

Date of Hearing: March 24, 2026

Counsel: Ilan Zur

ASSEMBLY COMMITTEE ON PUBLIC SAFETY

Nick Schultz, Chair

AB 2502 (Pellerin) – As Introduced February 20, 2026

SUMMARY: Specifies, for purposes of the crimes of intoxicated vehicular manslaughter, driving under the influence (DUI), DUI causing bodily injury to another, and reckless driving in satisfaction of, or as a substitute for, an original DUI charge (“wet reckless”), as specified, “drive” includes the volitional movement of a vehicle with a Level 0, Level 1, Level 2, or Level 3 of driving automation, as those levels are defined by the Society of Automotive Engineers (SAE).

EXISTING LAW:

- 1) Defines “driver” for purposes of the Vehicle Code to mean a person who drives or is in actual physical control of a vehicle. (Veh. Code, § 305.)
- 2) Defines “vehicle” for purposes of the Vehicle Code to mean a device by which any person or property may be propelled, moved, or drawn upon a highway, excepting a device moved exclusively by human power or used exclusively upon stationary rails or tracks. (Veh. Code, § 670.)
- 3) Defines “motor vehicle” to mean a vehicle that is self-propelled. (Veh. Code, § 415.)
- 4) Defines “autonomous vehicle” to mean any vehicle equipped with autonomous technology that has been integrated into that vehicle that meets the definition of Level 3, Level 4, or Level 5 of SAE International’s “Taxonomy and Definitions for Terms Related to Driving Automation Systems for On-Road Motor Vehicles, standard J3016 (APR2021), as may be revised. (Veh. Code, § 38750, subd. (a)(2)(A).)
- 5) Defines an “operator” of an autonomous vehicle to mean the person who is seated in the driver’s seat, or, if there is no person in the driver’s seat, causes the autonomous technology to engage. (Veh. Code, § 38750, subd. (a)(4).)
- 6) Makes it unlawful for any person who is under the influence of any alcoholic beverage or drug, or under the combined influence of any alcoholic beverage and drug, or who has 0.08 percent or more, by weight, of alcohol (BAC) in their blood, “to drive a vehicle” (hereafter DUI). (Veh. Code, § 23152 subds. (a), (b) (f), & (g).)
- 7) Makes it unlawful for any person who is under the influence of any alcoholic beverage or drug, or the combined influence of the two, or who has a BAC of .08 or more, “to drive a vehicle,” and concurrently do any act forbidden by law or neglect any duty imposed by law in driving the vehicle, which proximately causes bodily injury to any person other than the driver (hereafter DUI causing bodily injury). (Veh. Code, § 23153 subds. (a), (b), (f), & (g).)

- 8) Defines gross vehicular manslaughter while intoxicated to mean the unlawful killing of a human being without malice aforethought, “in the driving of a vehicle” where the driving was in violation of specified DUI laws, and the killing was either the proximate result of an unlawful act, not amounting to a felony, and with gross negligence, or the proximate result of a lawful act that might produce death, in an unlawful manner, and with gross negligence, and makes this crime a felony punishable by imprisonment in state prison for four, six, or 10 years. (Pen. Code, § 191.5, subds. (a) & (c)(1).)
- 9) Defines intoxicated vehicular manslaughter without gross negligence to mean the unlawful killing of a human being without malice aforethought, “in the driving of a vehicle” where the driving was in violation of specified DUI laws, and the killing was either the proximate result of an unlawful act, not amounting to a felony, but without gross negligence, or the proximate result of a lawful act that might produce death, in an unlawful manner, but without gross negligence, and makes crime punishable by up to one year in county jail or by imprisonment for 16 months, or two or four years. (Pen. Code, § 191.5, subds. (b) & (c)(2).)
- 10) Provides that a person who “drives a vehicle” upon a highway in willful or wanton disregard for the safety of persons or property is guilty of reckless driving, and punishes this offense by five to 90 days in county jail and a fine of \$145 to \$1,000, or by both that fine and imprisonment. (Veh. Code, § 23103, subds. (a) & (c).)
- 11) Provides that if the prosecution agrees to a plea of guilty or nolo contendere to a charge of reckless driving, in satisfaction of, or as a substitute for, an original DUI charge, the prosecution shall state for the record a factual basis for the satisfaction or substitution, including whether or not there had been consumption of an alcoholic beverage or ingestion or administration of a drug, or both, by the defendant in connection with the offense. (Veh. Code, § 23103.5, subd. (a).)

