



**Driving-Under-the-Influence Program
Licensing Fee Increase Effective July 1, 2022
Report to the Legislature
March 2022**

Submitted by the Department of Health Care Services
Pursuant to the Requirements of
Health and Safety Code Section 11837.5

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Overview

The Driving-Under-the-Influence (DUI) Program Licensing Fee Increase Effective July 1, 2022 report from the Department of Health Care Services (Department) provides an overview of the assets, liabilities, and balance in the DUI Program Licensing Trust Fund and justifies the Department's increase to DUI Program licensing fees (See Appendix A). A report to the Legislature is required, pursuant to Health and Safety Code (HSC) section 11837.5 (f) and (g), when the Department increases licensing fees for DUI programs.

The intent of this report is to illustrate that sufficient revenues are not currently available in the DUI Program Licensing Trust Fund and that the Department intends to increase its licensing fee assessed to DUI programs from \$10 to \$17 for each newly enrolled participant to support planned Department expenses for DUI program licensing activities effective July 1, 2022.

Background

HSC, Division 10.5, Chapter 9, Services to Persons Convicted for Driving While Under the Influence of Alcohol or Other Drugs, Sections 11836 through 11838.11 requires the Department to license and provide administrative oversight of California DUI programs. As specified in the HSC, DUI programs operate primarily as non-profit, profit, or county run organizations. In addition, all DUI programs are required to be self-supporting through fees collected from program participants.

The HSC states that the Department shall charge reasonable fees for licensing DUI programs, in an amount and manner sufficient to cover all administrative costs incurred by the Department. The HSC also specifies that the Department is responsible for annually evaluating and determining Department licensing fees based on its projected costs for the forthcoming fiscal year.

The HSC specifies DUI program licensing fee collection procedures, which include the assessment of fines, shall be defined in regulations. California Code of Regulations (CCR), Title 9, Section 9822 states that the Department's DUI program license fee shall be a set amount assessed for each participant's enrollment in the DUI program and paid to the Department quarterly in arrears. The Department receives DUI participant enrollment reports and correlating DUI licensing fees on a quarterly basis. While the Department does assess civil penalties based on identified program deficiencies, penalty revenue is negligible and does not create a significant fluctuation in the DUI Program Licensing Trust Fund.

The Department is responsible for licensing three DUI program types, which currently consists of 216 first-offender program licenses; 189 18-month program licenses; and 40 30-month program licenses at 227 DUI facility locations and 17 satellite locations throughout California. State licensing provides centralized leadership with regard to program standards, quality assurance, and coordination. DUI program licenses are valid for two years following initial issuance and license renewal occurs thereafter provided the program is in good standing at the time of renewal.

The Department has historically adjusted DUI Program licensing fees as necessary to account for revenue surpluses and shortfalls in the DUI Program Licensing Trust Fund based on budget expenditure authority. The current licensing fee of \$10 assessed to each DUI program for each newly enrolled participant has been in effect since Fiscal Year (FY) 2003-04.

No report to the Legislature is required when licensing fees are unchanged or decreased.

- FY 1998-99: DUI Program licensing fee reduced from \$14 to \$12.
- FY 1999-00: DUI Program licensing fee reduced from \$12 to \$8.
- FY 2003-04 to current: DUI Program licensing fee increased from \$8 to \$10.

Data Considerations Justifying Licensing Fee Increase

The number of DUI program enrollments is directly related to the number of DUI arrests and convictions.

California DUI Arrest and Convictions Data

The Department relies on the Department of Motor Vehicles (DMV) Annual Management Information System (MIS) Report to the Legislature to obtain arrest and conviction data. The most recent report available to the Department is DMV’s 2020 MIS report which reflects declining arrests through 2017 and convictions through 2016 identifying a trending decline each year beginning in 2007 (See Appendix B).

Five-Year History of DUI Program Enrollment Data

CCR, Title 9, specifies each DUI program is required to submit participant enrollment figures and subsequent licensing fees to the Department on a quarterly basis. As reflected in Table 1, participant enrollments reported to the Department align with a trending decrease in reported statewide DUI arrests and convictions. A decrease in DUI program enrollments equates to a consistent decrease in licensing fees deposited and available in the DUI Program Licensing Trust Fund.

