

**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 adopt Section 345.73; amend Sections 345.50, 345.52, 345.56, 345.58, 345.74, 345.78, 345.86, 345.88, and 345.90; and repeal Sections 345.54 and 345.60 in Article 4.7, Chapter 1, Division 1, Title 13 of the California Code of Regulations, relating to Schools for Traffic Violators.

Historically, the department has exercised oversight of Traffic Violator School (TVS) programs operating in classroom settings; however, no authority existed to oversee home study or online traffic violator school programs. Assembly Bill (AB) 2499 (Chapter 599; Statutes of 2010) places home study and online traffic violator school programs under the authority of the department. AB 2499 allows the department to provide operator training and curriculum requirements, prescribe application forms, and to establish guidelines for those traffic violator school programs not under department purview prior to the bill's passage.

This action changes the requirements for traffic violator schools operating hours to be the same as day courts in all counties, and deletes the ability for schools in smaller counties to be open shorter hours.

This action also repeals the ability for a school to have an authorized person sign documents for them. The department found that allowing authorized signatures takes away the responsibility of the operation of the traffic violator school from the owner. The department has found that there are no instances where an authorized signature may be used in lieu of the traffic violator school owner or operator.

This action also makes changes to the retention period for records. Each TVS is required to maintain records from its business for three years, and those records must be kept onsite for at least 18 months. After the 18 months, those records can be kept at an offsite location for the remainder of the three years, as long as the records are retrievable within a three business day request period. Business records are also now allowed to be kept as an electronic copy, with the retention periods being the same as paper documents. All confidential information must be secure at each location, and each school shall only store the information that relates to that particular location.

This action allows for the department to conduct onsite reviews of a TVS as well as monitoring of classroom instruction. The TVS shall make all business records available to the department for the business reviews, which can be scheduled or random. The department may monitor TVS instruction without prior notice.

The provisions established in this action are authorized under Vehicle Code sections 1651, 11212, 11214, 11219, and 42005 and are necessary for the department to properly exercise oversight of traffic violator school programs.

**§345.50. Office Practices.**

Subsection (a) is amended to specify that the traffic violator school must post its office hours at its primary business office and any branch offices and that those offices shall be open to the public during those posted office hours. The person who is in charge of the office during the posted hours must be knowledgeable about the operation of the traffic violator school and shall be able to provide information to the public concerning the classes and fees and shall be able to provide detailed information to any representative or contractor of the department or court concerning the operation and business records belonging to the traffic violator school.

Subsection (a)(1) is amended to remove all language specifying the counties with populations of less than 400,000 maintain the same office hours as day courts. With the expansion of instructional modalities to home study and internet courses, it is no longer reasonable to allow a traffic violator school to not maintain the same business hours as the day courts. Consumers have a reasonable expectation of being able to contact a business during regular business hours for information or to resolve issues.

Subsection (a)(1) is further amended to provide an exception to required business hours for necessary closures such as lunch, illness, scheduled vacation, or emergency. Traffic violator schools may be large commercial operations, but they may also be small businesses with one or two employees. It is only reasonable to provide for office closures in the named circumstances, provided that the schools ensure the consumer is provided with the information necessary to know when to contact the school and when the office is open.

Subsection (a)(1)(A) is adopted to specify that any closure of the office be posted with the duration of the closure listed at the traffic violator school office.

Subsection (a)(1)(B) is adopted to specify that if an answering service is used to answer phones during business hours, the service is required to notify callers of the duration of the closure.

Subsection (a)(1)(C) is adopted to specify that if the office is going to be closed for more than one day and the office is using an answering machine during non-business hours, the message must inform callers of the duration of the closure.

Requiring the traffic violator school to post a notice of the closure on the office and have any answering service or answering machine provide that information is necessary to assist customers who are contacting the office.

Subsections (a)(2), (a)(2)(A), (a)(2)(B), and (a)(2)(C), are repealed to remove all language providing the exceptions for those counties with populations of less than 400,000.