FISCAL EFFECT: Unknown

COMMENTS:

- 1) **Author's Statement:** According to the author, “Semi-autonomous vehicles have been on California roads since 2014 and currently, two out of every five cars sold in the U.S. possess some sort of semi-autonomous capability. In 2018, a Tesla driver in San Francisco passed out on the Bay Bridge with a blood alcohol level of more than twice the legal limit. When he awoke, he challenged the California Highway Patrol officer, arguing that he wasn’t driving drunk because the Tesla was “on autopilot.” There have been other stories in and around my district of people passed out in their car while the autopilot is engaged. These incidents are occurring more often and stem from consumers being misled into believing that it is acceptable to drive a semi-autonomous vehicle while impaired as long as the “autopilot” system is engaged. This confusion is worsened by companies using misleading language in advertising and exaggerating their vehicles’ capabilities, leading consumers to believe the vehicles are fully self-driving. This bill clarifies that operating a semi-autonomous vehicle while intoxicated can still lead to a DUI charge.”
- 2) **Driving a Vehicle While Impaired:** California statutes do not define what it means “to drive” a vehicle, for purposes of California’s impaired driving laws. Existing law makes it

unlawful for a person who is under the influence of any alcoholic beverage or drug, or under the combined influence of any alcoholic beverage and drug, or who has a BAC of 0.08 percent or more, to “drive a vehicle.” (Veh. Code, § 23152 subds. (a), (b), (f), & (g).) This is California’s primary DUI statute. Other statutes, such as the crime of DUI causing bodily injury, similarly make it unlawful for any person who is under the influence, as specified, “to drive a vehicle,” and concurrently do any act forbidden by law or neglect any duty imposed by law in driving the vehicle, which proximately causes bodily injury to any person other than the driver (Veh. Code, § 23153 subds. (a), (f), & (g).) The closest statutory guidance on what constitutes driving a vehicle is Vehicle Code 305, which defines “driver” to mean a person “who drives or is in actual physical control of a vehicle.” While this is informative, California’s DUI statutes do not refer to a “driver,” but rather make it lawful to “drive a vehicle” while impaired. (Veh. Code, §§ 23152; 23153.) Other crimes, such as reckless driving or intoxicated vehicular manslaughter, also do not reference a “driver” and similarly refer to the “driving of a vehicle” (intoxicated vehicular manslaughter) and a person who “drives a vehicle” (reckless driving). (Veh. Code, § 23103, subds. (a) & (b); Pen. Code, § 191.5, subds. (a) & (b).) Accordingly, Vehicle Code section 305 does not directly inform what it means to “drive a vehicle” for purposes of California’s impaired driving laws.

The bulk of the guidance on what constitutes driving, for purposes of when a person is driving a vehicle in violation of specified impaired driving laws, comes from case law. Driving a vehicle requires “evidence of volitional movement of a vehicle.” (*Mercer v. Department of Motor Vehicles* (1991) 53 Cal.3d 753, 763.) As stated by the California Criminal Jury Instructions, “a person *drives* a vehicle when he or she intentionally causes it to move by exercising actual physical control over it.” (2 CALCRIM 2241 (2026).) “The person must cause the vehicle to move, but the movement may be slight.” (*Ibid.*) The term “drive” is distinct from a person who “operates” or “is in actual physical control of” a vehicle. (*Mercer, supra*, 53 Cal.3d at pp. 763-764.) Driving may be established through circumstantial evidence of the movement of a vehicle. (*Id.* at p. 770.) For example, one court found that there was sufficient evidence of driving when a vehicle was parked with the engine running on the freeway more than a mile from the on-ramp, and the defendant was sitting in the driver’s seat and was the sole occupant of the vehicle. (*People v. Wilson* (1985) 176 Cal.App.3d Supp. 1, 9); 2 CALCRIM 2241 (2026).) A front passenger may be found to “drive” for purposes of a DUI prosecution if, while impaired, they grab the steering wheel, causing the car to move. (*In re F.H.* (2011) 192 Cal.App.4th 1465, 1472.) A vehicle may be driven even if the engine is not in use. (*In re Queen T.* (1993) 14 Cal.App.4th 1143, 1145; *People v. Hernandez* (1990) 219 Cal.App.3d 1177, 1184.)

As applied to autonomous electric vehicles, a person operating a vehicle with certain autonomous functions, who sits in the driver’s seat, and willfully steers or accelerates, or undertakes any other intentional action to move the vehicle, will likely be considered to be driving that vehicle for purposes of California’s impaired driving laws. However, evidence of volitional movement of a vehicle may be very difficult to establish if a person is riding in the backseat of a fully autonomous vehicle and the person never interacts with a steering wheel, gas, or brakes, or any other control that moves the vehicle.

- 3) **Effect of this Bill:** The impetus of this bill is reports that some people may be under the impression that they cannot be prosecuted for driving impaired when they are driving semi-autonomous vehicles because of the self-driving function of the vehicle. Accordingly, this bill seeks to clarify the application of California’s impaired driving laws to individuals

driving semi-autonomous vehicles. Specifically, it provides that for the purpose of specified impaired driving crimes, including DUI, “drive” includes the volitional movement of a vehicle with a Level 0, Level 1, Level 2, or Level 3 of driving automation, as those levels are defined by SAE.

