
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Jesse Arreguin, Chair
2025 - 2026 Regular

Bill No: AB 2502 **Hearing Date:** June 30, 2026
Author: Pellerin
Version: February 20, 2026
Urgency: No **Fiscal:** Yes
Consultant: SJ

Subject: *Vehicles: driving under the influence: driving automation*

HISTORY

Source: Author

Prior Legislation: AB 1777 (Ting), Chapter 682, Statutes of 2024,
SB 421 (Bradford), held in Senate Appropriations, 2021
SB 500 (Min), Chapter 277, Statutes of 2021
AB 401 (Flora), failed passage in Assembly Public Safety, 2019
AB 1592 (Bonilla), Chapter 814, Statutes of 2016
SB 1298 (Padilla), Chapter 570, Statutes of 2012
AB 2605 (Bogh), failed passage Assembly Public Safety, 2006

Support: Los Angeles County District Attorney's Office

Opposition: None known

Assembly Floor Vote: 74 - 0

PURPOSE

The purpose of this bill is to specify, for purposes of the crimes of gross vehicular manslaughter while intoxicated, vehicular manslaughter while intoxicated, driving under the influence (DUI), DUI causing bodily injury to another, and "wet reckless," "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.

Existing law 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.)

Existing law 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.)

Existing law defines "motor vehicle" to mean a vehicle that is self-propelled. (Veh. Code, § 415.)

Existing law 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 the Society of Automotive Engineers (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).)

Existing law 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).)

Existing law 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).)

Existing law 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).)

Existing law 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).)

Existing law 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, 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).)

Existing law 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 punishable 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).)

Existing law 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).)

This bill specifies, for purposes of the crimes of gross vehicular manslaughter while intoxicated, vehicular manslaughter while intoxicated, DUI, DUI causing bodily injury to another, and "wet

reckless,” “drive” includes the volitional movement of a vehicle with a Level 0, Level 1, Level 2, or Level 3 of driving automation, as defined.

COMMENTS

1. Need For This Bill

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. Impaired Driving Offenses

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 0.08 percent or more, by weight, of alcohol (BAC) in their blood, to drive a vehicle (known as DUI with no injury). (Veh. Code, § 23152, subds. (a), (b) (f), & (g).) It is also unlawful to drive impaired while concurrently doing an act forbidden by law or neglecting a duty imposed by law, which proximately causes bodily injury to another (known as DUI causing bodily injury). (Veh. Code, § 23153, subds. (a), (f), & (g).)

The punishment for a DUI or DUI causing bodily injury generally depends on the defendant's number of separate prior convictions within 10 years of the current offense. Convictions that are considered “priors” are convictions for DUI with no injury, DUI causing bodily injury, and “wet reckless.” (Veh. Code, §§ 23550, 23152, 23153, 23103.5.) A wet reckless occurs when the prosecution agrees to allow the defendant plead guilty to a charge of reckless driving under Vehicle Code section 23103, in satisfaction of, or as a substitute for, an original DUI charge, as specified. (Veh. Code, § 23103.5.)

Vehicular manslaughter while intoxicated is the unlawful killing of a human being without malice aforethought, in the driving of a vehicle, where the driving was in violation of one of several specified DUI laws, and the killing was either the proximate result of the commission of an unlawful act, not amounting to a felony, but without gross negligence, or the proximate result of the commission of a lawful act that might produce death, in an unlawful manner, but without gross negligence. (Pen. Code, § 191.5, subd. (b).) Vehicular manslaughter while intoxicated is a

wobbler, and it is punishable by imprisonment in a county jail for not more than one year or by imprisonment in a county jail as a realigned felony for 16 months, two years, or four years. (Pen. Code, § 191.5, subd. (c)(2).)

Gross vehicular manslaughter while intoxicated is the unlawful killing of a human being without malice aforethought, in the driving of a vehicle, where the driving was in violation of Section 23140, 23152, or 23153 of the Vehicle Code (i.e., person under 21 with a BAC between .05-.07, DUI with no injury, or DUI with bodily injury) and the killing was either the proximate result of the commission of an unlawful act, not amounting to a felony, and with gross negligence, or the proximate result of the commission of a lawful act that might produce death, in an unlawful manner, and with gross negligence. (Pen. Code, § 191.5, subd. (a).) Gross vehicular manslaughter while intoxicated is a felony punishable by imprisonment in the state prison for 4, 6, or 10 years. (Pen. Code, § 191.5, subd. (c)(1).) However, if the person has one or more specified prior convictions (i.e., a prior conviction for gross vehicular manslaughter while intoxicated, vehicular manslaughter while intoxicated, gross vehicular manslaughter, or DUI), the punishment is imprisonment in the state prison for a term of 15 years to life.

3. Definition of Driving

Most 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 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.

4. Effect of This Bill

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

- 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
- 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
- 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
- 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
- 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
- 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

Reference to SAE standards in state law 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

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.*

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).)

5. Argument in Support

The Los Angeles County District Attorney's Office writes:

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." 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.

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 unlawful to "drive a vehicle" while impaired. 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). Therefore, 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." 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.) 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.)

...

AB 2502 is a commonsense amendment to California law that brings our Vehicle Code into conformance with today's technology. The perception that autonomous driving systems require no human interaction, and that individuals may safely impact their operation while under the influence of alcohol or drugs, is very misleading. Drivers must remain attentive and ready to take control when using these systems.

AB 2502 makes drivers aware that vehicle automation does not eliminate driver responsibility. By clarifying the definition of "drive," AB 2502 closes a gap in DUI enforcement and helps prevent misuse of partially automated systems.

-- END --