Subsection (a)(3) is repealed to remove all language providing for traffic violator schools that offer classes in counties with populations over 400,000 and the office hours they are required to maintain.

Subsection (c)(2) is amended to specify that each traffic violator school shall have separate telephone numbers.

Traffic Violator Schools  
Initial Statement of Reasons

Subsections (c)(3) and (c)(5) are amended to replace the department's TVS Classroom Location List with the Occupational Licensing Status Information System (OLSIS). In accordance with Vehicle Code section 11205, as amended by AB 2499, the TVS Classroom Location List is eliminated and the department is required to maintain the information electronically in a manner accessible by the public. OLSIS is the database that will be used to meet that requirement.

Subsection (c)(4) is amended to delete the wording "for scheduling classes" and to add the wording "during business hours" to identify when an automated phone system or answering service may be used.

Subsection (c)(8) is amended to delete language that allows a traffic violator school to use a "regionalized" phone number. It is further modified to delete language relating to the TVS Classroom Location List and to add language about the Occupational Licensing Status Information System.

Subsection (c)(9) is added to specify that a school may not use a regionalized phone number as their office phone. Both Court Assistance Programs and departmental inspectors found that they were unable to achieve the required oversight of a program without using the school phone number to call and verify that the schools are complying with all requirements. They were also unable to conduct subterfuge monitoring of schools with regionalized numbers.

The current subsection (c)(9) is renumbered to (c)(10).

Subsection (c)(9)(A) is renumbered to (c)(10)(A) and is modified to delete all language relating to the cost of completion certificates. Under AB 2499, a fee-paid completion certificate is eliminated.

Subsection (c)(9)(B) is renumbered to (c)(10)(B).

Subsection (c)(9)(C) is renumbered to (c)(10)(C).

The current subsection (c)(10) is renumbered to (c)(11) and is modified to delete language specifying student contact information to include a phone number, mailing address, and electronic mail address, and to include wording to specify that if a student cannot be contacted by phone, a school representative shall obtain a mailing address for that student.

**§345.52. Solicitation and Advertisement.**

Subsection (b) is amended to remove the reference to the department's TVS Classroom Location List. Under the provision of AB 2499, the TVS Classroom Location List is eliminated and the department is required to maintain the information electronically in a manner accessible by the public. OLSIS is the database that will be used to meet that requirement. It is also modified to add wording to specify that media advertising shall include but not be limited to internet sites and printed ads in addition to telephone listings.

The current subsection (e) is repealed to remove all language specifying alteration of the TVS Classroom Location List. Under the provision of AB 2499, the TVS Classroom Location List is eliminated and the department is required to maintain the information electronically in a manner accessible by the public. The OLSIS is the database that will be used to meet that requirement.

A new subsection (e) is adopted to specify that a traffic violator school must use only its department approved business name or also known as (aka) name when advertising or using websites. The department has received consumer complaints of being unable to determine what school is conducting or offering the course because the name on the website did not match the name of any licensed school. In reviewing these complaints, the department found numerous cases of websites that correctly identified the licensed school, but which was linked to a different or separate website which reflected a different name rather than the DMV approved name or aka. This is misleading and confusing to the public.

#### **§345.54. Authorized Signatures.**

This section is repealed in its entirety. The department found that allowing authorized signatures for a school was not consistent with ensuring that the traffic violator school owner or operator take responsibility for operation of the school. In reviewing this section, the department found that there are no instances where an authorized signature may be used in lieu of an owner or operator signature.

#### **§345.56. Business Records.**

Subsection (a)(4) is amended to eliminate specific information required regarding a student citation, and to refer instead to Section 345.78 for the information required. AB 2499 requires schools to provide completion information electronically by use of a departmental database. To ensure that the school has sufficient information to do this, substantially more information is required as established by Section 345.78.

The current subsection (b) is repealed in its entirety including subsections (b)(1), (b)(2), (b)(3), (b)(4), and (b)(5). AB 2499 eliminates the use of completion certificates.

Subsection (c) is renumbered as subsection (b) and is amended to remove requirements that are specific to classroom instruction. It instead refers to the requirements of Section 345.42, which is amended the report to require reporting of all modalities of traffic violator school activity.

