

AMENDED IN SENATE MARCH 27, 2012

**SENATE BILL**

**No. 1317**

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**Introduced by Senator Kehoe**

February 23, 2012

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An act to amend Sections 11200, 11202, 11208, 42005, and 42007.1 of, and to amend and repeal Section 11205 of, the Vehicle Code, relating to ~~traffic violator schools~~ *vehicles*.

LEGISLATIVE COUNSEL'S DIGEST

SB 1317, as amended, Kehoe. ~~Traffic violator schools: regulation. Vehicles: traffic violator schools.~~

(1) Existing law provides for the licensing and administration by the Department of Motor Vehicles of traffic violator schools, operators, and instructors and requires licensed traffic violator schools to notify the court by posting on the department's *Internet* Web-based database information regarding successful course completion. A violation of the ~~Vehicle Code~~ *these provisions* is a crime.

This bill would require a traffic violator school, upon a student's successful completion of the course of instruction offered by a licensed classroom-based traffic violator school, to provide the student with a hard copy certificate of completion and would require the student to present this certificate to the court *or the court's designated representative*.

(2) Existing law requires the department to adopt standards for traffic violator schools for each instructional modality.

This bill would prohibit the department from adopting regulations that include provisions requiring traffic violator schools to provide or process paper-based documents for the purpose of course instruction evaluations by students.

(3) Existing law requires the department to provide a list of licensed traffic violator schools on its Internet Web site and to randomize this list daily. ~~Existing law requires the hard copy list of department licensed traffic violator schools provided to a traffic violator by a court or traffic assistance program to be not more than 60 days old.~~ Existing law also requires Internet-based and home study-based traffic violator schools to update course information within 3 business days of class completion.

This bill would delete the requirements that the list of traffic violator schools be randomized daily and would instead require the list to include specified information and be organized in a specified manner. ~~The bill would require the hard copy list to be not more than 30 days old and to include that specified information.~~ *The bill would also require specified information to be included in the classroom-based segment of the list.* The bill would ~~also~~ require the department to make available for download by a licensed traffic violator school, and as may be required by a court *or the court's representative*, certain information regarding that school. The bill would require an Internet-based and home study-based traffic violator school to update course information within 10 business days of class completion.

The bill would also repeal an obsolete provision requiring the department to publish semiannually a list of all licensed traffic violator schools.

(4) Existing law requires the department to charge a fee for traffic violator school program activities, including the issuance of a license.

This bill would revise the fee provisions to additionally authorize the department to charge fees for an approval for a branch office or a classroom location.

(5) Existing law requires the court to collect a single administrative fee that is assessed a driver traffic violator who attends traffic violator school, and requires the fee to include the cost of routine monitoring of traffic violator school instruction.

This bill would require the fee to additionally include the cost of printing of classroom course completion certificates and the renewal of approved current classroom locations, as defined.

(6) The bill would impose a state-mandated local program by creating new crimes.

(7) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. The Legislature finds and declares all of the  
2 following:

3 (a) The Department of Motor Vehicles maintains and supports  
4 the licensing needs of over 20 million licensed drivers.

5 (b) Licensed drivers who receive traffic violations can be  
6 ordered or permitted to attend a traffic violator school either  
7 through the Internet, home, or classroom based instruction. While  
8 ~~Internet-based~~ *Internet Web-based* courses are convenient, not  
9 everyone has access to the Internet.

10 (c) A recent study by the Pew Charitable-Trust ~~Trust~~ *Trusts* found  
11 that 26 percent of adults 18 years of age and older do not use or  
12 do not have access to the Internet. Minority groups and persons  
13 over 65 years of age make up a higher percentage of those without  
14 access to the Internet.

15 (d) The classroom-based traffic violator school offers a program  
16 of instruction in traffic safety to California drivers with no Internet  
17 access, through the Department of Motor Vehicles approved  
18 classroom locations in various cities throughout the state,  
19 commonly located at convenient meeting rooms within hotels or  
20 community centers.

21 (e) The costs associated with providing these classroom options  
22 to the driving public should be borne by the traffic violators, using  
23 a fee collected by the courts and remitted to the Department of  
24 Motor Vehicles.

