

Initial Statement of Reasons

Title 13, Division 1, Chapter 1

Article 4.7 – Schools for Traffic Violators

The Department of Motor Vehicles (department) proposes to amend Section 345.50 in Article 4.7 related to Schools for Traffic Violators.

With the passage of Assembly Bill (AB) 708 (Chapter 307; Statutes of 2019), the department has determined it necessary to adopt rules that clarify and make specific the requirements related to the revised traffic violator school program. This updated program will require, in addition to all previous requirements, that traffic violator school owners ensure their school is open to the public during regular business hours and those hours are made available to the public by posting the hours at the place of business and on any internet website used or maintained by the school, have an operator or employee in each office or place of business during regular business hours, and have a school name that does not include a cost, price, or amount of the course, unless the name accurately reflects the cost of the course. The provisions in AB 708 also prohibit a school from being within 50 feet of any other licensed traffic violator school.

Additionally, the department is currently required to create a randomized list of all traffic violator schools on a daily basis, and that list is provided to violators who wish to take a course to eliminate a negligent operator point. According to the Assembly Floor Analysis on AB 708 dated September 6, 2019, many operators have attempted to manipulate the system by creating thousands of traffic violator schools at a single location in order to increase the likelihood of their school appearing at the top of the list. There are over 2,900 traffic violator schools in California, compared to 57 in Texas, 33 in Florida, 15 in New York, and 12 in Michigan. Over 2,000 of the California traffic violator schools are controlled by five owners, or 74% of the California market. One of these groups controls around 1,300 of the licensed traffic violator schools, or 47% of the market. The changes made through the amendment of Vehicle Code section 11202 may cause some schools to have to move locations or close their school altogether. The vast majority of businesses that will be affected are the larger entities who are currently running multiple schools from one location. The business practices of these schools left consumers confused, thus the purpose of AB 708. This change will also increase transparency and access for students and ensure consumers have the appropriate level of recourse irrespective of traffic violator school modality.

The changes made through AB 708 benefit Californians by providing assurance that students and potential students have the ability to make contact with a school employee, are equipped to easily find information related to course availability and eliminate circumstances where a student is enticed to enroll in a school based on a misleading advertisement related to the cost for enrollment.

## CONSIDERATION OF ALTERNATIVES

The department must determine that no reasonable alternative considered, or that has otherwise been identified and brought to the attention of the department, would be more effective in carrying out the purpose for which this action is proposed, would be as effective and less burdensome to affected private persons than the action proposed, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

### § 345.50. Office Practices.

The purpose of Section 345.50 is to establish rules related to posting of business office information, including business hours, and making available contact information so a student or potential student can access information on the school or make contact with a representative who can assist them.

Subsection (a)(1) is amended to require each office to remain open during regular business hours. Additionally, subsections (a)(1)(A) and (a)(1)(B) are repealed due to lack of necessity. Instead, subsection (a)(2) is adopted to make clear that regular business hours are defined as being from 9:00 to 4:00 p.m. The new specified hours establish a minimum standard similar to court hours and allow a standard time for lunches. While many courts provide access to the clerk of the court by 8:00, not all do, particularly in the smaller counties. Prior to this amendment, this section required each office to maintain the same office hours as the day courts in the county, except as necessary for lunch hour, illness, scheduled vacation, or emergency, and required postings be made available if the office was closed during regular business hours. By requiring traffic violator schools to be open during defined business hours, the department would have ample opportunity to conduct random audits during the designated hours, as it has been reported that traffic violator schools have claimed they were closed to avoid an audit, as stated in the Assembly Floor Analysis on AB 708 dated September 6, 2019. These amendments are also necessary to ensure compliance with Vehicle Code section 11202(a)(2) and ensure that students have access to the business office during regular hours.

Subsection (c) is adopted to implement structural requirements that ensure compliance with Vehicle Code section 11202, prohibiting a traffic violator school from being situated within 50 feet of another traffic violator school. Subsection (c)(1) is adopted to identify the measurements by which the department will use to calculate the 50 foot requirement. During the school inspection, the department inspector will identify the walls of the physical space occupied by any other school, as well as the walls of the physical space occupied by the applicant school. The inspector will measure the distance between the applicants' walls and nearby school walls horizontally in determining the 50-foot distance requirement. This language makes specific the required statutory distance by describing how the department will measure.

