

**BUREAU OF AUTOMOTIVE REPAIR
PROPOSED LANGUAGE**

**REMEDIAL TRAINING FOR AUTOMOTIVE REPAIR DEALERS AND PROVIDER
CERTIFICATION**

Legend: Added text is indicated by underlining.
 Deleted text is indicated by ~~strikethrough~~.
 Omitted text is indicated by (* * * *)

(1) Add new Article 12.5, Section 3395.6, Chapter 1, Division 33, Title 16, California Code of Regulations, to read as follows:

ARTICLE 12.5 Remedial Training for Automotive Repair Dealers and Course Provider Certification Program

Section 3395.6. Certification Requirements for Remedial Training Providers for Automotive Repair Dealers; Application and Petition Requirements; Renewal.

(a) Any person (“applicant”) seeking Bureau certification to provide remedial training as authorized by section 9884.7(d) of the Code or as ordered pursuant to the Bureau’s Disciplinary Guidelines incorporated by reference in section 3395.4 shall submit a completed application which includes all of the following:

(1) The following applicant identifying information:

- (i) Full legal name.
- (ii) Applicant’s active State Bar of California license number and expiration date.
- (iii) Social Security number.
- (iv) Physical address.
- (v) Mailing address.
- (vi) Telephone number, and.
- (vii) Email address, if any.

(2) Proof that the applicant is qualified to teach the specified course content. Proof shall include their prior education, training, and experience.

(3) Whether the applicant is serving, or has previously served, in the United States military.

(4) Whether the applicant is an honorably discharged member of the United States Armed Forces. If the applicant affirmatively states they meet this criteria, they shall provide the following documentation along with the application to receive expedited review: certificate of release or discharge from active duty (DD-214) or other documentary evidence showing date and type of discharge.

(5) Whether the applicant was admitted to the United States as a refugee, has been granted asylum by the Secretary of Homeland Security or the Attorney General of the United States, or has a special immigrant visa (SIV). If the applicant affirmatively states they meet this criteria, they shall provide any of the following documentation along with the application to receive expedited review:

- (i) Form I-94, arrival/departure record, with an admission class code such as “RE” (refugee) or “AY” (asylee) or other information designating the person a refugee or asylee;
- (ii) Special Immigrant Visa that includes the “SI” or “SQ”;
- (iii) Permanent Resident Card (Form I-551), commonly known as a “green card,” with a category designation indicating that the person was admitted as a refugee or asylee; or,
- (iv) an order from a court of competent jurisdiction or other documentary evidence that provides reasonable assurances to the Bureau that the applicant qualifies for expedited licensure per Section 135.4 of the Code.

(6) Whether the applicant has ever been convicted of any crime or offense for which a license may be denied pursuant to section 480 of the Code, including:

- (i) a criminal conviction for a serious felony under Penal Code section 1192.7;
- (ii) a criminal conviction that qualifies as a registerable offense under Penal Code section 290, subdivision (d)(2) or (3);
- (iii) a criminal conviction that occurred within the seven years preceding the application date;
- (iv) a criminal conviction for which the applicant is presently incarcerated;
- or,
- (v) any conviction for which the applicant was released from incarceration within the preceding seven years.

(7) Applicants are not required to disclose any of the following convictions pursuant to this subsection:

- (i) convictions dismissed pursuant to Section 1203.4, 1203.4a, 1203.41, 1203.42, or 1203.425 of the Penal Code, or a comparable dismissal or expungement;
- (ii) convictions for which the person has obtained a certificate of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code;
- (iii) convictions for which the person has been granted clemency or a pardon by a state or federal executive;
- (iv) any traffic infraction for which the fine imposed was \$1,000 or less;
- (v) convictions that were adjudicated in the juvenile court; or,
- (vi) convictions under California Health and Safety Code sections 11357(b), (c), (d), (e), or section 11360(b) which are two years or older.

(8) Whether the applicant has ever had a license, registration, or certification that was formally disciplined by a licensing board in or outside of California, including the Bureau, or any program in the Department of Consumer Affairs or the State Bar of California. "Discipline" for purposes of this section includes reproof, suspension, revocation, probation or any other form of restriction placed on the license, registration, or certification.

(9) If the applicant answers affirmatively to any of the items in subsection (a)(6) or (a)(8), the applicant shall provide the following information or documentation: a written statement explaining details regarding any criminal conviction or disciplinary action on a separate sheet of paper as provided in this section. For criminal convictions, the statement shall include: the date and place of arrest, name of court, court case number, code section violated, brief explanation of the offense, and the sentence imposed. For discipline, the written statement shall include the date and nature of the disciplinary action, name and location of public agency, and the fine or sentence imposed.

(10) A certification by the applicant under penalty of perjury under the laws of the State of California that all statements made in the application and all documents provided by the applicant to the Bureau in support of the application are true and correct.

