



## **Information for citizens and legal notices concerning the traffic fines managed by la Selva County Council**

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## 1. Applicable regulations

The basic regulations applicable from 25/05/2010 are those set forth in Royal Legislative Decree 339/1990, which approved the detailed text of the Law on traffic, motor vehicle circulation and road safety with the modifications introduced by Law 18/2009, of 23rd November, published in Official State Journal (hereinafter referred to by its Spanish initials BOE) number 283, of 24th November, and which introduces a new penalty procedure and several modifications resulting from this new procedure. It is also necessary to take into account the provisions of the respective traffic by-laws of each municipality.

## 2. Coming into force of the new procedure

The new procedure is scheduled to come into force progressively:

- a) 25/05/2010 (6 months after the publication of the Law in the BOE): the main sections of the law come into force, including the new penalty procedure.
- b) 25/11/2009 (that is, the day after the publication of the Law): the effects of the law that are most favourable to the offender must be applied solely in respect of the suspension of driving licences and the loss of points. It must be taken into account that the first transitional provision establishes that "the penalty procedures already under way on the coming into force of this law will continue to be governed, until their completion, by the regulations in force when they were initiated, unless the effects resulting from that set forth in the seventh final provision are more favourable to the offender in respect of the suspension of the driving licence or the loss of points."
- c) 25/11/2010 (one year after the publication of the Law in the BOE): application of the concept of habitual driver and long-term lessee as data in the Vehicle Register and coming into force of the notifications system.
- d) 25/05/2012 (two years after the coming into force of the Law): in accordance with point 2 of the second transitional provision, "the local public authorities with competence in traffic matters will be obliged to send electronic notifications through the Electronic Address System within two years of the coming into force of this Law."

## 3. Notification of the traffic offence

The issuance of a traffic offence notification to the alleged offender and/or owner of the vehicle listed in the ticket or notification means that the penalty procedure has been initiated in accordance with that set forth in the regulations of the penalty procedure for matters related to traffic, motor vehicle circulation and road safety, which implements the provisions



of the detailed text of the Law on traffic, motor vehicle circulation and road safety, approved by Royal Legislative Decree 339/1990, of 2nd March (hereinafter referred to by its Spanish initials LSV), with the record number indicated in the document received by the alleged offender/vehicle owner (YEAR / RECORD NUMBER).

If payment is made in accordance with the terms and conditions listed below, the fast-track penalty procedure will be applied; in other cases, the standard penalty procedure will be applied.

#### **4. Fast-track penalty procedure**

In accordance with the provisions of the LSV, if the offender pays the penalty within 15 calendar days starting from the day after the one on which the notification of the offence was issued (20 calendar days when the notification has been issued on the spot), the penalty procedure will be considered finalised with the following consequences (set forth in article 80 of the LSV):

- a) A 50% reduction is applied to the amount of the fine.
- b) The offender waives his/her right of appeal; in the event of any appeals being lodged they will be considered null and void.
- c) The penalty procedure will be considered finalised, without the need for the issuance of a penalty decision, on the day on which the fine is paid.
- d) Exhaustion of administrative remedies, the only possibility of appeal being before the administrative-contentious courts.
- e) The period for lodging this contentious-administrative appeal will begin on the day after the day on which the payment is made.
- f) The penalty will be confirmed as final, exhausting administrative remedies, from the moment in which it is paid, with full effects from the following day.
- g) The penalty will not be recorded as an offence in the register of drivers and offenders, providing that it is classified as a serious offence that does not lead to the loss of points.

The period for lodging the contentious-administrative appeal referred to in article 80.e is two months. The appeal must be lodged before the Contentious-Administrative Court of Girona, or the court of the municipal district in which the claimant resides, providing that it falls within the district of the High Court of Justice of Catalonia.



The judicial procedure set forth in article 80 of the LSV will not be of application to the offences listed in article 65, sections 5 h), j) and 6 of the LSV: driving of vehicles in which inhibitors of traffic control mechanisms are installed; failure to identify the responsible driver; installation of inhibitors; carrying out of roadworks without authorisation; and driving along roadworks lanes without authorisation. In these cases the standard penalty procedure will be of application.

