

AMENDED IN ASSEMBLY JULY 3, 2012

AMENDED IN SENATE MAY 25, 2012

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 *and repeal* Sections 11200, 11202, 11208, 42005, and 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 and requires traffic violator schools to update course information within 3 business days of class completion and provide to the courts course completion information daily.~~

~~This bill would require the classroom-based segment of the list to include specified information. 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 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)~~

~~(1) Existing law requires the department to charge traffic violator school owners, operators, and instructors fees for certain *activities related to* traffic violator school ~~program~~ *activities programs*, 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 *the costs for* routine monitoring of instruction.~~

~~This bill, *until January 1, 2015*, would revise the activities for which the department is authorized to impose certain of these fees ~~to and would~~ 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 the fee for the renewal of an approved current classroom location would be required to be set at \$50 per year per location.~~

~~(4)~~

~~(2) Existing law requires the court to collect a single administrative fee that is assessed against 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, *until January 1, 2015*, 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)~~ (1) 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~~no.

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~~

1 consideration the effects these fees may have on reducing the
2 number of classes. Fewer classroom locations will result in fewer
3 options for California's drivers who require or need
4 classroom-based traffic school instruction.

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

6 11200. (a) The department shall license traffic violator schools
7 for purposes of Section 41501 or 42005 and to provide traffic
8 safety instruction to other persons who elect to attend. A person
9 may not own or operate a traffic violator school or, except as
10 provided in Section 11206, give instruction for compensation in
11 a traffic violator school without a currently valid license issued by
12 the department.

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

17
18 "Course content is limited to traffic violator curricula approved
19 by the Department of Motor Vehicles. Students in the classroom
20 include traffic offenders, repeat traffic offenders, adults, and
21 teenagers, and those who have and those who have not been
22 referred by a court. Instructor training, business regulatory
23 standards, and Vehicle Code requirements of traffic violator
24 schools are not equal to the training, standards, and Vehicle Code
25 requirements of licensed driving schools (California Vehicle Code
26 Section 11200(b)(1))."

27
28 (2) In the case of a minor who elects to attend a traffic violator
29 school, the minor's parent or guardian shall sign the consumer
30 disclosure statement.

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

33 (c) New and modified departmental regulations necessitated by
34 this section shall be adopted and effective no later than September
35 1, 2011.

36 (d) A licensed traffic violator school shall notify the court by
37 posting on the department's Internet Web-based database
38 established pursuant to subdivision (b) of Section 11205
39 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 the name of the traffic violator school, address of the school's business location, name of the course instructor if classroom based, telephone number, email address if appropriate, hours of operation, and any other information that may be used to confirm course completion.~~

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

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

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

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

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

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

~~(C) Unless expressly authorized by statute, the department shall not adopt regulations pursuant to this chapter that include provisions requiring traffic violator schools to provide or process~~

1 paper-based documents for the purpose of course instruction
2 evaluations by students.

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(8) Have an instructor who meets the requirements of Section 11206. An owner who is designated as the operator for the school is authorized to act as an instructor without meeting the requirements of Section 11206. The owner license may also include authorization to act as an instructor if the owner is not designated 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 H 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.~~

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

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

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

14 ~~11205. (a) The department shall provide a list of licensed~~
15 ~~traffic violator schools on its Internet Web site. For each licensed~~
16 ~~school, the list shall indicate the modalities of instruction offered~~
17 ~~and specify the cities and counties where classroom instruction is~~
18 ~~offered. The sequential listing of licensed schools shall be~~
19 ~~randomized daily. The classroom-based segment of the list shall~~
20 ~~include all of the following:~~

21 ~~(1) The name of each traffic violator school.~~

22 ~~(2) A telephone number used for student information.~~

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

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

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

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

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

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

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

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

15 ~~SEC. 6.~~

16 ~~SECTION 1.~~ Section 11208 of the Vehicle Code is amended
17 to read:

18 11208. (a) The department shall charge fees in the amount
19 specified in subdivision (b), for the following traffic violator school
20 program activities:

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

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

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

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

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

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

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

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

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

36 (6) Fees for administering the examinations pursuant to Sections
37 11206 and 11207.

38 (b) The amount of fees for the activities authorized under
39 subdivision (a) shall be equal to the amount determined by the
40 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 department to be sufficient to defray the actual costs to the department to administer this chapter, except for the costs defrayed by the fees authorized by subdivision (a).

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

(e) This section shall remain in effect only until January 1, 2015, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2015, deletes or extends that date.

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

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

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

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

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

3 ~~(2) Is a violation of Section 20001, 20002, 23103, 23104, 23105,~~
4 ~~23140, 23152, or 23153, or of Section 23103, as specified in~~
5 ~~Section 23103.5.~~

6 ~~(d) A person ordered to attend a traffic violator school pursuant~~
7 ~~to subdivision (a) may choose the traffic violator school the person~~
8 ~~will attend. The court shall provide to each person subject to that~~
9 ~~order or referral the department's current list of licensed traffic~~
10 ~~violator schools available and printed pursuant to Section 11205.~~

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

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

19 ~~SEC. 8.~~

20 *SEC. 2.* Section 42007.1 of the Vehicle Code is amended to
21 read:

22 42007.1. (a) The amount collected by the clerk pursuant to
23 subdivision (a) of Section 42007 shall be in an amount equal to
24 the total bail set forth for the eligible offense on the uniform
25 countywide bail schedule plus a forty-nine-dollar (\$49) fee, and a
26 fee, as specified in subdivision (c) of Section 11208, determined
27 by the department to be sufficient to defray the actual costs to the
28 department of administering Chapter 1.5 (commencing with Section
29 11200) of Division 5, and a fee, if any, established by the court
30 pursuant to subdivision (c) of Section 11205.2 to defray the costs
31 incurred by a traffic assistance program.

32 (b) Notwithstanding subdivision (b) of Section 42007, the
33 revenue from the forty-nine-dollar (\$49) fee collected under this
34 section shall be deposited in the county general fund. Fifty-one
35 percent of the amount collected under this section and deposited
36 into the county general fund shall be transmitted therefrom monthly
37 to the Controller for deposit in the Immediate and Critical Needs
38 Account of the State Court Facilities Construction Fund,
39 established in Section 70371.5 of the Government Code.

1 (c) The fee assessed pursuant to subdivision (c) of Section 11208
2 shall be allocated to the department to defray the actual costs to
3 the department of administering Chapter 1.5 (commencing with
4 Section 11200) of Division 5.

5 (d) *This section shall remain in effect only until January 1, 2015,*
6 *and as of that date is repealed, unless a later enacted statute, that*
7 *is enacted before January 1, 2015, deletes or extends that date.*

8 ~~SEC. 9. No reimbursement is required by this act pursuant to~~
9 ~~Section 6 of Article XIII B of the California Constitution because~~
10 ~~the only costs that may be incurred by a local agency or school~~
11 ~~district will be incurred because this act creates a new crime or~~
12 ~~infraction, eliminates a crime or infraction, or changes the penalty~~
13 ~~for a crime or infraction, within the meaning of Section 17556 of~~
14 ~~the Government Code, or changes the definition of a crime within~~
15 ~~the meaning of Section 6 of Article XIII B of the California~~
16 ~~Constitution.~~