TABLE 1. DUI PROGRAM PARTICIPANT ENROLLMENTS						
*Column	A	B	C	D	E	Percentage Difference
Fiscal Year	2016-17	2017-18	2018-19	2019-20	2020-21	Five-Year Span
Enrollments	108,416	102,504	104,665	82,045	78,794	-27.35%

*Columns A-E are actual enrollment figures based on quarterly enrollment reports received/finalized for each respective FY.

DUI Program Licensing Trust Fund Revenue Deposits (Recent Two-Year History)

Under normal circumstances, DUI Program Licensing Trust Fund annual revenue is reflected by the Department’s current licensing fee multiplied by the number of participant enrollments in DUI programs. Based on declining revenue in the DUI Program Licensing Trust Fund, and an overall trending decrease in program enrollments, the Department began working on a licensing fee increase in late 2019/early 2020. In response to the COVID-19 public health emergency (PHE), the Department paused the process.

In addition to the economic hardships for individuals brought on by the PHE, many businesses were also negatively impacted. While the Department worked to allow for delivery of virtual DUI program services where applicable, California licensed DUI programs experienced a substantial decline in participant enrollments due to public health mandates for in person gatherings and court case backlogs, further impacting DUI programs and the DUI Program Licensing Trust Fund.

Additionally, Senate Bill (SB) 601 (Morrell, Chapter 854, Statutes of 2019) went into effect on January 1, 2020, which added Government Code section 11009.5 to authorize the Department to

establish a process to reduce or waive any fees required to obtain a license, renew or activate a license, or replace a physical license for display, when a business has been displaced, or experiences economic hardship as a result of an emergency. Many DUI programs requested and received approval for fee waivers further compounding revenue shortfalls for the DUI Program Licensing Trust Fund for the 3rd and 4th quarter of FY 2019-20 and all four quarters of FY 2020-21.

Table 2 illustrates FY 2019-20 DUI Program Licensing Trust Fund revenue expected to be generated based on enrollment information received multiplied by the applicable \$10 licensing fee, and the total licensing fees waived by the Department in accordance with SB 601.

TABLE 2. FY 2019-20 DUI PROGRAM ENROLLMENTS AND LICENSING FEES	AMOUNT
*Participant Enrollments	82,045
Licensing Fee per participant enrollment (current licensing fee)	\$10
Licensing Fees Expected Based on Enrollments	\$820,450
Licensing Fees Reduced/Waived (SB 601/COVID-19)	(\$100,170)
Total Licensing Fees Received By Department	\$720,280

*Participant enrollment information is obtained from quarterly enrollment reports submitted by DUI programs to the Department. Received reports are accompanied by corresponding licensing fee payments.

Table 3 illustrates FY 2020-21 DUI Program Licensing Trust Fund revenue expected to be generated based on enrollment information received multiplied by the applicable \$10 licensing fee, and the total licensing fees waived by the Department in accordance with SB 601.

TABLE 3. FY 2020-21 DUI PROGRAM ENROLLMENTS AND LICENSING FEES	AMOUNT
*Participant Enrollments	78,794
Licensing Fee per participant enrollment (current licensing fee)	\$10.00
Licensing Fees Expected Based on Enrollments	\$787,940
Licensing Fees Reduced/Waived (SB 601/COVID-19)	(\$274,670)
Total Licensing Fees Received By Department	\$513,270

*Participant enrollment information is obtained from quarterly enrollment reports submitted by DUI programs to the Department. Received reports are accompanied by corresponding licensing fee payments.

Historical DUI Department Licensing and Administrative Oversight

Although DUI arrests, convictions, and program enrollments have decreased over time directly affecting DUI Program Licensing Trust Fund revenues, the total number of licensed program services have remained relatively stable over the same period (See Appendix C). The total number of licensed DUI programs is influenced primarily by the amount of county and court jurisdictions and geographical areas rather than participant enrollments. While the Department’s DUI Program Licensing Trust Fund revenues have endured a steady decline, its overall costs of fulfilling its licensing mandates have not decreased, as the program monitoring workload aligns with number of DUI licenses. Although there was a nominal cost savings initially realized by travel restrictions at the onset of the PHE, the savings was insufficient to account for already declining revenues coupled with state salary increases and general increases in standard state operating costs. DUI program staff continued virtual program monitoring activities while travel was restricted.

