

VIETNAMESE LAW ON ADMINISTRATIVE VIOLATION HANDLING IN ROAD TRAFFIC

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Abstract: *In Vietnam, a developing country, the legal framework for handling administrative violations in road traffic plays a crucial role in ensuring order and traffic safety. Over time, the process of drafting, promulgating, and implementing these laws has faced numerous obstacles and inconsistencies, leading to both positive and negative impacts on real-world enforcement, as well as sparking multidimensional debates. In the future, further research, analysis, and legal reasoning will be required to formulate proposals and recommendations for improving this legal framework.*

This paper analyzes and discusses the following issues: (1) Problem Statement; (2) Theoretical and Practical Aspects of Administrative Violation Handling in Road Traffic Law; (3) Proposals and Recommendations for Improvement.

Keywords: *Administrative violation handling, sanctions, penalty levels, driving license point deduction, document appraisal, application of specialized legal texts.*

1. Problem statement

In recent years, road traffic in Vietnam has encountered several issues, including: (1) Traffic planning (in general) and urban traffic planning (in particular) remain unscientific; (2) Insufficient investment in diverse public transport options (no high-speed railway system, limited urban metro networks, and weak regional connectivity); (3) A disparity between the rate of transport infrastructure development and the increase in vehicle ownership; (4) Low awareness and compliance among certain road users; (5) Inadequate and insufficiently strict legal sanctions for administrative and criminal liability; (6) The process of legal drafting and enactment does not fully adhere to jurisprudential principles and socialist rule of law standards; (7) Inconsistent legal enforcement (including misapplication or corruption in law enforcement).

As a result, road traffic order and safety have not been effectively maintained, with persistently high numbers of accidents, fatalities, and injuries each year, along with chronic congestion and overburdened infrastructure in major cities like Hanoi and Ho Chi Minh City. Traffic law compliance remains weak, and the effectiveness of administrative violation handling is still insufficient in terms of deterrence and prevention.

In response to the aforementioned situation, legal documents such as the Law on Road Traffic Order and Safety (2024) and Decree No. 168/2024/ND-CP, issued by the Government on December 26, 2024, regulating administrative sanctions for violations of road traffic order and safety, including the deduction and restoration of driving license points (hereinafter referred to as Decree No. 168), have been enacted. These regulations are considered effective legal instruments for reinstating road traffic order and safety. Since coming into legal effect (on January 1, 2025), these regulations have contributed to strengthening road traffic order and safety in Vietnam, specifically¹:

- (1) Increased compliance with traffic laws, with road users more strictly adhering to legal regulations (e.g., following traffic signals, lane markings, sidewalks, driving hours, and vehicle use regulations).
- (2) Strict enforcement of penalties, including administrative fines and driving license point deductions.
- (3) A reduction in the number of violations, accidents, injuries, fatalities, and property damage.
- (4) Gaining partial public support for the drafting, promulgation, and enforcement of road traffic laws.

¹ For more details, visit: <https://baodantoc.vn/chuyen-bien-y-thuc-tham-gia-giao-thong-ngay-nhung-ngay-dau-nam-moi-2025-1736049240567.htm>



However, following the implementation of the Law on Road Traffic Order and Safety (2024) and Decree No. 168, several issues have emerged: severe traffic congestion on many streets in Hanoi, Ho Chi Minh City, and other urban areas; public dissatisfaction among some groups due to excessively high fines. Taking advantage of this situation, certain radical elements have incited public opposition, claiming that the increased fines constitute "exploitation," "excessive taxation," "predatory revenue collection," and "deliberate entrapment for fines." Some have even called for the repeal of these regulations².

Given this reality, it is essential to educate the public about the State's policies and to counteract distorted narratives by conducting research and legal reasoning from both theoretical and practical perspectives regarding administrative violation handling in road traffic (both advantages and disadvantages), about these problems: (1) Amendments, supplements, replacements, and applications of legal documents; (2) *Policy impact assessment*; (3) *Legal document appraisal*; (4) *Sanction enforcement and the authority to apply administrative penalties*.