(b) Upon meeting the requirements of this section, an applicant shall be issued a "Provider Certification" if no other grounds for denial exist as provided in section 3395.8.

(c) The abandonment date for an application that has been returned to the applicant as incomplete shall be 12 months from the date of returning the application in accordance with Section 142 of the Code. An applicant who abandons an application must submit a new application to obtain Bureau certification as a certified provider.

(d) Certified providers may voluntarily surrender their certification by notifying the Bureau in writing of the request and receiving written notice from the Bureau chief or their designee that the Bureau chief has consented to the surrender.

(1) A request for consent to surrender shall include all of the following: their certified provider name, Bureau-issued provider certification number, physical and mailing addresses, and an explanation of the reason(s) why the certified provider seeks to surrender their certification. The Bureau chief or their designee reserves the right to evaluate the certified provider's request and to exercise their discretion whether or not to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances, including initiation or continuance of disciplinary action as authorized by Section 118 of the Code.

(2) Within 15 days of the date of the Bureau chief's written notice of consent to the surrender, the certified provider shall no longer provide remedial training as

authorized by this section. Certified providers who voluntarily surrender their certification shall reapply as a new applicant in accordance with this section if they seek to again offer remedial training as a Bureau certified provider.

(e) To petition for reinstatement of a certification after one year from the effective date of a revocation decision or from the denial of a previous petition, a previously certified provider ("petitioner") shall submit to the Bureau chief or their designee a petition for reinstatement of revoked certificate that includes all of the following:

(1) all of the items required in subsection (a);

(2) any documents or evidence of rehabilitation the petitioner would like the Bureau chief to consider as provided in section 3395;

(3) any written arguments the petitioner would like to make regarding why the petition should be granted and the certification reinstated; and,

(f) A certified provider shall notify the Bureau in writing of any changes to the information submitted to the Bureau under subsections (a)(1)-(3) and (a)(6)-(a)(8) within 60 days of the date of making any changes, or receiving notice of any change in the case of criminal conviction or disciplinary matters referenced in subsections (a)(6) and (a)(8).

Note: Authority Cited: Sections 9882 and 9884.7, Business and Professions Code; Reference: Sections 30, 31, 114.5, 115.4, 118, 135.4, 142, 163.5, 480, 9882, 9884 and 9884.7, Business and Professions Code; Section 11522, Government Code.

Section 3395.7 Standards for Approval of Remedial Training Courses.

(a) Remedial training courses shall be administered by a certified provider, in a classroom or online setting, and shall include instruction on automotive repair dealer compliance with the laws and regulations related to the following areas:

(1) Estimate Requirements (section 3353);

(2) Customer Authorization (sections 3353.1, 3353.2, and 3353.4);

(3) Invoice Requirements (section 3356);

(4) Accepted Trade Standards (Article 8);

(5) Sublet Repair (section 3353(d));

(6) Return of Parts (section 3355);

(7) Advertising Requirements (section 3372.1);

(8) Guarantees and Warranties (sections 3375, 3376, and 3377); and

(9) Maintenance of Records (section 3358):

(b) Upon receiving certification, a certified provider may provide a course outline and course description for a remedial training course to the Bureau for approval that shall consist of, at a minimum, all of the following:

(1) the subjects listed in subsection (a) and the specific content areas to be taught for each subject. The course description shall describe: (A) the subject matter of the course, (B) the remedial education objectives of the course and (C) how the course content is designed to meet those educational objectives.

(2) Method of instruction of course offered. Teaching methods for each course shall described any lecture, seminar, audiovisual, online interactive, or any other instruction method.

(3) An explanation of how the proposed course will measure student participation, interaction, and attendance, for example, participant attendance reports by instructors, in-content quizzes, participant polls, real time participant video requirements, and records of participant log in and log out times. The explanation shall also include how the applicant will ensure that attendance is recorded accurately.

(c) A certified provider shall not provide remedial training without having received Bureau approval for the course.

(d) Bureau approval of the course shall be based upon the Bureau's review of the outline and description provided. If a provider wishes to make any significant changes to any course, which includes altering the course content and outline of a previously approved course that was submitted, the provider shall submit a new course outline and description to the Bureau. A provider may not offer the significantly changed course until the Bureau approves the new course. The Bureau will notify the certified provider in writing within 60 days of the date of submission whether the significantly changed course is approved or denied. The denial shall include the reasons for the denial, and notification that the provider may request reconsideration of the denial from the Bureau chief or their designee within 15 days of the date of the Bureau's written notice of denial.

(d) An approved course shall be valid for two years from the date of Bureau approval. After those two years the approval will expire. The previously approved course outline and description may be resubmitted to the Bureau for review and approval.

