

AMENDED IN SENATE MAY 3, 2012
AMENDED IN SENATE APRIL 26, 2012
AMENDED IN SENATE MARCH 27, 2012

SENATE BILL

No. 1317

Introduced by Senator Kehoe

February 23, 2012

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

LEGISLATIVE COUNSEL'S DIGEST

SB 1317, as amended, Kehoe. 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 these provisions is a crime.

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.

(2) Existing law requires the department to provide a list of licensed traffic violator schools on its Internet Web site. ~~Existing law also and requires Internet Web-based and home study-based~~ traffic violator schools to update course information within 3 business days of class

completion and to provide *to the courts* course completion information daily but allows classroom-based traffic schools to submit copies of the certificates of completion to the department to meet these requirements.

This bill would require the classroom-based segment of the list to include specified information and be organized in a specified manner. The bill would require the department to make available for download by a licensed traffic violator school, and as may be required by a court, certain information regarding that school. The bill would require all traffic violator schools to update course information within 10 business days of class completion and provide *daily to the courts* class completion information on a daily basis.

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

(3) Existing law requires the department to charge traffic violator school owners, operators, and instructors fees for certain traffic violator school program activities, including the issuance of a branch or classroom location license. These fees are required to be set to defray the actual cost to the department to administer the traffic violator school program, except for routine monitoring of instruction.

This bill would revise the activities for which the department is authorized to impose certain of these fees to authorize the department to charge fees instead for an approval for a branch office or a classroom location or the renewal of an approved branch office or current classroom location. The bill would require all of these fees to be equal to the fees charged for the 2011–12 fiscal year, except for the fee for the renewal of an approved current classroom location would be required to be set at \$50 per year per location.

(4) 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 instead require the amount of the administrative fee assessed and collected by the court to be set by the department at an amount sufficient to defray the actual costs to the department to administer the provisions regulating the traffic school violator program, except for the costs defrayed by the fees authorized for specific department activities described in (3) above.

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

(6) 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 Web-based courses are convenient, not everyone has
9 access to the Internet.

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

SEC. 2. Section 11200 of the Vehicle Code is amended to read:
11200. (a) The department shall license traffic violator schools for purposes of Section 41501 or 42005 and to provide traffic safety instruction to other persons who elect to attend. A person may not own or operate a traffic violator school or, except as provided in Section 11206, give instruction for compensation in a traffic violator school without a currently valid license issued by the department.

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

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

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

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

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

(d) A licensed traffic violator school shall notify the court by posting on the department’s Internet Web-based database established pursuant to subdivision (b) of Section 11205 information regarding successful course completions.

(e) A licensed traffic violator school shall give every person who attends the school for purposes of Section 41501 or 42005, upon successful completion of the lesson plan and passage of the postlesson knowledge test, a receipt indicating successful completion. The receipt shall include contact information, including

1 the name of the traffic violator school, address of the school's
2 business location, name of the course instructor if classroom based,
3 telephone number, email address if appropriate, hours of operation,
4 and any other information that may be used to confirm course
5 completion.

6 (f) This chapter does not abrogate or limit the inherent powers
7 of a court to order a traffic violator to attend and complete a traffic
8 violator school program of any length or duration, as determined
9 by the court to be reasonable under the circumstances of the case
10 before it, except that a conviction shall be held confidential by the
11 department only as permitted under Section 41501 or 42005.

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

13 11202. (a) Except as provided in subdivision (c), a traffic
14 violator school owner shall meet all of the following criteria before
15 a license may be issued for the traffic violator school:

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

21 (2) (A) Conform to the standards established by regulation of
22 the department.

23 (B) In adopting the standards, the department shall consider
24 those practices and instructional programs that may reasonably
25 foster the knowledge, skills, and judgment necessary for
26 compliance with traffic laws. The department shall establish
27 standards for each instructional modality, which may include
28 requirements specific to each modality. The standards may include,
29 but are not limited to, classroom facilities, school personnel,
30 equipment, curriculum, procedures for the testing and evaluation
31 of students, recordkeeping, and business practices.

32 (C) Unless expressly authorized by statute, the department shall
33 not adopt regulations pursuant to this chapter that include
34 provisions requiring traffic violator schools to provide or process
35 paper-based documents for the purpose of course instruction
36 evaluations by students.

37 (3) Procure and file with the department a bond of fifteen
38 thousand dollars (\$15,000) for home study schools and two
39 thousand dollars (\$2,000) for classroom-based schools executed
40 by an admitted surety and conditioned upon the applicant not

1 practicing fraud or making a fraudulent representation that will
2 cause a monetary loss to a person taking instruction from the
3 applicant or to the state or any local authority.

