

# Administrative Penalties in Violation of Road Traffic Laws: Problems Posed

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**ABSTRACT:** On December 30, 2016, the Government issued Decree No. 100/2019/ND-CP regulating the sanctioning of administrative violations in the field of road and railway traffic (hereinafter referred to as Decree No. 100). The Decree takes effect from January 1, 2020 and replaces the Government's Decree No. 46/2016/ND-CP dated May 26, 2016 on sanctioning of administrative violations in the field of road traffic sets and railways. In fact, in many cities of Vietnam, over a year of implementation, some provisions of Decree No. 100 have had a positive impact on the awareness of vehicle drivers when participating in traffic. Limiting the violations is the direct cause of traffic accident. This study focuses on analyzing the violations of the road traffic law, from which proposing solutions to limit this situation in the future.

**KEYWORDS:** Administrative violations, violation errors, administrative sanctions, Vietnam

## I. INTRODUCTION

Since Vietnam's economy has changed from a centrally planned economy to a market economy, the picture of Vietnam's economy has many bright spots, people's living standards have been improved step by step. Friends of regional and international countries wholeheartedly praised for the innovative achievements in the process of national construction. Although Vietnam's economic growth is quite high, it is accompanied by problems of traffic accidents and congestion, especially road traffic, the number of traffic incidents is constantly increasing in both scale and quantity. So many people often say that road traffic in Vietnam is like a balloon that can flatten one place after burst out, there are countless campaigns and instructions but only a short time, everything is back to the starting point.

Vietnam is the country with the stable political system in the region and in the world, is a country with only one Political Party leading, terrorism is virtually absent. However, the number

of people killed by traffic accidents is too many, on average 9.000 to 13.000 people die from traffic accidents each year (National Traffic Safety Committee, 2018). Economic losses are estimated at billions of dollars/year, equal to the value of rice exports (Vietnam has the second largest rice export volume in the world).

According to the National Traffic Safety Committee, in the first 5 months of 2019, there were 6.779 traffic accidents nationwide, killing 3,128 people and injuring 5,254 people. Compared to the same period in 2018, the number of traffic accidents decreased 711 cases (down 9.49%), the number of deaths decreased by 348 people (decreased by 10%), and the number of injured people decreased by 508 people (decreased by 8.82%). Of which: Roads have occurred 6,695 cases, killing 3,077 people, injuring 5,229 people. In comparison with the same period last year, there were 704 cases decreased (9.51%), decreased 338 deaths (decreased 9.9%), 521 injured people (decreased 9.06). Railway occurred 55 cases, killing 35 people and injuring 24 people. Compared with the same period last year, there were 3 cases increased (5.77%), down 8 people (down 8.6%), and 12 people injured (up 100%) (National Traffic Safety Committee, 2019).

Waterway occurred 24 cases, killing 13 people and injuring 1 person. Compared to the same period last year, down 9 cases (down 27.27%), down 4 deaths (down 23.53%), the number of injured people increased by one person. Maritime incident occurred five cases, killing three people, no one was injured. Compared with the same period last year, there was a decrease of 1 case (down 16.67%), an increase of two deaths and disappearance (200%), the number of injured people did not change (National Traffic Safety Committee, 2019) (Table 1).

Also according to the National Traffic Safety Committee, Traffic accidents in May and 5 months of 2019 continued to reduce all 3 criteria in terms of cases, deaths and injuries compared to the

same period in 2018; the basic traffic situation is guaranteed and smooth. However, in order to occur some particularly serious traffic accidents, which are alarming in the public opinion, it is alarming

that the situation of drug use is a violation of the concentration of the driver of a vehicle causing a traffic accident special serious.

**Table 1:** Traffic accident for 3 years (2017 - 2019) (Source: National Traffic Safety Committee)

Mumerical order	Content	2017	2018	2019	Compare
1	Number of accidents	22.589	>21.000	>19.700	Reduction
2	Number of deaths	8.785	>8.300	>8.200	Reduction
3	Number of injured	19.380	>17.100	>15.800	Reduction

Looking at the number of deaths and economic losses, the waste and grief show the fate of the unfortunate people who have died due to their carelessness, other causes, or indifference of social management apparatus at all levels. What causes big and not worthy losses from traffic accidents? In addition to the above, non-compliance and lack of understanding of road traffic law are also one of the main causes of many serious traffic accidents causing great loss of lives and wealth, causing serious consequences for the development of the country.

