

1507 - 21st Street, Suite 330
Sacramento, California 95811
Telephone: (916) 445-1888
Contact Person: Nicole Angulo
www.nmvb.ca.gov

STATE OF CALIFORNIA
NEW MOTOR VEHICLE BOARD
MINUTES

The New Motor Vehicle Board ("Board") held a General meeting on April 9, 2014, in Hearing Room #1, at the Board's offices.

2. **ROLL CALL**

Glenn Stevens, President and Public Member, called the meeting of the Board to order at 2:30 p.m.

Present: Ramon Alvarez C. William G. Brennan, Executive Director
Anthony A. Batarse Jr. Robin P. Parker, Senior Staff Counsel
Kathryn Ellen Doi Dawn Kindel, Chief of Staff
Rahim Hassanally
Bismarck Obando
Victoria Rusnak
Glenn E. Stevens

Absent: Ryan L. Brooks
David C. Lizárraga

3. **PLEDGE OF ALLEGIANCE**

Ms. Doi led the members and staff in the Pledge of Allegiance.

4. **BOARD MEMBER EDUCATION CONCERNING THE DEPARTMENT OF MOTOR VEHICLES BY DAVID P. HARRIS, DEPUTY DIRECTOR/CHIEF COUNSEL - BOARD DEVELOPMENT COMMITTEE**

Mr. Stevens welcomed David Harris, Deputy Director/Chief Counsel for the DMV. Mr. Harris appreciated the invitation to address the Board. He provided a very interesting and informative overview of the DMV Legal Division and the challenges it faces. There are three sections within the Legal Affairs Division: Administrative Law, General Law, and Support Staff. The staff consists of 24 attorneys and 35 support staff. In addition to its Sacramento office, there is a small legal office in Los Angeles.

Challenges facing the DMV Legal Division include implementation of Assembly Bill 60 which established the new law requiring DMV to issue driver licenses to undocumented persons. DMV will be hiring an additional 1,000 employees to process those new licenses. There will be four new license processing centers established for new licenses only. The new law becomes operative by January 1, 2015. Mr. Harris indicated that there are potentially 1.4 million applicants.

Furthermore, the DMV is drafting regulations to be implemented in two phases for autonomous vehicles; a testing application process and public operation of autonomous vehicles. In the past couple of years, the backlog of Occupational Licensing cases has been significantly reduced from nearly 1,200 to 800. Lastly, the legal division is faced with a loss of institutional knowledge with the age of its workforce; many of its attorneys are nearing retirement so succession planning is important.

5. **APPROVAL OF THE MINUTES FROM THE FEBRUARY 4, 2014, GENERAL MEETING**

Ms. Doi moved to adopt the February 4, 2014, General Meeting minutes. Mr. Alvarez seconded the motion. Mr. Obando did not vote since he did not attend the meeting. The motion carried unanimously.

6. **ANNUAL REVIEW OF THE BOARD'S MISSION AND VISION STATEMENTS - EXECUTIVE COMMITTEE**

The members were provided with the Board's current Mission and Vision Statements. Mr. Brennan recommended that the Board continue with the current statements. No Board action was taken as this matter was for informational purposes only.

7. **ANNUAL UPDATE ON TRAINING PROGRAMS ATTENDED BY STAFF - ADMINISTRATION COMMITTEE**

The members were provided with a memorandum from Bill Brennan and Kathy Tomono concerning training programs attended by the staff since the last report. Ms. Tomono reported that most of the training has been at no cost to the Board in light of its current economic situation.

8. **CONSIDERATION OF THE REVISED GUIDE TO THE NEW MOTOR VEHICLE BOARD TO INCLUDE INFORMATION ON STATUTORY AND REGULATORY CHANGES - ADMINISTRATION COMMITTEE**

The members were provided with a memorandum and revised *Guide to the New Motor Vehicle Board* from Bill Brennan and Robin Parker. Ms. Parker reported that the Guide was thoroughly reviewed. As indicated in the memo, the pertinent changes are:

- The section "New as of 2014" has been updated to summarize changes to Vehicle Code sections 3065, 3065.1, 11713.3(y), and 11713.13 (pages 3-7);

- The good cause factors for “additional or relocated franchise” and “additional or relocated satellite warranty facility” on pages 28 and 32, respectively, were updated;
- The sections pertaining to warranty claims (pages 35-41) and franchisor incentive program claims (pages 45-50) for new motor vehicle dealers were completely revised consistent with Senate Bill 155;
- Conforming changes were made to the sections pertaining to warranty claims and franchisor incentive program claims for recreational vehicle dealers (pages 42-44 and 51-52, respectively);
- The summary of Board Action on page 55 was updated to reflect current practice;
- Stipulated Decisions on page 56 was updated because it now applies to both Article 4 (motor vehicles other than RVs) and Article 5 RV protests; and
- The samples in the Appendix were updated.

Mr. Hassanally moved to adopt the revised Guide. Mr. Obando seconded the motion. The motion carried unanimously.