(e) In order to maintain certification, a certified provider shall respond to any inquiries by the Bureau, submit any documents and provide any information requested by the Bureau, and cooperate in any investigation conducted by the Bureau regarding the certified provider's compliance with the requirements of this Article. Failure to respond to the Bureau within 30 days of the date of the Bureau's written inquiry or request for documents or information constitutes grounds for denial of any application or revocation of certification by the Bureau pursuant to section 3395.8.

(f) Each certified provider must establish, or agree to establish and maintain, within 30 days of initial Bureau approval, a minimum three-year document retention policy for the records required by this Article, including records of participant attendance, copies of certificates of completion for each student completing a course, dates and locations of instruction.

(g) A certified provider shall make any location where training is provided or where records required by this Article are maintained available for inspection to authorized representatives of the Bureau during normal business hours. This includes permitting an authorized representative of the Bureau to monitor a training course to assist in the determination of whether the objectives of the course are being met and that it is being presented as approved by the Bureau.

(h) Certified providers shall administer a Bureau specified post-course test to verify students' knowledge obtained from the course instruction. A remedial training course shall provide a minimum of eight hours of related instruction and examination, exclusive of lunch and rest breaks, and provide a minimum of 30 minutes for completion of the post-course test.

(i) No certified provider shall issue a certificate of completion for any remedial training course to an individual who has not passed the post-course test with a minimum score of seventy percent (70%).

(j) Certified providers shall use a Bureau-designated website to report enrollment and performance for each remedial training course.

Note: Authority Cited: Sections 9882, and 9884.7, Business and Professions Code; Reference: Sections 9882 and 9884.7, Business and Professions Code.

(3) Add Section 3395.8, Article 12.5, Chapter 1, Division 33 of Title 16 of the California Code of Regulations

Section 3395.8 Grounds for Denial or Revocation of Certification for Providers of Remedial Training for Automotive Repair Dealers.

(a) An applicant for certification as a certified provider of remedial training ("certified provider") pursuant to section 3395.6 may be denied or a certificate may be revoked for any of the following reasons:

(1) For an applicant, any grounds for denial authorized by Section 480 of the Code;

(2) For a certified provider, any grounds for discipline set forth in Section 490 of the Code, any substantially-related act resulting in disciplinary action against any registration or license issued to a certified provider by the Bureau or any program in the Department, or the State Bar of California or any other substantially-related act resulting in disciplinary action against any registration or license issued to a

certified provider by any other governmental entity as authorized by Section 141 of the Code;

(3) Noncompliance with any provision in section 3395.6 or 3395.7;

(4) Failure to accurately document student attendance for all training hours;

(5) Written or oral statements that subvert or impugn the integrity, mission, or goals of the Bureau's laws and regulations. Providing any false, inaccurate, or incomplete information to students or the Bureau; or,

(6) Any conduct that constitutes fraud as defined in subdivisions (e)(1)-(5) of Section 9884.7 of the Code.

(b) The Bureau shall provide an applicant or certified provider with a written notice of the denial or revocation of the provider certification when the Bureau seeks to deny an application or revoke any certification pursuant to this section. The notice shall include the basis for either the denial or revocation, as applicable, and the process and procedure for appealing the denial or revocation according to this section. The applicant or certified provider may submit a written request for reconsideration to the Bureau chief or their designee of either the denial or revocation within 15 days of the date of the Bureau's written notice of such denial or revocation. The written request shall provide the reasons the applicant or certified provider warrants a reconsideration of the denial or revocation. The applicant or certified provider, by availing itself of this request for reconsideration, does not waive its right to appeal under subsection (c).

(c) Regardless of whether or not the applicant or certified provider requests reconsideration as provided in subsection (b), the applicant or certified provider may appeal the denial or revocation of a provider certification by requesting an informal hearing under the Administrative Procedure Act (commencing with Section 11445.10 of the Government Code) within 30 days of the date of the Bureau's written notice specified in subsection (b).

(d) If the denial or revocation notice is withdrawn by the Bureau chief or their designee after the Bureau chief grants a reconsideration, the application shall be deemed approved, or the certification deemed unrestricted and the request for an informal hearing, if any, shall be deemed to be withdrawn.

(e) Providers wishing to reinstate after a period of not less than one year from the effective date of the decision revoking the certification or from the date of the denial of a similar request to reinstate the certification shall follow the procedures as specified in section 3395.6.

(f) For the purposes of this section, the following definitions apply:

(1) “disciplinary action” means any form of restriction placed on the license, registration, permit or other indicia of licensure including reproof, suspension, revocation, probation or any other form of restriction.

(2) “substantially-related” has the meaning set forth in section 3395.2 as it relates to the qualifications, functions or duties of a certified provider of remedial training.

Note: Authority Cited: Sections 9882 and 9884.7, Business and Professions Code;
Reference: Sections 141, 480, 490, 9882 and 9884.7, Business and Professions Code;
Sections 11445.10, 11445.20, and 11522, Government Code.