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

6 (5) Have a lesson plan approved by the department, except as
7 provided for in paragraph (2) of subdivision (c), and provide not
8 less than the minimum instructional time specified in the approved
9 plan. The approved plan shall include a postlesson knowledge test.
10 The lesson plan for each instructional modality shall require
11 separate approval by the department.

12 (6) (A) Execute and file with the department an instrument
13 designating the director as agent of the applicant for service of
14 process, as provided in this paragraph, in any action commenced
15 against the applicant arising out of a claim for damages suffered
16 by a person by the applicant's violation of a provision of this code
17 committed in relation to the specifications of the applicant's traffic
18 violator school or a condition of the bond required by paragraph
19 (3).

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

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

35 (D) If the director or an employee of the department, in lieu of
36 the director, is served with a summons and complaint on behalf
37 of the licensee, one copy of the summons and complaint shall be
38 left with the director or in the director's office in Sacramento or
39 mailed to the office of the director in Sacramento. A fee of five
40 dollars (\$5) shall also be paid to the director or employee at the

1 time of service of the copy of the summons and complaint, or shall
2 be included with a summons and complaint served by mail.

3 (E) The service on the director or department employee pursuant
4 to this paragraph is sufficient service on the licensee if a notice of
5 the service and a copy of the summons and complaint are, on the
6 same day as the service or mailing of the summons and complaint,
7 sent by registered mail by the plaintiff or his or her attorney to the
8 licensee. A copy of the summons and complaint shall also be
9 mailed by the plaintiff or plaintiff's attorney to the surety on the
10 licensee's bond at the address of the surety given in the bond,
11 postpaid and registered with request for return receipt.

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

15 (G) If the licensee is served with process by service upon the
16 director or a department employee in lieu of the director, the
17 licensee has 30 days after that service within which to answer any
18 complaint or other pleading filed in the cause. For purposes of
19 venue, if the licensee is served with process by service upon the
20 director or a department employee in lieu of the director, the service
21 is considered to have been made upon the licensee in the county
22 in which the licensee has or last had his or her established place
23 of business.

24 (7) (A) Meet the requirements of Section 11202.5, relating to
25 traffic violator school operators, if the owner is also the operator
26 of the traffic violator school. If the owner is not the operator of
27 the traffic violator school, the owner shall designate an employee
28 as operator who shall meet the requirements of Section 11202.5.

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

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

35 (8) Have an instructor who meets the requirements of Section
36 11206. An owner who is designated as the operator for the school
37 is authorized to act as an instructor without meeting the
38 requirements of Section 11206. The owner license may also include
39 authorization to act as an instructor if the owner is not designated
40 as the operator but meets the requirements of Section 11206. The

owner license shall specify if the owner is authorized to offer instruction. If the owner is not approved to act as an instructor, the school must employ an instructor licensed pursuant to Section 11206.

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

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

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

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

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

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

1 program in which the person does not attend or does not complete
2 the minimum amount of instruction time may be guilty of violating
3 Section 134 of the Penal Code.

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

7 11205. (a) The department shall provide a list of licensed
8 traffic violator schools on its Internet Web site. For each licensed
9 school, the list shall indicate the modalities of instruction offered
10 and specify the cities and counties where classroom instruction is
11 offered. The sequential listing of licensed schools shall be
12 randomized daily. The classroom-based segment of the list shall
13 include all of the following:

14 (1) The name of each traffic violator school.

15 (2) A telephone number used for student information.

16 (3) The county and the cities where classes are available.

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

19 (c) The classroom-based segment of the list shall be organized
20 alphabetically in sections for each county.

21 (d) (1) When a court or traffic assistance program (TAP)
22 provides a hard copy list of traffic violator schools licensed by the
23 department to a traffic violator, the court or TAP shall provide
24 only a current date-stamped list downloaded from the department's
25 Internet Web site. The hard copy list shall be as current as
26 practicable, but in no event shall a list be distributed with a date
27 stamp that is more than 60 days old. The data to be included on
28 the hard copy list shall be the same as that specified in paragraphs
29 (1) to (3), inclusive, of subdivision (a).

30 (2) The department shall also make available, for easy download
31 by a licensed traffic violator school, and as may be required by a
32 court, data that includes that traffic violator school's license
33 number, name, primary business office address, primary telephone
34 number, and classroom location addresses, if any.

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

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

(e) The department shall, by April 1, 2012, develop an Internet Web-based database that will enable the department, the courts, and traffic violator schools to monitor, report, and track participation and course completion. Traffic violator schools shall update course information within 10 business days of class completion and provide to the courts class completion information on a daily basis.

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

SEC. 6. Section 11208 of the Vehicle Code is amended to read:

11208. (a) The department shall charge fees in the amount specified in subdivision (b), for the following traffic violator school program activities:

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

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

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

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

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

(B) An approved branch office or a classroom location.