Subsection (d) is renumbered as subsection (c) and is amended to remove an obsolete reference and to eliminate the alternative provided to retaining a copy of each receipt for payment of the course fee. The department has determined that marking "paid" on the traffic violator school roster is not sufficient documentation of payment of fees, nor is it consistent with Vehicle Code section 11219.5, which requires the issuance of a receipt for fees paid.

Subsection (d) is adopted to require a traffic violator school to retain copies of all receipts issued indicating completion of a traffic violator school course. This provision specifies that copies must be retained and establishes the time frame for retaining copies of the documents. This is

necessary to ensure that the school has sufficient documentation to assist a student if an issue arises later regarding completion of the program.

Subsection (e) is adopted to specify that a single receipt for payment and for course completion may be issued only when the course is completed on the same day as the payment of the fee.

**§345.58. Verification of Employment.**

This section is repealed in its entirety. Under AB 2499, the requirement for submitting evidence of employment as an instructor is eliminated.

**§345.58. Location of Business Records.**

Section 345.58 is adopted to specify information regarding the location of business records. Current regulations require pertinent business records to be open to inspection, retained for no less than three years, and maintained at specified locations, with exceptions, upon approval of the department. While current regulations implement some storage standards, they do not address vital requirements such as retention of original documents, requirements for producing quality copies of original documents, retention of copies, and the secure destruction of original documents.

Subsection (a) is adopted to require all traffic violator schools to maintain original business records at their principal place of business, or branch location, for at least 18 months. This subsection is added for clarity and will ensure all traffic violator schools in California maintain original business records at their principal place of business or branch location for a specific period of time.

Subsection (b) is adopted to authorize a school to maintain records at either the branch location or the principal place of business when the traffic violator school course instruction takes place at a branch location.

Subsection (c) is adopted to allow schools to maintain original business records at an offsite storage location after the 18 month retention period provided in subsection (a) of this section. This subsection also requires that the documents, if stored offsite, be retrievable upon three days notice and in a manner that meet the requirements of 15 U.S.C. 6801(b), related to the disclosure of nonpublic personal information.

Subsections (a), (b), and (c) establish retention schedules and storage locations provisions for traffic violator school business records. As the applicable business documents contain confidential student information it has been determined necessary to codify those locations that are acceptable to the department for document storage and the duration of time the department expects business documents to be retained at such locations.

Subsection (d) is adopted to allow a traffic violator school to create an electronic copy of an original business record at any time.

Subsection (d)(1) is adopted to require the electronic copy to satisfy certain record retention requirements and to be maintained for the length of three years.

Subsection (d)(1)(A) is adopted to require the electronic copy to be in a non-alterable format.

Subsection (d)(1)(B) is adopted to require the electronic copy to be retained in a format that permits the document to be readily accessible and retrievable.

Subsection (d)(1)(C) is adopted to require the electronic copy to be a legible, complete, and accurate reproduction of the original document.

Subsection (d)(1)(D) is adopted to require a backup copy of the electronic copy to be retained at an onsite or offsite location that will allow for retrieval within three days of notice.

Subsection (d)(1)(E) is adopted to require devices for storing backup copies of records to have appropriate security controls to protect records from unauthorized viewing or access.

Subsections (d)(1)(A) through (d)(1)(E) establish criteria to produce an acceptable copy of an original document and provide standards for backup storage and security. Given the importance these documents hold with respect to department functions, it is necessary to require a copy of a business record to be created in the highest quality possible to ensure its value for future department needs. The department's authority to establish electronic copy standards is provided in Vehicle Code section 1801.1(c).

Subsection (d)(2) is adopted to inform a traffic violator school that if they make an electronic copy of a record, and it meets the requirements of this subsection, they can destroy the original record if it is disposed of in a manner that meets the requirements of Civil Code section 1798.81.

Subsection (e) is adopted to inform the traffic violator school that the use of a third party to store business records does not reduce the responsibility of that school to produce a business record when required.