25 (f) The amount of the administrative fees imposed on  
26 classroom-based instruction should be fair and take into  
27 consideration the effects these fees may have on reducing the  
28 number of classes. Fewer classroom locations will result in fewer  
29 options for California's drivers who require or need  
30 classroom-based traffic school instruction.

31 SEC. 2. Section 11200 of the Vehicle Code is amended to read:

32 11200. (a) The department shall license traffic violator schools  
33 for purposes of Section 41501 or 42005 and to provide traffic

1 safety instruction to other persons who elect to attend. A person  
2 may not own or operate a traffic violator school or, except as  
3 provided in Section 11206, give instruction for compensation in  
4 a traffic violator school without a currently valid license issued by  
5 the department.

6 (b) (1) A person who elects to attend a traffic violator school  
7 shall receive from the traffic violator school and shall sign a copy  
8 of the following consumer disclosure statement prior to the  
9 payment of the school fee and attending the school:

10  
11 “Course content is limited to traffic violator curricula approved  
12 by the Department of Motor Vehicles. Students in the classroom  
13 include traffic offenders, repeat traffic offenders, adults, and  
14 teenagers, and those who have and those who have not been  
15 referred by a court. Instructor training, business regulatory  
16 standards, and Vehicle Code requirements of traffic violator  
17 schools are not equal to the training, standards, and Vehicle Code  
18 requirements of licensed driving schools (California Vehicle Code  
19 Section 11200(b)(1)).”

20  
21 (2) In the case of a minor who elects to attend a traffic violator  
22 school, the minor’s parent or guardian shall sign the consumer  
23 disclosure statement.

24 (3) A copy of each signed disclosure statement shall be retained  
25 by the traffic violator school for a minimum of 36 months.

26 (c) New and modified departmental regulations necessitated by  
27 this section shall be adopted and effective no later than September  
28 1, 2011.

29 (d) (1) Except as provided in paragraph (2), a licensed traffic  
30 violator school shall notify the court by posting on the department’s  
31 *Internet* Web-based database established pursuant to subdivision  
32 (b) of Section 11205 information regarding successful course  
33 completions.

34 (2) Upon successful completion of the course of instruction  
35 offered by a licensed classroom-based traffic violator school, the  
36 traffic violator school may, instead of posting the information  
37 required by paragraph (1), provide the student referred by a court  
38 pursuant to Section 41501 or 42005 with a hard copy certificate  
39 of completion. The student shall present this certificate of  
40 completion to the court, *or the court’s designated representative,*

1 as proof of completion of instruction, and no other proof of  
2 completion of instruction may be accepted by the court. The  
3 required certificates of completion shall be provided by the  
4 department to a classroom-based traffic school, at no cost to the  
5 school.

6 (e) A licensed traffic violator school shall give every person  
7 who attends the school for purposes of ~~Sections~~ *Section* 41501 or  
8 42005, upon successful completion of the lesson plan and passage  
9 of the postlesson knowledge test, a receipt indicating successful  
10 completion. The receipt shall include contact information, including  
11 the name of the traffic violator school, address of the school's  
12 business location, name of the course instructor if ~~classroom-based~~  
13 *classroom based*, telephone number, email address if appropriate,  
14 hours of operation, and any other information that may be used to  
15 confirm course completion.

16 (f) This chapter does not abrogate or limit the inherent powers  
17 of a court to order a traffic violator to attend and complete a traffic  
18 violator school program of any length or duration, as determined  
19 by the court to be reasonable under the circumstances of the case  
20 before it.

21 SEC. 3. Section 11202 of the Vehicle Code is amended to read:

22 11202. (a) Except as provided in subdivision (c), a traffic  
23 violator school owner shall meet all of the following criteria before  
24 a license may be issued for the traffic violator school:

25 (1) Maintain an established place of business in this state that  
26 is open to the public. An office or place of business of a traffic  
27 violator school, including any traffic violator school branch or  
28 classroom location, shall not be situated within 500 feet of any  
29 court of law.

