

**State of California
Office of Administrative Law**

In re:
California Highway Patrol

Regulatory Action:

Title 13, California Code of Regulations

Adopt sections: 1213.3
Amend sections: 1213, 1234
Repeal sections:

NOTICE OF APPROVAL OF REGULATORY
ACTION

Government Code Section 11349.3

OAL Matter Number: 2023-0918-01

OAL Matter Type: Regular (S)

This action adopts and incorporates by reference the Federal Motor Carrier Safety Regulations (FMCSR) at 49 C.F.R. Part 395, Subpart B, to require a qualifying motor carrier to use an Electronic Logging Device (ELD) to record an intrastate driver's record of duty status (RODS) and hours of service (HOS).

OAL approves this regulatory action pursuant to section 11349.3 of the Government Code. This regulatory action becomes effective on 1/1/2024.

Date: October 30, 2023



Digitally signed by Mark
Storm
Date: 2023.10.30 12:52:52
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Mark Storm
Senior Attorney

For: Kenneth J. Pogue
Director

Original: Sean A. Duryee, Commissioner
Copy: David Kelly

DEPARTMENT OF THE CALIFORNIA HIGHWAY PATROL

Adopted Regulation Text

Title 13, California Code of Regulations, Division 2, Chapter 6.5, Article 3, Amend Section 1213, Add Section 1213.3, and Article 6, Amend Section 1234

Electronic Logging Devices for Intrastate Motor Carriers and Drivers (CHP-R-2018-09)

Existing Text:Times New Roman 12 point font.

Additions:Times New Roman 12 point font with single underline.

Deletions:Times New Roman 12 point font with strikethrough.

1213. Driver's Record of Duty Status.

(a) ~~Carrier responsibility~~Responsibilities. Except as provided in subsection (b), every motor carrier ~~shall require every intrastate driver, as defined in Section 1201 of this chapter, used by the motor carrier to record his/her duty status~~shall be required to maintain a record-of-duty status (RODS) for each 24-hour period using the methods prescribed in either paragraphs (a)(1) or (a)(2) of this section. Every motor carrier shall require every interstate driver, as defined in Section 1201 of this chapter, used by the motor carrier to record his/her duty status for each 24-hour period using the methods prescribed in paragraph (a)(4) of this section. The RODS shall be presented for inspection immediately upon request by any authorized employee of the department, or any regularly employed and salaried police officer or deputy sheriff.

(1) Effective January 1, 2024, a motor carrier operating commercial motor vehicles shall install and shall require each driver to use an Electronic Logging Device (ELD) to record the driver's RODS. Use of an ELD shall meet the requirements of Section 1213.3. Other requirements of Section 1213 shall not apply to an ELD, except subsections (a), (f), (k) and (l).

(2) When the use of an ELD is not required pursuant to the conditions of paragraph (a)(3), a driver's RODS may be documented as prescribed in subparagraphs (a)(2)(A) or (a)(2)(B). Nothing in this paragraph is intended to exempt motor carriers or drivers subject to this chapter from maintaining RODS in the event an ELD is not required.

(A) Every driver manually recording their RODS using a paper logbook shall record his/her their duty status RODS, in duplicate, for each 24-hour period. The duty status RODS time shall be recorded on a specified grid, as shown in paragraph subsection (h) of this section. The grid and the requirements of paragraph subsection (e) of this section may be combined with any company forms. The previously approved format of the Daily Log, Form MCS-59 or the

~~Multiday Log, MCS 139 and 139A, which meets the requirements of this section, may continue to be used.~~

~~(B) Every driver shall record recording his/her their duty status RODS by using an automatic on-board recording device or electronic logging software that meets meeting the requirements of Section 1213.2 or Section 1213.3. The Other requirements of Section 1213 shall not apply, except paragraphssubsections (a), (f), (k) and (l).~~

~~(3) The record shall be presented for inspection immediately upon request by any authorized employee of the department, or any regularly employed and salaried police officer or deputy sheriff.~~

(3) ELD not required. Drivers meeting any one of the following conditions shall record their RODS in accordance with the provisions of paragraph (a)(2).

(A) The driver is operating a commercial motor vehicle in a manner requiring completion of a RODS on not more than 8 days within any 30-day period.

