

Did you know that there is a difference between careless driving and reckless driving? Or did you know that you can now get a point on your driving record for cell phone use? Perhaps, you've wondered about the cost of a DUI, or how your driving record is tracked. Continue reading below to find out these and more.

2.1 Careless Driving and its Consequences

Careless driving is driving a vehicle on a highway without due care and attention, or without reasonable consideration for other persons using the highway. The driver fails to drive in a careful and prudent manner. There is no California law specific to careless driving. The term is not specific to any actual law and is not in itself a citable violation. The term covers many aspects of driving some of which do not even relate to any violation of the law directly but is about an attitude or action that is careless in nature, which could lead to violating some section of the law if not changed. Below are just **some examples of careless driving**:

Negligent Lane Changes

Failing to keep a safe distance (tailgating)

Failing to check when reversing

Unsafe overtaking / Failing to signal your intention to change lanes

Distracted Driving: Cell phone, texting, eating is perhaps the biggest contributor to careless driving. There are 3 Type of Distractions – Visual / Mental / Manual

As a result of careless driving you could have:

Damage to or loss of vehicle

Minor accidents due to careless behavior can lead to damage to or loss of vehicle.

Injury or death to you, passengers, and/or others

We have all seen small memorial sites erected on street corners on behalf of a loved one who lost his/her life because of a drunken or just careless driver. These teddy bears, candles, pictures, ghost bikes, poems and letters remind us of a life that was taken. These roadside memorials have become an all-too-common fixture on many of our roads.

Possible auto insurance increase

If you're ever involved in an at-fault traffic collision, according to a report put out by Forbes Advisor, published in March 2022, drivers can expect, **on average**, to have their rates increase by 45%. For example, drivers who make a single claim of \$2,000 or more can expect their premiums to increase by 45 percent. That translates to a \$366 increase for the average U.S. auto insurance premium of \$815 a year.

Financial Impact/Legal Actions/DMV Actions

Financial Impact: The financial impact for careless driving is mostly attributed to higher insurance rates which can last 3 years. However, most of the time, you will not be eligible for a violation-free discount for 5 years. So, to get back to preferred status, you are looking at 5 years. In addition to insurance increase there's an impact to your credit score if you have an unpaid ticket. Any money due from you, if not paid in time, gets reported to reporting agencies. It's because a fine is considered a debt to govt agencies.

Fines and loss of driving privileges aren't your only concern. Severe violations in some states, such as reckless driving, DUI, or texting and driving, can also carry criminal charges. Both points and charges can show up on a background check, which can impact your job or job search and or security clearances.

Impact on quality of life

Careless driving can impact your quality of life. You have to deal with the aftermath of a collision such as the out-of-pocket costs for repairs, lawyers' fees, and higher insurance premiums, which means less money to spend on yourself and your favorite activities. If you are injured because of a collision, acute or chronic pain could alter your mood and prevent you from having an active lifestyle.

2.2 Reckless Driving

Reckless driving per the CVC § 23103 is driving a vehicle upon a highway in willful or wanton disregard for the safety of persons or property.

Legal Actions: Reckless driving is a serious charge and can result in steep fines, loss of driving privileges, or even jail time in some instances. Reckless driving may be charged as a misdemeanor or a felony, depending on the severity of the conduct at issue. If the driver's actions lead to actual bodily harm, a felony will often be charged. Additionally, if death results, the driver may also face a charge of vehicular homicide. Penalties for reckless driving will vary by state, but they may include criminal charges, fines and jail time, or possible revocation or suspension of a driver's license.

Except as otherwise provided in Section 40008 of the California Code, persons convicted of the offense of reckless driving shall be punished by imprisonment in a county jail for not less than five days nor more than 90 days or by a fine of not less than one hundred forty-five dollars (\$145) nor more than one thousand dollars (\$1,000), or by both the fine and imprisonment, except as provided in Section 23104 or 23105

In general, **driving actions showing negligence or reckless disregard** that could result in charges include:

Excessive speeding at a velocity that can be considered dangerous.

Placing others at danger by intentionally running red lights or stop signs.