2. Theoretical and practical aspects of administrative violation handling in road traffic law

2.1. Amendments, Supplements, Replacements, and Application of Legal Documents

The Law on Road Traffic Order and Safety (2024) was enacted to replace the Law on Road Traffic (2008). This is considered a significant legislative advancement, establishing a broad legal framework to regulate social relations arising in the road traffic sector, with the following key updates: (1) Driving licenses are assigned a point-based evaluation system (Article 58); (2) Increase in the maximum age for drivers (Clause 1(e), Article 59); (3) Introduction of mandatory motorcycle emissions testing (Article 42); (4) Prohibition of children under 10 years old and shorter than 1.35 meters from sitting in the driver's row (Clause 3, Article 10); (5) Revision of traffic light regulations (green and yellow lights) (Clause 4, Article 11); (6) Additional restrictions on overtaking; (7) Modification of mandatory headlight usage times (Clause 1, Article 20); (8) Introduction of a category of non-personalized license plates (Clause 3, Article 36); (9) Requirement for child safety devices in vehicles used for transporting preschool and school children (Clause 1, Article 46); (10) New regulations on auctioning motorcycle license plates (Clause 1, Article 37); (11) Expansion of no-parking and no-stopping zones (Clause 6, Article 18); (12) Exception allowing three passengers on a motorcycle under specific conditions (Clause 1, Article 33).

Among these updates, the point-based driving license system (Article 58), which serves as a basis for license point deductions, is an additional sanction not previously specified in the Law on Handling Administrative Violations (2012, 2020). This is a necessary legal measure with a positive effect in educating and deterring drivers from violating traffic laws. When enforced, authorities will deduct driving license points based on the severity of the violation.

Thus, this measure is currently implemented following the principle that a later regulation³ from the same issuing authority takes precedence, supplementing existing provisions⁴ while ensuring compliance with legal procedures.

2.2. Policy Impact Assessment

Policy impact assessment is the process of analyzing and forecasting both the positive and negative effects of a policy, as well as evaluating the costs and benefits of its implementation on different stakeholder groups. This process aims to identify the most optimal solutions to address real-world issues while aligning with the intended policy objectives⁵.

Decree No. 168 and Circular No. 46/2024/TT-BCA, issued on September 30, 2024, by the Minister of Public Security, amend and supplement certain provisions of Circular No. 67/2019/TT-BCA, dated

² Retrieved from <https://baomoi.com/thu-doan-xuyen-tac-gay-nhieu-nghi-dinh-168-ve-xu-phat-vi-pham-an-toan-giao-thong-duong-bo-c51350282.epi>

³ *Law on Road Traffic Order and Safety 2024*.

⁴ *Law on Handling of Administrative Violations 2015, 2020*.

⁵ Clause 2, Article 2 of Decree No. 34/2016/ND-CP dated May 14, 2016 of the Government detailing a number of articles and measures for implementing the Law on Promulgation of Legal Documents; Clause 2, Article 3 of the Law on Promulgation of Legal Documents 2015.



November 28, 2019, which regulates the implementation of democratic practices in ensuring traffic order and safety (hereinafter referred to as Circular No. 46), specifically:

(1) Decree No. 168 stipulates that many traffic violations will be subject to significantly higher fines compared to current regulations⁶ and introduces the deduction of driving license points for violators. Increasing fines or introducing license point deductions signifies a policy shift. Therefore, the issuing authority must fully comply with the legal procedures for policy impact assessment⁷ (carried out throughout all stages of legal drafting, including: proposal formulation, drafting, appraisal, and policy review). According to legal provisions, two critical aspects must be carefully considered:

(i) The increase in fines and the introduction of license point deductions must be recognized as a policy measure, and their impact should be assessed from the earliest stages of drafting Decree No. 168. On the other hand, the significant increase in fines compared to previous regulations⁸ must be accompanied by a thorough policy impact assessment while also ensuring that the fines are proportionate to the average per capita income. This is essential to guarantee the feasibility of enforcement, preventing the imposition of fines that exceed violators' financial capacity, which could undermine the effectiveness of administrative sanctions, generate negative public reactions, and diminish the practical value of the policy.