Department on-site compliance reviews focus on regulatory compliance ensuring participants are completing program services required for the issuance of a completion certificate and ultimately reinstatement of their driver license. The Department routinely conducts analysis of program

monitoring practices and other key functions to ensure oversight efficiency and effectiveness. Over time, the Department has realized cost savings in some areas offset by rising costs in other areas.

For example, DUI program reviews occurring in FY 2013-14 that took one full week, including travel, are currently accomplished in two or three days allowing for review of two programs each week when in close proximity to another program. Offsetting this cost savings is the Department's requirement to ensure appropriate action is taken when programs are identified as having significant deficiencies affecting participant services. In these instances technical assistance, program follow-up, and licensing actions when warranted influence DUI Program Licensing Trust Fund revenues.

DUI Program Licensing Trust Fund Expenditures and Revenues

The Department's Fund Condition Statement published in the 2021-22 State Budget (Appendix A), reflects the DUI Program Licensing Trust Fund continues to experience an overall decline in an available fund balance and that existing licensing fee revenue is not sufficient to support current or planned expenses for the Department's required role in DUI program licensing activities. With the Fund Condition Statement reflecting point in time data, FY 2021-22 began with a carryover balance of \$195,000 after accounting for applicable adjustments. Declining DUI program enrollment trends reflect raising DUI licensing fees is necessary effective July 1, 2022 to ensure sufficient funds are available for the Department to fulfill its DUI program licensing mandates, as licensing fees comprise the majority of revenue for the DUI Program Licensing Trust Fund.

Methodology for Determining DUI Licensing Fees for Forthcoming Fiscal Year

CCR, Title 9, Section 9822 states the Department shall determine the license fee annually, no later than April 30 of each year, in an amount sufficient to cover the projected costs of administering the licensure of DUI programs for the forthcoming fiscal year.

CCR, Title 9, Section 9822 further identifies the license fee shall be an amount for each participant's initial enrollment, determined by dividing the projected costs by the number of participant enrollments and rounding up to the next dollar. Projected costs and participant enrollments used in the calculation shall be the total actual costs and enrollments, respectively, for the most recent 12-month period for which both sets of data are available.

While figures from FY 2020-21 would typically be used in the fee methodology for determining FY 2022-23 licensing fees, the Department is using FY 2019-20 data because of the following impacts to FY 2020-21 that negatively affect the data's efficacy:

- Personal Leave Program (PLP) impacting Department personnel service costs.
- Waiver of fee based on economic hardship.
- Reduced DUI program participants due to the stay at home orders and court backlogs.

*TABLE 4. METHODOLOGY FOR DETERMINING FY 2022-23 DUI LICENSING FEES (TITLE 9)	
Projected Administrative Costs (By CCR, Title 9 definition: 12-month period of data available from FY 2019-20)	\$1,350,000
Projected Participant Enrollments (By CCR, Title 9 definition: 12-month period of data available from FY 2019-20)	82,045
Calculation (Costs divided by Enrollments)	16.45
DUI Licensing Fees for FY 2022-2023 (Rounded up)	\$17

*As specified in Title 9, projected costs and enrollments used in calculating the FY 2022-23 DUI licensing fees are defined as total actual costs and enrollments for the most recent 12-month period for which both sets of data are available. (Although FY 2019-20 enrollment data was negatively impacted by COVID-19 in the last two quarters of that FY, the FY 2019-20 data is reflective of a more typical year than the data available for FY 2020-21)

As specified in CCR, Title 9, Section 9822, the Department will provide DUI programs notice of the DUI license fee increase by April 30, 2022 in order for the increase to be effective beginning July 1, 2022. The Department will evaluate the DUI program licensing fees again in FY 2022-23 to determine if sufficient funds will be available in the DUI Program Licensing Trust Fund for the following fiscal year, and if a subsequent licensing fee adjustment is warranted, based on available data.

