

INITIAL STATEMENT OF REASONS

This Initial Statement of Reasons has been prepared relative to the proposal of the California New Motor Vehicle Board ("Board") to amend sections 551.14, 555, and 595 of Articles 1, 2, and 6, Chapter 2, Division 1, of Title 13 of the California Code of Regulations.

INTRODUCTION

The Board is an agency within the Department of Motor Vehicles with oversight provided by the California State Transportation Agency. The Board consists of nine members, seven are appointed by the Governor, one by the Speaker of the Assembly, and one by the Senate Rules Committee. (Veh. Code, §§ 3000 and 3001.)

The duties of the Board including the following:

1. To adopt rules and regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code governing those matters that are specifically committed to its jurisdiction.
2. Consider any matter concerning the activities or practices of any person applying for or holding a specified type of occupational license. These disputes are considered by the Board as a result of the filing of a "petition," which may be done by any person. (Veh. Code §3050(b))
3. To hear and decide "protests" filed by new motor vehicle dealers against their respective franchisors, pursuant to the provisions of the Automotive Franchise Act. (Veh. Code §§ 3050(c), 3060, 3062, 3064, 3065, 3065.1, 3065.3, 3065.4, 3070, 3072, 3074, 3075, and 3076) These protests pertain to specified types of franchise disputes between the dealer (franchisee) and the manufacturer or distributor (franchisor).
4. The Board also has authority to hear protests filed by an association (an organization primarily owned by, or comprised of, new motor vehicle dealers and that primarily represents the interests of dealers) challenging the legality of a manufacturer, manufacturer branch, distributor or distributor branch's export or sale-for-resale prohibition policy. (Veh. Code §§ 3050(d) and 3085)

The Board is a quasi-judicial administrative agency with the independent authority to resolve disputes between franchised dealers and manufacturers or distributors of new vehicles (includes, in part, cars, motorcycles, recreational vehicles, and all-terrain vehicles).

PUBLIC PROBLEM, ADMINISTRATIVE REQUIREMENT, OR OTHER CONDITION OR CIRCUMSTANCE THAT THE REGULATORY ACTIONS ARE INTENDED TO ADDRESS

Section 551.14 allows the parties to request voluntary informal mediation before filing a petition. A request for informal mediation includes, in part, the relief or disposition sought and the parties' contact information. Additionally, if known, the names, residence addresses and business addresses of persons and the dates, places and specific actions or practices involved in the matter

Section 555 describes the contents of a petition. A petition includes, in part, the relief sought and the parties' contact information. Additionally, the names, residence addresses and business addresses of persons and the dates, places and specific actions or practices involved in the matter.

Section 595 describes the format of the first page and the format and filing of papers. Specific information is required to be included in the first page of all papers, including contact information (name of the attorney or agent presenting the paper or the party if appearing in person, office or if none the residence address, mailing address (if different from the office or residence address), electronic-mail address, telephone number, and facsimile number). Section 595 also allows papers to be filed with the Board by facsimile or electronic-mail transmission and provides that papers filed within regular business hours by facsimile or electronic-mail transmission are filed on the date received.

The terms "residence," "business," and "office" preceding "address" in the regulations are extraneous.

Requiring the parties to include their facsimile number on papers is outdated as papers and filings are submitted to the Board via electronic-mail, regular mail, or overnight delivery. It has been many years since any documents have been sent via facsimile. Additionally, the Board's temporary and planned permanent facility do not have landlines, which precludes the submission of papers and filings by facsimile.

NECESSITY

Sections 551.14, 555, and 595 – residence, business, or office addresses

The proposed regulatory amendments removing "residence," "business," and "office" before references to "addresses" are necessary to ensure that the Board does not maintain regulations that are obsolete or inconsistent with current practices. Using "addresses" without a modifier allows the party to determine the appropriate address.

Section 595 – facsimile address

Requiring a facsimile number on papers is an outdated requirement. The Board

does not have a landline or a facsimile number and has not since February 2023. It has been the practice for many years to submit filings with the Board via electronic-mail, regular mail, or overnight mail. The proposed regulatory amendments are necessary to ensure that the Board does not maintain regulations that are outdated or inconsistent with current practices. Furthermore, allowing filings via facsimile is no longer feasible.

BENEFITS ANTICIPATED FROM THE REGULATORY ACTION

The proposed regulatory amendments benefit the public, practitioners appearing before the Board, and the State of California by eliminating the requirement to provide information that is unnecessary. The proposed amendments improve readability and ensure the regulations do not contain extraneous language that is outdated.

The proposed regulatory amendment removing the requirement to provide a facsimile number on papers is consistent with the mode in which papers are filed. Filing papers by facsimile is outdated as the majority of filings are via electronic-mail or other means. Additionally, the Board lacks the ability to accept papers and filings via facsimile.