(ii) If the fast-track procedure is applied, the authority, sequence, and procedures for drafting legal documents, as well as the dossier, review, and approval process, must comply with the provisions set out in Articles 147, 148, and 149 of the Law on the Promulgation of Legal Documents (2015) and Article 37 of Decree No. 34/2016/ND-CP (as amended and supplemented by Clause 44, Article 1 of Law No. 63/2020/QH14 and Point b, Clause 13, Article 1 of Decree No. 59/2024/ND-CP, issued on May 25, 2024, by the Government, which amends and supplements certain provisions of Decree No. 34/2016/ND-CP). This matter requires careful and thorough consideration, ensuring a correct interpretation of the regulation that states: "1... urgent cases requiring immediate resolution of issues arising in practice"⁹.

(2) Circular No. 46 has amended and supplemented Article 11 of Circular No. 67/2019/TT-BCA, issued on November 28, 2019, by the Minister of Public Security, which regulates the implementation of democratic practices in ensuring road traffic order and safety (hereinafter referred to as Circular No. 67). Accordingly, the regulation allowing citizens to monitor traffic police using audio and video recording devices has been removed¹⁰. This is a significant policy change, as it directly impacts

⁶ Typically, for the act of opening the car door, leaving the car door open unsafely causing a traffic accident, the fine is from 400,000 to 600,000 VND according to Decree 100/2019/ND-CP, now up to 20 to 22 million VND; some acts such as not obeying traffic light signals have also increased several times from 4 to 6 million VND to 18 to 20 million VND for cars and from 800,000 to 1 million VND to 4 to 6 million VND for motorbikes; there are 27 acts and groups of violations of cars and motorbikes that will be subject to increased administrative fines.

⁷ The policy impact assessment process according to the Law on Promulgation of Legal Documents 2015, when assessing the impact of a document (RIA) is conducted at 3 points in time: preliminary RIA when making a proposal to develop a legal document, full RIA when drafting and RIA after 3 years of implementing the legal document and implemented after 5 steps: This process includes 5 steps: (1) Making a policy impact assessment plan; (2) Conducting policy impact assessment of policy solutions; (3) Synthesizing and comparing policy impact assessment results of solutions, proposing solution selection; drafting a policy impact assessment report; (4) Collecting opinions on the draft policy impact assessment report; (5) Finalizing the policy impact assessment report and submitting the report for approval.

⁸ Regulations at Point b, Clause 9; Point b, Clause 10; Point b, Point d, Clause 16, Article 6; Point c, Clause 7, Article 7 of Decree No. 168/2024/ND-CP have increased fines for acts such as: failure to comply with traffic light signals also increased several times from 4-6 million VND to 18-20 million VND for cars and from 800 thousand VND - 1 million VND to 4-6 million VND for motorbikes.

⁹ Clause 44, Article 1 of Law No. 63/2020/QH14 amending and supplementing a number of articles of the Law on Promulgation of Legal Documents.

¹⁰ Clause 5, Article 11 of Circular No. 67/2019/TT-BCA dated November 28, 2019 of the Minister of Public Security on implementing democracy in ensuring traffic order and safety stipulates: "5. *Through recording devices, video recording or direct observation but must ensure the following conditions: a) Not affecting the normal activities of officers and soldiers while performing their duties; b) Outside the area ensuring traffic order*



citizens, given that the right to oversight is enshrined in the 2013 Constitution¹¹. Đây là một chính sách lớn, có tác động đến người dân vì quyền giám sát được quy định trong Hiến pháp năm 2013. Unfortunately, this right to monitor is not explicitly defined in the Law on Road Traffic Order and Safety (2024); instead, the law only emphasizes the requirements of transparency, publicity, and convenience for citizens in the enforcement of road traffic order and safety regulations¹².

Regarding this issue, some perspectives argue that whether the right to monitor is explicitly stipulated in legal documents should depend on the prevailing conditions and the continued relevance of the policy in practice. The competent authority has the discretion to decide whether to incorporate this provision into legal texts and, if so, to specify the permitted forms and tools for monitoring.

