can also read out-of-state plates and is linked into a national database of stolen vehicles or vehicles used in the commission of crimes.”³³ The information available via such technology would aid in taking dangerous drivers off of the streets. The purpose of these alternatives, like all others, is to reestablish punishment and keep individuals from reenacting poor behavior. Curbing illegal driving, as proven by the statistics provided, will help keep California city streets safe.

Conclusion

Unlicensed drivers are more likely to be in hit-and-runs, cause fatalities due to collisions, and continue to accrue accidents that cost both the victim, and the state. It is important that there are deterrents in place to keep drivers from acting illegally. The solution still remains to be seen however. Technology and provisional licenses are springboards to further political discussions and to creating a compromise that will appeal to all invested. It is the safety of the California communities that should take precedent when discussing this issue. California desperately needs an alternative to current path many local governments are taking which is allowing unlicensed and unsafe drivers to drive without consequences. We must have laws in place that allow for a safe driving environment for all.

³² “Cameras Put Unlicensed, Suspended Drivers In Crosshairs,” ABC RTV 6. The Indy Channel.com. 26 October 2011. Web. <<http://www.theindychannel.com/news/29589620/detail.html>>

³³ *ibid.* “Cameras Put Unlicensed, Suspended Drivers In Crosshairs”.