

TITLE 16
BUREAU OF AUTOMOTIVE REPAIR

**NOTICE OF PROPOSED REGULATORY ACTION AND PUBLIC HEARING
CONCERNING**

ELECTRONIC DOCUMENTATION AND AUTHORIZATION

NOTICE IS HEREBY GIVEN that the Department of Consumer Affairs' (DCA) Bureau of Automotive Repair (hereinafter "Bureau" or "BAR") is proposing to take the action described in the Informative Digest. Any person(s) interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing or hearings to be held at the following location on the following date:

NORTHERN CALIFORNIA

Tuesday, September 26, 2017 at 10:00am
Bureau of Automotive Repair
Hearing Room
10949 North Mather Blvd
Rancho Cordova, CA 95670

Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Bureau at its office no later than 5:00 p.m. on Monday, September 18, 2017, or must be received by the Bureau at the above-referenced hearing. The Bureau, upon its own motion or at the request of any interested party, may thereafter formally adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as Contact Person and will be mailed to those persons who submit oral or written testimony related to this proposal or who have requested notification of any changes to the proposal.

AUTHORITY AND REFERENCE

Pursuant to the authority vested by sections 137, 9882, 9884.9, 9884.11, 9884.19, and 9887.1 Business and Professions Code, and to implement, interpret, or make specific sections 9880.1, 9882, 9884.7, 9884.8, 9884.9, 9884.10, 9884.11, 9889.50, 9889.51, 9889.52, and 17500 Business and Professions Code, and sections 12000 and 12001, Vehicle Code, the Bureau is proposing to amend section 3303 of Article 1, Article 7, commencing with section 3352, and section 3371 of Article 9 within Chapter 1, Division 33, Title 16, California Code of Regulations.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

In 1971, the Legislature adopted the Automotive Repair Act (Business and Professions Code (BPC) §9880 et seq.) to protect consumers from fraud and ensure their ability to make informed

choices in automotive repair transactions. The Act established the Bureau of Automotive Repair (Bureau) within the California Department of Consumer Affairs to interpret and enforce its requirements. A critical means by which the Bureau protects consumers under the Act is enforcement of requirements pertaining to documents and disclosures provided to consumers before, during, and after a repair transaction.

The proposed regulatory action updates these requirements, particularly in response to calls for modernization from automotive repair businesses moving toward the use of information and communication technologies to improve efficiency and transparency. Specifically, the Bureau has updated estimate, work order, and invoice requirements, as well as sublet disclosure and general recordkeeping requirements. The proposed action also reorganizes sections within Article 7 and makes minor clarifying edits to make it easier for repair business owners and consumers to read and understand the regulations and to more closely align with the chronology of an automotive repair transaction.

CONSISTENCY AND COMPATIBILITY WITH EXISTING STATE REGULATIONS:

During the process of developing these regulations and amendments, BAR has conducted a search of any similar regulations on this topic and has concluded that these regulations are neither inconsistent nor incompatible with existing state regulations.

FISCAL IMPACT ESTIMATES

FISCAL IMPACT ON PUBLIC AGENCIES INCLUDING COSTS OR SAVINGS TO STATE AGENCIES OR COSTS/SAVINGS IN FEDERAL FUNDING TO THE STATE:

This proposed regulatory action is cost neutral.

NONDISCRETIONARY COSTS/SAVINGS TO LOCAL AGENCIES:

None.

LOCAL MANDATE:

None.

COSTS TO ANY LOCAL AGENCY OR SCHOOL DISTRICT FOR WHICH GOVERNMENT CODE SECTIONS 17500-17630 REQUIRE REIMBURSEMENT:

None.

BUSINESS IMPACT:

BAR has made an initial determination the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. BAR held a series of workshops attended by representatives of various segments of the automotive repair industry and considered their input regarding any adverse impacts on the industry in drafting the regulation.

Also, the proposed regulations allow businesses increased flexibility to use a wide variety of electronic technologies when disclosing information to and obtaining information from consumers while ensuring these practices provide adequate consumer protection. Businesses will benefit to the extent these electronic methods of conducting business improve productivity, efficiency, and consumer satisfaction.

It is possible some businesses that currently use point of sale systems will incur some costs to update those systems to ensure compliance with the updated regulations. These costs are indeterminable, as systems vary from business to business. Nonetheless, the Bureau anticipates any fiscal impact directly resulting from the proposed regulatory action will be minimal and more than offset by improved productivity, efficiency, and consumer satisfaction. At a July 2016 workshop conducted by the Bureau, several representatives of small, independent automotive repair businesses discussed their point of sale systems and expressed support for the regulation, suggesting their systems were flexible enough to capture the changes proposed in this regulation.

COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS:

BAR is not aware of any cost impacts a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

EFFECT ON HOUSING COSTS:

None.

EFFECT ON SMALL BUSINESS

The majority of businesses that are likely to be affected by this regulation are small businesses. The regulatory requirements updated by this regulation would have a negligible, though indeterminable impact on small businesses. The cost of disclosing additional information during repair transactions is likely to be absorbed by any business subject to the regulation. The cost of updating point of sale software systems is indeterminable, though comments received from small businesses developing point of sale software systems during the development of the regulation suggest it would be minor and absorbable.

RESULTS OF THE ECONOMIC IMPACT ANALYSIS

IMPACT ON JOBS/BUSINESSES:

BAR has made the following initial determinations regarding the impact of the proposed regulatory action on jobs/businesses:

- It will not have any impact on the creation or elimination of jobs, the creation of new businesses, or the elimination of existing businesses.
- It will not have any impact on the expansion of businesses currently doing business

within the State of California.

BENEFITS OF THE REGULATION TO THE HEALTH AND WELFARE OF CALIFORNIA RESIDENTS:

BAR has made an initial determination the regulation may have a positive impact on the health and welfare of California citizens to the extent it promotes more efficiency and/or transparency in automotive repair transactions.

BENEFITS OF THE REGULATION TO WORKER SAFETY:

BAR has made an initial determination the proposed regulatory action will not have any impact on worker safety in California.

BENEFITS OF THE REGULATION TO THE STATE'S ENVIRONMENT:

BAR has made an initial determination the proposed regulatory action may have a positive, though indeterminable, impact on the environment.

CONSIDERATION OF ALTERNATIVES

BAR must determine that no reasonable alternative it considered or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposal described in this Notice, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

INITIAL STATEMENT OF REASONS AND INFORMATION

BAR has prepared an Initial Statement of Reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the Initial Statement of Reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing from the Bureau of Automotive Repair at 10949 North Mather Blvd., Rancho Cordova, California, 95670.

AVAILABILITY AND LOCATION OF THE RULEMAKING FILE AND THE FINAL STATEMENT OF REASONS

All the information upon which the proposed regulations are based is contained in the

rulemaking file. Further, the express terms, Initial Statement of Reasons, and information upon which the proposed regulations are based is available for public inspection by contacting the contact person(s) named below.

Interested parties may obtain a copy of the Final Statement of Reasons once it has been prepared, by making a written request to the contact person(s) or by accessing the website listed below.

CONTACT PERSON

Inquiries or comments concerning the proposed administrative action may be addressed to:

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The backup contact person is:

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WEBSITE ACCESS

Materials regarding this proposal can also be found on BAR's website at www.bar.ca.gov.