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# ONE MINUTE BRIEF

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**NUMBER:** 2015-15    **DATE:** 09-08-15    **BY:** Devallis Rutledge    **TOPIC:** Presenting CDL for Examination

**ISSUE:** At a traffic stop or CDL/sobriety checkpoint, is the driver required to hand his/her driver's license and registration certificate to an officer on demand, or is it enough to exhibit them through a rolled-up window?

Here's a shocker for you: *not everything you read on the Internet is accurate*. Example: California drivers are told on one site that they can comply with the California Vehicle Code by holding up a sign when they are stopped, declaring that "I have to show my papers, but not hand them to you. Thus, I am not opening my window," and then pressing their CDL and registration certificate up against the closed car window for the officer to read. Good advice?

*"The driver of a motor vehicle shall **present** his or her license **for examination** upon demand of a peace officer enforcing the provisions of this code."* VC § 12951(b). Violation is a misdemeanor. VC § 40000.11(i).

*"The driver of a motor vehicle shall **present** ... evidence of registration of any or all vehicles under his or her immediate control **for examination** upon demand of any peace officer."* VC § 4462(a). Violation is an infraction. VC § 40000.1.

(A similar requirement as to **proof of insurance** applies if a **citation** is being issued or an **accident** is being investigated, per VC § 16028(b) and (c); effective 1-1-16, subsection (b) does not apply in San Francisco or Los Angeles County. VC § 16020.1, .2.)

- Before 1968, these statutes used the word "exhibit" instead of "present for examination," and problems arose because "exhibit" would arguably allow simply *showing* the documents, without handing them over. However, the law was amended 47 years ago:

*“The 1968 amendment was intended to clarify that either the driver’s license or identification **must be given to the officer** rather than merely exhibited, which in some instances has been complied with by showing it through a closed window. The license and identification must be **examined** to assure validity and the presence of restrictions. ... There can be little doubt that in both circumstances [license and registration], the driver is expected to **surrender the specified documents to the peace officer for examination...**”*

*People v. McKay* (2002) 27 Cal.4<sup>th</sup> 601, 621-22 (Underlined emphases in quoted text.)

- California driver’s licenses have at least 6 anti-forgery features that must be touched, viewed at an angle, or examined by backlighting. In order for an officer to “examine” a license “to assure its validity,” it must be “surrendered to the officer.” This cannot occur without rolling down the window or opening the door. “[E]very motorist knows that the officer will wish to speak with him, however briefly.... It may be **necessary**, for example, for the driver to **roll down his window.**” *People v. Superior Court (Kiefer)* (1970) 3 Cal.3d 807, 822.

- At a traffic stop for an observed mover or equipment violation (but not during *initial* checkpoint screening), officers may **routinely** order the driver and all passengers out of the vehicle. *Pennsylvania v. Mimms* (1977) 434 US 106, 111 (driver); *Maryland v. Wilson* (1997) 519 US 408, 415 (passengers). If the driver gets out of the vehicle without the requested documents, officers may enter the vehicle (safety permitting) to look for them in places where they could reasonably be expected to be found, and may seize any evidence in plain view. *In re Arturo D.* and *People v. Hinger* (2002) 27 Cal.4<sup>th</sup> 60, 79.

- Where a driver’s refusal to surrender demanded documents or to roll down the window or obey an order to get out at a lawful traffic stop constitutes resistance, delay or obstruction of the lawful performance of official duties, the person may be subject to arrest. PC § 148(a); *cf. People v. Evans* (2011) 200 Cal.App.4<sup>th</sup> 735, 743.

**BOTTOM LINE: Upon demand of a peace officer at a lawful traffic stop or CDL/sobriety checkpoint, the driver must give required documents to the officer, and may not merely exhibit them through rolled-up glass.**

(Emphases added and citations and punctuation omitted in quoted material.)

**This information was current as of publication date. It is not intended as legal advice. It is recommended that readers check for subsequent developments, and consult legal advisors to ensure currency after publication. Local policies and procedures regarding application should be observed.**