

# CAUSE LEGAL

June 17, 2006

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Mr. George Valverde  
Director  
Department of Motor Vehicles  
2415 1<sup>st</sup> Avenue  
Sacramento, CA 95818

Dear Mr. Valverde:

For the past fourteen years CAUSE Law Enforcement Association, during negotiations, and through the grievance procedure has raised concerns regarding the fact that licensing and registration examiners are being ordered by their supervisors to administer drive test to applicants who have shown less than adequate substantiation of insurance coverage.

They are also being directed to not check for insurance coverage at all. The California vehicle code section 12804.9 clearly states that, "The examining officer may request to see evidence of financial responsibility for the vehicle prior to supervising the demonstration of the applicant's ability to operate the vehicle. The examining officer may refuse to examine an applicant who is unable to provide proof of financial responsibility for the vehicle, unless proof of financial responsibility is not required by this code.

The overriding concern is the fact that an LRE may become injured during the administration of a drive test. Worker's compensation benefits are available, but as you know, these benefits are not necessarily sufficient. In serious cases the LRE may desire to look to the driver for relief. If there is no insurance coverage that avenue becomes closed to the LRE. Yet, this may not have been a problem if adequate proof of insurance had been required. Insurance documents that are expired, do not contain the drivers name, or are scribbled on a piece of paper are totally inadequate "proof."

CAUSE has worked with the LRE's to establish a recommended procedure for addressing the problem. These recommendations are as follows:

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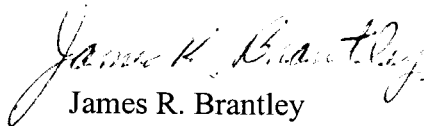
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1. Do not become rude or insubordinate
2. If you are ordered to administer the test ask for confirmation of the order in written.
3. If the supervisor/manager declines to give you written confirmation, make note of his/her name, the date and time, vehicle information, the type of "proof" offered, and the fact that you are administering the test under protest.
4. Be reasonable about what you consider adequate "proof"
5. The department and the supervisor/manager should then be advised in writing of the protest and of the reasons.

CAUSE is advising all LRE's that should they be injured during a drive test where there was less than adequate proof of insurance to consider holding the supervisor/manager and/or the department personally liable for any due compensation not provided or covered by workers compensation. The "sole remedy" test for workers compensation may not apply in cases of gross negligence or deliberate misconduct. When there has been plenty of notice to the parties, continuing to order drive test where there is no adequate proof of insurance is nothing less than gross negligence or misconduct.

Respectfully,



**James R. Brantley**  
Supervising Labor Representative  
CAUSE Southern Office

cc: Francine Toth, President COLRE  
Kasey Clark, Chief Legal Counsel CAUSE  
Bruce Arbuckle, L.R.O.  
Susan Hogg, Deputy Director