Based on (1) and (2), it is evident that policy changes that are disadvantageous to citizens, increase the severity of sanctions, or involve the addition or removal of policies (especially those related to public oversight) must undergo impact forecasting and policy assessment in strict compliance with legal provisions. Before enactment, a comprehensive policy evaluation should be conducted, supported by specific data, scientific analysis, and legal reasoning. This serves as a crucial information base for the public, the media¹³, and relevant authorities¹⁴, ensuring transparency, fostering public understanding, gaining consensus, and promoting compliance.

2.3. Legal Document Appraisal

The appraisal of legal normative documents is a mandatory procedure as prescribed by law¹⁵. The appraisal results serve as an important legal basis, containing information and recommendations that assist the competent authority in reviewing the document before issuing it or submitting it for approval by the relevant authority. The appraisal process ensures a comprehensive and thorough assessment of the draft document, contributing to its practical enforceability. Through this process, both strengths and weaknesses of the draft can be evaluated, facilitating better coordination between the drafting entity and other relevant stakeholders. Moreover, appraisal serves as an effective mechanism for power control, preventing potential abuses of authority in the process of drafting and promulgating legal documents.

Currently, the appraisal of legal normative documents is assigned to various entities, including: The Ministry of Justice (for Government decrees and Prime Minister's decisions)¹⁶; Legal departments within ministries and sectors, as well as advisory appraisal councils (for circulars)¹⁷; Provincial

and safety (for places where areas ensuring traffic order and safety are deployed); c) Comply with other relevant legal provisions.

¹¹ See more details of Article 8 of the 2013 Constitution: *"The State is organized and operates in accordance with the Constitution and laws, manages society by the Constitution and laws, and implements the principle of democratic centralism. State agencies, cadres, civil servants, and public employees must respect the People, wholeheartedly serve the People, maintain close contact with the People, listen to their opinions, and be subject to their supervision; resolutely fight against corruption, waste, and all manifestations of bureaucracy, arrogance, and authoritarianism."*

¹² Read more on Clause 6, Article 3 of the Law on Road Traffic Order and Safety 2024 *"6. Activities to ensure road traffic order and safety must be public, transparent and convenient for the people"*.

¹³ Many cases of abuse of surveillance rights to film, record, and take photos of the working process of traffic police officers and soldiers and share them on social networks for the purpose of harassment and causing difficulties for law enforcement on traffic order and safety". When the posted images are removed and violators are handled, they still cause negative effects and impacts on viewers, affecting the working process of traffic police officers and soldiers". Retrieved from: <https://dantri.com.vn/xa-hoi/cuc-csqt-noi-ve-viec-bo-quy-dinh-nguoi-dan-duoc-giam-sat-qua-ghi-hinh-20241009121016127.htm>

¹⁴ The leader of the Department of Inspection of Legal Normative Documents, Ministry of Justice affirmed that Decree 168/2024/ND-CP was issued in accordance with the provisions of law. Retrieved from <https://tienphong.vn/cuc-kiem-tra-van-ban-cua-bo-tu-phap-noi-gi-ve-nghi-dinh-168-vua-ban-hanh-da-co-hieu-luc-post1709179.tpo>

¹⁵ Articles 92, 102, 121, 130 of the Law on Promulgation of Legal Documents 2015.

¹⁶ Article 92, Law on Promulgation of Legal Documents 2015.

¹⁷ Article 102, Law on Promulgation of Legal Documents 2015.



Departments of Justice and District Justice Offices (for local legal normative documents)¹⁸. However, in practice, legal drafting processes are often prone to abuses of authority, including non-compliance with regulations on legislative competence, appraisal authority, consultation rights, reporting procedures, feedback mechanisms, and pre- and post-legislative review by functional agencies. Due to these challenges, there have been numerous proposals to revise the structure of the competent appraisal authority, advocating for an independent appraisal entity to help prevent the misuse of power in the legislative process.

