

LIVE STOP

A Law of Unintended Consequences

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May 2016

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What is Live Stop?

The Live Stop law (Pennsylvania Vehicle Code §6309.2) instructs police officers to immobilize drivers' cars for certain traffic violations including driving without a license, with a suspended or revoked license, and driving with expired or no registration.¹ The law as written applies only to "cities of the first class," which only includes Philadelphia. Other counties may adopt the law by local ordinance.² However, most have not done so. The law instructs that cars should be towed for these violations **only** as a last resort if the cars pose a threat to public safety. However, this is often not the case, because the PPD's interpretation of the law goes beyond the state law's requirements by towing first. As this report will demonstrate, this has a disproportionate impact on undocumented immigrants in Philadelphia.



I. Introduction

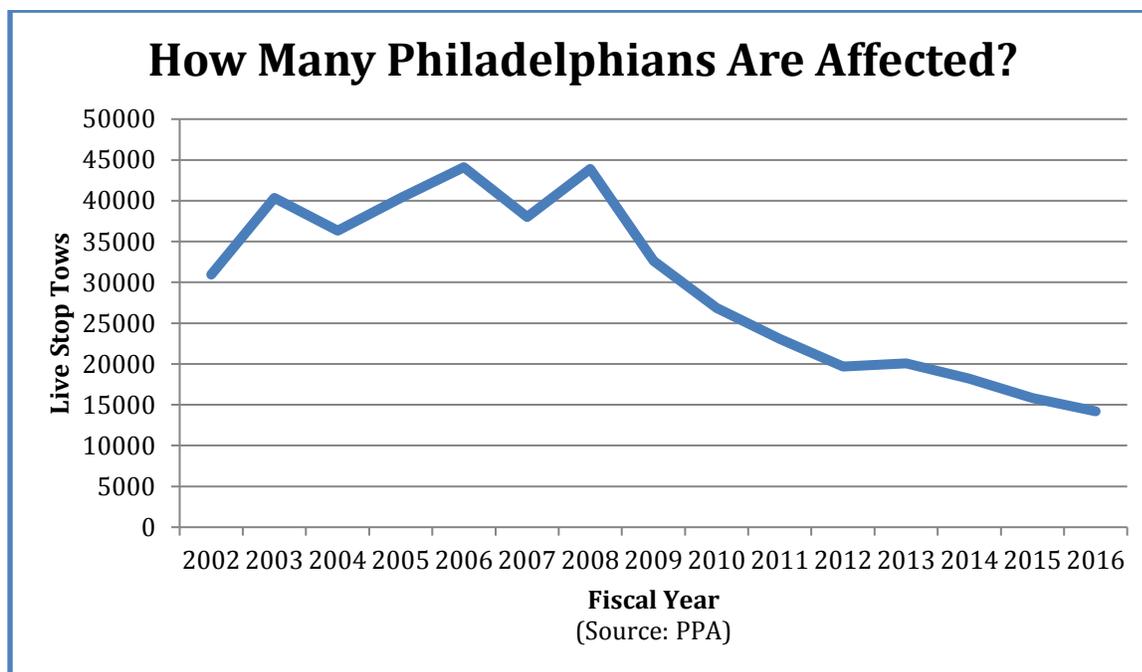
Since 2002, nearly half a million Philadelphians have had their cars towed and impounded because of the Philadelphia Police Department's (PPD) over-reaching interpretation of Live Stop.³ Under this unjust law, drivers may pay up to a thousand dollars in fees to retrieve their own cars back from impoundment lots. Philadelphia is one of the only cities in the United States this kind of harsh law. This law has a disproportionate effect on undocumented immigrants in Philadelphia, who have insurance and registration. This is because people without legal status are barred from obtaining driver's licenses in Pennsylvania. However, Philadelphia and the PPD have the legal authority to change the way Live Stop is implemented to diminish the unintended negative consequences of the law.