Appendix A

Driving-Under-the-Influence Licensing Trust Fund--Fund Condition Statement

HEALTH AND HUMAN SERVICES

2021-22 STATE BUDGET — HHS 1

4260 State Department of Health Care Services

FUND CONDITION STATEMENTS †

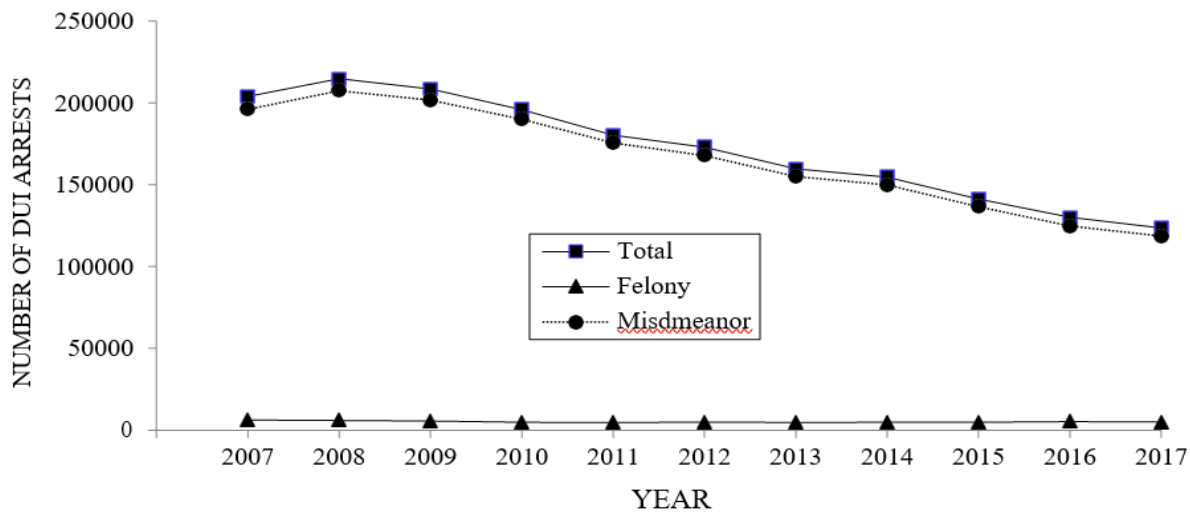
	2019-20*	2020-21*	2021-22*
0139 Driving Under-the-Influence Program Licensing Trust Fund^S			
BEGINNING BALANCE	\$758	\$236	\$195
Prior Year Adjustments	-155	-	-
Adjusted Beginning Balance	\$603	\$236	\$195
REVENUES, TRANSFERS, AND OTHER ADJUSTMENTS			
Revenues:			
4129200 Other Regulatory Fees	932	520	1,137
4129400 Other Regulatory Licenses and Permits	1	1	1
4172500 Miscellaneous Revenue	24	-	24
4173000 Penalty Assessments - Other	26	9	26
Total Revenues, Transfers, and Other Adjustments	\$983	\$530	\$1,188
Total Resources	\$1,586	\$766	\$1,383
EXPENDITURE AND EXPENDITURE ADJUSTMENTS			
4260 State Department of Health Care Services (State Operations)	1,331	505	1,383
9892 Supplemental Pension Payments (State Operations)	19	-	-
9900 Statewide General Administrative Expenditures (Pro Rata) (State Operations)	-	66	-
Total Expenditures and Expenditure Adjustments	\$1,350	\$571	\$1,383
FUND BALANCE	\$236	\$195	-
Reserve for economic uncertainties	236	195	-

* Dollars in thousands, except in Salary Range. Numbers may not add or match to other statements due to rounding of budget details.