9. **BOARD MEMBER EDUCATION CONCERNING CHANGES TO THE ADMINISTRATIVE PROCEDURE ACT, BAGLEY-KEENE OPEN MEETING ACT, POLITICAL REFORM ACT, AND PUBLIC RECORDS ACT - BOARD DEVELOPMENT COMMITTEE**

The members were provided with a memorandum from Bill Brennan and Robin Parker along with summaries of the Administrative Procedure Act, Bagley-Keene Open Meeting Act, Political Reform Act, and Public Records Act. A number of resource materials were also provided. Ms. Parker indicated that there were no substantive changes.

10. **BOARD FINANCIAL CONDITION REPORT FOR THE 2ND QUARTER OF FISCAL YEAR 2013-2014 - FISCAL COMMITTEE**

The members were provided with a memorandum from Bill Brennan, Dawn Kindel and Suzanne Luke concerning the Board’s financial condition for the 2nd quarter of fiscal year 2013-2014. Ms. Luke indicated that the Board expended 45% of its appropriated budget through the second quarter of fiscal year 2013-2014. The current reserve balance is \$1,036,643, expenditures were about \$700,000, and the unexpended appropriation is about \$900,000. Mr. Brennan indicated that the annual fee paid by manufacturers and distributors was approximately \$859,000, which is significantly higher than in fiscal year 2012-2013 (\$641,000). However, dealer fees are trending about \$90,000 less than the previous fiscal year. According to Mr. Brennan, the dealer fees fluctuate because of the two-year occupational license.

11. **DISCUSSION AND CONSIDERATION OF ALTERATION OF THE BOARD’S FORMAL REQUEST TO INCREASE DEALER AND MANUFACTURER FEES - FISCAL COMMITTEE**

The members were provided with a memorandum from Bill Brennan and Dawn Kindel concerning an alteration of the Board’s formal request to increase dealer and manufacturer

fees. Miss Kindel reported that about a year ago the members approved a fee increase that was tiered for manufacturers and distributors. This was necessary because the Board was spending more than it collected each year and its reserves were being reduced. During the rulemaking process, the Department of Finance indicated that it would not approve the proposed fees because of the tiered structure and the data relied upon by the Board for new vehicle sales projections was too low. Mr. Brennan and Miss Kindel met with the DMV to reformulate the proposed fee increase; the tiered structure was deleted and forecasts and expenditures were revised.

The staff recommended that the Board approve a per unit fee of \$0.55 for manufacturers and distributors with a minimum of \$400 if less than 727 vehicles are sold, and a \$400 fee for dealers. Ms. Doi moved to adopt the staff recommendation. Mr. Stevens seconded the motion. The motion carried unanimously.

12. **CONSIDERATION OF 2014 REVISIONS TO THE INFORMATIONAL GUIDE FOR MANUFACTURERS AND DISTRIBUTORS, WHICH OUTLINES THEIR OBLIGATIONS TO PROVIDE NOTICES, SCHEDULES, AND FORMULAS MANDATED BY THE CALIFORNIA VEHICLE CODE AND CIVIL CODE TO THE NEW MOTOR VEHICLE BOARD AND/OR IMPACTED DEALERS - POLICY AND PROCEDURE COMMITTEE**

The members were provided with a memorandum and revised *Informational Guide for Manufacturers and Distributors* from Bill Brennan and Robin Parker. Ms. Parker reported that the Guide was minimally revised. As indicated in the memo the changes are as follows:

- The exceptions to Vehicle Code sections 3062 and 3072 notice requirements were updated to reflect that there is really only one additional exception applicable to RV dealers that pertains to an annual show sponsored by a national trade association. The exception pertaining to “[a] motor vehicle dealership protesting the location of another dealership with the same recreational vehicle line-make within its relevant market area, if the dealership location subject to protest was established on or before January 1, 2004” was deleted. This exception is no longer applicable (page 6).
- The section on “What is a Warranty Reimbursement Schedule or Formula” was updated to reflect changes to Section 3065 that added diagnostics in addition to repair and service (page 13).

Mr. Obando moved to adopt the revised Guide. Mr. Hassanally seconded the motion. The motion carried unanimously.

13. **DISCUSSION CONCERNING THE CAR BUYERS PROTECTION ACT AND ITS IMPACT ON THE BOARD AND THE VEHICLE INDUSTRY - POLICY AND PROCEDURE COMMITTEE**

The members were provided with a memorandum from Bill Brennan concerning the Car Buyers Protection Act. Mr. Brennan reported that there are four versions of the Car Buyers Protection Act but only the first version impacts the Board and seeks to eliminate Board administrative review of consumer protection violations, i.e., appeals. Mr. Brennan indicated that signatures are in the process of being collected and 500,000 signatures were needed.