Case management is being clarified for litigants that appear before the Board to have the information necessary to effectively represent themselves or their clients. This means the Board will continue to quickly and to economically resolve statutorily enumerated disputes between new motor vehicle dealers (franchisees) and their manufacturers or distributors (franchisors). The Board keeps these types of cases from further clogging our already congested courts. Additionally, the Board issues uniform orders and decisions throughout California thereby allowing franchisors and their dealers to conduct their business in compliance with California law.

ECONOMIC IMPACT ASSESSMENT/ANALYSIS

CREATION OR ELIMINATION OF JOBS WITHIN THE STATE:

The Board has determined that the proposed regulatory amendments will not have an impact on the creation of new jobs or businesses, the elimination of any jobs or existing businesses, or the expansion of businesses currently doing business in California. The proposed amendments only impact licensed new motor vehicle dealers, manufacturers, and distributors within the Board's jurisdiction that file a protest or petition with the Board. This includes approximately 1,500 to 2,000 new car, motorcycle, all-terrain vehicle, low-speed vehicle and recreational vehicle dealers and approximately 150-175 manufacturers or distributors. In the last 20 years, there have been on average 45 protests filed each year. Only 12 petitions have been filed since 2005.

CREATION OF NEW OR ELIMINATION OF EXISTING BUSINESSES WITHIN THE STATE:

The proposed regulatory amendments will not impact the creation of new businesses or cause the elimination of existing businesses in California. The proposed amendments simply delete obsolete and outdated requirements.

EXPANSION OF BUSINESSES CURRENTLY DOING BUSINESS WITHIN THE STATE:

The proposed regulatory amendments will not impact the business climate in the state, and therefore, it would not result in the expansion of businesses doing business in California. The proposed amendments simply delete outdated requirements.

BENEFITS TO THE HEALTH AND WELFARE OF CALIFORNIA RESIDENTS, WORKER SAFETY, AND THE STATE'S ENVIRONMENT:

The Board does not anticipate any impact on the health and welfare of California residents.

The proposed amendments will not benefit worker safety because they do not regulate worker safety standards.

The proposed amendments will not benefit the state's environment because it does not change any applicable environmental standards.

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR DOCUMENTS

In addition to Vehicle Code sections 3050 and 3051 and relevant case law, the Board relied on the following documents in drafting and proposing the amendments:

- (1) Memorandum dated April 3, 2023, from Timothy M. Corcoran and Robin P. Parker to the Policy and Procedure Committee regarding Proposed Regulatory Amendments to Eliminate References to Facsimile and Residence Addresses in Section 595 of Title 13 of the California Code of Regulations (Format of First Page; Format and Filing of Papers) and make Gender Neutral.
- (2) Memorandum dated April 3, 2023, from Timothy M. Corcoran and Robin P. Parker to the Policy and Procedure Committee regarding Proposed Regulatory Amendments.
- (3) Memorandum dated August 30, 2023, from Timothy M. Corcoran and Robin P. Parker to the Policy and Procedure Committee reporting on Non-Substantive Changes Suggested by the Office of Administrative Law to specified regulations including Sections 551.14, 555, and 595 of Title 13 of the California Code of Regulations.

The Board did not rely upon any other technical, theoretical, or empirical studies, reports, or documents in proposing the revisions to the regulations.

REASONABLE ALTERNATIVES TO THE REGULATIONS AND THE AGENCY'S REASONS FOR REJECTING THOSE ALTERNATIVES

Prior to the publication of this notice, the Board considered the proposed regulatory amendments at noticed General Meetings held on April 28, 2023 and September 21, 2023. Approximately 15 days prior to each meeting, a detailed agenda including the consideration of the proposed text of the regulations was mailed to all individuals and entities on the Board's Public Mailing list and Electronic Public Mailing list. The agendas and memos were also posted on the Board's website.

The public was invited to comment at each General Meeting in relation to the proposed changes to the regulations in this notice. No comments by the public were received at the April 28, 2023 or September 21, 2023, General Meetings and no further public discussion was held prior to publication of the notice. At each meeting, the Board unanimously approved the proposed regulatory amendments.

The Board determined that the proposed regulations would have no effect on small businesses. This determination was made because no small businesses are legally required to comply with the regulations, are legally required to enforce the regulations, or derive a benefit from or incur an obligation from the enforcement of the regulations.

Accordingly, the Board has determined that there were no alternatives considered which would be more effective in carrying out the purpose of the proposed regulatory amendments or would be less burdensome.

EVIDENCE SUPPORTING FINDING OF NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS

There are no associated costs with the proposed regulatory amendments; they clarify case management procedures for franchised new motor vehicle dealers and their franchisors (new motor vehicle manufacturers or distributors) who choose to file a protest or petition with the Board.