Appendix B

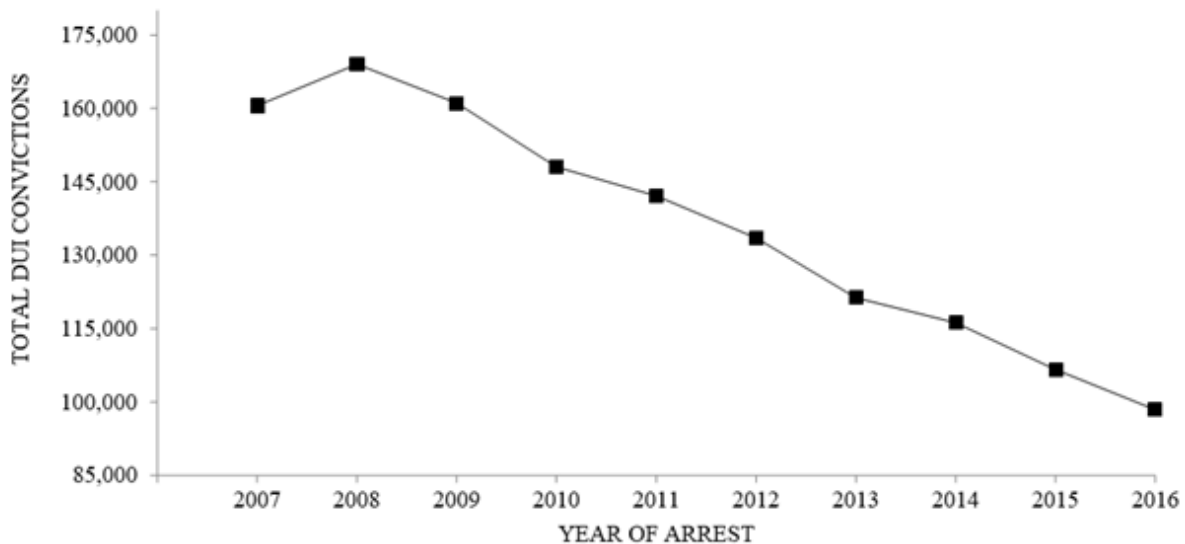
**Department of Motor Vehicles Management Information System (MIS)
2020 Report to the Legislature
Arrest and Conviction Data (Excerpt)**

I. Arrest Data



Note. Due to the non-reporting of DUI arrest data by CHP for the month of April 2011, an undercount is present in the figures for 2011 (with approximately 6,500 fewer total DUI arrests).