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

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

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

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

(b) The amount of fees for the activities authorized under subdivision (a) shall be equal to the amount determined by the department pursuant to this section, as it read on January 1, 2012, for the 2011–12 fiscal year, except for the fee for the renewal of an approved current classroom locations which shall be set at fifty dollars (\$50) per year per location.

(c) A single administrative fee shall be assessed against and collected by the court pursuant to Section 42007.1 from each traffic violator who is ordered or permitted to attend a traffic violator school. Included in this fee shall be an amount determined by the

1 department to be sufficient to defray the actual costs to the
2 department to administer this chapter, except for the costs defrayed
3 by the fees authorized by subdivision (a).

4 (d) For purposes of this section, “approved current classroom
5 location” means a classroom location that received original
6 approval from the department, which was listed on the
7 classroom-based school’s most recent classroom renewal
8 application, or any new classroom location subsequently added
9 by the classroom-based school and approved by the department
10 prior to the school’s next renewal application.

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

12 42005. (a) Except as otherwise provided in this section, after
13 a deposit of the fee under Section 42007 or bail, a plea of guilty
14 or no contest, or a conviction, a court may order or permit a person
15 who holds a noncommercial class C, class M1, or class M2 driver’s
16 license who pleads guilty or no contest or is convicted of a traffic
17 violation to attend a traffic violator school licensed pursuant to
18 Chapter 1.5 (commencing with Section 11200) of Division 5.

19 (b) Pursuant to Title 49 of the Code of Federal Regulations, the
20 court may not order or permit a person who holds a class A, class
21 B, or commercial class C driver’s license to complete a licensed
22 traffic violator school, in lieu of adjudicating any traffic offense
23 or order that a conviction of a traffic offense by a person holding
24 a class A, class B, or commercial class C driver’s license be kept
25 confidential.

26 (c) The court shall not order that a conviction of an offense be
27 kept confidential according to Section 1808.7 or permit a person,
28 regardless of the driver’s license class, to complete a program at
29 a licensed traffic violator school in lieu of adjudicating an offense
30 if either of the following applies to the offense:

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

33 (2) Is a violation of Section 20001, 20002, 23104, 23105, 23140,
34 23152, or 23153, or of Section 23103, as specified in Section
35 23103.5.

36 (d) A person ordered to attend a traffic violator school pursuant
37 to subdivision (a) may choose the traffic violator school the person
38 will attend. The court ~~or the court’s representative~~ shall provide
39 to each person subject to that order or referral the department’s

1 current list of licensed traffic violator schools available and printed
2 pursuant to Section 11205.

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

5 (f) This section does not abrogate or limit the inherent powers
6 of a court to order a traffic violator to attend and complete a traffic
7 violator school program of any length or duration, as determined
8 by the court to be reasonable under the circumstances of the case
9 before it, except that a conviction shall be held confidential by the
10 department only as permitted under Section 41501 or 42005.

11 SEC. 8. Section 42007.1 of the Vehicle Code is amended to
12 read:

13 42007.1. (a) The amount collected by the clerk pursuant to
14 subdivision (a) of Section 42007 shall be in an amount equal to
15 the total bail set forth for the eligible offense on the uniform
16 countywide bail schedule plus a forty-nine-dollar (\$49) fee, and a
17 fee, as specified in subdivision (c) of Section 11208, determined
18 by the department to be sufficient to defray the actual costs to the
19 department of administering Chapter 1.5 (commencing with Section
20 11200) of Division 5, and a fee, if any, established by the court
21 pursuant to subdivision (c) of Section 11205.2 to defray the costs
22 incurred by a traffic assistance program.

23 (b) Notwithstanding subdivision (b) of Section 42007, the
24 revenue from the forty-nine-dollar (\$49) fee collected under this
25 section shall be deposited in the county general fund. Fifty-one
26 percent of the amount collected under this section and deposited
27 into the county general fund shall be transmitted therefrom monthly
28 to the Controller for deposit in the Immediate and Critical Needs
29 Account of the State Court Facilities Construction Fund,
30 established in Section 70371.5 of the Government Code.

31 (c) The fee assessed pursuant to subdivision (c) of Section 11208
32 shall be allocated to the department to defray the actual costs to
33 the department of administering Chapter 1.5 (commencing with
34 Section 11200) of Division 5.

35 SEC. 9. No reimbursement is required by this act pursuant to
36 Section 6 of Article XIII B of the California Constitution because
37 the only costs that may be incurred by a local agency or school
38 district will be incurred because this act creates a new crime or
39 infraction, eliminates a crime or infraction, or changes the penalty
40 for a crime or infraction, within the meaning of Section 17556 of

- 1 the Government Code, or changes the definition of a crime within
- 2 the meaning of Section 6 of Article XIII B of the California
- 3 Constitution.

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