Intentionally failing to yield the right-of-way to other vehicles and pedestrians.

Driving under the influence/driving while intoxicated (DUI/DWI). *In this case, it is possible to be convicted of a DUI/DWI AND reckless driving. We will discuss DUI's later in this chapter.*

Racing other vehicles.

Evading law enforcement.

Passing on a two-lane highway over a double yellow line.

Passing a stopped school bus.

Texting while driving cvc 23123, cvc 23123.5, cvc 23124

Using a cell phone (handheld) is currently punishable by a fine, but **beginning July 1, 2021**, violating the hands-free law for a second time within 36 months of a prior conviction will result in a point being added to a driver's record. This applies to the violations of talking or texting while driving (except hands-free use) and to any use of these devices while driving by those under 18.

CVC 12810.3 states: Notwithstanding (despite) subdivision (f) of Section 12810, a violation point shall be given only for a conviction of a violation of subdivision (a) of Section 23123, subdivision (a) of Section 23123.5, or subdivision (b) of Section 23124, occurring on or after July 1, 2021, that occurs within 36 months of a prior conviction for the same offense. See vehicle codes below.

On the other hand, California's vehicle cellphone ban doesn't apply when a motorist uses a cellphone while driving on private property or places a call for emergency purposes (such as calling for an ambulance or other emergency services). Emergency service professionals are also exempt from the cellphone ban while operating an authorized emergency vehicle.

CVC 23123 states: (a) A person shall not drive a motor vehicle while using a wireless telephone unless that telephone is specifically designed and configured to allow hands-free listening and talking, and is used in that manner while driving. (b) A violation of this section is an infraction punishable by a base fine of twenty dollars (\$20) for a first offense and fifty dollars (\$50) for each subsequent offense. (c) This section does not apply to a person using a wireless telephone for emergency purposes, including, but not limited to, an emergency call to a law enforcement agency, health care provider, fire department, or other emergency services agency or entity. (d) This section does not apply to an emergency services professional using a wireless telephone while operating an authorized emergency vehicle, as defined in Section 165, in the course and scope of his or her duties. (e) This section does not apply to a person driving a schoolbus or transit vehicle that is subject to Section 23125. (f) This section does not apply to a person while driving a motor vehicle on private property. (g) This section shall become operative on July 1, 2011.

CVC 23123.5 states: (a) A person shall not drive a motor vehicle while holding and operating a handheld wireless telephone or an electronic wireless communications device unless the wireless telephone or electronic wireless communications device is specifically designed and configured to allow voice-operated and hands-free operation, and it is used in that manner while driving. (b) This section shall not apply to manufacturer-installed systems that are embedded in the vehicle. (c) A handheld wireless telephone or electronic wireless communications device may be operated in a manner requiring the use of the driver's hand while the driver is operating the vehicle only if both of

the following conditions are satisfied: (1) The handheld wireless telephone or electronic wireless communications device is mounted on a vehicle's windshield in the same manner a portable Global Positioning System (GPS) is mounted pursuant to paragraph (12) of subdivision (b) of Section 26708 or is mounted on or affixed to a vehicle's dashboard or center console in a manner that does not hinder the driver's view of the road. (2) The driver's hand is used to activate or deactivate a feature or function of the handheld wireless telephone or wireless communications device with the motion of a single swipe or tap of the driver's finger. (d) A violation of this section is an infraction punishable by a base fine of twenty dollars (\$20) for a first offense and fifty dollars (\$50) for each subsequent offense. (e) This section does not apply to an emergency services professional using an electronic wireless communications device while operating an authorized emergency vehicle, as defined in Section 165, in the course and scope of his or her duties. (f) For the purposes of this section, "electronic wireless communications device" includes, but is not limited to, a broadband personal communication device, a handheld device or laptop computer with mobile data access, or a pager.