(B) The driver is in a driveaway-towaway operation, as defined in Section 303 of the Vehicle Code, in which the vehicle being driven is part of the shipment being delivered.

(C) The vehicle being driven was manufactured before model year 2000, as reflected in the vehicle identification number (VIN) and as shown on the vehicle's registration.

(D) The motor carrier, driver, or vehicle is subject to federal regulatory guidance, a waiver, or an exemption issued by the Federal Motor Carrier Safety Administration pursuant to Part 395, Title 49, Code of Federal Regulations (CFR), which specifically exempts the use of an ELD.

~~(4) Interstate drivers, as defined in Section 1201 of this chapter, shall comply with driver record of duty status requirements contained in Title 49, Code of Federal Regulations, Part 395, as those regulations exist in the October 1, 2017 edition, which is herein incorporated by reference. Notwithstanding Title 49, CFR, Section 395.20(a), intrastate drivers, as defined by Section 1201 of this chapter, shall comply with hours-of-service regulations pursuant to Section 1212 and 1212.5, of this chapter.~~

(b) Exceptions. A driver's ~~record of duty status~~RODS is not required for drivers of the following vehicles, provided documentation of their total days worked and time of reporting on and off duty each day, is maintained by the motor carrier for six months:

(1) Vehicles owned and operated by any forestry or fire department of any public agency or fire department organized as provided in the Health and Safety Code.

(2) Vehicles, owned and operated by local law enforcement agencies, which are engaged in the transportation of inmates or prisoners within the county where the agency is located.

(3) The vehicle is an Authorized Emergency Vehicle as defined by Section 165 of the Vehicle Code.

(4) A vehicle being operated by a driver who is operating pursuant to Subsection 1212(e).

(c) Duty status. The ~~duty status~~ RODS shall be recorded as follows:

(1) "Off duty" or "OFF."

(2) "Sleeper berth" or "SB" (only if a sleeper berth used).

(3) "Driving" or "D."

(4) "On-duty not driving" or "ON."

(d) Location of change of duty status. For each change of duty status (e.g., the place of reporting for work, starting to drive, on-duty not driving, and ~~where~~ location released from work), the name of the city, town, or village, with State abbreviation, shall be recorded.

~~Note: If a change of duty status occurs at a location other than a city, town, or village, show one of the following: (1) The highway number and nearest milepost followed by the name of the nearest city, town, or village and State abbreviation, (2) the highway number and the name of the service plaza followed by the name of the nearest city, town, or village and State abbreviation, or (3) the highway numbers of the nearest two intersecting roadways followed by the name of the nearest city, town, or village and State abbreviation.~~

(e) Required information. The following information must be included on the form in addition to the grid:

(1) Date;

(2) Total miles driving today;

(3) Bus, truck or tractor, and trailer number;

(4) Name of carrier;

(5) Driver's signature/certification;

(6) 24-hour period starting time (e.g., midnight, 9:00 a.m., noon, 3:00 p.m.);

(7) Main office address;

(8) Remarks;

(9) Name of co-driver;

(10) Total hours (far right edge of grid);

(11) Shipping document number(s), or name of shipper and commodity.

(f) Incomplete or false records. No motor carrier shall allow or require, and no driver shall prepare, or submit, or certify, a record of duty status RODS which is are not true and accurate. Failure to complete and maintain the record of duty activities of this section, RODS or Section 1213.2, failure to preserve a record of such duty activities, or making of false reports in connection with such duty activities or falsifying RODS required by this section shall make the driver and/or the carrier liable to prosecution.

(g) ~~Driver responsibility. The driver's~~ Driver's activities shall be recorded in accordance with the following provisions:

(1) Entries to be current. Drivers shall keep their ~~record of duty status~~ RODS current to the time shown for the last change of duty status.

(2) Entries made by driver only.

(A) Driver not using an ELD. All entries relating to driver's duty status RODS pursuant to subparagraph (a)(2)(A) must shall be completed by the driver, be legible and in the driver's own handwriting. All entries pursuant to subparagraph (a)(2)(B), shall be entered and certified by the driver.

(B) Driver using an ELD. All drivers shall have a unique user account assigned by the motor carrier and all entries related to their RODS shall be entered and certified by the driver.

(3) Date. The month, day and year for the beginning of each 24-hour period shall be shown on the form containing the driver's ~~duty status record~~ RODS.