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Subsection (c)(2) is adopted to comply with Vehicle Code section 11202(a)(1), requiring the office or place of business to be a separate and enclosed space consisting of a minimum of 100 square feet and having a lockable entry door. There are many traffic violator schools whose business records are maintained in ways that do not protect the confidential information contained in the school files. This provision is necessary to ensure that each office is required to be secure and protect the confidential customer information contained in its records.

Subsections (c), (d), and (e), are renumbered to (d), (e), and (f). respectively.

DEPARTMENTAL DETERMINATIONS SUPPORTING GOVERNMENT CODE SECTIONS  
11346.2(b)(3) THROUGH (b)(5)

Studies, Reports or Documents – Gov. Code Sec. 11346.2(b)(3)

- No studies, reports or other documents were relied upon.

Reasonable Alternatives and Department’s Response – Gov. Code Sec. 11346.2(b)(4)(A)

- No alternatives have yet been presented that would be as effective.

Reasonable Alternatives that Would Lessen Any Adverse Impact on Small Businesses – Gov. Code Sec. 11346.2(b)(4)(B)

- No alternatives have yet been presented that would lessen any adverse impact on small business.

Evidence Supporting Determination of No Significant Adverse Economic Impact on Business – Gov. Code Sec. 11346.2(b)(5)

- This regulation is unlikely to have a significant adverse economic impact on businesses. Some traffic violator school may be required to hire additional staff to ensure business offices are staffed during regulation business hours, as required by Vehicle Code section 11202.

ECONOMIC AND FISCAL IMPACT DETERMINATIONS

Cost or Savings to Any State Agency

- None

Other Non-Discretionary Cost or Savings to Local Agencies

- None

Costs or Savings in Federal Funding to the State

- None

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Cost Impact on Representative Private Persons or Businesses

- The department is not aware of any cost impacts that a representative private person would necessarily incur in reasonable compliance with the proposed action. Businesses may be impacted, some adversely, due to the changes to Vehicle Code section 11202, requiring 50 feet between schools.

Effect on Housing Costs

- None

Local Agency/School District Mandates

- The proposed regulatory action will not impose a mandate on local agencies or school districts, or a mandate that requires reimbursement pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code.

Small Business Impact

- This proposed action may impact small businesses

Potential significant statewide adverse economic impact.

- The changes made through the amendment of Vehicle Code section 11202 will impact traffic violator schools and may cause some schools to have to move locations. If a school chooses not to relocate, they may end up closing the school instead, which would eliminate businesses within the traffic violator school industry. This change will also allow more growth for smaller schools.

ECONOMIC IMPACT ASSESSMENT (Government Code section 11346.3)

The department has made the following determinations related to this proposed regulatory action:

- Creation or Elimination of Jobs Within the State of California

The action has the potential to create jobs in California as traffic violator schools will be required to ensure business office are staffed during regular business hours. However, the amendments to Vehicle Code section 11202, prohibiting a school from being within 50 feet of another school may cause some schools to have to relocate some portion of their operations. There will likely be instances where a school, rather than relocate, chooses to close the school altogether, which would potentially eliminate jobs within the traffic violator school industry.

- Creation or Elimination of Existing Businesses Within the State of California

The traffic school industry is complying with application requirements and many of the changes being adopted in this action are to ensure regulations reflect the processes currently in place. The changes made through the amendment of Vehicle Code section 11202 will impact traffic

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violator schools and may cause some schools to have to move locations. If a school chooses not to relocate, they may end up closing the school instead, which would eliminate businesses within the traffic violator school industry. The department is not currently able to assess how many schools will be affected. However, the vast majority of businesses that will be affected are the larger entities who are currently running multiple schools from one location. These are the schools that created the need for AB 708 in the first place, so this change aligns with the intent of the bill. This change will also allow more growth for smaller schools. The department is not currently able to assess how many schools will be affected.

- Expansion of Business Currently Doing Business Within the State of California

The department does not anticipate that this action will expand businesses currently doing business within the State of California. As stated above, this action ensure the rules reflect the department's processes and to adopt changes made through legislation.

- Benefits of Regulation to the Health and Welfare of California Residents, Worker Safety and the State's Environment

This proposed action is unlikely to have an impact on health and worker safety or the state's environment. This action will benefit California residents who are attending a traffic violator school by providing assurance that students and potential students have the ability to make contact with a school employee, are equipped to easily find information related to course availability and eliminate circumstances where a student is enticed into enrolling in a school based on advertising that is misleading in regards to the cost for enrollment.