

Initial Statement of Reasons  
Title 13, Division 1, Chapter 1  
Article 4.7. Schools for Traffic Violators

*AUTHORITY AND REFERENCE*

The department proposes to adopt/amend/repeal these regulations under the authority granted by Vehicle Code section 1651, in order to implement, interpret, or make specific Vehicle Code sections 11202, 11202.5, 11204, 11206, 11208, 11210, 11211, and 11219.

*BACKGROUND/POLICY STATEMENT OVERVIEW*

Vehicle Code section 11202 establishes criteria an applicant must meet prior to being issued a traffic violator school owner license, including, among other things, having a school name approved by the department. Currently, the applicant is required to seek name approval using an Approval of a Traffic Violator School Name, form OL 612. Section 345.02 establishes the name approval criteria. Following the current criteria, the department will not approve a school name that contains punctuation marks or symbols, that is so similar to an existing school name that it may cause confusion, that is misleading, or contains language that offers inducements or premiums. The department is proposing to remove some approval criteria that could lead to a subjective review process and, instead, will only prohibit names that contain punctuation marks, symbols, or characters that are not used in the English language. The department has already approved schools with similar names and many school names already contain words similar to other schools, therefore, the department does not anticipate the amendments will cause confusion to potential course participants.

Vehicle Code section 11202 requires a traffic violator school owner to adhere to rules related to its business practices, including recordkeeping. Currently, school owners are required to provide the department with quarterly reports and with course evaluations completed by students. The department is amending Sections 345.30 and 345.42 to require the school to retain those documents for a period of three years rather than send them to the department.

Vehicle Code section 11206 establishes the criteria an applicant must meet prior to being issued a traffic violator school instructor license, including, among other things, passing an examination on traffic laws, safe driving practices, operation of motor vehicles, and teaching methods and techniques. In 2006, the department adopted Section 345.07 in Title 13, California Code of Regulations, establishing criteria for the administration of the traffic violator school instructor examination. Currently, section 345.07 requires the written instructor examination to be administered by the traffic violator school owner or operator. Section 345.07 also requires the traffic violator school owner to retain the completed examinations for three years and to take steps to secure the examination questions, and prevent the questions from being copied, reproduced, distributed, or shared with any person. The department is proposing to remove the requirement that the examination be administered by the traffic violator school owner or operator

and, instead, will require the instructor license applicant to take an examination that is administered by the department. Requiring examinations to be administered by the department will negate the need for a school to both retain the completed examination and ensure the integrity of the examination questions and answers.

#### 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.

#### § 345.02. Traffic Violator School Owner.

Vehicle Code section 11202 establishes the criteria a person must meet before a traffic violator school owner license can be issued by the department. The purpose of Section 345.02 is to identify the application requirements of an applicant for a traffic violator school owner's license and includes completion of an application packet, including a bond, and the identification of the primary business location and classroom locations, if applicable.

Subsection (d)(1) is amended to remove reference to the Approval of a Traffic Violator School Name, form OL 612 (REV 7/2011), as this form is obsolete. A school requests a school name electronically through the department's internet portal and the form OL 612 is no longer accepted. It is necessary to remove reference to the form to avoid potential confusion to affected parties who may attempt to locate a form that no longer exists. Subsection (d)(1) is amended to add the requirement that the owner applicant have an approved name when applying for an owner's license. Instead of the name being requested on a form and submitted to the department for review, the school owner will use the department's internet portal enter the proposed school name for approval. Subsection (d)(1) makes clear the school cannot use a name that includes punctuation marks, symbols, or letters that are not used in accordance with standard English practices. This is currently adopted in subsection (d)(1)(B)1.

Subsection (d)(1)(A) prohibits the department from approving a name that exceeds 35 characters including spaces, including any "doing business as" names. The provision is unchanged, however, the text is moved from subsection (d)(1)(A) to subsection (d)(1).

Subsection (d)(1)(B)1. prohibits names containing punctuation marks, symbols or letters not used in accordance with standard English practices. This provision is moved to subsection (d)(1) and the text is unchanged.

Subsections (d)(1)(B)2. through (d)(1)(B)4. contains name approval criteria that is repealed for lack of necessity.

Subsection (d)(1)(B)2. prohibits names that are so similar to an existing school name that it could cause confusion to the public, courts, or the department. As written, the rule is subjective and is open to interpretation as to the meaning of “too similar.” Furthermore, there are existing schools with names that are similar to other school names and the department has not refused those name configurations.

