

Date of Hearing: April 1, 2019

**ASSEMBLY COMMITTEE ON TRANSPORTATION**

Jim Frazier, Chair

AB 708 (Frazier) – As Amended March 25, 2019

**SUBJECT:** Traffic violator schools

**SUMMARY:** Limits the list of traffic violator schools (TVSs) generated by the Department of Motor Vehicles (DMV) and provided by courts to only include one TVS per affiliated schools and place cyber security requirements on TVSs. Specifically, **this bill:**

- 1) Limits the list of TVSs to one per affiliated school.
- 2) Defines “affiliated traffic violator schools” as two or more TVSs that meet any of the following characteristics:
  - a) Are co-located at the same street address, or share common physical space,
  - b) Use a common computer network or service,
  - c) Share employees, staff or telephone services, or
  - d) Have shared or common ownership, shared assets, shared revenue, or other shared financial interests.
- 3) Requires DMV to require all applicants for a TVS license to disclose, under penalty of perjury, if they are applying to operate a standalone TVS or an affiliated TVS.
- 4) Requires a TVS to disclose the name of every school that the applicant is operating or is applying to operate which is an affiliated TVS.
- 5) Provides that if a TVS owner or applicant fails to disclose all of their affiliated TVSs, their license will be revoked for all affiliated TVSs for one year, and a five year revocation for each subsequent violation.
- 6) Requires DMV to adopt regulations to ensure that TVS protect the confidentiality and security of the personal information of all persons participating in TVSs.
- 7) Requires DMV to consult with the Department of Technology to ensure that DMV regulations and guidelines meet or exceed the National Institute of Standards and Technology framework for Cyber Security.
- 8) Requires individually licensed TVSs to have cyber security practices that are certified by an accredited third party verification entity approved by DMV.

**EXISTING LAW:**

- 1) Requires DMV to license TVS to provide traffic safety instruction, either to those who elect to attend or to those who are required to attend for a violation of the vehicle code.

- 2) Provides that completion of TVS may result in the removal of a negligent operator point in certain circumstances.
- 3) Requires TVSs to maintain an established place of business in the state that is open to the public.
- 4) Requires TVSs to procure and file with DMV a bond of \$15,000 for home study schools and \$2,000 for classroom-based schools.
- 5) Requires TVSs to have a lesson plan approved by DMV.
- 6) Allows a person to be an operator for more than one TVS if the schools have a common owner or owners and the schools share a single established business address.
- 7) Requires DMV to provide a list of licensed TVSs on its web site and requires the sequential order of that list to be randomized daily.
- 8) Requires a court to provide a hard copy list of licensed TVSs provided from the randomized DMV list.

**FISCAL EFFECT:** Unknown

**COMMENTS:** DMV is required to create a randomized list of all TVSs on a daily basis, and that list is provided to violators who wish to take TVS to eliminate a negligent operator point. The list can also be found on DMV's website.

Many operators have attempted to manipulate the system by creating thousands of TVSs 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 TVSs are controlled by five owners, or 74% of the California market. One of these groups, the Maynard Group, controls around 1,300 of the licensed TVSs, or 47% of the market.

This bill intends to end the gaming of the list by only allowing one school per affiliated schools to be provided on the randomized DMV list. It requires a self-certification of all TVSs that are affiliated with one another, and provides that only one school per affiliated schools be provided on the randomized list. It is unclear how DMV will verify the self-certifications of affiliated TVSs, or what process DMV will be required to take if a third party challenges a certification. If DMV finds that an affiliated TVS failed to correctly self-certify, all TVSs controlled by the affiliated TVS will have their licenses revoked for a year, or five years for each subsequent violation.

This bill also seeks to improve the cyber security of TVSs by requiring them to meet minimum cyber security requirements established by the National Institute of Standards and Technology, a division of the United States Department of Commerce. This may require substantial regulatory work to be done by DMV, in consultation with the Department of Technology, to establish minimum guidelines for cyber security.