SAE is a non-profit organization that develops mobility standards that focus on emerging technologies, such as those related to autonomous driving.¹ According to the SAE website, there are five levels of driving automation:²

- a) Level 0: No Driving Automation: “The performance by the driver of the entire [dynamic driving task (DDT)], even when enhanced by active safety systems.”³
- b) Level 1: Driver Assistance: “The sustained and [operational design domain (ODD)]-specific execution by a driving automation system of either the lateral or the longitudinal vehicle motion control subtask of the DDT (but not both simultaneously) with the expectation that the driver performs the remainder of the DDT.”⁴
- c) Level 2: Partial Driving Automation: “The sustained and ODD-specific execution by a driving automation system of both the lateral and longitudinal vehicle motion control subtasks of the DDT with the expectation that the driver completes the OEDR subtask and supervises the driving automation system.”⁵
- d) Level 3: Conditional Driving Automation: “The sustained and ODD-specific performance by an [automated driving system (ADS)] of the entire DDT under routine/normal operation...with the expectation that the DDT fallback-ready user is receptive to ADS-issued requests to intervene, as well as to DDT performance-relevant system failures in other vehicle systems, and will respond appropriately.”⁶
- e) Level 4: High Driving Automation: “The sustained and ODD-specific performance by an ADS of the entire DDT and DDT fallback without any expectation that a user will need to intervene.”⁷
- f) Level 5: Full Driving Automation: “The sustained and unconditional (i.e., not ODD-specific) performance by an ADS of the entire DDT and DDT fallback without any expectation that a user will need to intervene.”⁸

¹ Standards Portal, *SDO: SAE International* (accessed March 19, 2026), available at:

https://www.standardsportal.org/usa_en/sdo/sae.aspx#Overview

² SAE International, *J3216_202504 - Taxonomy and Definitions for Terms Related to Cooperative Driving Automation for On-Road Motor Vehicles* (April 13, 2025), available at: https://www.sae.org/standards/j3216_202504-taxonomy-definitions-terms-related-cooperative-driving-automation-road-motor-vehicles

³ SAE International, *(R) Taxonomy and Definitions for Terms Related to Driving Automation Systems for On-Road Motor Vehicles: J3016* (April 2021), at p. 30, available at:

https://wiki.unece.org/download/attachments/128418539/SAE%20J3016_202104.pdf?api=v2

⁴ *Ibid.*

⁵ *Id.* at p. 31.

⁶ *Id.* at p. 26.

⁷ *Ibid.*

⁸ *Ibid.*

Reference to SAE standards is not without precedent. Under Vehicle Code section 28750, “autonomous vehicle” means any vehicle equipped with autonomous technology that has been integrated into that vehicle that meets the definition of Level 3, Level 4, or Level 5 of SAE’s “Taxonomy and Definitions for Terms Related to Driving Automation Systems for On-Road Motor Vehicles, standard J3016 (APR2021),” as may be revised. (Veh. Code, § 38750, subd. (a)(2)(A).) This does not include a vehicle that is equipped with one or more collision avoidance systems or other similar systems that enhance safety or provide driver assistance, but are not capable, collectively or singularly, of driving the vehicle without the active control or monitoring of a human operator. (Veh. Code, § 38750, subd. (a)(2)(B).)

This bill may help clarify that individuals who drive semi-autonomous vehicles are still subject to California’s impaired driving framework. Although, given that driving a vehicle already simply requires evidence of volitional movement more generally, the impact of this bill may be limited. Further, specifying that driving includes the volitional movement of a vehicle with a Level 0, Level 1, Level 2, or Level 3 may imply that driving a vehicle does not encompass volitional movement of a vehicle with a Level 4 or Level 5. Currently, as noted above, any volitional movement of a vehicle, while impaired, can subject a person to a DUI, regardless of the level of autonomy of a vehicle. For example, if an impaired person was riding in the back of a vehicle with a Level 4 or Level 5, i.e., vehicles “without any expectation that a user will need to intervene,”⁹ but that person nonetheless moved to the driver’s seat and began steering or accelerating, this may be considered driving a vehicle for purposes of impaired driving laws. The author may wish to clarify this matter to avoid unintentionally narrowing the current volitional movement standard.

- 4) **Argument in Support:** According to the *Automobile Club of Southern California and AAA Northern California, Nevada & Utah (AAA Clubs)*, AB 2502 “clarifies that, for purposes of California’s driving under the influence (DUI) laws, “drive” includes the volitional movement of a vehicle equipped with Level 0 to 3 driving automation systems. This ensures impaired driving laws keep pace with evolving vehicle technologies and apply to drivers using advanced driver assistance systems.

