

for a prior DUI conviction of CVC §§23152 or 23153:

- In addition to the APS Zero Tolerance suspension, DMV will impose a concurrent **one-year suspension** based on violation of your DUI probation. You are not eligible for a restricted DL during the one-year period.

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

- In addition to the APS Zero Tolerance suspension, DMV will impose a two-year revocation based on violation of your DUI probation. You are **not** eligible for a restricted DL during the two-year period.
- In addition to the APS Zero Tolerance suspension, DMV will impose a **three-year revocation** based on violation of your DUI probation, if you have two or more refusals while on DUI probation. You are **not** eligible for a restricted DL during the three-year period.

Although you may have one or more APS suspension/revocation actions occurring at the same time, you are **not** entitled to a restricted DL during the suspension/revocation period for a second and/or subsequent action. You may request a critical need restricted DL only for your **first APS offense**, if there are no other actions in effect against your driving privilege.

**Can I Get A Critical Need Restriction?**

After a 30-day suspension period, you may apply for a critical need DL **only** if:

- You completed a PAS or other chemical test with a BAC level of 0.01% or more, **and**
- You have a critical need to drive.

A critical need restriction is **very limited** (CVC §§12513, 13353.8). To be eligible for the restriction you must verify that:

- A specific critical need condition exists, **and**
- All other transportation is inadequate.

Only **first offenders who completed a PAS or other chemical test** are eligible to apply for a critical need restricted DL (CVC §13353.8).

Contact one of the following Driver Safety offices for an Application for Critical Need Restriction (DS 694), or visit the DMV website at [www.dmv.ca.gov](http://www.dmv.ca.gov) for the application.

**Driver Safety Offices**

Driver Safety Office locations and phone numbers.

| 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 |
| Van Nuys         | (818) 376-4217 |

**Save Time. Go Online.**  
[www.DMV.ca.gov](http://www.DMV.ca.gov)  
DRIVING CHANGE

**Go online 24 hours a day, 7 days a week at [www.dmv.ca.gov](http://www.dmv.ca.gov) to:**

- Renew your vehicle registration.
- Renew your driver license or identification card.
- Calculate registration fees.
- Verify & update vehicle registration insurance suspension information.
- Take a sample driver license test.
- Order special license plates.
- Get forms, brochures, and handbooks.
- Find answers to your DMV questions.
- Make appointments (except commercial driving test\*).

**Call 1-800-777-0133 for automated service 24 hours a day, 7 days a week to:**

- Make an appointment (except commercial driving test\*).
- Renew your vehicle registration or driver license. See your renewal notice for the Renewal ID Number (RIN).
- Get forms and publications.
- Listen to general information.
- Verify & update vehicle registration insurance suspension information.

*\*To make a commercial driving test appointment or speak with a technician, call 1-800-777-0133 during our normal business hours:*

For hearing impaired service call TTY 1-800-368-4327.

SO (REV. 5/2012)

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**Driving Under the Influence**

**Immediate Driver License Suspension**

**0.01% Blood Alcohol Concentration (BAC) Zero Tolerance**

**Fast Facts**



[www.dmv.ca.gov](http://www.dmv.ca.gov)



## **Administrative Per Se Immediate Driver License Suspension Or Revocation**

The administrative license suspension program, known as “Admin Per Se” (APS) was signed into law in 1990, as a strong deterrent to drunk driving. It is against the law for persons under the age of 21 to consume alcohol. In 1994 the APS “Zero Tolerance” law was enacted to further address underage drinking and driving.

The following information is a general guide for drivers under the age of 21 who become subject to an APS driver license (DL) suspension or revocation. All APS cases are unique and if this guide does not contain the specific information you are seeking, additional information is available on the Department of Motor Vehicles (DMV) website at [www.dmv.ca.gov](http://www.dmv.ca.gov).