14. **DISCUSSION AND CONSIDERATION OF WHETHER TO PROMOTE AND EXPAND THE BOARD'S CONSUMER MEDIATION PROGRAM - POLICY AND PROCEDURE COMMITTEE**

The members were provided with a memorandum from Bill Brennan, Dawn Kindel, and Jackie Grassinger concerning whether to promote and expand the Board's Consumer Mediation Program. Ms. Grassinger reported that the members expressed an interest in promoting the Board's mediation program so staff was directed to explore the feasibility of increasing the visibility and awareness of the program. Mr. Brennan met with members Doi and Obando, and Brian Maas, President of the California New Car Dealers Association (CNCDA) in March. As a result of the meeting, Ms. Grassinger reported that the website was revised to highlight the Mediation Program and letters were sent to government, public, and private sector providers that have an interest in the new vehicle industry. Additionally, the staff is working on a survey that will be sent to current and past mediation participants to find out how they heard about the program and to solicit constructive criticism. The CNCDA will also publish an article on the Mediation Program in its newsletter. The staff will report back to the Board in 6-9 months to update the progress of these additional measures.

15. **DISCUSSION CONCERNING PENDING LEGISLATION - POLICY AND PROCEDURE COMMITTEE**

- a. Pending Legislation of Special Interest:
 - Assembly Bill 988 (Assembly Member Jones)
- b. Pending Legislation of General Interest:
 - (1) Assembly Bill 225 (Assembly Member Nestande)
 - (2) Assembly Bill 1732 (Assembly Member Stone)
 - (3) Senate Bill 686 (Senator Jackson)
- c. Pending Federal Legislation of General Interest: None

The members were provided with a memorandum from Bill Brennan and Robin Parker

concerning pending legislation. Ms. Parker indicated that the Recreation Vehicle Industry Association was planning to sponsor a bill.

16. **EXECUTIVE DIRECTOR'S REPORT**

- A. Administrative Matters.
- B. Case Management.
- C. Judicial Review.
- D. Notices Filed Pursuant to Vehicle Code sections 3060/3070 and 3062/3072.
- E. Other.

This matter was postponed until after Agenda Item 19.

17. **CLOSED EXECUTIVE SESSION**

Pursuant to Government Code section 11126(a)(1), all members of the Board shall convene in a closed Executive Session.

DISCUSSION OF A PERSONNEL MATTER - EXECUTIVE COMMITTEE

This matter was postponed until after Agenda Item 19.

18. **OPEN SESSION**

The members remained in open session.

19. **PUBLIC COMMENT (GOV. CODE § 11125.7)**

Mary Beth Farber of the California Arts Council presented public comments to the members about the California Arts Council license plate and the benefit the plates provide in funding the council and the need to reach out to dealers.

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- E. Other.

Mr. Brennan provided the members with a report on Administrative Matters that identified all pending projects, the Board staff and committee assigned, estimated completion dates, and status. Mr. Brennan discussed the annual Board fee increase, the Board's budget, and the upcoming Industry Roundtable set for April 10. Additionally, the day prior to the July 15, 2014, General Meeting in San Francisco, Mr. Brennan is working to schedule a tour of Tesla.

Ms. Parker reported that 16 protests are pending, and since the members received their written report three new protests have been filed and two were dismissed. Additionally, only 7 60-day notices of termination have been filed.

With regards to judicial matters, in *Roadtrek Motorhomes, Inc. v. California New Motor Vehicle Board; Mega RV Corp, d/b/a McMahon's RV*, Ms. Parker reported that appeals were filed by Mega RV and Roadtrek, and the Fourth Appellate District Court of Appeal stayed the Board's modification decisions pending the Roadtrek appeal. In light of this, DMV ceased the investigation of Roadtrek. In *Powerhouse Motorsports Group, Inc. and Timothy L. Pilg v. Yamaha Motor Corp., Inc.*, the California Supreme Court denied the petitions for review filed by Powerhouse and Yamaha.

17. **CLOSED EXECUTIVE SESSION**

Pursuant to Government Code section 11126(a)(1), all members of the Board shall convene in a closed Executive Session.

DISCUSSION OF A PERSONNEL MATTER - EXECUTIVE COMMITTEE

The members of the Board convened in closed Executive Session to discuss a personnel matter.

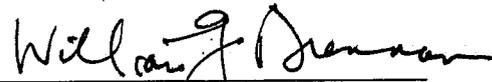
18. **OPEN SESSION**

The members returned to open session and Mr. Stevens announced that no Board action was taken.

20. **ADJOURNMENT**

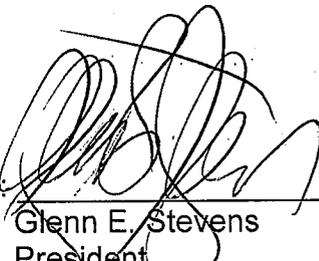
With no further business to discuss, the meeting was adjourned at approximately 4:29 p.m.

Submitted by



WILLIAM G. BRENNAN
Executive Director

APPROVED:



Glenn E. Stevens
President
New Motor Vehicle Board