30 (2) (A) Conform to the standards established by regulation of  
31 the department.

32 (B) In adopting the standards, the department shall consider  
33 those practices and instructional programs that may reasonably  
34 foster the knowledge, skills, and judgment necessary for  
35 compliance with traffic laws. The department shall establish  
36 standards for each instructional modality, which may include  
37 requirements specific to each modality. The standards may include,  
38 but are not limited to, classroom facilities, school personnel,  
39 equipment, curriculum, procedures for the testing and evaluation  
40 of students, recordkeeping, and business practices.

1 (C) Unless expressly authorized by statute, the department shall  
2 not adopt regulations pursuant to this ~~paragraph~~ *chapter* that  
3 include provisions requiring traffic violator schools to provide or  
4 process paper-based documents for the purpose of course  
5 instruction evaluations by students.

6 (3) Procure and file with the department a bond of fifteen  
7 thousand dollars (\$15,000) for home study schools and two  
8 thousand dollars (\$2,000) for classroom-based schools executed  
9 by an admitted surety and conditioned upon the applicant not  
10 practicing fraud or making a fraudulent representation that will  
11 cause a monetary loss to a person taking instruction from the  
12 applicant or to the state or any local authority.

13 (4) Have the proper equipment necessary for giving instruction  
14 to traffic violators.

15 (5) Have a lesson plan approved by the department, except as  
16 provided for in paragraph (2) of subdivision (c), and provide not  
17 less than the minimum instructional time specified in the approved  
18 plan. The approved plan shall include a postlesson knowledge test.  
19 The lesson plan for each instructional modality shall require  
20 separate approval by the department.

21 (6) (A) Execute and file with the department an instrument  
22 designating the director as agent of the applicant for service of  
23 process, as provided in this paragraph, in any action commenced  
24 against the applicant arising out of a claim for damages suffered  
25 by a person by the applicant's violation of a provision of this code  
26 committed in relation to the specifications of the applicant's traffic  
27 violator school or a condition of the bond required by paragraph  
28 (3).

29 (B) The applicant shall stipulate in the instrument that a process  
30 directed to the applicant, when personal service cannot be made  
31 in this state after due diligence, may be served instead upon the  
32 director or, in the director's absence from the department's  
33 principal offices, upon an employee in charge of the office of the  
34 director, and this substituted service is of the same effect as  
35 personal service on the applicant. The instrument shall further  
36 stipulate that the agency created by the designation shall continue  
37 during the period covered by the license issued pursuant to this  
38 section and so long thereafter as the applicant may be made to  
39 answer in damages for a violation of this code for which the surety  
40 may be made liable or a condition of the bond.

1 (C) The instrument designating the director as agent for service  
2 of process shall be acknowledged by the applicant before a notary  
3 public.

4 (D) If the director or an employee of the department, in lieu of  
5 the director, is served with a summons and complaint on behalf  
6 of the licensee, one copy of the summons and complaint shall be  
7 left with the director or in the director's office in Sacramento or  
8 mailed to the office of the director in Sacramento. A fee of five  
9 dollars (\$5) shall also be paid to the director or employee at the  
10 time of service of the copy of the summons and complaint, or shall  
11 be included with a summons and complaint served by mail.

12 (E) The service on the director or department employee pursuant  
13 to this paragraph is sufficient service on the licensee if a notice of  
14 the service and a copy of the summons and complaint are, on the  
15 same day as the service or mailing of the summons and complaint,  
16 sent by registered mail by the plaintiff or his or her attorney to the  
17 licensee. A copy of the summons and complaint shall also be  
18 mailed by the plaintiff or plaintiff's attorney to the surety on the  
19 licensee's bond at the address of the surety given in the bond,  
20 postpaid and registered with request for return receipt.

21 (F) The director shall keep a record of all processes served  
22 pursuant to this paragraph showing the day and hour of service,  
23 and shall retain the documents served in the department's files.