Therefore, to ensure that Decree No. 168 and Circular No. 46 undergo an objective appraisal with a solid legal, practical, and scientific foundation, enabling the rebuttal of distorted and hostile viewpoints while ensuring effective implementation in practice, it is essential to establish an independent appraisal mechanism. It should ensure that documents are not appraised by entities of the same administrative level to maintain impartiality. Once the appraisal is completed, the results should be publicly disclosed through mass media to enhance transparency and public awareness.

2.4. Methods and Authority for Applying Sanctions on Administrative Violations

Currently, the enforcement of road traffic laws primarily relies on legal documents such as the Law on Road Traffic Order and Safety (2024), the Law on Handling Administrative Violations (2015, 2020), Decree No. 168, Circular No. 46, and Circular No. 67. Therefore, the handling of administrative violations in this field is based on these legal texts.

However, the provisions related to "Driving License Points" under Article 58 of the Law on Road Traffic Order and Safety (2024) and Articles 49, 50, and 51 of Decree No. 168 only address: data management on driving license points; license point deductions and restorations; principles, authority, procedures, and steps for point deduction; authority, procedures, and steps for restoring license points.

Given these provisions, the following key issues require further consideration:

Firstly, the existing regulations do not clearly define what "Driving License Points" actually are. They merely state that "Driving License Points are used to manage drivers' compliance with road traffic laws through a database system on road traffic order and safety, consisting of 12 points." This means that the regulation only explains what the points are used for but does not clarify what they actually represent.

Secondly, the regulation stipulates that "Driving license points shall be deducted immediately after the administrative violation sanction decision takes effect for a violation subject to point deduction under this Decree"¹⁹. Additionally, it states that "The competent authority shall notify the violator of the point deduction"²⁰. These provisions suggest that point deduction is a legal sanction (a punitive measure imposed on the violator). However, the competent authority only issues a notification, merely informing the violator of the point deduction after the sanction decision has been made. This approach is inappropriate because if point deduction is considered a legal sanction (a punitive measure imposed by the State), it must be formalized through an administrative decision—which carries the mandatory and coercive power of the State. Alternatively, point deduction should be explicitly included within the violation sanction decision itself to ensure procedural compliance and legal authority.

Additionally, the following aspects need to be considered:

(1) Whether driving license point deduction constitutes a primary penalty, a supplementary penalty, a remedial measure, or another form of administrative sanction must be clearly defined in the relevant legal documents.

(2) The title of Decree No. 168, "Regulations on Administrative Sanctions for Violations of Road Traffic Order and Safety; Deduction and Restoration of Driving License Points," is not entirely appropriate because, as previously mentioned in point (1), driving license point deduction should not be considered an independent sanction. Instead, it is an administrative sanction inherently linked to

¹⁸ Article 121 and Article 130 of the Law on Promulgation of Legal Documents 2015.

¹⁹ Point a, Clause 1, Article 50 of Decree No. 168

²⁰ Point a, Clause 3, Article 50, Decree No. 168



administrative penalties, functioning as an administrative measure incorporated into the Law on Handling Administrative Violations, as stipulated in the Law on Road Traffic Order and Safety (2024). Therefore, the title of Decree No. 168 should be simplified to "Regulations on Administrative Sanctions for Violations of Road Traffic Order and Safety", which comprehensively covers all administrative sanctions within the scope of the decree, ensuring clarity and legal consistency.

3. Proposals and recommendations

First, it is necessary to widely implement and strictly comply with Regulation No. 178-QĐ/TW, dated June 27, 2024, issued by the Central Executive Committee, which regulates power control, anti-corruption, and prevention of negative practices in the legislative process. This is a correct and decisive policy of the Party, ensuring that the process of drafting and promulgating legal documents in general, and in the field of road traffic law in particular, is carried out with the principle of "placing public interest above all" (đi công vi thượng). It aims to effectively translate the Party and State's policies into real-life governance, as envisioned by President Hồ Chí Minh.

Secondly, it is necessary to improve the legal framework regarding the authority of independent entities in appraising legal normative documents. Specifically, the appraisal authority for legal documents at the central level should be assigned to an entity under the National Assembly (similar to the State Audit), while at the local level, it should be under the Provincial People's Council.