There has been some question as to the value of TVSs for keeping California roads safe. DMV studies have concluded that drivers who attend a TVS are more likely to reoffend because the consequences of violating the rules of the road are delayed, as completing TVS can result in someone having a negligent operating point removed from their license.

DMV can assess negligent operator points for a variety of driving violations, including illegal U-turns, interfering with a driver's control of a vehicle, failing to yield the right-of-way to a horseback rider, driving too slow, driving too fast, failing to signal while turning, crossing a double line, or driving more than 10 consecutive hours for compensation. The vast majority of negligent operator points are issued for moving violations. If a person received a certain number of negligent operator points, DMV can deem the driver a negligent operator and suspend their driver's license.

An individual is considered a negligent operator if they receive 4 or more points in 12 months, 6 in 24 months, or 8 in 36 months. In addition, a minor may receive a 30-day restriction on their license for 2 points in 12 months, or a suspension for 3 points in 12 months. Commercial drivers are allowed to receive 2 additional points, however a violation received while using a commercial vehicle carries 1.5 times the point count normally assessed. With the exception of DUIs, points remain on your record for a total of 36 months.

Points do not stack up per arrest, and whatever violation has the highest amount of points will be the number of points assessed. For example, if a driver were pulled over for both speeding and texting, the driver would only get 1 point if convicted of both violations, not one point for each violation.

Further, for individuals with a noncommercial class C license or a motorcycle license, a court may provide for an individual the option to attend TVS and avoid having a point put on their license. Individuals with a commercial license can opt to take TVS if they received the violation while driving a vehicle that does not require a commercial license.

*Committee comments:* Last year Governor Brown vetoed almost every bill that would have resulted in increased operational costs to DMV. The Legislative Analyst's Office predicts the Motor Vehicle Account (MVA), which accounts for 95% of DMV funding, will become insolvent by 2021-2022.

Last year there was a noticeable uptick in wait times at DMV. As a result, DMV began reporting monthly numbers on wait times to the Joint Legislative Budget Committee. In the last week of July of 2018, DMV reported that the average wait time for non-appointment customers was two hours and ten minutes. The top 20 most impacted DMV field offices saw average wait times of three hours and 21 minutes.

DMV attributes much of the increase in wait times to compliance with the Federal REAL ID Act of 2005, which requires in-person verification for a state issued driver's license or identification cards in order for a person to fly domestically or enter a federal building. While individuals traditionally only have to renew their state issued driver's license in person once every 15 years, individuals who wish to fly domestically have between January 2018 and October 2020 to renew in person, regardless of when their driver's licenses expire.

DMV began to hire significantly more staff as a result of the increase in wait times. Between July 1, 2018 and December 31, 2018, DMV made 946 civil service appointments, 680

emergency hires, and hired 141 retired annuitants. DMV made several technological changes as well, including allowing individuals to electronically fill out their information either online or while waiting for their appointment. These actions have sped up transactions.

By January, the statewide average wait time for those without an appointment dropped to 57 minutes and the top 20 offices saw an average wait time of 95 minutes. DMV has set a goal of reducing their average wait times to 45 minutes for those without an appointment, and 15 minutes for those with an appointment. So far DMV has not met that goal.

In addition, Governor Brown initiated an audit of DMV currently being conducted by the Department of Finance. Governor Newsom has indicated he will continue the audit, and announced on January 10, 2019 that a DMV Strike Team would be formed to look at reforms to DMV. These reforms are aimed at making DMV more customer friendly while also reducing wait times.

In light of Governor Newsom's reform efforts of DMV and the impending insolvency of the MVA, the Legislature may want to consider if now a good time to increase operational costs to DMV.

*Related legislation:*

AB 2499 (Portantino) Chapter 599, Statutes of 2010, consolidated the licensing of all TVSSs under the authority of DMV.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

The Distance Learning Company

**Opposition**

None on file.

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