24 (G) If the licensee is served with process by service upon the  
25 director or a department employee in lieu of the director, the  
26 licensee has 30 days after that service within which to answer any  
27 complaint or other pleading filed in the cause. For purposes of  
28 venue, if the licensee is served with process by service upon the  
29 director or a department employee in lieu of the director, the service  
30 is considered to have been made upon the licensee in the county  
31 in which the licensee has or last had his or her established place  
32 of business.

33 (7) (A) Meet the requirements of Section 11202.5, relating to  
34 traffic violator school operators, if the owner is also the operator  
35 of the traffic violator school. If the owner is not the operator of  
36 the traffic violator school, the owner shall designate an employee  
37 as operator who shall meet the requirements of Section 11202.5.

38 (B) A person may be an operator for more than one traffic school  
39 if (i) the schools have a common owner or owners and (ii) the  
40 schools share a single established business address.

1 (C) A traffic violator school with multiple branch locations may  
2 designate a separate operator for each location, but shall designate  
3 one of the operators as the primary contact for the department.

4 (8) Have an instructor who meets the requirements of Section  
5 11206. An owner who is designated as the operator for the school  
6 is authorized to act as an instructor without meeting the  
7 requirements of Section 11206. The owner license may also include  
8 authorization to act as an instructor if the owner is not designated  
9 as the operator but meets the requirements of Section 11206. The  
10 owner license shall specify if the owner is authorized to offer  
11 instruction. If the owner is not approved to act as an instructor, the  
12 school must employ an instructor licensed pursuant to Section  
13 11206.

14 (9) Provide the department with a written assurance that the  
15 school will comply with the applicable provisions of Subchapter  
16 II or III of the Americans with Disabilities Act of 1990 (42 U.S.C.  
17 Sec. 12101 et seq.), and any other federal and state laws prohibiting  
18 discrimination against individuals with disabilities. Compliance  
19 may include providing sign language interpreters or other  
20 accommodations for students with disabilities.

21 (b) The qualifying requirements specified in subdivision (a)  
22 shall be met within one year from the date of application for a  
23 license, or a new application and fee are required.

24 (c) A court-approved program that was in operation prior to  
25 July 1, 2011, shall file an application for licensure as a traffic  
26 violator school by March 1, 2012. A court shall not approve a  
27 traffic violator school program after July 1, 2011.

28 (1) A court-approved program may continue to operate as  
29 approved by a court until the department makes a licensing  
30 decision.

31 (2) The department shall approve or deny all completed  
32 applications filed pursuant to this subdivision no later than  
33 December 31, 2012.

34 (3) A court-approved program shall be exempt from paragraph  
35 (5) of subdivision (a). The licensed program may continue to use  
36 the curriculum approved by the court until the department  
37 establishes curriculum standards in regulation. The court-approved  
38 program must comply with the new curriculum standards by the  
39 effective date established in regulation.

(d) Paragraphs (3) and (6) of subdivision (a) do not apply to public schools or other public agencies, which shall also not be required to post a cash deposit pursuant to Section 11203.

(e) Paragraph (7) of subdivision (a) does not apply to public schools or other public educational institutions.

(f) A notice approved by the department shall be posted in every traffic violator school, branch, and classroom location, and prominently displayed on a home study or Internet program, stating that any person involved in the offering of, or soliciting for, a completion certificate for attendance at a traffic violator school program in which the person does not attend or does not complete the minimum amount of instruction time may be guilty of violating Section 134 of the Penal Code.

SEC. 4. Section 11205 of the Vehicle Code, as added by Section 5.5 of Chapter 599 of the Statutes of 2010, is amended to read:

11205. (a) The department shall provide a list of licensed traffic violator schools on its Internet Web site. For each licensed school, the list shall indicate the modalities of instruction offered and specify the cities where classroom instruction is offered. The *classroom-based segment of the* list shall include all of the following:

- (1) The name of each traffic violator school.
- (2) A telephone number used for student information.
- (3) The county and the judicial district.
- (4) The cities ~~and ZIP codes~~ where classes are available.

(b) Each traffic violator school owner shall be permitted one school name in a judicial district.

(c) The *classroom-based segment of the* list shall be organized alphabetically in sections for each county and subsections for each judicial district within the county. The order of the *classroom-based school* names within each judicial district shall be rotated each time the list is accessed or printed.