CVC 23124 states: (a) This section applies to a person under the age of 18 years. (b) Notwithstanding Sections 23123 and 23123.5, a person described in subdivision (a) shall not drive a motor vehicle while using a wireless telephone or an electronic wireless communications device, even if equipped with a hands-free device. (c) A violation of this section is an infraction punishable by a base fine of twenty dollars (\$20) for a first offense and fifty dollars (\$50) for each subsequent offense. (d) A law enforcement officer shall not stop a vehicle for the sole purpose of determining whether the driver is violating subdivision (b). (e) Subdivision (d) does not prohibit a law enforcement officer from stopping a vehicle for a violation of Section 23123 or 23123.5. (f) This section does not apply to a person using a wireless telephone or a mobile service device for emergency purposes, including, but not limited to, an emergency call to a law enforcement agency, health care provider, fire department, or other emergency services agency or entity. (g) For the purposes of this section, "electronic wireless communications device" includes, but is not limited to, a broadband personal communication device, specialized mobile radio device, handheld device or laptop computer with mobile data access, pager, and two-way messaging device.

2.3 Contributing Factors Can Cause Collisions

No matter how careful you are, other drivers may not be as conscientious. Consider the following common causes of collisions:

Falling asleep behind the wheel

Sleep is a biological need with predictable patterns of sleepiness and wakefulness, so it is best to avoid driving when you would normally be sleeping. According to the CDC, the average adult needs seven or more hours of sleep each night, but more than a third of adults do not get the sleep they need. Also, a sleep-deprived driver is just as dangerous as an intoxicated driver.

Driver inattention or distraction

The National Highway Traffic Safety Administration defines distracted driving as "any activity that could divert attention from the primary task of driving." Therefore, eating, drinking, chatting, or

switching radio stations can all be distractions. When we are driving, we need to focus our attention on the road. For example, using a smartphone demands visual, motor, and mental attention.

Driver failure to account for environmental conditions - rain, snow, road conditions

Many drivers assume that if they have an accident in bad weather, it is not their fault and they are not responsible. However, failure to account for weather conditions may expose a driver to liability in the event of an accident. Drivers are held to a standard of care that takes the weather into account. When the weather conditions are bad, try to avoid driving unless it is necessary.

Speeding

Many of us have driven over the posted speed limit at some point. We may be running late for an appointment or in a hurry to get to a concert, so we speed up. Sometimes we are so focused on our schedule or our destination that we speed without really being aware of it. However, speeding increases the risk of accidents. In addition to causing accidents, it increases the severity of those accidents for several reasons. One main reason is that when we are driving too fast, it takes longer to slow down and react to changes in traffic, road obstructions, and accidents. The driver may have to brake hard and may even lose control of the car.

2.4 Negligent Operator Treatment System (NOTS)

The Negligent Operator Treatment System (NOTS) is a program created by the DMV. It keeps track of your risky driving history and is based on negligent operator points that you accumulate, such as the point that brought you here to this online course. This system consists of a computer generated series of warning letters and progressive sanctions against the driving privilege. Examples of one and two point violations.

Traffic school will mask a one-point violation. However, if you do nothing about the points, the length of time they remain on your record depends on the severity of the offense. Most points (illegal turn, not making a complete stop, driving over the speed limit, etc.) and/or accidents will stay on your driver record for 39 months (3 years, 3 months). Points for more serious offenses, such as hit-and-run or a DUI, can stay on your record for up to 13 years.

Most people like to have "clean" driving records. That means no points on your driving record. Having lots of points on your driving record not only affects your driving privilege, but how much you will pay for car insurance (a lot more than you or your parents do now!) and perhaps the chance of getting or keeping a job you really want.

NOTS affects California drivers eighteen years of age and older. Younger "provisional" drivers are also included in the NOTS program if they violate provisional probation or suspension. Provisional drivers are provided a hearing under Vehicle Code 12814.6 (c) only if they are involved in an accident.

NOTS actions are based on the number of negligent operator "points" drivers add to their driving record within specified time periods. Negligent operator points are added to the driving record upon receipt of conviction notices from courts and reports of responsible collisions from law enforcement which indicate that the driver contributed, was at fault, or was responsible to any

degree or in any amount for the collision. The initial reporting of the responsibility for a collision by law enforcement can be refuted by credible evidence presented by the driver at an administrative hearing. The department shall consider all evidence submitted in reaching a final determination with regard to the driver's negligent operator status.

