

BUREAU OF AUTOMOTIVE REPAIR

NOTICE OF PROPOSED REGULATORY ACTION AND PUBLIC HEARING CONCERNING

Ignition Interlock Device Installation, Maintenance, and Servicing

NOTICE IS HEREBY GIVEN that the Department of Consumer Affairs/Bureau of Automotive Repair (hereinafter “Bureau” or “BAR”) is proposing to take the actions described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at hearings to be held at the following locations on the following dates:

Northern California

March 18, 2014 at 10:00 a.m.

Bureau of Automotive Repair
Hearing Room, 100B
10949 North Mather Blvd.
Rancho Cordova, California 95670

Written comments, including those sent by mail, facsimile, or e-mail to the address listed under Contact Person in this Notice, must be **received by the Bureau at its office no later than 5:00 p.m. on March 18, 2014**, or must be received by the Bureau at one of the above referenced hearings. **Comments sent to persons or addresses other than those specified under Contact Person, or received after the date and time specified above, regardless of the manner of transmission, will be included in the record of this proposed regulatory action, but will not be summarized or responded to.** 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 9882.14 of the Business and Professions Code, and to implement, interpret, or make specific Section 9882.14 of the Business and Professions Code, the Bureau is proposing to adopt the following changes to Article 8 of Chapter 1, Division 33, Title 16, California Code of Regulations.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

INTRODUCTION:

BAR was established within the Department of Consumer Affairs in 1972 with the enactment of the Automotive Repair Act. SB 51 (Beilenson, Chapter 1578, Statutes of 1971), mandated a

statewide automotive repair consumer protection program. In furtherance of its mandate, BAR administers a statewide licensing and enforcement program.

Through its statewide offices, BAR provides consumer protection services related to Title 16, Division 33, of the California Code of Regulations. BAR regulates Automotive Repair Dealers (ARD), Lamp and Brake stations and adjusters, and Smog Check stations and technicians. BAR receives and mediates complaints from the public, investigates violations of the Automotive Repair Act, Smog Check laws, and associated regulations. When appropriate, cases are referred to the Attorney General's Office or law enforcement authorities for administrative action, civil and/or criminal prosecution.

BACKGROUND:

Assembly Bill (AB) 2040 (Farr, Chapter 1403, Statutes of 1990) requires BAR to cooperate with the Office of Traffic Safety (OTS) to adopt standards for the installation of ignition interlock devices as well as designate stations for these installations. The bill also requires manufacturers of those devices to comply with installation standards established by BAR, and authorized BAR to charge those manufacturers a fee to recover the cost of monitoring those installation standards.

SB 1576 (Committee on Business, Professions and Economic Development, Chapter 661, Statutes of 2012) authorizes electronics and appliance service dealers, licensed by the Bureau of Electronic Appliance and Repair, Home Furnishing and Thermal Insulation (BEARHFTI), to install, calibrate, service, and maintain ignition interlock devices. The bill exempts BEARHFTI licensed electronics and appliance service dealers from BAR automotive repair dealer registration requirements for performing work related to ignition interlock devices. The bill also requires BEARHFTI to adopt regulations "consistent with the standards adopted by the Bureau of Automotive Repair and the Office of Traffic Safety."

EFFECT OF REGULATORY ACTION:

BAR is proposing the following amendments to existing regulations:

1. Amend Section 3363.1 of Article 8, Chapter 1, Division 33, Title 16, California Code of Regulations, as follows:
 - a. Add the terms "maintenance" and "service" to the overall scope of BAR's regulatory requirements for ignition interlock devices.
2. Amend Section 3363.2 of Article 8, Chapter 1, Division 33, Title 16, California Code of Regulations, as follows:
 - a. Remove reference to repealed Vehicle Code section 23244 and OTS guidelines adopted pursuant to it.
3. Amend Section 3363.3 of Article 8, Chapter 1, Division 33, Title 16, California Code of Regulations, as follows:
 - a. Clarify regulatory conflict between BAR and Bureau of Electronic Appliance and Repair, Home Furnishings and Thermal Insulation's (BEARHFTI) responsibilities with regard to ignition interlock devices. Specifically, this amendment prescribes BAR's jurisdiction over automotive repair dealers

working on ignition interlock devices and enables BEARHFTI to adopt regulations in conformance with statute that prescribe BEARHFTI's jurisdiction over electronics and appliance service dealers working on ignition interlock devices.

