

STOP Program - Charge per Violation Memo

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Legal Division

October 1, 2016

June 27, 2013

From: Rhonda Lahm, Director of the Department of Motor Vehicles.

Re: DMV Cannot Certify Jurisdictions that Charge per Violation for STOP Classes

The Department of Motor Vehicles will not certify a STOP class for a jurisdiction that charges by the violation.

It has come to the DMV's attention that a few jurisdictions charge by the number of violations, so the same 4 hour class costs more for one student than another. For example, the charge may be: One violation \$125; two violations \$175; three violations \$225. The DMV will not certify these jurisdictions for three reasons. First, the law speaks to multiple violations and has no provision for extra costs to the student. Second, the law states that the purpose of the class is education, not punishment. Finally, the law requires the fee be reasonable and uniform.

First, the legislature envisioned a single STOP program for multiple violations. **Neb. Rev. Stat. Sec. 29-3606** states the requirements for a STOP program. It uses the plural *violations*, but the singular *program*. It begins by stating unambiguously that "(1) A pretrial diversion plan for minor traffic violations shall consist of a driver's safety training program."

Secondly, the law states that the STOP class is designed to educate persons committing minor traffic violations, not to punish them. **Neb. Rev. Stat. Sec. 29-3606(2)**. It emphasizes that the intent is education, not punishment. STOP participation is intended to deter future traffic violations. The statute states that the course will:

- (a) Provide a curriculum of driver's safety training, as approved by the department, which is designed to educate persons committing minor traffic violations and to deter future violations; and
- (b) Require payment of a fee approved by the department which is reasonable and appropriate to defray the cost of the presentation of the program. A jurisdiction shall charge a uniform fee for participation in a driver's safety training program regardless of the traffic violation for which the applicant was cited....
- (4) The department shall approve the curriculum and fees of each program and shall adopt and promulgate rules and regulations governing such programs, including guidelines for fees, curriculum, and instructor certification.

Under **Neb. Rev. Stat. Sec. 29-3606(2)(b)**, the fee must be reasonable and appropriate to defray the cost of the program. The statute states the purposes for which the fee may be used. It makes no allowance for charging per violation. The class remains the same regardless of the number of violations, and its purpose is to educate the violator.

Charging by the number of violations is unreasonable and such programs will not be certified. The cost to each student must be uniform; that is, every student enrolled in a jurisdiction's STOP program must pay the same regardless of the number of violations.