

DEPARTMENT OF CALIFORNIA HIGHWAY PATROL

TRAFFIC ENFORCEMENT POLICY MANUAL

**IMPORTANT**

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## FOREWORD

The California Highway Patrol is the primary statewide agency for traffic law enforcement in California. As a statewide agency, it is essential that the Department maintain a fair, impartial, and consistent enforcement policy. This manual provides the policies and procedures necessary for field personnel to achieve that desired goal. The employment of sound, professional judgment, and respect for the constitutional and legal rights of individuals is the basic criteria for all field enforcement actions.

Any questions concerning the contents of this manual should be directed to Research and Planning Section.

OFFICE OF THE COMMISSIONER

OPI: 061

2 Sections 23103 CVC, reckless driving, or 23104 CVC, reckless driving, bodily injury.

(b) In the violation portion of the CHP 215, after the explanation of the violation, enter **Enhanced Penalty per 22406.5 CVC**.

## 2. SLOW MOVING VEHICLES.

### a. General.

(1) Slow moving vehicles can pose hazards, not only to faster moving traffic, but to themselves. These vehicles can present an obstruction to the smooth flow of traffic, causing traffic back-ups, particularly on two-lane rural roads and metropolitan freeways where expeditious traffic flow is essential.

(2) Officers observing slow moving vehicles obstructing traffic on highways should take prompt action to maintain safe, unimpeded traffic flow. Officers should take into account the following definitions as they apply to laws governing slow vehicles:

(a) Normal Speed of Traffic. Normal speed is determined by the speed of vehicles to the front and rear in the same traffic lane. The courts have defined the word "normal" as "the average or mean of observed quantities" (66 Corpus Juris Secundum 606). A driver is traveling at less than the normal speed of traffic if the driver fails to keep up with the vehicles ahead and is impeding the vehicles to the rear. When this type of condition exists, and the vehicle speed is less than the maximum speed limit, the driver must move to the right side of the roadway.

NOTE: Normal speed may vary from traffic lane to traffic lane on the highway.

(b) Vehicles Traveling at the Maximum Speed Limit. Vehicles traveling at or exceeding the 55/65/70 MPH maximum speed limits are not in violation of Section 21654 CVC.

(c) Right-Hand Lane for Traffic. Lanes set aside for parking on surface streets are excluded from moving traffic. Emergency parking lanes and acceleration lanes on freeways are excluded from moving traffic.

NOTE: "It is not mandatory to drive to the right of the main traveled portion of a highway." (Ketchum v. Pattee [1950] 98 P2d 1051 37 CA2 122.)

(d) As Close as Practicable to the Right-Hand Edge or Curb. This does not mean as close as possible. The practical path for driving an automobile would be a sufficient distance from the curb to enable the driver to see automobiles approaching on an intersecting street. (Waxman v. Jennings [1925] 238 P 28 72 CA6 71.)

(e) Preparing for a Left Turn. Left turns must be within the immediate vicinity and not at some indefinite future time and place.

(f) Driving in Designated Lanes. Vehicles subject to Section 22406 CVC traveling in designated lanes are exempt from the right-hand lane rule.

(g) Vehicles Transporting Wide Loads. Vehicles transporting wide loads are exempt from the right-hand lane rule when more than one traffic lane is needed to avoid roadside obstacles or prepare for a right turn.

b. Enforcement Guidelines. Slow-moving vehicle enforcement action against drivers in other than the right-hand lane shall be guided by the following:

### 3. PRIMARY COLLISION FACTOR VEHICLE OPERATIONS.

a. Definition. A primary collision factor vehicle (PCFV) is a marked departmental vehicle which does not display traditional color configuration and markings. A PCFV is equipped and marked in such a manner that it may not be readily recognizable as a departmental enforcement vehicle. Notwithstanding its nontraditional markings, a PCFV meets the distinctive color and configuration requirements specified in Title 13, California Code of Regulations, (13 CCR) Division 2, Chapter 5, Article 5, Sections 1140 and 1141. A PCFV is not an unmarked or undercover enforcement vehicle.

b. Authority. The Commissioner specifies the colors of motor vehicles used for the main purpose of enforcing provisions of Divisions 10 or 11 of the CVC, pursuant to Section 40800 CVC.

(7) Section 27803(c) CVC should be used to cite the passenger of a motorcycle, motor-driven cycle, or motorized bicycle for not wearing a motorcycle safety helmet.

(8) Officers shall focus enforcement action on the following:

(a) Motorcyclists not wearing any type of head covering.

1 This violation shall not be correctable.

(b) Motorcyclists wearing a head covering which is obviously not a motorcycle helmet, such as a styrofoam bicycle helmet, football helmet, ball cap, scarf, stocking cap, leather aviator cap, or any variation of a fabric cap, etc.

1 This violation shall be correctable.

### 3. BICYCLES.

#### a. Policy.

(1) Appropriate enforcement action as outlined by this manual is to be taken against all bicycle violations. Officers should use their best judgment when handling violations committed by children under 14 years of age. These violations may be recorded following the parental notification program procedures as outlined in Highway Patrol Manual (HPM) 100.9, Enforcement Documents Manual, Chapter 1.

(2) Participants in an approved competitive bicycling event where an encroachment permit has been issued are exempt from specific provisions of the CVC as specified in the encroachment permit. This does not include bicyclists who leave the approved route or course and interfere with normal traffic.

(3) When commanders are made aware a competitive cycling event will be held within their Area that may require an encroachment permit and reimbursable services, they should refer to HPM 11.1, Administrative Procedures Manual, Chapter 6, for direction.

