

SPECIAL DIRECTIVE 15-03

TO: ALL DISTRICT ATTORNEY PERSONNEL

FROM: JOHN K. SPILLANE 
Chief Deputy District Attorney

SUBJECT: CHARGING ALTERNATIVE MISDEMEANOR/INFRACTION
CRIMES – VEHICLE CODE § 12500(a)

DATE: DECEMBER 29, 2015

The Los Angeles County District Attorney's Office (LADA) has adopted a uniform policy concerning the prosecution of first-time Vehicle Code § 12500(a) offenses. The policy applies to all Vehicle Code § 12500(a) offenses committed on or after January 1, 2016, within jurisdictions where LADA prosecutes misdemeanor offenses. The policy is incorporated in the Legal Policies Manual, Chapter 2, Crime Charging – Generally, under new Section 2.12, Alternative Misdemeanor/Infraction Crimes.

In conjunction with the issuance of this Special Directive, LADA has provided written notice of the new policy to the Chiefs of all law enforcement agencies that present misdemeanors to LADA for charge evaluation.

Legal Policies Manual Section 2.12 sets forth LADA's policy on the prosecution of Vehicle Code § 12500(a) offenses as follows:

2.12 ALTERNATIVE MISDEMEANOR/INFRACTION CRIMES

Under the provisions of Penal Code §§ 19.8 and 17(d), specified misdemeanor offenses may be handled as infractions upon action by a prosecutor or by the court. These offenses are commonly referred to as "wobblettes." A misdemeanor offense enumerated in Penal Code § 19.8 may be prosecuted as an infraction when the prosecutor files the offense as an infraction (unless the defendant objects at the time of his or her arraignment), or when the court, with the consent of the defendant, reduces the offense to an infraction.

2.12.01 Presumptive Misdemeanor Filings

The following circumstances warrant a misdemeanor prosecution:

- Violations of Vehicle Code § 12500(a) where the defendant has been convicted of one or more prior violations of Vehicle Code § 12500(a) or Vehicle Code § 14601 et seq.

- Violations of Vehicle Code § 12500(a) committed in conjunction with another misdemeanor or felony offense (see also § 2.08.01, *ante*, on Joinder of Misdemeanors with Felonies).

Law enforcement requests for charge evaluation shall be accompanied by a standard filing packet that includes a written narrative establishing the facts of the offense and the probable cause for the arrest, as well as documents containing the defendant's CLETS, CCHRS and DMV criminal history.

2.12.02 Presumptive Referrals for Prosecution as Infractions

The following circumstances warrant a referral for handling as an infraction:

- Violations of Vehicle Code § 12500(a) where the defendant does not have any prior convictions for violations of Vehicle Code § 12500(a) or Vehicle Code § 14601 et seq.; and
- Violations of Vehicle Code § 12500(a) where the defendant is not concurrently charged with another misdemeanor or felony offense.

If both of the above circumstances exist, a law enforcement officer may issue the citation as an infraction and file the matter in traffic court for processing and adjudication.

The above policy regarding first-time Vehicle Code § 12500(a) offenses is presumptive. If circumstances exist that appear to justify a misdemeanor charge, a law enforcement officer may issue a citation as a misdemeanor and submit the offense to LADA for charge evaluation. Deputies reviewing requests for charge evaluation shall determine the appropriate charge, as well as whether an offense should be appropriately prosecuted as a misdemeanor or referred for handling as an infraction.

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