## 5. Standard penalty procedure

If the alleged offender opts not to pay the penalty with a 50% reduction within the stipulated period of 15 calendar days starting from the day after the one on which the notification is issued (20 calendar days when the notification is issued on the spot), within the same period he/she is entitled to present written pleadings to the Municipal Penalties Unit of the Tax Management Service of La Selva County Council in relation to the contents of the aforementioned notification, offering the evidence that he/she deems opportune. The record number, date and vehicle registration number must be included in the pleadings.

On completion of the investigation stage, the investigating official will present a penalty decision proposal to the penalty body in order for it to issue the corresponding decision. The proposal will only be presented to the interested party in order for him/her to make new pleadings within 15 calendar days if, in order to reach a decision, the procedure includes or has taken into account facts, allegations or evidence other than those initially presented by the interested party.

## 6. Finalisation of the procedure without a penalty decision

If the fine has not been paid and no written pleadings have been presented within the stipulated period, the penalty procedure will be considered finalised on the day after the aforementioned period has ended, as set forth in article 81.5 of the LSV, and the notification will serve as the final decision of the penalty procedure. In this case, the penalty may be executed 30 calendar days after the notification of the offence. The notification of the offence can only acquire the status of final decision in the case of article 81.5 of the LSV): a) Minor offences, b) Serious offences that do not lead to the loss of points, c) Serious and very serious offences for which the notification was issued on the spot.

In this case it will only be possible to appeal the decision before the contentious-administrative courts. The period for lodging the appeal will be two months, and this period will start 30 calendar days after the notification of the offence.



## 7. Penalty decision

In cases where that set forth in the foregoing section is not applicable, the administrative remedies will be considered to have been exhausted by the penalty decision, which may be executed from the day after the one on which the interested party is notified and will come into full effect after 30 calendar days (article 82 of the LSV).

If no final decision has been issued once a year has passed since the start of the procedure, the notification will expire and the corresponding actions will be dismissed at the request of the interested party or ex officio (article 92.3 of the LSV).

The points listed on the back of the ticket or notification will be taken off the driving licence once the penalty is final. Drivers may view their points total at [www.dgt.es](http://www.dgt.es).

## 8. Responsibility

If the vehicle has not been detained, the owner, long-term lessee or habitual driver will have 15 calendar days to identify the driver responsible for the offence that is the object of the penalty procedure, without prejudice to the provisions of article 69 of the LSV concerning responsible persons.

If the owner or long-term lessee is listed in the vehicle register, he/she will be responsible for parking offences, except in cases where the vehicle has a designated habitual driver or when the driver responsible for the offence is identified (article 69.1.g of the LSV).

## 9. Appeals against the penalty decision

The penalty decision will exhaust administrative remedies and the penalty may be fully enforceable from the day after the one on which the interested party is notified or, if applicable, at the end of the period indicated in the final section of article 81.5 of the LSV.

An appeal for reconsideration may optionally be lodged against penalty decisions within one month of receiving the notification, starting from the day after the one on which it was received. The appeal must be lodged before the body that issued the penalty decision, which is responsible for ruling on the appeal.

The lodging of an appeal for reconsideration will not lead to the suspension of the execution of the appealed penalty decision. If the appealing party requests the suspension of the execution, the request will be considered refused if it has not been answered within one month of being made.



No facts, documents or pleadings offered by the appealing party in the original procedure will be taken into account in the appeal decision.

This appeal for reconsideration will be understood as dismissed if no appeal decision is forthcoming within one month, in which case the contentious-administrative remedies will be considered exhausted.

## **10. Bodies involved in the procedure**

The investigating body and the authority empowered to impose penalties: they are indicated respectively for each municipal district on the back of the traffic offence ticket or notification.

## **11. Payment method**

Payment can be made with the traffic offence ticket received (for the amount and until the date shown in section 7) or with the notification received of the offence or the penalty (for the amount and until the date shown on the back) in any branch of the listed financial entities. In the first two cases (ticket and notification of the offence), certain exceptions notwithstanding, the fine can be paid with a 50% reduction.

NOTE: the respective documents can only serve as accreditation of payment if they are dated and stamped by the receiving entity.