(d) (1) When a court or traffic assistance program (TAP) provides a hard copy list of traffic violator schools licensed by the department to a traffic violator, the court or TAP shall provide only a *list prepared from a* current date-stamped list downloaded from the department's Internet Web site. The hard copy list shall be as current as practicable, but in no event shall a list be distributed with a date stamp that is more than ~~30~~ 60 days old. The

1 data to be included on the hard copy list shall be the same as that  
2 specified in paragraphs (1) to (4), inclusive, of subdivision (a).

3 (2) The department shall also make available, for easy download  
4 by a licensed traffic violator school, and as may be required by a  
5 court *or the court's designated representative*, data that includes  
6 that traffic violator school's license number, name, primary  
7 business office address, primary telephone number, and classroom  
8 location addresses, if any.

9 (3) The data for downloading should be presented by the  
10 department in the form of a comma-separated value formatted file.

11 ~~(3)~~

12 (4) The department may use and assign authorization codes and  
13 passwords for the purpose of limiting unrestricted access to this  
14 proprietary data.

15 (e) The department shall, by April 1, 2012, develop ~~a~~ *an Internet*  
16 Web-based database that will enable the department, the courts,  
17 and traffic violator schools to monitor, report, and track  
18 participation and course completion. Traffic violator schools that  
19 are Internet based or home-study based shall update course  
20 information within 10 business days of class completion and  
21 provide to the courts class completion information on a daily basis.  
22 Classroom-based traffic schools may submit copies of the  
23 certificates of completion to the department to meet these purposes.

24 SEC. 5. Section 11205 of the Vehicle Code, as amended by  
25 Section 456 of Chapter 931 of the Statutes of 1998, is repealed.

26 SEC. 6. Section 11208 of the Vehicle Code is amended to read:  
27 11208. (a) The department shall charge a fee, to be determined  
28 by the department, for the following traffic violator school program  
29 activities:

30 (1) Original issuance of either, or both, of the following:

31 (A) A traffic violator school owner, operator, or instructor  
32 license.

33 (B) An approval for a branch office or a classroom location.

34 (2) Renewal of either, or both, of the following:

35 (A) A traffic violator school owner, operator, or instructor  
36 license.

37 (B) An approved branch office *location*.

38 (3) Issuance of either a duplicate or corrected traffic violator  
39 school owner, operator, or instructor license, or for a duplicate or  
40 corrected copy of a branch office or classroom location approval.

1 (4) Transfer of an operator or instructor license from one traffic  
2 violator school to another.

3 (5) Approval of curriculum, based on the instructional modality  
4 of the curriculum.

5 (6) Fees for administering the examinations pursuant to Sections  
6 11206 and 11207.

7 (b) The fees authorized under subdivision (a) shall be sufficient  
8 to defray the actual cost to the department to administer the traffic  
9 violator school program, except for routine monitoring of  
10 instruction, printing classroom course completion certificates, and  
11 renewing approved current classroom locations.

12 (c) A single administrative fee shall be assessed against, and  
13 collected by the court pursuant to Section 42007.1 from, each  
14 traffic violator who is ordered or permitted to attend, ~~and complete~~  
15 ~~the~~ a course of instruction at, a traffic violator school. Included in  
16 this fee shall be an amount determined by the department to be  
17 sufficient to defray the cost of routine monitoring of traffic violator  
18 school instruction, printing classroom course completion  
19 certificates, and renewing approved current classroom locations.

20 (d) For purposes of this section and Section 42007.1, “approved  
21 current classroom location” means a classroom location that  
22 received original approval from the department, which was listed  
23 on the classroom-based school’s most recent classroom renewal  
24 application, or any new classroom location subsequently added  
25 by the *classroom-based* school and approved by the department  
26 prior to the school’s next renewal application.

27 SEC. 7. Section 42005 of the Vehicle Code is amended to read:

28 42005. (a) Except as otherwise provided in this section, after  
29 a deposit of the fee under Section 42007 or bail, a plea of guilty  
30 or no contest, or a conviction, a court may order or permit a person  
31 who holds a noncommercial class C, class M1, or class M2 driver’s  
32 license who pleads guilty or no contest or is convicted of a traffic  
33 violation to attend a traffic violator school licensed pursuant to  
34 Chapter 1.5 (commencing with Section 11200) of Division 5.