4. Amend Section 3363.4 of Article 8, Chapter 1, Division 33, Title 16, California Code of Regulations, as follows:
 - a. Add the terms "maintenance" and "service" to the overall scope of BAR's regulatory requirements for ignition interlock devices.
 - b. Changed specific equipment requirements to generalized requirements. Specifically, requiring automotive repair dealers to have equipment on hand that device-specific and vehicle-specific manufacturer instructions identify as necessary.
 - c. Requires automotive repair dealers to adhere to acceptable trade standards, and ensure proper function of the device and vehicle after the installation, maintenance or servicing of the device.

BENEFIT OF REGULATORY ACTION:

This proposed regulatory action will streamline and clarify BAR's ignition interlock device regulations while adopting language to allow BEARHFTI to promulgate its own regulations to regulate the installation, calibration, servicing, and maintenance of ignition interlock devices pursuant to SB 1576 (Committee on Business, Professions and Economic Development, Chapter 661, Statutes of 2012).

CONSISTENCY AND COMPATIBILITY WITH EXISTING STATE REGULATIONS:

After reviewing existing state regulations relating to or affecting this regulatory proposal, BAR has determined that this proposed regulatory action is neither inconsistent nor incompatible with existing state regulations.

FISCAL IMPACT ESTIMATES

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

No cost or savings to state agencies or in federal funding to the state.

This proposed regulatory action is anticipated to be cost neutral. BAR has always had jurisdiction over the installation of ignition interlock devices by automotive repair dealers. That will remain the case under this regulation. At this time, BAR is unable to predict how many automotive repair dealers may opt to discontinue maintaining a BAR registration in favor of maintaining only a BEARHFTI registration in order to install, maintain, and service ignition interlock devices.

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 REQUIRES REIMBURSEMENT:

None.

BUSINESS IMPACT:

These regulations conform BAR’s standards with statute, which enables additional businesses to perform this specialized service without filing additional paperwork or paying fees with a separate licensing entity, BAR. In addition, requirements have been updated so that businesses no longer need to keep possibly outdated tools in their shops that are not necessary to install devices, and instead require that businesses follow manufacture-specific requirements and utilize applicable online materials. The proposed regulations will not have any significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

RESULTS OF THE ECONOMIC IMPACT ANALYSIS

Impact on Jobs/Businesses:

BAR has made an initial determination that the proposed regulatory action will not have any impact on the creation of jobs or new business, the elimination of jobs or existing businesses, or the expansion of business in the State of California. It is important note, however, that BEARHFTI regulations in conformance with SB 1576 may constitute a business opportunity or cost savings for BEARHFTI licensees.

Benefits of the Regulation to the Health and Welfare of California Residents, Worker Safety, and the State’s Environment:

In addition to the benefits stated under the Informative Digest/Policy Statement Overview above, this proposed action would ultimately benefit the health and welfare of California consumers by allowing for BEARHFTI licensees to perform ignition interlock device services. Providing for BEARHFTI licentiates to perform ignition interlock device services could potentially provide consumers, subject to the provisions of the ignition interlock device program, more location options when seeking installation, calibration, and maintenance services.

COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS:

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

EFFECT ON HOUSING COSTS:

None.

EFFECT ON SMALL BUSINESS:

None.

BAR has always had jurisdiction over the installation of ignition interlock devices by automotive repair dealers. That will remain the case under this regulation. In addition, this regulatory action seeks to update tool and equipment requirements so that businesses no longer need to keep possibly outdated tools in their shops that are not necessary to install devices, and instead require that businesses follow manufacture-specific requirements and utilize applicable online materials.

CONSIDERATION OF ALTERNATIVES

BAR must determine that no reasonable alternative, which it considered or that has otherwise been identified and brought to its attention, would either be more effective in carrying out the purpose for which the action is proposed or 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 upon request from the Bureau of Automotive Repair at 10949 North Mather Boulevard, Rancho Cordova, CA 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 that is available for public inspection by contacting the persons 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 named below or by accessing the Web site listed below.

CONTACT PERSON

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

Vincent Somma
Bureau of Automotive Repair

The backup contact person is:

Alan Coppage
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WEB SITE ACCESS

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