II. Conviction Data

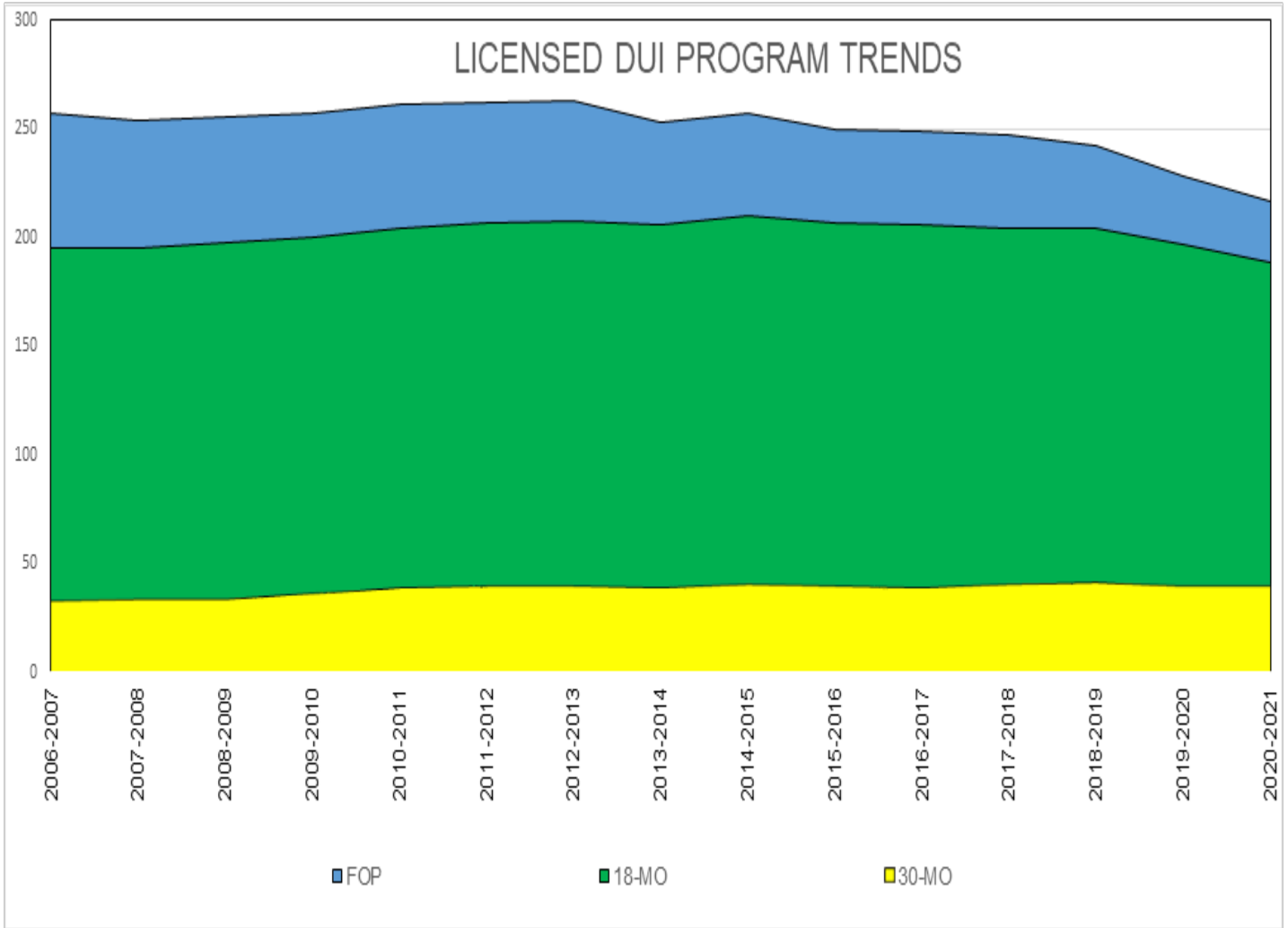


DUI conviction rate (percent convicted)	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
	78.8%	78.7%	77.2%	73.1% ^a	73.3% ^a	73.7% ^a	72.5% ^a	72.7% ^a	72.6%	73.6%

^aThe 2010 and later DUI conviction rates are based on different data extraction procedures than those used in the past and are not comparable to prior years.

Appendix C

Licensed DUI Program Trends



Information obtained from Oracle DUI Database. (First Offender Program-FOP)

Appendix D

Definitions

Driving-Under-the-Influence Program or Program. “Driving-Under-the-Influence Program”, “DUI program”, or “program”, or “licensee” means a firm, partnership, association, corporation, or local governmental agency, which has been recommended by the county board of supervisors and subsequently licensed by the Department, to provide alcohol and other drug education and counseling services to anyone:

(A) Whose license to drive has been administratively suspended or revoked in accordance with Section 13353.2 of the Vehicle Code;

(B) Who has been convicted for violating Sections 23103.5, 23152 or 23153 of the Vehicle Code; or

(C) Who has been convicted for operating a vessel, water skis, aquaplane, or similar device in violation of Section 655(b), (c), (d), (e), or (f) of the Harbors and Navigation Code.

Driving-Under-the-Influence “Driving-Under-the-Influence”, or “DUI”, means:

(A) Driving a motor vehicle in violation of Sections 23103.5, 23140, 23152 and 23153 of the Vehicle Code; or

(B) Operating a vessel, water skis, aquaplane, or similar device in violation of Section 655(b), (c), (d), (e), or (f) of the Harbors and Navigation Code.

Fiscal Year “Fiscal Year” means the 12-month period beginning on July 1 and ending on June 30 the following year.

Participant “Participant” means any person participating in a DUI program. The term “participant” is used generically wherever standards apply to both the first offender and the multiple offender.

Program Fee “Program Fee” means a fee charged to the participant by the program for program services required.