Thirdly, a timely review and evaluation of the Law on Road Traffic Order and Safety (2024), the Law on Handling Administrative Violations (2015, 2020), and Decree No. 168 should be conducted to supplement and align the following aspects:

First, regarding driving license point deduction. The Law on Handling Administrative Violations and relevant decrees should be amended to²¹: (1) define it explicitly as an administrative sanction; (2) clarify whether it is a primary penalty, supplementary penalty, remedial measure, or another form of administrative action; (3) establish the procedure for its implementation, ensuring that the deduction is issued through an official sanctioning decision rather than merely a notification; (4) develop standardized templates for administrative sanction decisions that incorporate license point deductions and specify the duration for point restoration.

Second, regarding the title of Decree No. 168: The decree's name should be revised to "Regulations on Administrative Sanctions for Violations of Road Traffic Order and Safety", as previously discussed.

Third, a preliminary assessment of the effectiveness of Decree No. 168 should be conducted approximately one year after its implementation, focusing on evaluating whether the significantly increased fines have been effective. This assessment should include statistical evidence and an evaluation of the correlation between fine increases and average income growth, ensuring that the penalties remain practical and enforceable without imposing excessive financial burdens on violators.

Fourth, the Law on Road Traffic Order and Safety (2024) should incorporate a specific provision on the rights and obligations of citizens in monitoring traffic order and safety enforcement. This provision should define: (1) The rights and responsibilities of law enforcement officers when being monitored; (2) The rights and responsibilities of citizens conducting such monitoring. By clearly defining these elements, the law will provide a legal basis for determining accountability, ensuring that violations—whether by authorities restricting lawful oversight or by individuals abusing their monitoring rights—can be appropriately addressed through disciplinary, administrative, or criminal measures.

Fourthly, the policy impact assessment and appraisal process for draft legal normative documents must be carried out strictly, transparently, and publicly. Particular attention should be given to policy changes or new regulations that may disadvantage citizens or have negative effects on public life and social welfare. Accordingly, strict compliance with Regulation No. 178-QĐ/TW, issued on June 27, 2024, by the Central Executive Committee, must be ensured regarding the responsibilities of appraisal entities. This includes adherence to the provisions that state: "1... Urgent cases requiring

²¹ Currently Decree No. 118/2021/ND-CP dated December 23, 2021 detailing a number of articles and measures to implement the Law on Handling of Administrative Violations



immediate resolution of emerging issues in practice”²² and d) The grounds for applying the expedited legislative procedure must specify the specific cases where the simplified process is applicable under Article 146 of the Law, along with the justification for proposing the expedited procedure. For cases under Clause 1, Article 146 of the Law, it is necessary to clearly state the issues arising in practice and the potential consequences if the legal document is not promptly enacted to address the issue²³. **Fifthly**, greater efforts should be made to educate and inform the public about legal changes to promote widespread understanding and voluntary compliance. This includes improving public outreach efforts to proactively disseminate information on new policies, rather than relying on passive communication channels after the regulations have already taken effect.

CONCLUSION

In recent times, the legal framework for handling administrative violations in road traffic has undergone policy changes with multifaceted impacts on traffic order and safety across Vietnam’s territory.

Moving forward, it is essential to continue conducting research, analysis, and legal interpretation to support the dissemination and communication of State policies and laws to the public. These efforts will help counter distorted narratives promoted by extremist elements while serving as a foundation for recommending improvements to the legal framework governing administrative violation handling in road traffic.

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²² Clause 44, Article 1 of Law No. 63/2020/QH14 amending and supplementing a number of articles of the Law on Promulgation of Legal Documents

²³ Point b, Clause 13, Article 1 of Decree No. 59/2024/ND-CP dated May 25, 2024 of the Government amending and supplementing a number of articles of Decree No. 34/2016/ND-CP dated May 14, 2016 of the Government detailing a number of articles and measures for implementing the Law on Promulgation of Legal Documents, which has been amended and supplemented a number of articles under Decree No. 154/2020/ND-CP dated December 31, 2020 of the Government



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