

TITLE 16
BUREAU OF AUTOMOTIVE REPAIR

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

MOBILE AUTOMOTIVE REPAIR DEALER ADVERTISING

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

Monday, March 14, 2016 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, March 14, 2016, 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 9882 and 9884.19 Business and Professions Code, and to implement, interpret, or make specific sections 9884.19, 17500 and 17505, Business and Professions Code, the Bureau is proposing to add Article 6.1, commencing with section 3351.7.1, and amend section 3371.1 of Article 9 within Chapter 1, Division 33, Title 16, California Code of Regulations.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Bureau of Automotive Repair (BAR or Bureau) is the regulatory entity responsible for registering and licensing automotive repair businesses and technicians. Since 1971, the Bureau of Automotive Repair (BAR or Bureau) has ensured persons operating as automotive repair

dealers (ARDs) are registered with the Bureau and comply with laws and regulations established to protect consumers in repair transactions. The Bureau is proposing to adopt regulations clarifying that automotive repair businesses which are primarily mobile are subject to regulations, including registration and advertising requirements, which apply to all ARDs.

Mobile ARDs travel to their customers to perform repairs and typically find customers through advertisements on popular websites such as Craigslist. These businesses offer the convenience of avoiding a trip to a repair shop and potential savings from avoiding towing costs. However, they also present risks to consumers. Although not all mobile repair dealers engage in fraudulent practices, those who do are often difficult to find when they do not have repair facilities and are not registered with the Bureau.

The proposed regulations are necessary to better ensure persons operating mobile automotive repair businesses are registered with the Bureau and comply with consumer protection laws and regulations. To that end, the proposed regulations would: (1) clarify that mobile automotive repair dealers must, like any other business performing automotive repairs, register with the Bureau and be subject to laws and regulations relating to automotive repair; (2) adapt existing advertising requirements for ARDs to the mobile ARD business model in terms of what and where certain business information must be displayed to customers; (3) require mobile ARDs to provide every customer with a copy of an official ARD sign; and (4) update the forms of advertising any repair technician may use, and by such use be deemed an ARD for purposes of regulation, to include the Internet.

These regulations would make it easier for consumers to determine whether a mobile repair dealer is registered with and has been disciplined by the Bureau and to know their rights with respect to automotive repair transactions. They also improve the Bureau's ability to identify and bring enforcement actions against mobile repair dealers who may be violating consumer rights.

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.

Indeed, businesses that register as a result of the regulation and adopt customer disclosure practices which they did not have previously may see positive benefits resulting from increased customer safety and satisfaction. They will also gain the legal right to receive compensation for repair services they perform. Currently registered ARDs will benefit from the proposed regulation as it helps to level the playing field of automotive repair businesses. By promoting registration with the Bureau, the regulation would promote compliance with labor, licensing, and payroll tax laws, which in turn would reduce unfair competition.

Any costs associated with registration and renewal fees and proposed advertising requirements would be minor and absorbable for businesses, whether they are currently registered or register to comply with the 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 requirements imposed by this regulation to display certain business information on company vehicles and in internet advertisements would have a negligible, though indeterminable impact on small businesses. The cost of disclosing or displaying additional information on vehicles or in internet advertising is likely to be absorbed by any business subject to the regulation.

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. First, the proposed regulation imposes advertising and fee requirements which are relatively minor and absorbable. The requirements are not likely to constitute a burden that results in new hiring or a barrier to entry that results in layoffs. Second, the proposed regulation relates to advertising practices and does not impact the core service provided by mobile repair businesses. It is highly unlikely the regulation will have any restructuring effect on the industry whereby businesses are created or eliminated.
- It may affect the expansion of businesses currently doing business within the State of California, although the magnitude of such effect is difficult to determine. An effect on business expansion assumes the regulation contributes to a reduction in unlicensed activity and thereby reduces unfair competition for currently registered automotive repair businesses. Reducing unfair competition in the marketplace lessens the tax burden on law-abiding businesses.

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

BAR has made an initial determination the proposed regulatory action will have a positive impact on the health and welfare of California citizens to the extent it promotes compliance with consumer protection laws and regulations.

BENEFITS OF THE REGULATION TO WORKER SAFETY:

BAR has made an initial determination the proposed regulatory action may indirectly benefit worker safety in California, as the regulation encourages registration and thereby promotes compliance with labor laws.

BENEFITS OF THE REGULATION TO THE STATE'S ENVIRONMENT:

BAR has made an initial determination the proposed regulatory action may indirectly benefit the environment. As the regulation encourages registration, it also promotes compliance with environmental laws such as those governing the handling of hazardous waste.

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.

WEBSITE ACCESS

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

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.

You 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 above.

CONTACT PERSON

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

Nina Tantraphol
Bureau of Automotive Repair
10949 North Mather Blvd.
Rancho Cordova, California, 95670
Telephone: (916) 403-0210
E-mail: Nina.Tantraphol@dca.ca.gov

The backup contact person is:

Shelley Whitaker
Bureau of Automotive Repair
10949 North Mather Blvd.
Rancho Cordova, California, 95670
Telephone: (916) 403-0222
E-mail: Shelley.Whitaker@dca.ca.gov