

RESOLUTION 07-10-05

DIGEST

Motor Vehicles: Traffic Violator Schools

Amends Vehicle Code section 41501 to permit attendance at traffic school every twelve months, and to make attendance the option of the licensee.

RESOLUTIONS COMMITTEE RECOMMENDATION

APPROVE IN PRINCIPLE

History:

No similar resolutions found.

Reasons:

This resolution amends Vehicle Code section 41501 to permit attendance at traffic school every twelve months, and to make attendance the option of the licensee. This resolution should be approved in principle because once every twelve months is a more reasonable limit on attendance, and because the policies for allowing traffic violators to attend traffic schools should be uniform.

Traffic schools have become a viable way to remediate violations while keeping one's driving record free from minor violations that can affect insurance costs. However, under the current system, violators generally have the right to attend traffic school no more frequently than once every eighteen months. The court can grant permission to attend traffic school for a violator who has not attended traffic school within the preceding twelve months. However, these matters are up to the court's discretion, and there is inconsistency among courts (and even certain judges within the same court) as to the willingness to grant such permission. Moreover, some courts and judges, as a matter of practice, refuse to allow some violators to attend traffic school at all. These practices vary from one county or judge to another, meaning that a driver's ability to protect his or her driving record is often a matter of luck.

Traffic violations can cause detrimental effects on a driver's insurance rates for up to three years after conviction. With the ever-increasing costs of auto insurance, the economic impact of a conviction going onto a driver's record can be substantial. In light of these effects, as well as the general purpose of traffic school as an alternative for drivers, there is no reason to limit attendance at traffic school to once every eighteen months. There is even less basis to prevent particular drivers from attending traffic school at all for no other reason than they happened to commit a violation in one county as opposed to another.

TEXT OF RESOLUTION

RESOLVED, that the Conference of Delegates of California Bar Associations recommends that legislation be sponsored to amend Vehicle Code section 41501 as follows:

- 1 § 41501
- 2 (a) The court may order a continuance of a proceeding against a person, who receives a
- 3 notice to appear in court for a violation of any statute relating to the safe operation of a vehicle, in
- 4 consideration for attendance at a licensed school for traffic violators, a licensed driving school, or any
- 5 other court-approved program of driving instruction, and, after that attendance and pursuant to
- 6 Section 1803.5 or 42005, the court may dismiss the complaint ~~under the following conditions:~~
- 7 ~~(1) If if the offense is alleged to have been committed within 12 months of another offense~~
- 8 ~~that was dismissed under this section, the court may order the continuance and, after the~~
- 9 ~~attendance, dismiss the complaint.~~ The court may order attendance at a licensed school for traffic
- 10 violators that offers a program of at least 12 hours of instruction.
- 11 ~~(2)(b) Upon the request of any person who receives a notice to appear in court for a~~
- 12 ~~violation of any statute relating to the safe operation of a vehicle, the court shall order a continuance~~
- 13 ~~of a proceeding against that person in consideration for attendance at a licensed school for traffic~~
- 14 ~~violators, a licensed driving school, or any other court-approved program of driving instruction, if the~~
- 15 ~~offense is not alleged to have occurred within 48~~ 12 months of another offense that was dismissed

16 under this section, ~~the court may order the continuance and, after the attendance and pursuant to~~
17 Section 1803.5 or 42005, the court shall dismiss the complaint ~~if the attendance is at any of the types~~
18 ~~of schools or programs that the court directed pursuant to Section 42005 at the time of ordering the~~
19 ~~continuance.~~
20 ~~(b)~~ (c) This section shall become operative on September 20, 2005.

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

PROPONENT: Bar Association of San Francisco

STATEMENT OF REASONS

Existing Law: Permits a person to attend traffic school in lieu of conviction for a traffic offense no more frequently than every eighteen months, and subjects the person's ability to attend traffic school to the court's discretion.

This Resolution: Would allow traffic violators the option to attend traffic school every twelve months at their request.

The Problem: Traffic school is an effective way to educate drivers and allow them to keep points off their license. In too many instances, however, local courts refuse to allow violators to attend traffic school, or refuse to allow any drivers to attend more often than every eighteen months. There is often no rhyme or reason to local vagaries; certain courts look favorably upon traffic schools, while others discourage attendance every chance they get. This results in unnecessary costs and burdens being imposed on drivers, and creates a system where a motorist cannot count on getting the same treatment from one county to another.

Traffic school is such a widespread and accepted practice that it ought to be uniformly applied. There is a great need for consistent practices throughout the state. This resolution would make the present system more fair and consistent.

In accordance with CDCBA rules, BASF timely offers this resolution for consideration. Consistent with traditional CDCBA practice, the Proponent reserves the right to timely withdraw or amend the resolution.

IMPACT STATEMENT

This resolution would not affect any other statute, rule, or law.

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COUNTERARGUMENT

SANTA CLARA COUNTY BAR ASSOCIATION

We oppose this resolution for two reasons. First, in the guise of promoting statewide uniformity, the resolution completely changes the law by requiring the court to order traffic school for any eligible person who requests it. (See lines 11-12). This completely eliminates judicial discretion. Thus, an eligible person doing 80 mph in a 25 mph zone past a school in session would have to be given traffic school upon their request - even if they had three prior speeding convictions.

Second, we oppose changing the eligibility requirements for Level 1 traffic school by reducing the time between offense dates from 18 months to 12 months. (See line 15) No reason is given for shortening this time period nor is any mention made of Level 2 traffic school which is available to those who are not eligible for Level 1. (Successful completion of Level 1 keeps the point off your driving record and it is confidential. Successful completion of Level 1 keeps the point off your driving record but is not confidential.)