Subsection (d)(1)(B)3. prohibits names that are misleading to the public. Currently, there are several names that have been approved by the department that could be found “misleading”. For example, many school names include words such as fastest, funniest, best, and shortest. These words are used in the names of multiple schools. The department has found this rule to be unnecessarily burdensome during the department’s name approval process.

Subsection (d)(1)(B)4. prohibits names that imply the school offers inducements or premiums which derogate or distort the instruction intent of the traffic violator school program. These names are also widely open to interpretation.

The department has found these rules to be unnecessarily burdensome during the department’s name approval process and allow for the rules to be widely interpreted. For these reasons, the department has determined it necessary to remove these outdated and unnecessary provisions.

Subsection (d)(1)(C) is repealed for lack of necessity. When an applicant would submit a TVS name approval form to the department, the department would send a letter to the applicant notifying them of their approved name. The department is no longer using the name approval form as the requested name will be provided to the department electronically. The applicant will receive immediate notice of whether the name was approved, and the department will also have record of the approved name as the transaction is completed through the department’s internet portal. The rule requiring the department to notify the applicant of the approved name is no longer necessary.

Subsection (d)(1)(D) is repealed to remove reference to the form OL 612. This subsection also identifies submission requirements that are exclusive to the form. The form is obsolete making all the provision in this subsection unnecessary.

#### § 345.06. Traffic Violator School Instructor.

Vehicle Code section 11206 establishes the criteria a person must meet before a traffic violator school instructor license can be issued by the department. The purpose of Section 345.06 is to establish the requirements of a traffic violator school instructor, including completion of an application, a personal history questionnaire, submission of fingerprints, and successful completion of an instructor examination.

Subsection (e)(5) is amended to remove the word “written.” Instructor examinations are administered by the department and could be administered in a written format or electronically. This amendment is necessary to accurately reflect the examination format.

#### § 345.07. Traffic Violator School Instructor Examination Requirements.

Vehicle Code section 11206 requires a traffic violator school instructor to successfully complete an examination on traffic laws, operation of motor vehicles, and teaching methods and techniques. The purpose of Section 345.07 is to establish examination requirements including the number of questions on an examination, the passing score, re-taking a failed examination, and rules related to maintaining the security of test questions.

Subsection (a) is repealed to ensure the rules are consistent with current department procedures. Instructor examinations are no longer administered by the traffic violator school owner. This change is necessary to prevent circumstances where a school would have an unfair bias if administering the exams to its own instructors. The department has determined that implementing an electronic examination process will establish equity for instructor applicants and provide reliable test results for the department.

Subsection (b) is renumbered to subsection (a). The rule is unchanged.

Subsections (c) through (f) are removed as they either reference the written examination or reference a requirement that the traffic violator school retain the examinations that were administered by the school. Instructor examinations could be administered electronically or in written format, making the repeal of subsection (c) necessary. The instructor examinations will also be administered by the department and will no longer be administered by the traffic violator school. This change makes subsections (d), (e), and (f) unnecessary as they establish requirements of a traffic violator school to ensure completed examinations are retained, require steps to be taken to secure examination questions, and, and prevent the distribution of examinations questions. The repeal of subsections (d) through (f) are necessary as they reference requirements that no longer exist.

Subsection (g) is renumbered to subsection (b) and removes reference to a traffic violator school owner or operator and replace with reference to the applicant. Rather than the traffic violator school owner or operator conducting the instructor examination, the department will administer all instructor examinations. The department has determined this necessary to reduce instances of fraudulent examinations and ensure the integrity of the examination questions, answers, and testing process.

#### § 345.13. Additional Instructor License.

An instructor shall be licensed separately for each school by which he is employed in the capacity of instructor, except as provided for in Vehicle Code section 11206(c). To be licensed for an additional school, the instructor shall meet all the requirements for an original license pursuant to Section 345.06, except for submission of a fingerprint card. In addition to meeting the requirements of Section 345.06, the applicant shall:

Subsection (b) is amended to remove the word “written.” Instructor examinations will be administered by the department and provided in either a written format or electronically. This amendment is necessary to ensure regulations related to instructor examinations are reflective of the department’s current processes.

#### § 345.18. Changes to Owner License.

The purpose of Section 345.18 is to identify the reasons for which a traffic violator school owner is required to inform the department of changes.

Subsection (a)(1) is amended to remove the requirement that a school submit to the department a written request for a name change and, instead, requires the school to obtain an approved school name through the process outlined in Section 345.02(d)(1). This provision is necessary to ensure a school that is changing its name follows the appropriate process.