(4) Total mileage driven. Total mileage driven during the 24-hour period shall be recorded on the form containing the driver's ~~duty status record~~ RODS.

(5) Vehicle identification. The carrier's vehicle number or State and license number of each bus, truck, truck tractor and trailer operated during that 24-hour period shall be shown on the form containing the driver's ~~duty status record~~ RODS.

(6) Name of carrier. The name(s) of the motor carrier(s) for which work is performed shall be shown on the form containing the driver's ~~duty status record~~ RODS. When work is performed for more than one motor carrier during the same 24-hour period, the beginning and finishing time, shown a.m. or p.m., worked for each carrier shall be shown after each carrier's name.

Drivers of leased vehicles shall show the name of the motor carrier performing the transportation.

(7) Signature/certification. The driver shall certify to the correctness of all entries by signing the form containing the driver's ~~duty status record~~RODS with his/her legal name or name of record. The driver's signature certifies that all entries required by this section made by the driver are true and correct.

(8) Time base to be used.

(A) The driver's ~~duty status record~~RODS shall be prepared, maintained, and submitted using the time standard in effect at the driver's home terminal, for a 24-hour period beginning with the time specified by the motor carrier for that driver's home terminal.

(B) The term "seven or eight-consecutive days" means the seven or eight-consecutive 24-hour periods as designated by the carrier for the driver's home terminal.

(C) The 24-hour period starting time must be identified on the driver's ~~duty status record~~RODS. One-hour increments must appear on the graph, be identified, and preprinted. The words "Midnight" and "Noon" must appear above or beside the appropriate one-hour increment.

(9) Main office address. The motor carrier's main office address shall be shown on the form containing the driver's ~~duty status record~~RODS.

(10) Recording days off duty. Two or more consecutive 24-hour periods off duty may be recorded on one ~~duty status record~~RODS.

(11) Total hours. The total hours in each duty status: off duty other than in a sleeper berth; off duty in a sleeper berth; driving, and on duty not driving, shall be entered to the right of the grid. The total of such entries shall equal 24 hours.

(12) Shipping document number(s), or name of shipper and commodity, shall be shown on the driver's ~~record of duty status~~RODS.

(h) Graph grid. The following graph grid (Figure 21) ~~must~~shall be incorporated into a motor carrier recordkeeping system which ~~must~~shall also contain the information required in paragraph (e) of this section.

Graph Grid - Vertically

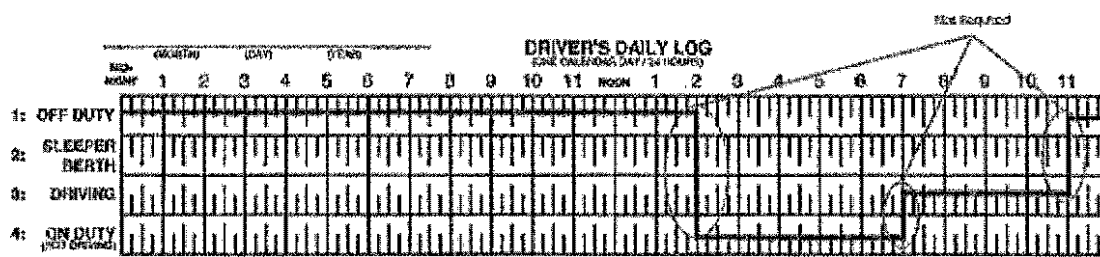
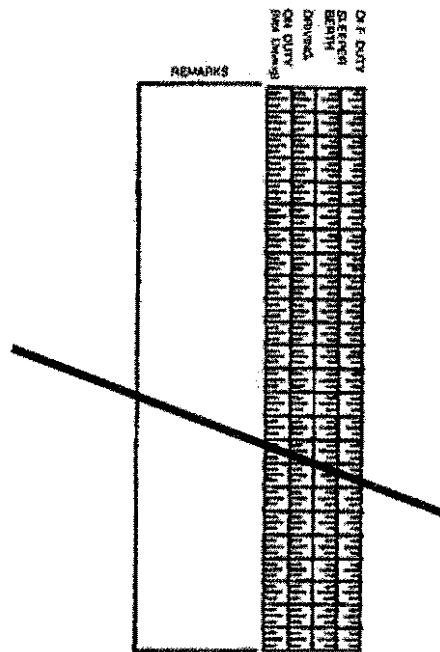


Figure 21. Graph Grid (Horizontally and Vertically) Example of Vertical Lines

(i) Graph grid preparation. The graph grid may be used horizontally (Figure 1.) or vertically and shall be completed as follows:

(1) Off duty. Except for time spent resting in a sleeper berth, a continuous line shall be drawn between the appropriate time markers to record the period(s) of time when the driver is not on duty, is not required to be in readiness to work, or is not under any responsibility for performing work.

