

ASSEMBLY BILL

No. 1986

Introduced by Assembly Member Linder

February 19, 2014

An act to amend Section 11202 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 1986, as introduced, Linder. Vehicles: traffic violator school program.

Existing law provides for the licensing and administration by the Department of Motor Vehicles of traffic violator schools, operators, and instructors. Existing law authorizes a court, after a deposit of bail and bail forfeiture, a plea of guilty or no contest, or a conviction, to order a continuance of the proceeding against a person who receives a notice to appear in court for a violation of a statute relating to the safe operation of a vehicle, in consideration of completion of a program at a licensed school for traffic violators, and to order that the conviction be held confidential, except as specified.

Existing law establishes traffic violator school licensing requirements and requires the Department of Motor Vehicles to license traffic violator school operators. Existing law authorizes a person to be an operator for more than one traffic school if the schools have a common owner or owners and the schools share a single established business address.

This bill would prohibit a person from being an operator for more than one traffic violator school licensed to provide Internet-based or home study-based instruction, and would limit the authority described above to a person who operates more than one traffic violator school offering only classroom-based instruction.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

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

1 SECTION 1. Section 11202 of the Vehicle Code is amended
2 to read:
3 11202. (a) Except as provided in subdivision (c), a traffic
4 violator school owner shall meet all of the following criteria before
5 a license may be issued for the traffic violator school:
6 (1) Maintain an established place of business in this state that
7 is open to the public. An office or place of business of a traffic
8 violator school, including any traffic violator school branch or
9 classroom location, shall not be situated within 500 feet of any
10 court of law.
11 (2) Conform to standards established by regulation of the
12 department. In adopting the standards, the department shall
13 consider those practices and instructional programs that may
14 reasonably foster the knowledge, skills, and judgment necessary
15 for compliance with traffic laws. The department shall establish
16 standards for each instructional modality, which may include
17 requirements specific to each modality. The standards may include,
18 but are not limited to, classroom facilities, school personnel,
19 equipment, curriculum, procedures for the testing and evaluation
20 of students, recordkeeping, and business practices.
21 (3) Procure and file with the department a bond of fifteen
22 thousand dollars (\$15,000) for home study schools and two
23 thousand dollars (\$2,000) for classroom-based schools executed
24 by an admitted surety and conditioned upon the applicant not
25 practicing fraud or making a fraudulent representation that will
26 cause a monetary loss to a person taking instruction from the
27 applicant or to the state or any local authority.
28 (4) Have the proper equipment necessary for giving instruction
29 to traffic violators.
30 (5) Have a lesson plan approved by the department, except as
31 provided for in paragraph (2) of subdivision (c), and provide not
32 less than the minimum instructional time specified in the approved
33 plan. The approved plan shall include a postlesson knowledge test.
34 The lesson plan for each instructional modality shall require
35 separate approval by the department.

1 (6) (A) Execute and file with the department an instrument
2 designating the director as agent of the applicant for service of
3 process, as provided in this paragraph, in any action commenced
4 against the applicant arising out of a claim for damages suffered
5 by a person by the applicant's violation of a provision of this code
6 committed in relation to the specifications of the applicant's traffic
7 violator school or a condition of the bond required by paragraph
8 (3).

9 (B) The applicant shall stipulate in the instrument that a process
10 directed to the applicant, when personal service cannot be made
11 in this state after due diligence, may be served instead upon the
12 director or, in the director's absence from the department's
13 principal offices, upon an employee in charge of the office of the
14 director, and this substituted service is of the same effect as
15 personal service on the applicant. The instrument shall further
16 stipulate that the agency created by the designation shall continue
17 during the period covered by the license issued pursuant to this
18 section and so long thereafter as the applicant may be made to
19 answer in damages for a violation of this code for which the surety
20 may be made liable or a condition of the bond.

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

24 (D) If the director or an employee of the department, in lieu of
25 the director, is served with a summons and complaint on behalf
26 of the licensee, one copy of the summons and complaint shall be
27 left with the director or in the director's office in Sacramento or
28 mailed to the office of the director in Sacramento. A fee of five
29 dollars (\$5) shall also be paid to the director or employee at the
30 time of service of the copy of the summons and complaint, or shall
31 be included with a summons and complaint served by mail.

32 (E) The service on the director or department employee pursuant
33 to this paragraph is sufficient service on the licensee if a notice of
34 the service and a copy of the summons and complaint are, on the
35 same day as the service or mailing of the summons and complaint,
36 sent by registered mail by the plaintiff or his or her attorney to the
37 licensee. A copy of the summons and complaint shall also be
38 mailed by the plaintiff or plaintiff's attorney to the surety on the
39 licensee's bond at the address of the surety given in the bond,
40 postpaid and registered with request for return receipt.

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

4 (G) If the licensee is served with process by service upon the
5 director or a department employee in lieu of the director, the
6 licensee has 30 days after that service within which to answer any
7 complaint or other pleading filed in the cause. For purposes of
8 venue, if the licensee is served with process by service upon the
9 director or a department employee in lieu of the director, the service
10 is considered to have been made upon the licensee in the county
11 in which the licensee has or last had his or her established place
12 of business.

13 (7) (A) Meet the requirements of Section 11202.5, relating to
14 traffic violator school operators, if the owner is also the operator
15 of the traffic violator school. If the owner is not the operator of
16 the traffic violator school, the owner shall designate an employee
17 as operator who shall meet the requirements of Section 11202.5.

18 (B) A person may be an operator for more than one traffic
19 violator school *offering only classroom-based instruction* if (i) the
20 schools have a common owner or owners and (ii) the schools share
21 a single established business address. *A person shall not be an*
22 *operator for more than one traffic violator school licensed to*
23 *provide Internet-based or home study-based instruction.*

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

27 (8) Have an instructor who meets the requirements of Section
28 11206. An owner who is designated as the operator for the school
29 is authorized to act as an instructor without meeting the
30 requirements of Section 11206. The owner license may also include
31 authorization to act as an instructor if the owner is not designated
32 as the operator but meets the requirements of Section 11206. The
33 owner license shall specify if the owner is authorized to offer
34 instruction. If the owner is not approved to act as an instructor, the
35 school must employ an instructor licensed pursuant to Section
36 11206.

37 (9) Provide the department with a written assurance that the
38 school will comply with the applicable provisions of Subchapter
39 II or III of the Americans with Disabilities Act of 1990 (42 U.S.C.
40 Sec. 12101 et seq.), and any other federal and state laws prohibiting

1 discrimination against individuals with disabilities. Compliance
2 may include providing sign language interpreters or other
3 accommodations for students with disabilities.

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

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

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

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

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

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

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

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

36 ~~(g) This section shall become operative on September 1, 2011.~~

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