Subsection (a)(2) is repealed. This subsection required the department to notify the school of the approval or disapproval of the requested school name. Because school names will be applied for electronically, the department will not be notifying the school of an approved or disapproved name.

Subsection (a)(3) is renumbered to subsection (a)(2) and subsection (a)(2)(A) is amended to make a non-substantive correction to replace the misspelled word ‘herby’ with the word ‘hereby.’

#### § 345.30. Curriculum Content.

Vehicle Code section 11202 requires a traffic violator school to conform to rules adopted by the department establishing standards for each instructional modality, including the course curriculum. The purpose of Section 345.30 is to identify the curriculum requirements a traffic violator school is required to include in their class instruction.

Subsection (d)(3)(C) is amended to require the traffic violator school to retain the completed student evaluations for three years from the date the course was completed and to make the evaluations available to the department upon request. This provision is necessary to ensure the traffic violator school is retaining the course evaluation sheets as a business record for three years, which is consistent with the retention of other business documents within the traffic violator school program and is also necessary to ensure the department has access to the evaluations sheets if a review is needed.

Subsections (d)(3)(D) and (d)(3)(E) are renumbered to (d)(3)(C) and (d)(3)(D), respectively.

Subsection (d)(4) is amended to remove the requirement that a traffic violator school submit the quarterly report on a quarterly basis. Instead, the traffic violator school will maintain the documents with other business documents and make them available to the department upon

request. Subsection (d)(4) is further amended to include a citation to Section 345.56(b) that requires each school to maintain a copy of each quarterly report for a minimum of three years.

Subsections (f)(2)(C)(1) through (f)(2)(C)(6) are renumbered to subsections (f)(2)(C)(i) through (f)(1)(C)(vi). There are no changes to the regulatory text.

#### § 345.42. Quarterly Reporting of Traffic Violator School Activity.

Vehicle Code section 11213 authorizes the department to require a person licensed in the traffic violator school program to submit additional reports as determined necessary by the department. This section is being repealed in its entirety.

Subsection (a) required a school to report activity on a TVS Quarterly Report, form OL 850. This requirement is already addressed in Section 345.30(d)(4). Subsection (b) identifies the calendar quarter for which a new school will begin reporting. The form OL 850 is comprehensive enough that a separate regulation is not necessary. Subsection (c) requires the forms to be submitted to the department's headquarters location on or before the 30<sup>th</sup> calendar day of the month following when classes were conducted. The department is no longer requiring schools to transmit the completed OL 850 forms to the department. Schools are required to retain the forms for a period of three years, as required by Section 345.56(b).

#### § 345.56. Business Records.

The purpose of Section 345.56 is to identify the documents a traffic violator school is required to keep as a part of its business records and the retention period of those business records.

Subsection (b) is amended to remove reference to section 345.42 as this action repeals that section and update with reference to Section 345.30(d)(4), the section that requires quarterly reports to be retained.

#### 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 businesses.

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

- This regulation will not have a significant adverse economic impact on businesses. This action allows additional service methods for certain driver's license transactions. None of the provisions are related to businesses.

#### 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.

##### 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.

##### 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 will not impact small businesses. The proposed amendments make changes to school recordkeeping practices, but the department does not anticipate the amendments are so great that they will have any impact on a small business.

##### Potential significant statewide adverse economic impact

- The department does not anticipate a significant statewide adverse economic impact, nor would the provisions impact businesses or California's ability to compete with other businesses.

## 8ECONOMIC 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

This action will not impact the creation or elimination of jobs within California. The proposed amendments amend recordkeeping provisions and re-route the location of the instructor examinations. None of the provisions in this proposed action are so significant that they will cause the creation or elimination of jobs within any traffic violator schools.

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

This action will not impact the creation or elimination of existing businesses within California. The proposed amendments amend recordkeeping provisions. None of the provisions in this proposed action are so significant that they will cause the creation or elimination of any traffic violator school businesses.

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

This action will not impact the expansion of businesses currently doing business in California. The proposed amendments amend recordkeeping provisions. None of the provisions in this proposed action are so significant that they are likely to expand any businesses.

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

This action will benefit traffic violator schools by reducing their requirement to provide testing for their potential instructors and will benefit the welfare of California residents by placing the instructor testing requirements on the department who can ensure the examinations are administered in a manner that ensures the integrity of the exam questions. Centralized testing procedures will benefit the welfare of California residents by ensuring the most knowledgeable applicants are licensed to instruct course participants. The department does not anticipate benefits to the health of California residents, worker safety or the state's environment.