#### b. Procedure.

(1) Section 21200(a) CVC provides the basis for enforcement concerning bicyclists.

(a) Section 21200 CVC states, "Every person riding a bicycle upon a highway has all the rights and is subject to all the provisions applicable to the driver of a vehicle by Division 11 CVC, including, but not limited to, provisions concerning driving under the influence of alcoholic beverages or drugs, and by Division 10 (commencing with Section 20000), Section 27400, Division 16.7 (commencing with Section 39000), Division 17 (commencing with Section 40000.1), and Division 18 (commencing with Section 42000), except those provisions which by their very nature can have no application."

(b) Bicycles are not included within the definition of a motor vehicle, Section 415 CVC. Therefore, sections such as 23109 and 13353 CVC, specifically addressing violations by motor vehicles, are not applicable to bicycles.

(2) Section 21200.5 CVC, Driving Under the Influence-Bicycle, makes it a misdemeanor for anyone to ride a bicycle upon a highway while under the influence of alcohol and/or drugs. Persons arrested for violation of Section 21200.5 CVC should be handled according to the provisions contained in HPM 70.4, Driving Under the Influence Enforcement Manual.

(3) Section 21202 CVC states that every person operating a bicycle upon a roadway at a speed less than the normal speed of traffic shall ride as near the right-hand curb or edge of the roadway as practicable except:

(a) When passing slower moving vehicles or bicycles that are directly impeding their line of travel.

(b) When preparing to make a left turn.

(c) When attempting to avoid hazards in the roadway.

(d) When riding on a one-way street with more than two lanes, bicyclists may ride as near the left-hand curb or edge of the roadway as practicable.

(4) Because of the relative speed difference between bicycles and motor vehicles, and in order to comply with the provisions of Section 21208(b) CVC (the requirement that a bicyclist ride within the bicycle lane when the bicyclist's speed is less than the normal flow of traffic), a bicyclist may have to initiate a left-turning movement a considerable distance prior to arrival at the intended intersection, road, or driveway.

(a) Enforcement for the turning movements of bicyclists shall be limited to those instances where Section 22107 CVC, Unsafe Turns, would apply.

(b) Section 21202 CVC precludes bicyclists from riding abreast of one another, assuming both bicyclists are on the roadway and one is not in the process of passing the other.

(5) Section 21208 CVC provides rules for bicycles which are traveling upon a roadway containing a bicycle lane.

(a) Generally, any person operating a bicycle upon the roadway at a speed less than the normal speed of traffic shall ride within the bicycle lane.

(b) Section 21202(a) CVC applies to bicycles moving from an established bicycle lane.

(6) Section 21204(a) CVC provides that no person shall ride a bicycle upon a highway other than upon or astride a permanent and regular seat attached to the bicycle unless the bicycle was designed by the manufacturer to be ridden without a seat.

(7) Section 21204(b) CVC provides that no bicycle operator shall allow a child four (4) years of age or younger, or weighing 40 pounds or less, to ride as a passenger on a bicycle unless the seat is mounted separate from the operator's seat, retains the child adequately, and protects the child from the moving parts of the bicycle.

#### 4. HELMET USE – BICYCLES, SKATEBOARDS, IN-LINE SKATES, AND NONMOTORIZED SCOOTERS.

##### a. Authority.

(1) Section 21212(a) CVC provides that no person under 18 years of age shall operate or ride as a passenger upon a bicycle, a nonmotorized scooter, or a skateboard, nor shall they wear in-line or roller skates unless the person under 18 years of age is wearing a properly fitted and fastened bicycle safety helmet.

NOTE: The helmet must be of an approved type, meeting the standards of either the American Society for Testing Materials (ASTM) or the United States Consumer Product Safety Commission (CPSC), or standards subsequently established by those entities. A sticker noting one of the above standards should be affixed to the interior or exterior of the helmet at the time of sale. The sticker may be removed by the user.

(2) This section applies to bicycles, nonmotorized scooters, skateboards, in-line or roller skates, operated upon a street, bikeway, or any other public bicycle path or trail.

b. Procedure.

(1) Officers shall not arbitrarily stop operators of bicycles, nonmotorized scooters, skateboards, in-line or roller skates to determine compliance with this law. However, officers observing obvious violations of this law should take appropriate enforcement action. Particular attention should be directed toward proper fastening and helmet fit.

(2) Officers should use their best judgment when handling violations committed by children under 14 years of age. These violations may be recorded following the parental notification program procedures as outlined in HPM 100.9, Chapter 1.

5. MOTORIZED SCOOTERS.

a. Authority.

(1) Motorized scooters were originally defined by Senate Bill (SB) 441, Chapter 772, which was effective January 1, 2000, and added Section 407.5 CVC to define motorized scooters and Article 5, Operation of Motorized Scooters, to Chapter 1 of Division 11, Rules of the Road. Article 5 established provisions for the lawful operation of motorized scooters on highways.

(2) Effective January 1, 2005, Assembly Bill (AB) 1878 revised the definition of a motorized scooter to better describe the type of devices for which the law was originally intended, and to eliminate the confusion with newly manufactured devices (e.g., mini-motorcycles/pocket bikes).

(a) Section 407.5 CVC defines a “motorized scooter” as any two-wheeled device that has handlebars, has a floorboard that is designed to be stood upon when riding, and is powered by an electric motor. This device may also have a driver seat that does not interfere with the ability of the rider to stand and ride and may also be designed to be powered by human propulsion.

(b) A device meeting this definition that is powered by a source other than electrical power (e.g., a gasoline-powered two-stroke engine) is also a motorized scooter.

