

TITLE 16
BUREAU OF AUTOMOTIVE REPAIR

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

WINDSHIELD REPLACEMENT STANDARDS

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 hearings to be held at the following location on the following date:

NORTHERN CALIFORNIA

Tuesday, January 19, 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 Tuesday, January 19, 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 section 9882, Business and Professions Code, and to implement, interpret, or make specific sections 9880.3 and 9884.8, Business and Professions Code; and section 26703, Vehicle Code, the Bureau is proposing to adopt the following changes to Article 8, Chapter 1, Division 33, Title 16, California Code of Regulations.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

INTRODUCTION:

Ejection from the vehicle is one of the most injurious events that can happen to a person in a crash. The National Highway Traffic Safety Administration (NHTSA) studied fatal crash data

for the five year period from 2003 through 2007. Of the 155,359 passenger vehicle occupants studied who were fatally injured, over one quarter (27.1%) were ejected. Passenger vehicle occupants who were ejected from their vehicles were 2.3 times as likely to be fatally injured compared to occupants who remained inside their vehicles.

The Bureau proposes to address the problem of vehicle occupant ejection by requiring the products and procedures involved in windshield replacement to meet accepted trade standards. Windshields support the vehicle frame, such as during a rollover, and are manufactured and installed according to certain standards to have sufficient strength and bonding to the vehicle to prevent ejection during a crash. Pursuant to Business and Professions Code section 9880.3, protecting the public is the highest priority of the Bureau of Automotive Repair (Bureau) in exercising its licensing, regulatory, and disciplinary functions. To that end, Article 8, Chapter 1, Division 33 of the California Code of Regulations sets forth “accepted trade standards for good and workmanlike automotive repair as performed by automotive repair dealers,” including standards for auto body and frame repairs.

The proposed regulation targets two areas of windshield installation: the selection of windshields and the selection and use of windshield adhesives which bond the windshield to the vehicle. These areas are critical to maintaining the safety function of the windshield. To function as a safety device, windshields must be built to withstand the impact of a crash and prevent occupant penetration through the windshield. They must also be properly bonded to the vehicle to remain intact during impact. Accepted industry standards which govern these areas of installation include the Federal Motor Vehicle Safety Standards (FMVSS) administered by the NHTSA and vehicle and equipment manufacturer specifications. By requiring installation products and procedures to meet or exceed these standards, the proposed regulation ensures replaced windshields perform their intended safety function.

The regulation also requires disclosures to the customer of the minimum cure time or “drive-away” time, the date and time upon which installation was completed, and whether the windshield supplied is an original equipment manufacturer part or nonoriginal equipment manufacturer part. The minimum cure time is the minimum period of time required for the adhesive to achieve enough strength for the windshield to pass relevant FMVSS. Requiring these disclosures ensures the customer is aware of the time at which he or she can safely drive his or her vehicle and has a basic understanding of the quality of the windshield.

CURRENT REGULATION:

There is no existing regulation specifically related to windshield replacement standards.

EFFECT OF REGULATORY ACTION:

The Bureau is proposing to add a new section to existing regulations that applies to automotive repair dealers installing windshields and does the following:

1. Adds the requirement that automotive repair dealers use windshields that meet or exceed FMVSS and vehicle manufacturer specifications.

2. Adds the requirements that automotive repair dealers use windshield adhesives that meet or exceed vehicle manufacturer specifications, use adhesive systems in accordance with adhesive manufacturer specifications, and apply adhesives in accordance with vehicle manufacturer specifications.
3. Adds the requirement that automotive repair dealers state on the estimate and invoice the minimum drive-away time following installation and whether the windshield installed is an original equipment manufacturer part or a nonoriginal equipment manufacturer part. The invoice must additionally state date and time upon which installation was completed.

BENEFIT OF REGULATORY ACTION:

The proposed regulation will have a positive impact on the health and welfare of California citizens to the extent it promotes safe windshield repair as well as safe driving practices associated with windshield repair. The regulation promotes safe windshield repair by adopting industry best practices in areas most critical to windshield safety. The regulation promotes safe driving practices by ensuring consumers can make an informed decision about when it is safe to drive their vehicles following a windshield installation.

The proposed regulation will not adversely affect businesses, as it codifies existing industry best practices. The regulation requires automotive repair dealers to meet accepted trade standards when performing windshield installations and to provide additional disclosures on the customer estimate and invoice such as the minimum drive away time. Indeed, businesses that adopt customer disclosure practices which they did not have prior may see positive benefits resulting from increased customer safety and satisfaction.

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 REQUIRES 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.

First, the proposed amendments codify existing industry best practices, which follow nationally set standards. Second, the regulation requires minimal additional notifications on the estimate and invoice. Businesses that replace windshields must be registered with BAR as automotive repair dealers and are subject to all the regulations applicable to automotive repair dealers. These regulations include requirements to meet specified standards in various types of repair and to include or disclose specified information on estimates, work orders, and invoices. The requirements imposed by this regulation to meet accepted trade standards in windshield installation and to disclose information pertinent to customer safety in the estimate and invoice would have a negligible, though indeterminable impact on businesses. The additional time it may cost to make additional disclosures are likely to be absorbed by any businesses subject to the regulation.

Businesses that adopt customer disclosure practices which they did not have prior may see positive benefits resulting from increased customer safety and satisfaction.

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 requirements imposed by this regulation to meet accepted trade standards in windshield installation and to disclose information pertinent to customer safety in the estimate and invoice would have a negligible, though indeterminable impact on small businesses. The additional time it may cost to make additional disclosures are likely to be absorbed by all businesses subject to the regulation, including small businesses.

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.

This determination was made because the proposed regulation merely requires automotive repair dealers to meet accepted trade standards when performing windshield installations and to provide additional disclosures on the customer estimate and invoice regarding minimum drive away time. These requirements codify existing industry best practices.

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 safe windshield repair as well as safe driving practices associated with windshield repair.

BENEFITS OF THE REGULATION TO WORKER SAFETY:

BAR has made an initial determination that the proposed regulatory action may have a positive, though indeterminable, impact on worker safety in the State of California. Although the proposal does not change the occupational scope of individuals employed by affected businesses, it codifies best practice procedures established by the Department of Transportation and vehicle and equipment manufacturers.

BENEFITS OF THE REGULATION TO THE STATE'S ENVIRONMENT:

BAR has made an initial determination that the proposed regulatory action will not have any 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 persons named above.

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 above or by accessing the Web site listed below.

CONTACT PERSON

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

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10949 North Mather Blvd.
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The backup contact person is:

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WEB SITE ACCESS

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