**II. RESEARCH METHODS**

- Studying legal documents and regulations in the field of road traffic.
- Research using methods: survey by questionnaire (number of votes issued and collected is 1,000 votes).
- Direct interviews with road users in some major cities of Vietnam.
- Due to the difficulty of distance, the authors implemented in some big provinces and cities in the south of Vietnam such as Ho Chi Minh City, Can Tho City, Tra Vinh Province, Dong Nai Province, Binh Duong and Kien Giang provinces.
- The authors directly observe and record (documents and images) the situation of road traffic participation in some of the provinces and cities mentioned above.

**III. CURRENT SITUATION OF COMPLIANCE WITH ROAD TRAFFIC LAW IN VIETNAM TODAY**

According to the Ho Chi Minh City Traffic Safety Committee, in the first six months of 2018, traffic accidents were reduced on all three criteria but traffic congestion was still complicated, especially at Tan Son Nhat airport area, Cat Lai port, the city center, the gateway to the city ... One

of the basic reasons is the increase in the number of private vehicles while the authorities have not have an effective control solution. The number of vehicles increased but the awareness of obeying the law in the field of traffic of many people involved in the traffic was not high, mainly those who drove two-wheel vehicles, containers and pedestrians. Traffic accidents cause the most casualties mainly due to causes such as improper circulation of the road, inattentive attention, poor handling of steering, improper direction changes, and failure to keep a safe distancesafety, speed violations ... According to statistics, more than 92% of the accidents are related to the consciousness of the driver when participating in traffic (National Traffic Safety Committee, 2018). Besides, the inspection and handling of violations of road order and roadside in some localities have not been regularly maintained. The state of disorder, encroachment on roads and sidewalks for trading, trading, stopping and parking in contravention of regulations, spontaneous market meetings still take place in many places and in many routes.

According to the hard opinions of the authors of the article, nearly 7 am every day, the Thich Quang Duc road (Phu Nhuan district, Ho Chi Minh City), which lasted for several hundred meters, was divided by railroads. Asphyxiation, the vehicle flow only inched a little. When there was a signal that the train was about to run across Thich Quang Duc road, the barrier was pulled back, so the flow of people kept flooding, occupying the entire road section for vehicles traveling in the opposite direction. By the time the train passed, the flow of people on both sides crossed the tracks in the "posture" confrontation, which took 15 to 20 minutes later, the traffic returned to normal. This is all due to the low awareness of the people involved in the traffic. This situation is not unique, but is common in other bidirectional roads in the city where railways are located. There is also the phenomenon of motorbikes running along the road,

moving to the lane for cars, stopping or parking on the crosswalk.

Currently, a large part of people in traffic only obey the provisions of the law in the field of traffic when there is a traffic police force. On the contrary, these people are willing to cross the red light, encroach on the road, cross the road, park the car on the crosswalk, etc. Therefore, the top requirement is to strictly handle violations of the Traffic Law roads with sufficient deterrence. In addition, in the current situation, when the traffic police force cannot "cover" patrol work on all roads, it is necessary to increase sanctions through technical means such as cameras. According to traffic experts, the "fines" implemented over the past few years have contributed to raising the awareness of road users. This form of impact directly and strongly on the awareness of pedestrians, highly deterrent when making them feel always being monitored by cameras during traffic. Next, the radical solution is to improve the effectiveness of propaganda and mobilize people, need to create new forms of propaganda and bring more practical effects.

There are many people in the traffic who do not care about their own lives and those of others. In addition to overcoming the red light, learning is fast, reckless and wriggling. Even many people drink beer and wine still join the pine. There have been cases where an accident has resulted in injury or death (Figure 3). Motorcyclists after drinking are the culprits responsible for 90% of traffic accidents, nearly 70% of people who "drink" still risk driving (Traffic newspaper, 2019). It is the result of the research group's influence on the alcohol content on the safety level of motorbike drivers in Vietnam.

