

RESOLUTION 09-04-2018 – AS AMENDED

DIGEST

Traffic: Eliminates Fine, Plea and Misdemeanor Punishment for Not Completing Traffic School
Amends Vehicle Code section 42005 to eliminate fine, bail and guilty plea for traffic citations and decriminalizes the willful failure not to complete traffic school when ordered by the court.

STATEMENT OF REASONS

The Problem: The benefit of traffic school is that the traffic violation does not appear on a person's driving record, thus not causing insurance to increase. But the Legislature turned this into a profit-making endeavor, requiring a guilty or no-contest plea plus the payment of a fine (including all penalties and assessments). This means a \$100 base fine actually amounts to around \$500. This is simply gouging the motorist to enrich the court, county, and city. It is startling that when a person fails to complete traffic school the person can be charged with a misdemeanor! Really, putting a person with a speeding ticket in jail for up to six months for not completing school? Unconscionable.

The Solution: Traffic school should be pre-plea, without the requirement of an involuntary guilty or no-contest plea and payment of a fine. That's what this resolution does. The resolution does not allow the motorist to skate out of a conviction if they flunk traffic school. A conviction is entered and insurance will be negatively impacted. The resolution also eliminates the possibility of a prosecution for failing to complete traffic school, which is a ridiculous punishment. The punishment is the impact upon the license (negligent driving points) plus increased insurance costs.

TEXT OF RESOLUTION

RESOLVED that the Conference of California Bar Associations recommends that legislation be sponsored to amend Vehicle Code section 42005 to read as follows:

1 § 42005
2 (a) Except as otherwise provided in this section, ~~after a deposit of the fee under~~
3 ~~Section 42007 or bail, a plea of guilty or no contest, or a conviction,~~ a court may order or
4 permit a person who holds a noncommercial class C, class M1, or class M2 driver's
5 license who ~~pleads guilty or who pleads no contest or who is convicted of~~ has been
6 charged with a traffic offense to attend a traffic violator school licensed pursuant to
7 Chapter 1.5 (commencing with Section 11200) of Division 5. Notwithstanding Sections
8 42007 or 42007.1, no court may require a person to post bail, pay a fine, or plead guilty
9 or no contest, to a traffic offense as a precondition of attending traffic school. A person
10 who fails to complete traffic school within the time allowed by the court shall have a
11 conviction for the charged offense(s) entered upon the person's driving record. A person
12 who fails to complete traffic school pretrial shall not have a trial once traffic school is
13 terminated without having been completed. A person who has been found guilty after a
14 traffic trial may be ordered to pay a fine for the underlying conviction as a condition of
15 being allowed to attend post-trial traffic school pursuant to Sections 42007. A person
16 attending traffic school may be assessed a fee determined by the department to be

17 sufficient to defray the cost of routine monitoring of traffic violator school instruction.
18 (b) To the extent the court is in conformance with Title 49 of the Code of Federal
19 Regulations, and except as otherwise provided in this section, the court may, after deposit
20 of the fee under Section 42007 or bail, order or permit a person who holds a class A, class
21 B, or commercial class C driver’s license, who pleads guilty or no contest or is convicted
22 of a traffic offense, to complete a course of instruction at a licensed traffic violator school
23 if the person was operating a vehicle requiring only a class C license, or a class M
24 license. The court may not order that the record of conviction be kept confidential.
25 However, the conviction shall not be added to a violation point count for purposes of
26 determining whether a driver is presumed to be a negligent operator under Section
27 12810.5.
28 (c) The court shall not order that a conviction of an offense be kept confidential
29 according to Section 1808.7, order or permit avoidance of consideration of violation point
30 counts under subdivision (b), or permit a person, regardless of the driver’s license class,
31 to complete a program at a licensed traffic violator school in lieu of adjudicating an
32 offense if any of the following applies to the offense:
33 (1) It occurred in a commercial motor vehicle, as defined in subdivision (b) of
34 Section 15210.
35 (2) Is a violation of Section 20001, 20002, 23103, 23104, 23105, 23140, 23152,
36 or 23153, or of Section 23103, as specified in Section 23103.5.
37 (3) It is a violation described in subdivision (d) or (e) of Section 12810.
38 (d) A person ordered to attend a traffic violator school pursuant to subdivision (a)
39 or (b) may choose the traffic violator school the person will attend. The court shall
40 provide to each person subject to that order or referral the department’s current list of
41 licensed traffic violator schools.
42 (e) ~~A person who willfully fails to comply with a court order to attend traffic~~
43 ~~violator school is guilty of a misdemeanor.~~ A person convicted of a misdemeanor
44 violation of this Code who is ordered by the court to attend traffic violator school, which
45 may be in addition to any other penalty imposed by the court, who willfully fails to
46 comply with the court’s order, is guilty of an infraction.

(Proposed new language underlined; language to be deleted stricken)

PROPONENT: Los Angeles County Bar Association

IMPACT STATEMENT

This resolution does not affect any other law, statute or rule other than those expressly identified.

CURRENT OR PRIOR RELATED LEGISLATION

None known.

AUTHOR AND/OR PERMANENT CONTACT: Mark Harvis, Los Angeles County Public Defender, 320 W. Temple Street, Suite 590, Los Angeles, CA 90012, phone: 213-974-3066, e-mail: mharvis@pubdef.lacounty.gov

RESPONSIBLE FLOOR DELEGATE: Mark Harvis