35 (b) Pursuant to Title 49 of the Code of Federal Regulations, the  
36 court may not order or permit a person who holds a class A, class  
37 B, or commercial class C driver’s license to complete a licensed  
38 traffic violator school, in lieu of adjudicating any traffic offense  
39 or order that a conviction of a traffic offense by a person holding

1 a class A, class B, or commercial class C driver's license be kept  
2 confidential.

3 (c) The court shall not order that a conviction of an offense be  
4 kept confidential according to Section 1808.7 or permit a person,  
5 regardless of the driver's license class, to complete a program at  
6 a licensed traffic violator school in lieu of adjudicating an offense  
7 if either of the following applies to the offense:

8 (1) It occurred in a commercial motor vehicle, as defined in  
9 subdivision (b) of Section 15210.

10 (2) Is a violation of Section 20001, 20002, 23103, 23104, 23105,  
11 23140, 23152, or 23153, or of Section 23103, as specified in  
12 Section 23103.5.

13 (d) A person ordered to attend a traffic violator school pursuant  
14 to subdivision (a) may choose the traffic violator school the person  
15 will attend. The court *or the court's representative* shall provide  
16 to each person subject to that order or referral ~~a hard copy~~ of the  
17 department's current list of licensed traffic violator schools  
18 available and printed pursuant to Section 11205.

19 (e) A person who willfully fails to comply with a court order  
20 to attend traffic violator school is guilty of a misdemeanor.

21 (f) This section does not abrogate or limit the inherent powers  
22 of a court to order a traffic violator to attend and complete a traffic  
23 violator school program of any length or duration, as determined  
24 by the court to be reasonable under the circumstances of the case  
25 before it.

26 SEC. 8. Section 42007.1 of the Vehicle Code is amended to  
27 read:

28 42007.1. (a) The amount collected by the clerk pursuant to  
29 subdivision (a) of Section 42007 shall be in an amount equal to  
30 the total bail set forth for the eligible offense on the uniform  
31 countywide bail schedule plus a forty-nine-dollar (\$49) fee, and a  
32 fee determined by the department to be sufficient to defray the  
33 cost of routine monitoring of traffic violator school instruction,  
34 providing classroom course completion certificates, and renewing  
35 an approved current classroom location pursuant to subdivision  
36 (c) of Section 11208, and a fee, if any, established by the court  
37 pursuant to subdivision (c) of Section 11205.2 to defray the costs  
38 incurred by a traffic assistance program.

39 (b) Notwithstanding subdivision (b) of Section 42007, the  
40 revenue from the forty-nine-dollar (\$49) fee collected under this

1 section shall be deposited in the county general fund. Fifty-one  
2 percent of the amount collected under this section and deposited  
3 into the county general fund shall be transmitted therefrom monthly  
4 to the Controller for deposit in the Immediate and Critical Needs  
5 Account of the State Court Facilities Construction Fund,  
6 established in Section 70371.5 of the Government Code.

7 (c) The fee assessed pursuant to subdivision (c) of Section 11208  
8 shall be allocated to the department to defray the costs of  
9 monitoring traffic violator school instruction, providing classroom  
10 course completion certificates, and renewing approved current  
11 classroom locations.

12 (d) For purposes of this section “approved current classroom  
13 location” has the same meaning as defined in subdivision (d) of  
14 Section 11208.

15 SEC. 9. No reimbursement is required by this act pursuant to  
16 Section 6 of Article XIII B of the California Constitution because  
17 the only costs that may be incurred by a local agency or school  
18 district will be incurred because this act creates a new crime or  
19 infraction, eliminates a crime or infraction, or changes the penalty  
20 for a crime or infraction, within the meaning of Section 17556 of  
21 the Government Code, or changes the definition of a crime within  
22 the meaning of Section 6 of Article XIII B of the California  
23 Constitution.