The team said, according to traffic police statistics, the number of traffic accidents related to alcohol concentration of 4%, in Ho Chi Minh City at 5% and Binh Duong province is 12%. However, this figure is much lower than the statistics of traffic accidents caused by alcohol and hospitalization in some hospitals (Traffic newspaper, 2019). The underlying cause of the difference is that in many traffic accidents, the trauma status of the victim has made it difficult for alcohol testing. Men cause 80% - 90% of traffic accidents due to drinking beer, alcohol, accidents in the evening (18h-24h) and higher on weekends. Motorcycles cause 70% - 90% of traffic accidents due to drinking beer or alcohol (Traffic newspaper, 2019).

The research results show that it is very common for restaurants and pubs to drink beer while drinking alcohol in spite of the current law

provisions. The proportion of diners who self-control their means after drinking alcohol accounts for 68% (motorcycles 62%, cars 6%). About 40% of people go out drinking in the state of intoxication: 34% have gait slightly, 5% teeter. The rate of traffic law violations is very high, specifically 36% did not turn on the turn signals, 26% went in the opposite direction and 17% did not turn on the lights (Traffic newspaper, 2019).

#### IV. THE CAUSE OF A VIOLATION OF ROAD TRAFFIC LAWS

##### 4.1. Awareness of People Involved in Traffic and Vehicle Control

Due to ignorance of traffic laws, from the lack of rigor of the traffic police force, the awareness of road users is very poor, they despise their own lives and their fellowman. That is to say, where the roads are better and wider, the more traffic accidents there will be, and the more people will die, the more crowded places will cause traffic congestion. Survey results show that the number of people who understand the road traffic law is relatively high (38.6%)

Business situation of transporting passengers on the routes freely and spontaneously, without strict organization, so it often happens that reckless overtaking to scramble guests, cramming passengers ... has happened. Many catastrophic traffic accidents. Thus, it must be said that the awareness of people in traffic and vehicle control when participating in traffic is not high, along with a lack of understanding of the law, is one of the main causes of congestion and increasing traffic accidents.

In fact, in the two major cities of Viet Nam: Hanoi and Ho Chi Minh City, after more than a year of implementation, some provisions of Decree No. 100 have had a positive impact on the consciousness of The driver, when joining in traffic, limits the violations which are the direct cause of the traffic accident. Notably, which has limited the driver's situation after drinking alcohol and beer, is a high risk of the traffic accident. Besides, the new Decree also contributes to enhancing the efficiency of state management; ensuring traffic order and safety through sanctions in order to ensure that people strictly and voluntarily execute decisions on sanctioning of administrative violations in the road traffic domain. For example, in the case of administrative violations detected through the use of professional technical facilities, equipment (penalties for administrative violations through the camera image) that the force The traffic police have not been able to immediately stop the vehicle to

handle, the Road and Railway Traffic Police Department also sends a notice requesting the vehicle owner and relevant individuals and organizations (if any) to come to the post. Department to deal with the violation. This shows that the openness, transparency as well as synchronous coordination in the sanctioning of administrative violations of the traffic force and related units have been increasingly promoted. Obviously, the inspection centers themselves act as an "extended arm", coordinating with the traffic police to increase the role of sanctions, helping the police to strengthen their capacity to handle violations main; previous shortcomings can be limited because the "idle" offenders execute administrative sanctioning decisions in order to ensure traffic order and safety in the city.

However, according to statistics from the Ho Chi Minh City Police Railway Traffic Police Department, from the beginning of the year until now, the unit has extracted nearly 39,000 cases of violation from the camera system. . In which, there are 10,800 cases of implementing sanctioning decisions, reaching the rate of 27.6%; 72.4% of cases of violations are "fined cold" yet to implement the sanctioning decision. For a long time, the "cold penalty" form has not been effective as expected because the process of sending a notice to the offender is not a simple matter due to the identity, location, and place of permanent registration of the person violate, etc.

This result also shows that the cold penalty through the camera to help strengthen the inspection and penalty through video is still a limitation of the traffic force when conducting the violation. Administration, although the city has recently promoted applications for sharing and connecting images of traffic order between the police and functional units, such as the Smart Urban Operations Center, the Inspector of the Department of Transport. This requires, the city traffic police force must further strengthen coordination to cool off, in which increased investment in technical means to connect with units such as registry, inspection. Traffic both effectively serves the penalty and increases deterrence for violators. In addition, in case the inspection centers are slow to warn vehicles related to administrative violations on the Inspection Management Program, they must also blame the unit, avoid traveling, negative, etc.