II. What Happens During a Live Stop

Per PPD policy, if an officer pulls over a driver in violation of the designated Live Stop provisions, the officer notifies the Philadelphia Parking Authority and Philadelphia Traffic Court.⁴ Officers then wait for a tow truck to arrive to take the car.⁵ During a Live Stop, officers are supposed to safeguard any occupants of the cars, and under no circumstances abandon them on any city street or highway.⁶ An

officer must offer to either drive the occupants home, to another reasonably close address, to the nearest police district where they can safely make alternate arrangements, or to the nearest public transportation hub.⁷

After a car has been towed and impounded, the driver may appear before the Traffic Court within twenty-four hours and show proof of valid registration and financial responsibility.⁸ They not only have to pay all fines and costs associated with the towing and storage but also any other outstanding fines and costs, before the PPA will allow them to retrieve their car.⁹ Since 2003, Philadelphia drivers have paid a total of \$75 million to the Philadelphia Parking Authority to retrieve their own cars back.¹⁰



While the number of Live Stop tows has declined from an all-time high of 44,108 in 2006, the policy still impacts thousands of Philadelphians each year. In 2015, 15,814 cars were towed under the policy. In total, 444,547 Philadelphians have been affected by Live Stop since 2002.¹¹

III. Philadelphia Is Not Following the Law

The PPD is incorrectly carrying out the state law. According to the state law, police officers must immobilize a car or, “in the interest of public safety, direct that the car be towed and stored,” and notify the Philadelphia Traffic Court.¹² PPD

officers frequently do not carry out the law according to the language of the law. The law requires officers to “immobilize” a vehicle when stopped for a Live Stop violation.¹³ The car is to be towed only in the interest of public safety.¹⁴ The PPD does not instruct officers when a car should be immobilized instead of towed.¹⁵ According to the PPD, “[i]mmobilization’ is not a term that the Department uses regarding Live Stops and there is no such thing as a ‘Live Stop immobilization.’”¹⁶

Celia was driving her son to school shortly before the holiday break in December 2015 when the police stopped her for a broken light. Even though the car was insured and validly registered in her husband’s name, her car was towed because she was unlicensed. Celia’s sister-in-law, a licensed driver, arrived within five minutes to see if she could drive the car home, however, the police ordered her to leave the scene before they arrested her. Celia needs a car to drive her children to school, her husband to needed physical therapy appointments, and to transport the clothing she sews for work.

Drivers like Celia are seeing their cars towed immediately, rather than “immobilized,” because the PPD’s interpretation of the state law is far more aggressive than the law requires. Moreover, occupants are being routinely abandoned on the side of the road, which is in direct conflict with the PPD’s written policy.

For example, Estela, her husband, and her three children – all 10 years old and younger – were stopped by the police at Kensington and Somerset at 6:30 pm. Because it was December, it was very dark outside. The police put the family on the street and the car was towed. The whole family was left on the street in the dark in a neighborhood with a very high crime rate. The family lives several miles from where they were stopped and it is a mile and a half walk from the Frankford Terminal to their home. The police officer also said several racist things against immigrants both to the family and to the white New Sanctuary Movement staff member who arrived at the scene.

IV. Why Does Philadelphia Have Such an Aggressive Policy?

After its initial implementation in 1998, Live Stop was expanded in 2002 with the goal of lowering car insurance rates and making streets safer by taking uninsured and unsafe drivers off the road.¹⁷ There is no proof, however, that Live Stop has accomplished either of these goals. In fact, as of 2014, Philadelphia had the tenth highest car insurance rates in the nation.¹⁸

When the law was announced, the local insurance industry was skeptical. An industry lobbyist noted it would take much more than targeting scofflaws to put a

dent in the high costs of coverage for Philadelphia residents.¹⁹ Commentators such as City Councilman Darrell Clarke, demanded proof the law would lower insurance rates.²⁰ Clarke expressed reluctance to put such an aggressive law on the books without hard evidence the law would have a positive effect.²¹

The relationship between uninsured and unregistered vehicles and lowering insurance rates is not clear. The risk associated with accidents involving uninsured and unregistered drivers accounts for only about ten percent of local insurance premiums.²² Equally important factors that drive up auto-insurance premiums in Philadelphia include high towing and vehicle-repair costs, fraud rings, and evidence that Philadelphians are more likely to sue for bodily injury than drivers elsewhere.²³ The frequency of bodily injury claims in Philadelphia is more than three times higher than in other counties in the state, according to statistics provided by the Pennsylvania Insurance Department.²⁴ Although one of the stated purposes of implementing Live Stop was to lower insurance rates, the law has not had a proven impact on high insurance in Philadelphia.