(2) Sleeper berth. A continuous line shall be drawn between the appropriate time markers to record the period(s) of time off duty resting in a sleeper berth, as defined in Section 1201. (If a non-sleeper berth operation, sleeper berth need not be shown on the grid.)

(3) Driving. A continuous line shall be drawn between the appropriate time markers to record the period(s) of time on duty driving a motor vehicle, as "drive or operate" is defined in Section 1201.

(4) On duty not driving. A continuous line shall be drawn between the appropriate time markers to record the period(s) of time on duty not driving as specified in Section 1201(s).

(5) Location-remarks. The name of the city, town, or village, with State abbreviations where each change of duty status occurs shall be recorded (Figure 2).

(A) Note: If a change of duty status occurs at a location other than a city, town, or village, show one of the following: (1) The highway number and nearest milepost followed by the name of the nearest city, town, or village and State abbreviation, (2) the highway number and the name of the service plaza followed by the name of the nearest city, town, or village and State abbreviation, or (3) the highway numbers of the nearest two intersecting roadways followed by the name of the nearest city, town, or village and State abbreviation.

Note: Regulations require horizontal lines between the time markers. A vertical line between change of duty status is not required. However, it is common industry practice to indicate change of duty status with a continuous vertical line connecting time markers. Figures 1 and 2 illustrate examples of continuous vertical lines connecting time markers.

(j) Filing driver's ~~record of duty status~~ RODS. Each day, the driver shall submit or forward the ~~original~~ copy of the driver's record of duty status RODS to the regular employing motor carrier following the completion of the form. Drivers who do not return to the home terminal each day may submit their ~~original records of duty status~~ RODS upon their first return to the home terminal, provided the interval does not exceed 13 days.

(k) Drivers used by more than one motor carrier.

(1) When the services of a driver are used by more than one motor carrier during any 24-hour period in effect at the driver's home terminal, the driver shall submit a copy of the ~~record of duty status~~ RODS to each motor carrier. The ~~record~~ RODS shall include:

(A) All duty time for the entire 24-hour period;

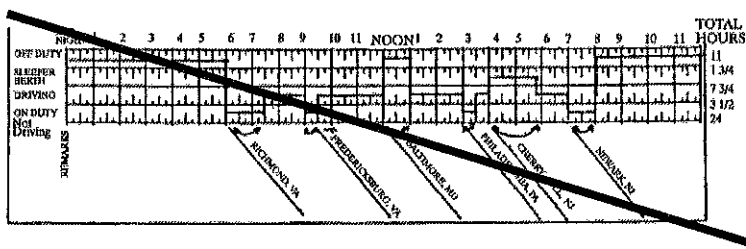
(B) The name of each motor carrier served by the driver during that period; and

(C) The beginning and finishing time, including a.m. or p.m., worked for each carrier.

(2) Motor carriers, when using a driver for the first time or intermittently, shall obtain from the driver a signed statement giving the total time on duty during the immediately preceding seven days and the time at which the driver was last relieved from duty prior to beginning work for the motor carriers.

(I) Retention of driver's ~~record of duty status~~ RODS. The driver shall retain ~~the duplicate a copy~~ of each ~~record of duty status~~ RODS for the current day and the previous seven consecutive days which shall be in ~~his/her~~ their possession and available for inspection while on duty. The records and any supporting documents (as defined in Section 1201 of this chapter) in the driver's possession shall be presented for inspection immediately upon request by any authorized employee of the department, or any regularly employed and salaried police officer or deputy sheriff.