#### 4.2. Customs and Traditions

The phenomenon of people moving from rural to urban is a socio-economic phenomenon, with the objective law, associated with the

development history of human society with changes of nature, society and uneven economic and social development among regions and countries in the world. In particular, in large cities, along with rapid economic development, urbanization takes place at a rapid pace, and this attracts a large number of workers from rural areas. This phenomenon contributes to the development of destinations but also causes many socio-economic problems for urban areas, especially bad habits while participating in traffic.

The majority of immigrants are native from the countryside, with characteristics such as hard work; saving; community, village; often choose quiet living space, do not like noisy, etc. these qualities are essential for the development process but also the factors that significantly affect the quality of labor such as lack of work skills, maneuver career, freedom, lack of discipline ... affect the construction of urban civilized cultural lifestyle.

Although Vietnam is considered to have a history of more than 4,000 years, it is a long 4,000 years of a centralized monarchy with more than 1,000 years of complete domination. Like many other Asian countries, Vietnam's economy is an outdated agriculture dependent on nature. During the 1,000 years of Chinese occupation, we have been completely assimilated by the Confucian thought (Giau, T. V., 1974; Thu, N. T., 1998). Confucian thought is so deeply rooted in Vietnamese people's minds because it fits perfectly with the outdated agricultural economy and centralized political regime (Giau, T. V., 1974; Hinh, N. D., 2003). Although the French colonial invasion in the 19th century caused much suffering to the people, it cannot be denied its positive value when the French brought the concepts of urban and urban life forward. However, the old habits are still very difficult to give up in the daily life of many Vietnamese people.

The largest and most modern urban areas in Vietnam such as Saigon or Hanoi, the hustle and bustle are everywhere, from the low and high houses crowded with cruelty to the rushing cars red lights, uncontrolled waste disposal, etc. are also causes of serious consequences when participating in traffic.

#### 4.3. Traffic Law is not Strict, less Deterrent

Decree No. 46/2016/ND-CP dated May 26, 2016 of the Government on sanctioning administrative violations in the field of roads and railways, effective from August 1, 2016, has contributed to improving awareness of law, compliance of traffic participants thanks to

increased fines. However, after a period of implementation, the Decree also reveals many difficulties in the sanctioning work of the competent forces, many violations need to be aggravated to be enough for deterrence. Currently, the maximum fine for road traffic is VND 41 million (Government of Vietnam, 2016) for individuals, lower than the fine level for rail and inland waterways while The nature and degree of danger to society of road-related violations are somewhat more complicated and dangerous.

During the two years of implementing Government Decree 46, the Traffic Inspectorate conducted more than 15,000 inspections; nearly 200 thousand inspections, detected more than 240 thousand violations, fined more than VND 500 billion, temporarily seized 1,420 cars. The police force has handled violations in the field of roads more than seven million cases of violation, fined more than 4,600 billion VND; Deprivation of nearly 600 thousand driving licenses, custody of nearly 100 thousand vehicles; railway sector fined nearly 3,100 cases and fined more than 1.6 billion dong (National Traffic Safety Committee, 2018).

However, violations on the highway are showing signs of increasing, especially the situation of backing up, parking, picking up and picking up passengers on the freeway, potentially causing traffic accidents and having been prosecuted. . The use of alcohol, beer and drugs when driving vehicles has also increased over time, causing a number of serious traffic accidents (National Traffic Safety Committee, 2018). Regarding the performance of official duties, there are still a number of officials performing public duty who are limited in professional skills, have not mastered the relevant regulations, have not promoted the sense of responsibility in the process of handling and handling violations; to happen some mistakes, negative. There is currently no database on administrative sanctions, no mechanism for sharing and providing information on violators, so it is difficult to identify cases of repeated violations and recidivism aggravation. In particular, many violations in practice cannot be handled because of the lack of technical facilities such as exhaust level, horn volume, noise level, etc. Impact and insecurity of vehicles traveling in the opposite direction are still not stipulated in the Decree on penalties (Government of the Socialist Republic of Vietnam, 2016).

Recognizing the regulations for the witnesses who witness when establishing the administrative violation, there are still many difficulties and obstacles, the representative of the Traffic Police Department - Ministry of Public

Security (C08) (2018) said that finding another one witnesses to sign the minutes of the owners' violations are not necessary and at the same time annoy the drivers waiting to complete complicated procedures for the competent forces.