V. Live Stop Is Unfair and Expensive

Not only has Live Stop failed to meet its original goals, it also had a devastating impact on undocumented drivers who are barred from obtaining driver's licenses in Pennsylvania. Though many immigrants have valid registration and insurance,²⁵ they are still subject to Live Stop simply because they cannot legally access driver's licenses. Far from disregarding driving laws, undocumented drivers are simply legally unable to comply with the laws; thus they are at risk of having their cars towed through Live Stop.

Live Stop can be financially crippling. An average Live Stop towing fee is \$210.²⁶ Storage fees include a \$25 flat fee plus 22.5% tax for every twenty-four hours.²⁷ In addition to these fines, drivers must pay all outstanding tickets in Traffic Court.²⁸ In the end, drivers might pay \$500 to \$1,000 in fees to get their car back. This is a significant expense for low-income families. The cost of retrieving the car for a family may be a whole month's income. Since 2003, Philadelphians have paid \$75 million to get their cars back.²⁹ Vehicles not claimed within fifteen days are then sold at public auction.³⁰ Since the Live Stop fees may amount to more than a car is worth, many drivers decide not to retrieve their cars from the impound lot. Since 2002, the Philadelphia Parking Authority has sold around 125,000 unclaimed cars, generating over \$65 million.³¹ Being unable to afford to retrieve their car from the tow pound should not keep Philadelphia residents from

getting to work in order to support their families, driving their children to school, and being able to quickly get to a hospital in case of an emergency.

Carlos, an immigrant from Ecuador who works in landscaping in Philadelphia and the surrounding areas, needs a car to drive to work and transport his work-related materials. He was driving to help his brother fix his broken roof when the police stopped him. His car was taken through Live Stop and Carlos had to pay around \$800 through all the associated tickets and fees. That represents about half of his monthly income, which he uses to support his three U.S.-born children and wife, who is a homemaker. This was a devastating loss of income, particularly as Carlos is the only income earner in the house.

VI. Can the City of Philadelphia Change Live Stop?

Yes, Philadelphia can legally change its implementation of this state law. Despite Live Stop being a state law, the city has the power to change the way the law is implemented. In fact, the city has already done so on two occasions.

First, PPD policy itself instructs officers that if a tow truck does not arrive within thirty minutes, the officer is just to issue a citation to the driver, instead of immobilizing or towing the car.³² Second, in 2011, a group of Philadelphians who had been Live Stopped filed a lawsuit against the city of Philadelphia, the Philadelphia Parking Authority, and the PPD regarding Live Stop.³³ The parties eventually reached a settlement whereby the city agreed to amend the way the Live Stop policy is enforced through the PPD.³⁴ The PPD instructed officers that if an unlicensed driver is driving a validly registered vehicle and the licensed owner of the vehicle is a passenger in the car, the owner would be allowed to drive the car home.³⁵ Thus, the car would not be towed and impounded.

While these exceptions do not help undocumented people, it does demonstrate that the city has legal precedent to change the way the Live Stop policy is implemented so that it does not disproportionately impact undocumented drivers.

VII. Other Localities Have Rejected Live Stop

Based on research for this report, Philadelphia seems to be one of the only cities in the nation with such an aggressive policy.³⁶ California used to have a statewide towing policy similar to Live Stop.³⁷ Under California law, unlicensed drivers' cars could be towed and impounded for thirty days.³⁸ Many of these cars

were taken at checkpoints that claimed to be checking for intoxicated drivers.³⁹ In practice, for every driving while intoxicated arrest at sobriety checkpoints, there were up to sixty cars seized from unlicensed drivers.⁴⁰ Based on interviews with drivers and police in California, reports found that many of the drivers who lost their cars were undocumented immigrants.⁴¹ Unlicensed drivers were forced to pay thousands of dollars in fees to get their cars back.⁴²

Changing California's Live Stop policy gained broad support from California leaders who argued, "[c]ities are exploiting a broken immigration system, exploiting broken state laws, taking advantage and exploiting the most vulnerable members of our society."⁴³ LAPD Chief Charlie Beck noted that "[t]here is a vast difference between someone driving without a license because they cannot legally be issued one and someone driving after having their license revoked."⁴⁴