#### **§345.60. Providing Department Address to Students.**

This section is repealed in its entirety. The department's mailing address and phone number are readily available to students. It is not necessary to continue this requirement given the current accessibility of department information. In addition, the department's website provides several methods of contacting the department by email, phone, or regular mail.

#### **§345.73. Business Reviews and Monitoring of Instruction.**

Section 345.73 specifies that a traffic violator school is subject to business review, inspections, and monitoring of instruction whether such activity is scheduled in advance or without notice. This section is necessary to ensure a traffic violator school recognizes its obligation to submit to these activities. The department has complete oversight over the traffic violator school program under AB 2499. The department is required to monitor business operation and program instruction.

Subsection (a) is adopted to inform the traffic violator school that it is required to permit the department to conduct onsite business reviews during normal business hours. The school shall make their business records available to the department when requested, and the school operator shall be present for the scheduled reviews.

Subsection (b) is adopted to inform the traffic violator school that it shall permit the department to conduct random business reviews without prior notice.

Subsection (c) is adopted to inform the traffic violator school that it is required to allow the department to monitor instruction without prior notice and shall provide the DMV with any requested information to facilitate the monitoring.

**§345.74. Inspections and Approval of Sites.**

Subsection (a)(1) has non-substantive amendments.

Subsection (a)(1)(A) is adopted to specify that the storage for data and documents containing confidential information must be secure.

Subsection (a)(1)(B) is adopted to specify that the traffic violator school must demonstrate how confidential information will be secured.

Subsection (a)(1)(C) is adopted to specify that the storage of the confidential information must contain only that specific school's records, and other data/documents can not share that storage.

These provisions are necessary to ensure that all traffic violator schools take the steps necessary to protect their students' confidential information. With identity theft becoming common place, the department must ensure that the information provided to a traffic violator school is not accessible to anyone who does not have an authorized business need for the information.

Subsection (c)(1) is amended to correct the revision date of the Traffic Violator School Branch Business Office/Classroom Application, form OL 712 (Rev. 2/2011) . It is necessary to correct the revision date of the form so that a potential applicant can determine that he or she has the correct version of the required form.

**TRAFFIC VIOLATOR SCHOOL BRANCH BUSINESS OFFICE/ CLASSROOM  
APPLICATION, OL 712 (Rev. 2/2011),**

This form was adopted with a revision date of 10/94 and was approved with OAL file number 94-0913-11. Amendments made to the updated form OL 712 include the following:

The fee amount is deleted from the top of the page under the document title.

The form has been divided into several sections for clarity and ease of completion. Section A provides check boxes for the applicant to indicate the modality of the course offered.

Section B provides for the disclosure of the branch office or classroom location. This information is consistent with the 10/94 revision.

Section C provides for the property use approval, and requests, by indication of check mark, whether the location meets city and county property use requirements.

Section D provides for the property data. The applicant is to indicate with the use of yes or no check boxes whether the property is owned, leased or rented and the property owner contact information. Also, the applicant is required to disclose the dimensions of the classroom and office areas. This is necessary for the department to ensure adequate spacing for classroom participants.

Section E provides for the applicant acknowledgment. This section requires the applicant to indicate specific features of the classroom necessary to ensure adequate learning facilities and reasonable access to participants with disabilities. This section contains a notice to the applicant that all no answers need to be explained on the reverse side of the form. All questions contained in this section are consistent with the questions identified on the 10/94 form.

Section F provides for the certification where the applicant will certify (or declare) under penalty of perjury under the laws of the State of California that the information contained in the form is true and correct. This certification will ensure consistency with all departmental forms and is authorized under Code of Civil Procedure section 2015.5(b).

Subsection (e) is amended to delete the time limit requirement that the department notify the applicant of the reasons that an office location did not meet department standards. At the time of an inspection, the applicant is provided with a copy of the department's inspection form which specifies what must be corrected.