If your CA driver's license was suspended due to too many points on your driver record, you will have received a series of warning letters and sanctions before your CA driver's license was suspended.

Under the Negligent Operator Treatment System (NOTS), you will receive a:

Level 1 Warning Letter, if you accrue:

2 points within 12 months.

4 points within 24 months.

6 points within 36 months.

Level 2 Notice of Intent to Suspend, if you accrue:

3 points within 12 months.

5 points within 24 months.

7 points within 36 months.

Level 3 Probation/Suspension, if you accrue:

4 points within 12 months.

6 points within 24 months.

8 points within 36 months.

Level 4 Violation of NOTS Probation and license suspension, if you:

Commit a violation or collision while your driver's license is suspended.

Have Failure To Appear (FTA) or a Failure to Pay (FTP) violation during your probation period.

Have a 1-point or 2-point violation or are responsible for a collision during your probation period.

Are under 18 years old and violate provisional probation due to a responsible collision, an FTA or FTP, or another reportable violation.

Out-of-State Convictions

The department also assesses negligent operator points for traffic convictions California drivers receive in other states, the District of Columbia, Puerto Rico, and Canada. Under Vehicle Code 13363, the department determines whether the same violation, if committed in California, would be assessed negligent operator point count or would be grounds for suspension or revocation. Points resulting from out-of-state convictions may form the basis, or part of the basis, for a NOTS action.



2.5 Offense Involving Alcohol and Drugs

California law states in CVC 23152 that:

- (a) It is unlawful for a person who is under the influence of any alcoholic beverage to drive a vehicle.
- (b) It is **unlawful for a person who has 0.08 percent or more**, by weight, of alcohol in his or her blood to drive a vehicle.

For purposes of this article and Section 34501.16, percent, by weight, of alcohol in a person's blood is based upon grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath.

In any prosecution under this subdivision, it is a rebuttable presumption that the person had 0.08 percent or more, by weight, of alcohol in his or her blood at the time of driving the vehicle if the person had 0.08 percent or more, by weight, of alcohol in his or her blood at the time of the performance of a chemical test within three hours after the driving.

- (c) It is **unlawful for a person who is addicted to the use of any drug** to drive a vehicle. This subdivision shall not apply to a person who is participating in a narcotic treatment program approved pursuant to Article 3 (commencing with Section 11875) of Chapter 1 of Part 3 of Division 10.5 of the Health and Safety Code.

- (d) It is **unlawful for a person who has 0.04 percent or more**, by weight, of alcohol in his or her blood to drive a commercial motor vehicle, as defined in Section 15210. In a prosecution under this subdivision, it is a rebuttable presumption that the person had 0.04 percent or more, by weight, of alcohol in his or her blood at the time of driving the vehicle if the person had 0.04 percent or more, by weight, of alcohol in his or her blood at the time of the performance of a chemical test within three hours after the driving.

(e) Commencing July 1, 2018, it shall be **unlawful for a person who has 0.04 percent or more**, by weight, of alcohol in his or her blood to drive a motor vehicle when a passenger for hire is a passenger in the vehicle at the time of the offense. For purposes of this subdivision, "passenger for hire" means a passenger for whom consideration is contributed or expected as a condition of carriage in the vehicle, whether directly or indirectly flowing to the owner, operator, agent, or any other person having an interest in the vehicle. In a prosecution under this subdivision, it is a rebuttable presumption that the person had 0.04 percent or more, by weight, of alcohol in his or her blood at the time of driving the vehicle if the person had 0.04 percent or more, by weight, of alcohol in his or her blood at the time of the performance of a chemical test within three hours after the driving.

(f) It is **unlawful for a person who is under the influence of any drug** to drive a vehicle.

(g) It is **unlawful for a person who is under the combined influence of any alcoholic beverage and drug** to drive a vehicle.

2.6 Implied Consent

California law goes on to state in CVC 23612 that **a person who drives a motor vehicle is deemed to have given his or her consent [Implied Consent] to chemical testing of his or her blood or breath for the purpose of determining the alcoholic content of his or her blood, if lawfully arrested for an offense allegedly committed in violation** of Section 23140, 23152, or 23153. If a blood or breath test, or both, are unavailable, then paragraph (2) of subdivision (d) applies.