With support from California leaders and community rights groups, San Francisco police began allowing unlicensed motorists twenty minutes to find a licensed driver to move their car instead of towing.⁴⁵ The cities of Baldwin Park and Santa Ana also changed their policies to allow licensed drivers to come pick up the seized car.⁴⁶ On January 1, 2012, the California state law changed such that police officers can no longer impound a car at a sobriety checkpoint if the driver's only offense is driving without a license.⁴⁷ An unlicensed driver is now able to have a licensed driver come drive the car home.⁴⁸

VIII. Conclusion

Live Stop is a law that is not only ineffective in its stated aim of lowering insurance rates, but is also actively harmful. It is unfair and expensive for Philadelphia's undocumented residents, who may be unable to get to work, school, or the doctor because their car has been towed. Other places with similar policies have since amended their laws to better serve their communities. Philadelphia should do the same.

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¹ 75 PA. CONS. STAT. ANN. § 6309.2(a)(1) (West 2016).

² *Id.*

³ Philadelphia Parking Authority, Response to Right-to-Know Law Request, May 2, 2016 (finding the total number of Live Stop tows for years 2002–2016 were 444,547); Allison Steele, *After Philly Police Confiscate Car Under “Live Stop” Statute, Her Father Sues*, PHILLY.COM, Apr. 1, 2011, http://articles.philly.com/2011-04-01/news/29370682_1_police-officers-live-stop-illegal-drivers (noting close to 23,000 cars were impounded due to Live Stop in 2010 alone).

⁴ Appendix A, Directive 12.8, Philadelphia Police Department, Sept. 4, 2015, *available at* <http://www.phillypolice.com/assets/directives/D12.8-VehicleOrPedestrianInvestigations.pdf>.

⁵ *Id.*

⁶ Citizen Information Bulletin #2: “Live Stop” Program, Philadelphia Police Department, *available at* http://www.phila.gov/pac/PDF/CB2_Live_Stop_Program.pdf.

⁷ *Id.*

⁸ § 6309.2(d)(1)(i).

⁹ *Id.*

¹⁰ Philadelphia Parking Authority, Response to Right-to-Know Law Request, July 8, 2016.

¹¹ PPA RTK response, *supra* note 3.

¹² 75 PA. CONS. STAT. ANN. § 6309.2(a)(1) (West 2016).

¹³ 75 PA. CONS. STAT. ANN. § 6309.2(a)(1) (West 2016); *Com. v. Lagenella*, 83 A.3d 94, 101–02 (Pa. 2014).

¹⁴ *Lagenella*, 83 A.3d at 101.

¹⁵ Philadelphia Police Department, Response to Right-to-Know Law Request, Apr. 26, 2016.

¹⁶ *Id.*

¹⁷ Philadelphia Parking Authority, *Live Stop Program Overview*, TOWING & IMPOUNDMENT SOP Mar. 2015, at 5; Maria Panaritis, *Scofflaw Drivers, Off the Road – Citywide “Live Stop” Will Expand in Phila. in June. Residents with No License or Registration Have a 90-Day Grace Period.*, PHILLY.COM, Mar. 2, 2002, http://articles.philly.com/2002-03-02/news/25340200_1_uninsured-drivers-illegal-drivers-insurance-rates.

¹⁸ *See* Matt Schmitz, *Top 25 Cities for Highest Auto Insurance Rates*, USA TODAY, Sept. 14, 2014, <http://www.usatoday.com/story/money/cars/2014/09/14/auto-insurance-costs-detroit/15622121/> (placing Philadelphia as having the 8th highest rates in the nation); John Kuo, *Most Expensive Cities for Car Insurance*, NERDWALLET, Feb. 3, 2014, <https://www.nerdwallet.com/blog/cities/expensive-cities-car-insurance/> (placing Philadelphia 10th).

¹⁹ John Doubman, secretary and counsel of the Insurance Federation of Pennsylvania, noted “[w]e don’t think this [Live Stop] is a significant answer to high insurance rates in Philadelphia. Our experience tells us that this is not the magic ticket.” Panaritis, *supra* note 17.

