



Judicial Council of California

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March 27, 2009

Hon. George Runner
Member of the Senate
State Capitol, Room 5097
Sacramento, California 95814

Subject: SB 210 (Runner), as introduced - Support

Dear Senator Runner:

The Judicial Council supports SB 210, which consolidates all traffic violator school (TVS) programs under the licensing authority of the Department of Motor Vehicles (DMV). Briefly, the bill would:

- Consolidate the existing licensing program to incorporate court-approved home study programs under DMV in addition to the brick and mortar programs currently licensed by DMV;
- Eliminate the court system's involvement in approving, auditing, monitoring, overseeing, or otherwise regulating the TVS industry;

- Provide DMV the authority to establish an administrative fee to be collected from the TVS attendee to support the expanded program;
- Require courts to transmit to DMV abstracts of judgment for convictions of traffic violations rather than the court dismissing the case upon completion of the TVS program; and
- Allow DMV to use third-party contractors to conduct some of the monitoring of the TVS program.

The Traffic Advisory Committee and the Joint Legislation Working Group of the Trial Court Presiding Judges Advisory Committee and the Court Executives Advisory Committee recommend that the Judicial Council support SB 210, as proposed to be amended (see amendments attached). The provisions to be amended into SB 210 effectively implement the goals the Judicial Council supported in 2007 of ensuring meaningful statewide regulation of an industry, and relieving the judicial branch of its well-intended, but misplaced, role in attempting to ensure quality TVS programs for court users in the absence of statewide regulation. It is critical to maintain the distinction between executive branch and judicial branch functions, especially as courts struggle with scarce resources. SB 210 would properly place the regulation of the TVS industry with the executive branch.

SB 210 brings consistency to the TVS licensing requirements, while giving DMV the ability to ensure that all components of the TVS process are designed to improve traffic safety in California.

The Judicial Council supported AB 758 (Plescia), Stats. 2007, ch. 396, a bill that required DMV to submit a report to the Legislature containing a comprehensive plan with specified components by which the licensing of all driving instruction programs offered to traffic violators may be consolidated under the authority of the department. In its letter requesting the Governor's

signature on AB 758, the council expressed its strong support for the concept of assigning DMV full regulatory oversight of the traffic violator school industry, writing:

The traffic violator school industry has expanded over the years to include various means of home study, including Internet, video, and workbook programs.

Existing law requires the DMV to regulate classroom-based programs, but not home study programs.

In the absence of DMV oversight, courts have been left to respond to complaints about the quality of the home study programs. As the home study option has become more popular, courts have struggled to fill the regulatory void by developing their own criteria for approving, monitoring, and essentially regulating home study programs offered to traffic violators, rather than denying a traffic violator the convenience of the home study option.

The result is a patchwork of judicial branch "regulatory" schemes around the state. While courts have felt compelled to fill this gap, regulation of an industry is an Executive Branch function. AB 758 appropriately assigns regulatory responsibility to the DMV. The council believes that the home study programs are in desperate need of a uniform statewide regulatory scheme, and supports the concept of relieving the judicial branch of the responsibility.

Following enactment of AB 758, several Judicial Council representatives participated in four day-long meetings of the DMV workgroup formed to carry out the bill's charge.

In fall 2008, Governor Schwarzenegger released the final DMV report to the Legislature, "The Regulation of Traffic Violator Schools in the State of California" (available upon request). SB 210 will be amended to contain the statutory amendments necessary to implement the report recommendations.

Of particular interest to the judicial branch are the following provisions:

- Regulatory responsibility for overseeing the entire TVS industry would be assigned to DMV;
- DMV would establish fees to be imposed on the TVS licensing activities to defray the actual cost to administer the TVS program, and fees to be imposed on the traffic violator to defray the actual cost for routine monitoring of TVS instruction.
- Courts would transmit to DMV the abstract of judgment showing the conviction, and DMV would subsequently "mask," or make confidential, that conviction upon receipt of proof of completion of the licensed TVS course. This will improve compliance with existing law limiting the masking of a traffic violation following completion of a traffic violator school to once within 18 months; and
- The court's authority to contract with a court assistance program (CAP) for traffic case management services provided in the court, including services relating to the processing of traffic violators at the court, would remain intact.

For these reasons, the Judicial Council supports SB 210.

Sincerely,

June Clark
Senior Attorney

JC/yt

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