(B) A person who drives a motor vehicle is deemed to have given his or her consent to chemical testing of his or her blood for the purpose of determining the drug content of his or her blood, if lawfully arrested for an offense allegedly committed in violation of Section 23140, 23152, or 23153. If a blood test is unavailable, the person shall be deemed to have given his or her consent to chemical testing of his or her urine and shall submit to a urine test.

(C) The testing shall be incidental to a lawful arrest and administered at the direction of a peace officer having reasonable cause to believe the person was driving a motor vehicle in violation of Section 23140, 23152, or 23153.

(D) The person shall be told that his or her failure to submit to, or the failure to complete, the required chemical testing will result in a fine, mandatory imprisonment if the person is convicted of a violation of Section 23152 or 23153, and (i) the suspension of the person's privilege to operate a motor vehicle for a period of one year, (ii) the revocation of the person's privilege to operate a motor vehicle for a period of two years if the refusal occurs within 10 years of a separate violation of Section 23103 as specified in Section 23103.5, or of Section 23140, 23152, or 23153 of this code, or of Section 191.5 or subdivision (a) of Section 192.5 of the Penal Code that resulted in a conviction, or if the person's privilege to operate a motor vehicle has been suspended or revoked pursuant to Section 13353, 13353.1, or 13353.2 for an offense that occurred on a separate occasion, or (iii) the revocation of the person's privilege to operate a motor vehicle for a period of three years if the refusal occurs within 10 years of two or more separate violations of Section 23103 as specified in Section 23103.5, or of Section 23140, 23152, or 23153 of this code, or of Section 191.5 or subdivision (a) of Section 192.5 of the Penal Code, or any combination thereof, that

resulted in convictions, or if the person's privilege to operate a motor vehicle has been suspended or revoked two or more times pursuant to Section 13353, 13353.1, or 13353.2 for offenses that occurred on separate occasions, or if there is any combination of those convictions, administrative suspensions, or revocations.

(2) (A) **If the person is lawfully arrested for driving under the influence of an alcoholic beverage, the person has the choice of whether the test shall be of his or her blood or breath and the officer shall advise the person** that he or she has that choice. If the person arrested either is incapable, or states that he or she is incapable, of completing the chosen test, the person shall submit to the remaining test. If a blood or breath test, or both, are unavailable, then paragraph (2) of subdivision (d) applies.

2.7 DUI and its additional impact

Most of us are aware of the dangers of drinking and driving. The exponentially increased risk of hurting yourself and others in an accident should be more than enough to deter everyone from driving under the influence (DUI). Still, just to make the case against drinking and driving even stronger we can look at the outrageous cost you will meet if you are convicted of a DUI. From having your car impounded when you get caught to license reinstatement fees after your driver's license gets suspended, several factors go into the true cost of a DUI.

Car Insurance Increase: It is not exactly a secret that car insurance premiums increase after a DUI, but many people might not realize that this increase is the highest DUI-related cost. This may be because people think of the increase in the short term since insurance coverage is usually only bought months at a time. However, there is more to the short term when it comes to a DUI-related car insurance increase. To reinstate your driver's license after it has been suspended due to a DUI in California, you must file a proof of financial responsibility with the court known as a SR-22. After a DUI you will be required to file your SR-22 for at least 3 years. Your insurance company will take care of this for you, but it will come with a hefty increase in your premium. After you are no longer required to file a SR-22, your car insurance premium may lower a bit, but will likely remain well above standard car insurance rates. These several years of increased rates will quickly add up and when all is said and done you may end up paying up to approximately \$40,000 in insurance rate increases over the years.

Towing and Storage: When a police officer catches you drinking and driving, you will be arrested, and your car will be impounded. The costs of towing and storage can reach about \$685 and can even get higher the longer you keep your car in storage.

DUI Classes: After a DUI conviction, you will be required to enroll in and complete a DUI course. The length of time you will have to attend a course will depend on the severity of your DUI violation, but you can expect to pay between \$1500 - \$2000 for the course.