## **How Does The APS Zero Tolerance Law Affect Drivers Under Age 21?**

California Vehicle Code (CVC) §23136, PAS Persons Under 21: Preliminary Screening Device, established strict Zero Tolerance requirements and penalties for drivers under 21 years of age. The DMV is required to suspend or revoke the driving privilege of any person under age 21 who was detained and/or arrested for driving under the influence (DUI) of alcohol, or a combination of alcohol and drugs, who:

- Takes a Preliminary Alcohol Screening (PAS) test, or a chemical test (blood or breath test) with a Blood Alcohol Concentration (BAC) level of 0.01% or more, **or**
- Refuses to take, or fails to complete, a PAS or other chemical test.

## **What Happens To My DL?**

The officer will give you a Suspension/Revocation Order and Temporary Driver License (DS 367/367M). If you have a valid California DL, the officer will take your DL and send it to DMV (to be destroyed). The temporary DL will be valid for 30 days from the issue date (usually the date you were detained and/or arrested). At the end of the 30 days, the suspension/revocation action goes into effect. If the officer does not serve you with a Suspension/Revocation Order (DS 367/367M), DMV will mail a Suspension/Revocation Order to you.

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

**The APS Zero Tolerance suspension or revocation is independent of any other DMV adverse action, or any jail, fine, or other criminal penalty imposed in court if you were convicted of the Driving Under the Influence (DUI) offense.**

## **What Does DMV Do?**

DMV automatically conducts an administrative review, which includes 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 Zero Tolerance suspension/revocation, the adverse action will be set aside. DMV will notify you in writing if the suspension/revocation is set aside.

## **What Can I Do About The APS Zero Tolerance Suspension/Revocation?**

You have **10 days** from receipt of the Suspension/Revocation Order (DS 367/367M) to request a hearing to show that the APS suspension/revocation is not justified.

The APS Zero Tolerance 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 appointment 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 a foreign 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 at its discretion. You may subpoena

the officer or any other witness(es) you feel may help your case by providing relevant testimony or evidence. You are responsible for paying the required fees and for making sure your witness(es) receive a subpoena.

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

Apart from the department review process, you may request a court review within 30 days following the issuance of the notice of the hearing decision (CVC §13559).

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**NOTE:** If you are under 21 years of age and refused the PAS or other chemical test, there is no fee for a department review of your hearing.

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

- Pay a \$100 reissue fee to DMV (CVC §13392).
- File proof of financial responsibility (e.g., a California Insurance Proof Certificate [SR 22], \$35,000 cash deposit, surety bond, or self-insurer certificate pursuant to CVC §16430).
- Maintain proof of financial responsibility for three years.

## **Hearing Issues**

Your need for a DL is not an issue at the APS Zero Tolerance hearing. Only the following issues will be discussed:

### **A. If you took a PAS or other chemical test:**

1. Did the peace officer have reasonable cause to believe you were driving a motor vehicle in violation of CVC §23136, or driving a motor vehicle while on probation in violation of CVC §23154?
2. Were you lawfully detained?
3. Were you driving a motor vehicle while under 21 years of age with a BAC level of 0.01% or greater, as measured by a PAS device or other chemical test?

### **B. If you refused, or failed to complete, a PAS or other chemical test:**

1. Did the peace officer have reasonable cause to believe you were driving a motor vehicle in violation of CVC §23136, or driving a motor vehicle while on probation in violation of CVC §23154?
2. Were you lawfully detained?
3. Were you told that your driving privilege would be suspended or revoked for one to three years, or for two or three years if you were on probation, failed to complete or refused to submit to a PAS test, or other chemical test, while under age 21?
4. Did you refuse to submit to, or fail to complete, a PAS test or other chemical test after being requested to do so by a peace officer?

## **How Long Will My DL Be Suspended Or Revoked?**

- A.** If you took a PAS or other chemical test, and the results showed a 0.01% BAC Level or more, your driving privilege will be **suspended for one year**.
- B.** If you refused, or failed to complete, a PAS or other chemical test your driving privilege will be:
  - Suspended for one year, for a first offense.
  - Revoked for two years, for a second offense in 10 years.
  - Revoked for three years, for three or more offenses in 10 years.

## **APS DUI Probation Suspension/Revocation**

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

- A.** **If you took a PAS or other chemical test** and the results showed a BAC level of 0.01% or more, and you were on court-ordered probation