Once the deadline date listed on the back of the document has passed, or in the event of experiencing payment problems with the documents, the Municipal Penalties Unit must be contacted.

## **12. Execution of penalties**

Once a penalty decision is final and the administrative remedies are exhausted, the penalty can be executed in accordance with the Law. The lodging of an appeal of reconsideration does not prevent the penalty from being executed.

Execution of penalties involving the suspension of licences: the fulfilment of a penalty involving the suspension of licenses regulated in the Law will begin one month after the penalty has been declared final, all administrative remedies having been exhausted, and the period of suspension will be recorded in the corresponding registers.



## 13. Collection of fines

Any fines that have not been paid during the procedure must be paid within fifteen calendar days of the date on which the penalty decision was declared final. If the fine has not been paid by the legally established deadline date, it will be collected as stipulated in the enforcement procedures. For this purpose, the debtor will be issued with an enforcement order by the competent body of the authority responsible for collecting the fine.

A system of subsidiary responsibility is established for the payment of fines. The owners of vehicles with which an offence has been committed will have subsidiary responsibility in the event of the non-payment of the fine imposed on the driver, without prejudice to the following cases: a) Theft, robbery or any other purpose for which the vehicle has been proved to have been used against the owner's will; b) When the owner is a company that offers vehicle rentals without a driver; c) When the vehicle has a designated long-term lessee at the time when the offence is committed, in which case the responsibility will be of the long-term lessee; d) When the vehicle has a designated habitual driver at the time when the offence is committed, in which case the responsibility will be of the habitual driver. The declaration of subsidiary responsibility and its consequences, including the possibility of the adoption of protective measures, will be governed by that set forth in General Tax Law 58/2003, of 17th December, and in the general regulations on tax collection. The responsible party who has paid the fine is entitled to be reimbursed by the offender for the full amount of the fine.

## 14. Penalties and offences

It should be highlighted that the driving licence suspension penalty no longer exists and that the number of offences leading to the loss of points has been reduced:

- Driving in a negligent manner that creates a clear and significant risk.
- Exceeding the number of permitted passengers by 50% or over, except in the case of urban/inter-urban buses.
- Stopping or parking in lanes designated for urban public transport, driving without lights when it is obligatory or using them in a way that contravenes the regulations in force.
- Stopping or parking on bends or rises in the road, tunnels, underpasses, intersections or any other dangerous place that constitutes a risk for traffic or pedestrians as determined by the regulations in force.
- Driving motorbikes or scooters with passengers under 12 years of age.



- Accelerating or carrying out manoeuvres that prevent another driver from overtaking or that make it difficult.

Procedures already under way or under review for the suspension of driving licences due to reaching the maximum number of penalty points will not be affected by the coming into force of the Law since they are the result of final decisions already recorded in the Register of Drivers and Offenders.

It is also important to highlight the obligation established for ITV (technical vehicle inspection) centres whereby they must require drivers to show accreditation of the vehicle's mandatory insurance in each standard or special inspection of the vehicle; the vehicle cannot pass the inspection if this requirement is not met.

In respect of the penalty for failing to identify the offending driver, it is established that the following must be taken into account in the imposition of penalties: a) The fine for the offence set forth in article 65.5j) will be double the amount of the fine for the original offence in the case of minor offences, and triple the amount in the case of serious and very serious offences.

The offence of driving vehicles in which devices have been installed to avoid the control of traffic surveillance systems, as set forth in article 65.5 h) will be penalised with a fine of 6,000 euros.

The offences listed in article 65.6 (carrying out roadworks without the corresponding authorisation; alteration, concealment etc. of road signs; breaches of industrial activity regulations that directly affect road safety; installation in vehicles of radar inhibitors; breaches of regulations concerning the authorisation and functioning of teaching/training centres and centres for medical and psycho-technical examinations) will be penalised with a fine of between 3,000 and 20,000 euros. Furthermore, the offence listed in article 65.6.i) (teaching/training centres) may be penalised with the suspension of the corresponding authorisation for the period of one year. During the period of suspension the owner of the centre may not obtain any other authorisation for the same activities. If the activities are carried out during the period of suspension of the authorisation, a new suspension will be imposed for a period of six months in the case of one breach, and for a period of one year if there are two or more breaches.