“The Law on Handling of Administrative Violations requires two witnesses to be committed, while it is still easy to testify during the day, but not at night where to get two witnesses”, said representative C08 (2018). According to the representative of C08 (2018), procedures for handling detained vehicles such as car owners, violators who do not come and receive are still cumbersome and complicated, so the number of vehicles is backlog causing great social waste, increasing pressure on public service agencies.

## V. PROPOSALS AND SOLUTIONS

Currently, the number of violations under the sanctioning competence of inspectors and persons assigned to perform specialized inspection tasks is very small, even in many cases the inspectors are not competent to sanction violations. It was implemented by Chief Inspector of Department, Head of Road Administration (Government of Socialist Republic of Vietnam, 2016). Therefore, it is necessary to supplement the authority to sanction administrative violations in the road domain for the Chief of the Service, the Inspector of the Department of Transport, the regional road management agency or units of the Railway Department.

Representatives of State agencies also proposed, proposed amending and supplementing the provisions of the Law on Handling of Administrative Violations, including increasing the maximum fine for road traffic to 80 million VND for personal; increase the time limit for deprivation of the right to use driving licenses, may deprive the driving license permanently for a number of violations of particularly serious road traffic violations.

Another problem raised: if only the Decree 46 is amended but no other related laws and decrees are ineffective, it will not be effective. “There is no database for handling administrative violations between the State functional agencies, there is no mechanism for sharing and providing information on administrative violators, so it is difficult to identify for administrative violations. cases of repeated violations, recidivism to consider aggravating circumstances in handling violations, so the deterrence is low, and it is necessary to focus other solutions such as propaganda and heavy hitting solutions into the "pocket money" of

violator" (National Traffic Safety Commission, 2018).

For the traffic police force, it is the core force to ensure traffic safety and order, so the improvement of professional qualifications, education of sense of responsibility, correcting attitudes when interacting with road users and transport vehicles owners is a necessary job. In addition to modernizing equipment, working facilities, innovating to improve the quality of patrols in the direction of increasing maneuverability, patrolling and controlling along the waterway routes in charge so as to detect violations, instant settlement. It is necessary to drastically enforce and impose penalties for transport vehicle operating in contravention of regulations. Only in this way can it create surprise and limit the subjectivity of the vehicles involved in traffic. The purpose is to create a habit for the vehicles participating in the traffic to strictly abide by the laws on traffic safety. Besides, it is necessary to drastically stop the situation of asking begging, even negative in the process of handling violations of transport.

Renewing the content, methods of propagation and education of the law on inland transport, the regulations on handling of administrative violations in the field of transport to owners of vehicles and vehicles drivers, people in traffic know and obey. Regular or irregular activities in coordination with newspaper agencies, Radio and television stations of the province, district radio station, etc. build reports, news...propaganda, reflect the situation of safety transport, activities of inspecting and handling administrative violations of functional units and branches for common dissemination, education and prevention.

## VI. CONCLUSION

In order to minimize traffic accidents, first of all it is necessary to raise the awareness and awareness of compliance with the law on traffic order and safety of the people. At the same time warn of the risk of traffic accidents. In addition, it is necessary to create the best conditions for traffic infrastructure to ensure traffic safety by building more overpasses and tunnels for pedestrians, giving adequate road sections for pedestrians. Along with that, the organization mobilized the drivers of road motor vehicles to consciously proactively give way to pedestrians when crossing the road, avoiding recklessness, not drinking beer, alcohol when driving, etc.

Over the years, with the efforts of departments and agencies, the observance and

understanding of regulations of transport vehicles owners in the Vietnam have improved. But with the above-mentioned situation, along with the rapid increase of transport vehicles when the vehicles owners have not certain knowledge when participating in transport in this field, it may cause catastrophic. Under these circumstances, propaganda and education for transport vehicles owners to understand their responsibilities is an important thing and needs to be done immediately.

Each of us to implement traffic safety, we need to establish ourselves a sense of responsibility for observing the rules when participating in traffic. Rules are set not just for compliance but for certain standards to protect our safety so please obey it for our own safety, not to deal with or to oppose it. Things like not passing a red light, speeding up, not drinking alcohol when in traffic, etc. should be strictly observed to create the foundation for a safe civilized society.

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