

TITLE 13. NEW MOTOR VEHICLE BOARD

NOTICE OF PROPOSED RULEMAKING

NOTICE IS HEREBY GIVEN that the California New Motor Vehicle Board ("Board"), pursuant to the authority vested in it by Vehicle Code section 3050(a), proposes to adopt the proposed regulations described below after considering all comments, objections, and recommendations regarding the proposed action.

PROPOSED REGULATORY ACTION

The Board proposes to amend section 553 of Title 13 of the California Code of Regulations pertaining to the Annual Board Fee.

PUBLIC DISCUSSIONS PRIOR TO NOTICE

Prior to the publication of this notice, the Board considered and adopted the proposed regulations at a noticed meeting held on February 4, 2011. Ten days prior to the meeting, a detailed agenda including the consideration of the proposed text of the regulation was mailed to the Board's Public Mailing List and Electronic Public Mailing list. The agendas were also posted on the Board's website. No comments by the public were received at the February 4, 2011, General Meeting, and no further public discussions were held prior to publication of the notice.

PUBLIC HEARING

The Board has not scheduled a public hearing on this proposed action. However, the Board will hold a public hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days prior to the close of the written comment period.

WRITTEN COMMENT PERIOD

Any person interested, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Board. Comments may also be submitted by facsimile (FAX) at (916) 323-1632 or by e-mail at rparker@nmvb.ca.gov or nmvb@nmvb.ca.gov. The written comment period closes at 5:00 p.m. on **October 31, 2011**. The Board will consider only comments received at the Board's offices by that time. Submit comments to:

Robin P. Parker, Senior Staff Counsel
New Motor Vehicle Board
1507 21st Street, Suite 330
Sacramento, CA 95811
(916) 323-1536 direct line
(916) 445-1888 mail line
(916) 323-1632 fax
rparker@nmbv.ca.gov

AUTHORITY AND REFERENCE

Vehicle Code section 3050(a) authorizes the Board to adopt the proposed regulations. The proposed regulations implement, interpret, and make specific Business and Professions Code section 472.5, Vehicle Code sections 3016, 3050, and 11723.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Vehicle Code section 3050(a) authorizes the Board to adopt rules and regulations governing such matters as specifically committed to it.

The adopted mission of the Board is to: "...enhance relations between dealers and manufacturers throughout the State by resolving disputes in the new motor vehicle industry in an efficient, fair, cost-effective manner. The adopted vision statement provides that the Board safeguard for its "constituency, a fair, expeditious and efficient forum for resolving new motor vehicle industry disputes, which ultimately improves the relations and reduces the need for costly litigation and develop methods that further improve the delivery of Board services in a timely and cost-effective manner..."

The Board proposes to amend Section 553 to reinstate the annual board fee from \$225 per year to \$300 per year for new motor vehicle dealers and from \$.338 per vehicle to \$.45 per vehicle for new motor vehicle manufacturers and distributors. This amendment also prohibits a manufacturer or distributor from paying an amount less than \$300 per year.

Vehicle Code section 3016 authorizes the Board to charge a fee to new motor vehicle dealers and other licensees under its jurisdiction in an amount sufficient to fully fund the Board's activities.

Since the economic downturn, the Board has used its cash reserve to supplement annual income. However, the Board has conservatively forecasted continued slow growth and recovery in the new motor vehicle industry. If these fees are not raised, the Board's cash reserve will be entirely depleted within the next two years.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Board has made the following initial determinations:

Mandate on local agencies and school districts: None.

Cost or savings to any state agency: None.

Cost to any local agency or school district which must be reimbursed in accordance with Government Code section 17500 through 17630: None.

Other nondiscretionary costs or savings imposed on local agencies: None.

Costs or savings in federal funding to the state: None.

Significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states: None.

Cost impacts on representative private persons or businesses: The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Adoption of these regulations will not:

- (1) Create or eliminate jobs within California,
- (2) Create new businesses or eliminate existing businesses within California; or
- (3) Affect the expansion of businesses currently doing business within California.

Significant effect on housing costs: None.

Small Business Determination:

The Board has determined that the proposed regulations will have minimal effect on small businesses. The proposed regulations reinstate fees to an amount equal to that which was collected in 2001.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), the Board must determine that no reasonable alternative it considered, or that has otherwise been identified and brought to the attention of the Board, would 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 proposed action.

The Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations during the written comment period.

CONTACT PERSON

Please direct requests for copies of the proposed text (the “express terms”) of the regulations, the initial statement of reasons, the modified text of the regulations, if any, or other information upon which the rulemaking is based to Ms. Parker at the following address:

Robin P. Parker, Senior Staff Counsel
New Motor Vehicle Board
1507 21st Street, Suite 330
Sacramento, CA 95811
(916) 323-1536 direct line
(916) 445-1888 main line
(916) 323-1632 fax
rparker@nmvb.ca.gov

The back-up contact person for these inquiries is:

Randi Calkins, Regulations Coordinator
Department of Motor Vehicles
2415 1st Avenue, C244
Sacramento, CA 95818
(916) 657-8898 direct line
(916) 657-1204 fax
rcalkins@dmv.ca.gov

AVAILABILITY OF THE STATEMENT OF REASONS, TEXT OF PROPOSED REGULATIONS, AND RULEMAKING FILE

The Board will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its offices at the above address. As of the date this notice is published, the rulemaking file consists of this notice, the proposed text of the regulations, the initial statement of reasons, and all the

information upon which the proposal is based. Copies may be obtained by contacting the contact persons identified above.

AVAILABILITY OF CHANGES OR MODIFIED TEXT

After considering all timely and relevant comments received, the Board may adopt the proposed regulations substantially as described in this notice. If the Board makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Board adopts the regulations as revised. Requests for copies of any modified regulation should be addressed to the Board contact person or back-up contact person at the addresses indicated above. The Board will accept written comments on the modified regulations for 15 days after the date on which they are made available to the public.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Ms. Parker or Ms. Calkins at the addresses provided above.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations in underline and strikeout font can be accessed through the Board's website at www.nmvb.ca.gov.