Fines and Attorney Fees: If you are caught drinking and driving you will have to go to court. The court's action may involve a fine, jail time, delay of the DL, and completion of a DUI program as stated above. However, the DMV will also take administrative action against your driving privilege to either suspend or revoke your driving privilege.

A Note about Lawyers: It is rarely a good idea to go to court without legal representation. This is especially true for such a serious case as driving under the influence. Even if you know for certain that you are guilty, you should have an attorney who can help protect you from excessive penalties. There are several DUI attorneys who can help you with your case. If the court does find you guilty of a DUI you can expect to pay hefty fines. With these fines and the addition of attorney fees you are looking to pay around \$4,000 after your court conviction.

Driver's License Reinstatement: When you are caught driving over the legal limit your driver's license will be suspended. Once the duration of your suspension has ended, and you have fulfilled any other requirements to be eligible to get your license back, you will have to pay a license reinstatement fee. This fee will be at least \$100.

Ignition Interlock Device (IID): In some cases you may have to have an IID installed on your vehicle. An IID prevents you from starting your vehicle if you have any alcohol on your breath.



The True Cost of a DUI: Added together, all of these DUI-related costs mean you should **be ready to pay an estimated \$45,000 for a DUI**. Keep in mind that this is an estimated minimum for a first-time offense. There is a very good chance you could end up paying more and the number will just keep increasing after each violation. So it is easy to see that getting behind the wheel after drinking is just not worth it. A cab ride is going to cost nowhere near \$45,000. Save some money and some lives, don't drink and drive.

Unlike traffic violations that remain on your record for 3 years, or 36 - 39 months, **All DUI convictions will remain on DMV records for 10 years. OUCH!**

Psychological Effect: If the above were not enough, DUI's have a psychological effect. Being arrested for a DUI is often the first time for many people – young adults, especially – to get in trouble with the law. Many first-time DUI offenders have no criminal history, and for them, just thinking about the impacts of a conviction on their future can cause endless anxiety.

There are a lot of things about a DUI arrest that's stressful, and constantly worrying about them can really take its toll on you. Worse, you have to continuously function like normal while dealing with all the stress because life does not stop after the arrest. You have work to do, deadlines to meet, bills to pay, and, on top of it all, a DUI case to take care of.

Sad, but true: some people fall into a state of depression after a DUI arrest. Financial problems, loss of independence, too much stress, and constant worrying of the possible personal and professional implications of the conviction – all these contribute to the feelings of self-loathing and depression.

In addition, many DUI offenders also tend to pull away from friends, family, and social situations because of shame. Having no one to talk to and share their concerns with makes it harder for them to shake off their negative thoughts and move on.

What makes DUI arrests so unnerving is the feeling of uncertainty that accompanies it.

Am I going to win the case? Am I going to get convicted? Will I lose my job? What will my friends and family say?

Fear of the outcome and its consequences can keep the offender agitated and negatively affect their mental health.

DUI's are not just related to alcohol consumption; they involve drug use too.

As of 2018 the law regarding Cannabis Use in Vehicles was added. This law prohibits smoking or ingesting marijuana or marijuana products while driving or riding as a passenger in a vehicle. The DMV will assign negligent operator point counts for this violation. In addition to the California Driver Handbook, the DMV also will revise the Motorcycle Handbook and the DMV's website to include information relating to marijuana violations. It amends CVC23220, which states:

(a) A person shall not drink any alcoholic beverage or smoke or ingest marijuana or any marijuana product while driving a motor vehicle on any lands described in subdivision (c).

(b) A person shall not drink any alcoholic beverage or smoke or ingest marijuana or any marijuana product while riding as a passenger in any motor vehicle being driven on any lands described in subdivision (c).

(c) As used in this section, "lands" means those lands to which the Chappie-Z'berg Off-Highway Motor Vehicle Law of 1971 (Division 16.5 (commencing with Section 38000)) applies as to off-highway motor vehicles, as described in Section 38001.

(d) A violation of subdivision (a) or (b) shall be punished as an infraction.