“Impaired driving remains a leading threat to roadway safety. As vehicle technology advances, California law must continue to reflect that human drivers remain responsible for safe operation when automation does not fully replace the driving task.

“AAA has long maintained that drivers must remain attentive and ready to take control when using these systems. Vehicles equipped with Level 0–2 systems—and many Level 3 systems—still rely on human drivers to monitor conditions and intervene when necessary. Allowing impaired individuals to engage in these systems would create significant safety risks.

“Level 3 systems, or “conditional automation” as defined by SAE International, allow drivers to disengage under limited conditions but still require them to respond to takeover requests—often within seconds. An impaired driver cannot safely fulfill this responsibility.

⁹ SAE International, *(R) Taxonomy and Definitions for Terms Related to Driving Automation Systems for On-Road Motor Vehicles: J3016* (April 2021), at p. 26, available at: https://wiki.unece.org/download/attachments/128418539/SAE%20J3016_202104.pdf?api=v2

“AB 2502 reinforces that vehicle automation does not eliminate driver responsibility. By clarifying the definition of “drive,” the bill closes a gap in DUI enforcement and helps prevent misuse of partially automated systems.”

5) **Argument in Opposition:** None submitted.

6) **Related Legislation:**

- a) AB 1546 (Schultz) would increase the punishment for a DUI with two priors from a misdemeanor to a wobbler and increase the punishment for a DUI with four or more priors from a wobbler to a straight felony. AB 1546 is pending a hearing in the Assembly Appropriations Committee.
- b) AB 1686 (Lackey) would increase the punishment for a DUI with one or two priors from a misdemeanor to an alternate felony-misdemeanor and increase the minimum jail time for these offenses. AB 1686 is being heard in this Committee today.

7) **Prior Legislation:**

- a) AB 1777 (Ting), Chapter 682, Statutes of 2024, places various requirements on manufacturers of autonomous vehicles by July 1, 2026, and authorizes a peace officer to issue a "notice of autonomous vehicle noncompliance" for a violation of the vehicle code or a local traffic ordinance to an AV manufacturer.
- b) SB 421 (Bradford), of the 2021-2022 Legislative Session, would have established a pretrial diversion scheme with specific conditions for misdemeanor DUI violations. SB 421 was held in Senate Appropriations.
- c) SB 783 (Bradford), of the 2021-2022 Legislative Session, was substantially similar to SB 421. SB 783 was never heard.
- d) SB 500 (Min), Chapter 277, Statutes of 2021, defines autonomous vehicle to mean any vehicle equipped with autonomous technology that has been integrated into that vehicle that meets the definition of Level 3, Level 4, or Level 5 of SAE’s “Taxonomy and Definitions for Terms Related to Driving Automation Systems for On-Road Motor Vehicles, standard J3016 (APR2021),” as may be revised.
- e) AB 401 (Flora), of the 2019-2020 Legislative Session, would have made a DUI conviction that occurs within 10 years after four or more previous specified convictions punishable only as a felony, among other changes. AB 401 failed passage in this Committee.
- f) AB 1592 (Bonilla), Chapter 814, Statutes of 2016, authorized the Contra Costa Transportation Authority to conduct a pilot project for the testing of autonomous vehicles under specific conditions.
- g) SB 1298 (Padilla), Chapter 570, Statutes of 2012, established conditions for the operation of autonomous vehicles upon public roadways.

- h) AB 2605 (Bogh), of the 2005-2006 Legislative Session, would have increased the penalty for a person convicted of a third DUI offense within 10 years from a misdemeanor to an alternative misdemeanor/felony, among other changes. AB 2605 failed passage in this Committee.

REGISTERED SUPPORT / OPPOSITION:**Support**

AAA Northern California, Nevada & Utah
Alcohol Justice
Arcadia Police Officers' Association
Automobile Club of Southern California
Brea Police Association
Burbank Police Officers' Association
California Association of Highway Patrolmen
California Association of School Police Chiefs
California Coalition of School Safety Professionals
California Narcotic Officers' Association
California Police Chiefs Association
California Reserve Peace Officers Association
Claremont Police Officers Association
Corona Police Officers Association
Culver City Police Officers' Association
Fullerton Police Officers' Association
Los Angeles School Police Management Association
Los Angeles School Police Officers Association
Mothers Against Drunk Driving
Murrieta Police Officers' Association
Newport Beach Police Association
Palos Verdes Police Officers Association
Placer County Deputy Sheriffs' Association
Pomona Police Officers' Association
Riverside Police Officers Association
Riverside Sheriffs' Association
Safety and Advocacy for Empowerment (SAFE)
Streets for All

Opposition

None submitted.

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