#### **§345.78. Traffic Violator School Attendance.**

Subsection (a) is amended to reflect the change from a traffic violator school dismissal to a traffic violator school conviction as required by AB 2499 and to replace the term "class" with "course." AB 2499 expands traffic violator school instruction to home study and internet modalities of instruction. The use of the term course, rather than class, clarifies that this provision applies to all modalities.

Subsection (b) is amended to specify the data that must be collected from a violator to enable the traffic violator school to report completion of the course to the appropriate court. AB 2499 requires traffic violator schools to provide completion information electronically by use of a



Traffic Violator Schools  
Initial Statement of Reasons

departmental database. To ensure that the school has sufficient information to do this, substantially more information is required.

Subsections (b)(1) and (b)(2) are repealed due to lack of necessity. The purpose of those two subsections was to ensure that no major or commercial violation was dismissed or masked on a driving record.

Subsections (b)(1) through (b)(4) are adopted to establish the required data for reporting completion of a traffic violator school course. These data elements will be required to enter completion information into the database and are necessary to enable the court of jurisdiction to close the citation case.

Subsection (b)(1) is adopted to require the true full name of the violator as it appears on the persons driver license or identification card.

Subsection (b)(2) is adopted to require the actual driver license or identification card number of the violator.

Subsection (b)(3) is adopted to require the docket number of the violation.

Subsection (b)(4) is adopted to require the identifying code for the court that referred the violator to traffic violator school.

Subsection (b)(5) is adopted to provide for students who elect to take a course on their own and who are not referred by a court as part of the conviction process. Since these student will not have the citation information required by (b)(3) and (b)(4), subsection (b)(5) clarifies that the school is not required to collect that information. Instead, the school is required to mark the student record that the student elected to take the course. This is necessary to enable the department to inspect the business records and not question the missing information.

Subsection (c) is repealed due to lack of clarity. The intent of the provision was to account for students who elect to attend a course rather than being required to attend. That information is now included in subsection (b)(5).

**§345.86. Refusal to Issue, Suspension, Revocation or Cancellation of a License.**

Subsections (a), (b), and (c) contain a non-substantive amendment for consistency with other sections.

Subsections (a)(1), (b)(1) and (c)(1) are amended to provide additional clarity regarding dishonored checks. The new language adds money order and draft in addition to the existing check. These are alternative means of payment, but are processed in the same manner as a check. Adding them to these subsections clarifies that all three payment types will be treated the same way if payment is refused.

**§345.88. Monetary Penalties.**

Subsection (a) is amended to adding the word “dollars” for consistency.

Subsection (b) is amended to provide consistency with the language in subsection (c), by removing the term “penalty,” which is unnecessary in this subsection. The minimum penalty is raised from \$15 to \$100. A department review of this administrative process indicated that the administrative cost to process a monetary penalty for a violation always exceeded \$15 and is usually closer to \$100. Leaving the minimum fee at \$15 would mislead the industry, since the department would never assess a fee at the lower amount. The department would rather assess the fee based on the cost to the department as well as the severity of the school’s action.

Subsection (c) contains non-substantive amendments for consistency.

**§345.90. Voluntary or Involuntary Cessation of Business.**

This section is amended to reflect the elimination of the department’s published classroom location list.

The existing subsection (a) is repealed because it refers to published telephone numbers. This reference is to the published list, not to any other publication such as a telephone directory. Since there is no longer a published list, this subsection is no longer necessary.

Subsection (b) is renumbered as subsection (a).

Subsection (b) is adopted to specify that all traffic violator school information will be marked as invalid on the Occupation Licensing Status Information System (OL SIS) if they cease doing business. Vehicle Code section 11205, as amended by AB 2499, replaces the department’s published list of traffic violator school locations with this system to locate and obtain contact information for a traffic violator school. Because of this function of the system, traffic violator school information is not removed from the system and is simply marked invalid. Marking the information as invalid is necessary to ensure that the public can determine whether a course is still available, and whether contact information for a school is still valid.

Subsection (d) is amended for additional clarity and lets the public know that an original application will be required from a person who purchases a traffic violator school in its entirety and wants to use the existing telephone number for the school.