Note: Driver's ~~Record of Duty Status~~ RODS. The graph grid, when incorporated as part of any form used by a motor carrier, must be of sufficient size to be legible. ~~The following executed specimen grid (Figure 23) illustrates how a driver's duty status~~ RODS should be recorded for a trip from Redding, California, to Los Angeles, California. Richmond, Virginia, to Newark, New Jersey. The grid reflects the midnight to midnight 24-hour period. The driver in this instance reported for duty at the motor carrier's terminal. The driver reported for work at 6 a.m., helped load, checked with dispatch, made a pre-trip inspection, and performed other duties until 7:30 a.m. when the driver began driving. At 9:30 a.m. the driver had a minor accident in Sacramento, California, Fredericksburg, Virginia, and spent one half hour handling details with the local police. The driver arrived at the company's Stockton, California, Baltimore, Maryland, terminal at 10:45 a.m. noon and went to lunch while minor repairs were made to the tractor. At noon 1 p.m. the driver resumed the trip and made a delivery in Bakersfield, California, Philadelphia, Pennsylvania, between 3:30 p.m. and 4:30 p.m. at which time the driver started driving again. Upon arrival at Santa Clarita, California, Cherry Hill, New Jersey, at 5:30 4 p.m., the driver entered the sleeper berth for a rest break until 7:45 p.m. at which time the driver resumed driving again. At 7:45 p.m. the driver arrived at the company's terminal in Los Angeles, California, Newark, New Jersey. Between 7:45 p.m. and 8:30 p.m. the driver prepared the required paperwork including completing the driver's ~~record of duty status~~ RODS, vehicle condition report, insurance report for the Sacramento, California, Fredericksburg, Virginia accident, checked for the next day's dispatch, etc. At 8:30 p.m., the driver went off duty.



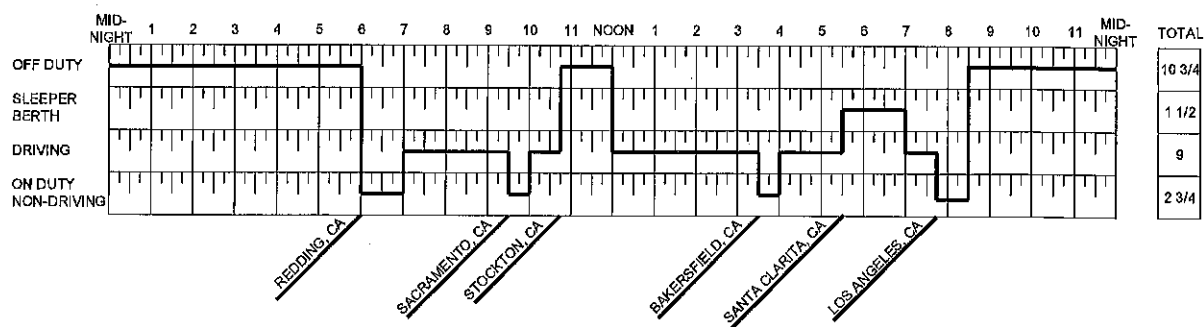


Figure 32. Driver's Record Graph Grid with Location Entries

Note: Authority cited: Sections 31401, 34501, 34501.2, 34501.5, and 34508, Vehicle Code; and Section 39831, Education Code. Reference: Sections 545, 31401, 34501, 34501.2, 34501.5 and 34508, Vehicle Code; and Section 39831, Education Code.

1213.3 Electronic Logging Devices.

(a) Applicability. Motor carriers and drivers, engaged in interstate and intrastate commerce subject to the requirements of this section, shall comply with the federal Electronic Logging Device (ELD) regulations adopted by Title 49, CFR, Part 395, Subpart B, hereby incorporated by reference, as those regulations now exist or are hereafter amended. Additionally, a motor carrier shall ensure drivers are trained regarding the proper operation of the ELD.

(b) Electronic Logging Device, means a device or technology that automatically records a driver's driving time, facilitates the accurate recording of the driver's hours of service, meeting the requirements of Title 49, Code of Federal Regulations, Part 395, Subpart B, as those regulations now exist or are hereafter amended.

(c) Referenced Regulations. Copies of Title 49 CFR, can be obtained from:

Superintendent of Documents
United States Government Printing Office
Po Box 371954
Pittsburgh, PA 15250-7954
(202) 512-1800

Internet purchases: http://www.access.gpo.gov/su_docs/sale.html

Note: Authority cited: Sections 31401, 34501, 34501.2, 34501.5, and 34508, Vehicle Code; and Section 39831, Education Code. Reference: Sections 165, 322, 545, 31401, 34500, 34501, 34501.2, 34501.5 and 34508, Vehicle Code; and Section 39831, Education Code.