When the offender does not provide accreditation of legal resident status in Spanish territory, if the offender does not pay the fine the driver must take the vehicle to the place indicated by the officer who has imposed the fine, where it will be immobilised. Payment must be made in euros or by credit card.



Graduation of the penalties (article 68): the economic amount of the fines listed in article 67.1 and in Appendix IV may be increased by 30 percent depending on the seriousness and importance of the offence, the previous offences of the offender and his/her re-offender status, the potential danger created both for the offender and for other road users, and the criterion of proportionality. The graduation criteria established above will also be of application to the penalties for the offences listed in article 65.6.

Article 69 includes much more detailed regulations on responsibility, taking into account the changes introduced by article 9b concerning the concept of habitual driver and long-term lessee in cases where the vehicle is not detained.

## **15. Provisional measures and other measures**

In order to ensure the effectiveness of the penalty decision and to guarantee road traffic safety, additional measures may be taken in respect of the offender and the existing measures are redefined (articles 83 to 87):

- The immobilisation, removal and impounding of the vehicle.
- The scrapping of the vehicle.
- The imposition of restrictions on the administrative authorisation: with four final penalty decisions for serious or very serious offences in the driver record or in the vehicle record, for which payment is pending, the vehicle owner cannot use the authorisation, which means that no change in ownership can be processed, although the temporary or permanent de-registration of the vehicle will be allowed.

## **16. Prescription and expiry**

The prescription period set forth in this Law will be three months for minor offences and six months for serious and very serious offences.

The prescription period will begin on the same day that the offence was committed.

The prescription period is interrupted by any administrative action of which the reported person has knowledge, or which is aimed at discovering the reported person's identity or address, and is carried out in conjunction with other authorities, institutions or bodies.

It is also interrupted by the notification issued in accordance with articles 76, 77 and 78. The prescription period will resume if the procedure is halted for over one month due to causes not attributable to the reported person.



If no final decision has been issued one year after the start of the procedure, the notification will expire and the corresponding actions will be dismissed at the request of the interested party or ex officio by the body responsible for issuing the decision. When the procedure has been halted due to the discovery of the facts by the criminal courts, the expiry period will be suspended. Once the penalty decision is declared final, the expiry period will resume for the amount of time remaining when the suspension was imposed.

The prescription period for penalties involving fines will be four years and the period for other penalties will be one year, starting from the day after the one on which the penalty was declared final, exhausting administrative remedies. The calculation and interruption of the prescription period in respect of the right of public authorities to demand payment of penalty fines will be governed by the provisions of the General Tax Law.

## **17. Annotation of offences and their subsequent removal from the record**

The Register of Drivers and Offenders must be notified of serious and very serious penalties by the authority that has imposed the penalty within 15 calendar days of the penalty decision being declared final, exhausting administrative remedies.

The legal authorities will notify the Register of Drivers and Offenders within 15 calendar days of the final penalty decision of any penalties involving the removal of the right to drive motor vehicles and motorbikes due to the commission of crimes or misdemeanours against road safety.

Final penalty decisions for serious and very serious offences involving a vehicle registered in Spain or abroad will be annotated in the Vehicle Register, along with any unpaid fines for the aforementioned offences. These annotations will form part of the vehicle record.

The annotations will be removed from the record ex officio three years after the execution or prescription of the final penalty decision.

## **18. Procedures already under way on the coming into force of Law 18/2009**

As regards the effects on procedures already under way on the coming into force of Law 18/2009, it must be taken into account that the first transitional provision establishes that "the penalty procedures already under way on the coming into force of this law will continue to be governed, until their completion, by the regulations in force when they were initiated, unless the effects resulting from that set forth in the seventh final provision are more favourable to the offender in respect of the suspension of the driving licence or the loss of points."



## **19. Notice regarding the informative nature of this document**

The contents of this document, which is of an informative nature, have been taken from Law 18/2009, of 23rd November (BOE number 283, of 24th November, which introduces a new penalty procedure and several modifications of Royal Legislative Decree 339/1990, which implements the provisions of the detailed text of the Law on traffic, motor vehicle circulation and road safety. For legal purposes, the applicable regulations are those set forth in the aforementioned respective legal texts in force.

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