²⁰ *Id.*

²¹ *Id.*

²² Panaritis, *supra* note 17.

²³ *Id.*

²⁴ *Id.*

²⁵ SOCIAL JUSTICE LAWYERING CLINIC AT THE STEPHEN AND SANDRA SELLER CENTER FOR SOCIAL JUSTICE AT TEMPLE UNIVERSITY BEASLEY SCHOOL OF LAW, DRIVER’S LICENSES FOR

ALL: THE KEY TO SAFETY AND SECURITY IN PENNSYLVANIA 12 (2015) (finding based on survey results that 71% of undocumented drivers had car insurance despite not having a valid license).

²⁶ *Laws & Enforcement*, Philadelphia Parking Authority, <http://www.philapark.org/laws-enforcement/#>.

²⁷ *Id.*

²⁸ *Id.*

²⁹ Philadelphia Parking Authority, Response to Right-to-Know Law Request, July 8, 2016.

³⁰ *Id.*; Philadelphia Parking Authority, *City-wide Live Stop Procedures Outline* (“Disposal: if vehicle is not claimed it will be auctioned off by the PPA no less than 15 days from the date of impoundment.”).

³¹ Philadelphia Parking Authority, Response to Right-to-Know Law Request, July 8, 2016.

³² Appendix A, Directive 12.8, Philadelphia Police Department, Sept. 4, 2015, *available at* <http://www.phillypolice.com/assets/directives/D12.8-VehicleOrPedestrianInvestigations.pdf>.

³³ *Sheller v. City of Philadelphia*, No. 11-cv-2371, 2012 WL 4754820 (E.D. Pa. Oct. 5, 2012).

³⁴ Settlement Agreement, *Sheller v. City of Philadelphia*, No. 11-2371 (E.D. Pa.).

³⁵ *Id.* at Part II.

³⁶ PAUL FRISMAN, *IMPOUNDING VEHICLES AS A PENALTY FOR OPERATING UNDER SUSPENSION*, OLR RESEARCH REPORT, Dec. 7, 2009, *available at* <https://www.cga.ct.gov/2009/rpt/2009-R-0431.htm>.

³⁷ News Desk, *California to Stop Towing, Impounding Vehicles of Unlicensed Drivers*, PBS NEWSHOUR, Dec. 29, 2011, <http://www.pbs.org/newshour/rundown/california-impounding-practices-change-for-unlicensed-drivers/>.

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ Ryan Gabrielson, *Car Seizures at DUI Checkpoints Prove Profitable for Cities, Raise Legal Questions*, CALIFORNIA WATCH, Feb. 13, 2010, <http://californiawatch.org/public-safety/car-seizures-dui-checkpoints-prove-profitable-cities-raise-legal-questions>.

⁴² *California to Ban Police from Towing Cars of Unlicensed Drivers*, FOX NEWS, Dec. 25, 2011, <http://www.foxnews.com/politics/2011/12/25/california-to-ban-police-from-towing-cars-unlicensed-drivers.html>.

⁴³ News Desk, *supra* note 37.

⁴⁴ *Id.*

⁴⁵ Paloma Esquivel, *Pressure Grows for Revising Policies on Towing Unlicensed Driver’s Cars*, LOS ANGELES TIMES, Mar. 13, 2011, <http://articles.latimes.com/2011/mar/13/local/la-me-towing-20110314>.

⁴⁶ Ryan Gabrielson, *Cities Turn Against 30-Day Impounds*, CALIFORNIA WATCH, Dec. 13, 2010, <http://californiawatch.org/dailyreport/cities-turning-against-30-day-impounds-7414>; *Santa Ana Changes Rules on Car Impounds for Unlicensed Motorists*, L.A. NOW, Sept. 28, 2011, <http://latimesblogs.latimes.com/lanow/2011/09/santa-ana-changes-vehicle-impound-policy.html>.

⁴⁷ Chris Woodyard, *Calif. Bans Car Tow Practice That Hit Illegal Immigrants*, USA TODAY, Dec. 27, 2011, <http://content.usatoday.com/communities/driveon/post/2011/12/california-police-illegal-immigrant-alien-towing-immigration/1#.VzMm5xUrKCQ>.

⁴⁸ News Desk, *supra* note 37.