1234. Required Records for Motor Carriers.

The following records are required:

(a) Driver's Record. Motor carriers shall require each driver and each co-driver to keep a driver's record of duty status (RODS) pursuant to Section 1213. Motor carriers shall keep ~~the original~~ copies of all drivers' records with any supporting documents, as defined in Section 1201(y), for 6 months. Drivers' ~~records of duty status~~RODS and all supporting documents shall be made available for inspection immediately upon request by an authorized employee of the department. Drivers' records and/or supporting documents not readily available or accessible shall be made available within 3 business days.

(b) Driver's Authorized Vehicles. Motor carriers shall maintain a record of the different types of vehicles and vehicle combinations each driver is capable of driving as specified in Section 1229.

(c) Driver's Records. School bus, SPAB, youth bus, farm labor vehicle, and GPPV carriers shall maintain a record of required documents for each driver they employ. The carrier shall notify each driver of the expiration date of the documents listed in (1) through (4), and the carrier shall ensure each document is renewed prior to expiration. The record shall contain the following data:

(1) Driver's license class, number, restrictions and expiration date.

(2) Driver's certificate restrictions, expiration date, certificate issuance date and driver's date of birth.

(3) Date medical certificate expires.

(4) Expiration date of driver's first aid certificate, license as a physician and surgeon, osteopath, or registered nurse, or certificate as a physician's assistant or emergency medical technician when such certificate or license is used to obtain a waiver of the first aid examination pursuant to Vehicle Code Section 12522.

(5) Date and number of hours of training specified in Education Code Sections 40080-40090 or Vehicle Code Section 12523 since issuance of the driver's current certificate.

(d) Mileage Records. School bus, SPAB, and youth bus carriers shall keep records of the mileage each bus travels during the fiscal year (July 1 through June 30). These records shall be retained for the current fiscal year plus the previous year.

(e) Daily Vehicle Inspection Reports. Motor carriers shall require drivers to submit a documented daily vehicle inspection report pursuant to Section 1215(c). Reports shall be carefully examined, defects likely to affect the safe operation of the motor vehicle or combination or result in a mechanical breakdown shall be corrected before the vehicle or combination is driven on the highway, and carriers shall retain such reports for at least three months.

(f) Inspection, Maintenance, Lubrication, and Repair Records. Motor carriers shall document each systematic inspection, maintenance, and lubrication, and repair performed for each vehicle under their control. These vehicle records shall be kept at the carrier's maintenance facility or terminal where the vehicle is regularly garaged. Such records shall be retained by the carrier for one year and include at least:

(1) Identification of the vehicle, including make, model, license number or other means of positive identification.

(2) Date or mileage and nature of each inspection, maintenance, lubrication, and repair performed.

(3) Date or mileage and nature of each inspection, maintenance, and lubrication to be performed; i.e., the inspection, maintenance, and lubrication intervals.

(4) The name of the lessor or contractor furnishing any vehicle.

(5) On school bus, SPAB, and GPPV records, the signature of the person performing the inspection.

(g) Temporarily Assigned Vehicle. When a vehicle is garaged at other than the carrier's regular maintenance facility for periods exceeding normal intervals for inspection, maintenance, and lubrication, carriers shall ensure the record(s) indicating the date or mileage and nature of these operations to be performed, are kept in the vehicle.

(h) School Bus Accident Reports. School bus carriers shall maintain a report of each accident that occurred on public or private property involving a school bus with pupils aboard. The report shall contain pertinent details of the accident and it shall be retained for 12 months from the date of the accident. If the accident was not investigated by the CHP, the carrier shall forward a copy of the report to the local CHP within five ~~work~~business days of the date of the accident.

(i) Employment Applications. Motor carriers shall retain driver employment applications required by Vehicle Code Section 15230 for the length of the driver's employment plus three years. Employment applications shall be made available for inspection immediately upon request by an authorized employee of the department.

Note: Authority cited: Sections 31401, 34501, 34501.2, 34501.5 and 34508, Vehicle Code; and Section 39831, Education Code. Reference: Sections 545, 546, 31401, 34501, 34501.2, 34501.5 and 34508, Vehicle Code; and Section 39831, Education Code.