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To: Office of Administrative Law
Attention: Ms. Elizabeth Heidig
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OFFICE OF
ADMINISTRATIVE LAW

Debra Bowen
DEBRA BOWEN
SECRETARY OF STATE

From: **DEPARTMENT OF CALIFORNIA HIGHWAY PATROL**
Office of the Commissioner

File No.: 01.9486.12642.061.14-0310

Subject: CERTIFICATION PURSUANT TO TITLE 1, SECTION 280, REMOVAL OF
PENAL CODE SECTION 1203.4(A) FROM HIGHWAY PATROL MANUAL
81.2, VEHICLE PROCEDURES MANUAL

This memorandum is submitted in response to a petition filed with the Office of Administrative Law on February 24, 2014, by Mr. Victor Vargas. The petition alleges Highway Patrol Manual (HPM) 81.2, Chapter 7, contains verbiage indicating a dismissal of charges pursuant to Penal Code Section (PC) 123.4(a) is not a dismissal for the purposes of this policy and is an "underground regulation."

A revision of HPM 81.2 is currently in review with references to Section 1203.4(a) PC having been removed. Section 1203.4(a) PC was adopted into the Rotation Tow Program (RTP) as a result of California Vehicle Code (CVC) Section 13377 in an effort to protect the motoring public. Section 13377 CVC outlines justification for denials of tow truck driver certificates for the Freeway Service Patrol program. Section 13377 CVC states "*a dismissal pursuant to Section 1203.4 (a) PC is not a dismissal for purposes of this section.*"

Pursuant to Title 1 of the California Code of Regulations, Section 280(a), I certify the references to Section 1203.4(a) PC have been removed from HPM 81.2 and the California Highway Patrol not issue, use, enforce, or attempt to enforce the alleged underground regulation described above.



J. A. FARROW
Commissioner

cc: Mr. Victor Vargas

