

INITIAL STATEMENT OF REASONS

The following Initial Statement of Reasons has been prepared in regard to the proposal of the New Motor Vehicle Board of the State of California to add Section 593.3 of Article 6, Chapter 2, Division 1, of Title 13 of the California Code of Regulations.

INTRODUCTION

The New Motor Vehicle Board ("Board") is an agency within the Department of Motor Vehicles ("Department") with oversight provided by Business, Transportation and Housing Agency. The Board consists of nine members, seven of which are appointed by the Governor, one by the Speaker of the Assembly, and one by the Senate Rules Committee (see Vehicle Code sections 3000 and 3001).

The duties of the Board include the following:

1. To Adopt rules and regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code governing those matters that are specifically committed to its jurisdiction.
2. To hear and determine "appeals" which are filed by specified occupational licensees within the new motor vehicle industry as a result of adverse disciplinary action taken by the Department against the license of such entity. (Vehicle Code section 3050(b)).
3. Consider any matter concerning the activities or practices of any person applying for or holding a specified type of occupational license. These disputes are considered by the Board as a result of the filing of a "petition", which may be done by any person. (Vehicle Code section 3050(c)).
4. To hear and decide "protests" filed by new motor vehicle dealers against their respective franchisors, pursuant to the provisions of the Automotive Franchise Act. (Vehicle Code sections 3050(d), 3060, 3062, 3064, 3065, and 3065.1). These protests pertain to specified types of franchise disputes between the dealer (franchisee) and the manufacturer or distributor (franchisor).

SECTION 593.3

PURPOSE OF THE REGULATION

In 2000, the California Legislature enacted Senate Bill 1819 [Stats. 2000, ch. 789], authored by Senator Dunn. This bill amended Vehicle Code section 11713.3 as follows: every manufacturer, branch, and distributor that owns or operates a dealership for a temporary period is required to give written notice to the Board, within 10 days, each time it commences or terminates operation of a dealership and each time it acquires or divests itself of an ownership interest (11713.3(o)(3)(A)); and, every manufacturer, branch, and distributor that owns an interest in a dealer as part of a bona fide dealer development program is required to give written notice to the Board, annually, of the name and location of each dealer in which it has an ownership interest (11713.3(o)(3)(A)).

Additionally, under the various sections of the Vehicle Code and Civil Code enumerated below, certain licensees of the Department of Motor Vehicles including, but not limited to, manufacturers, distributors, or branches of those entities, are required to file notices, schedules and/or formulas with the Board (see Vehicle Code sections 3060, 3062, 3064, 3065; Civil Code section 1795.92).

The purpose of the proposed regulation is to inform affected licensees as to what is expected with respect to their responsibility to file such notices with the Board.

The addition of the proposed regulation will provide licensees with an explanation and clarification as to what actions may be taken in the event a licensee fails to file a statutorily required written notice or files it in an untimely manner. Without the regulation, licensees are not accountable for the various notices required to be filed with the Board.

NECESSITY

The proposed regulation is necessary to provide clarity and accountability for licensees which are required to file statutorily required notices with the Board.

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR DOCUMENTS.

The Board relied upon the provisions of Senate Bill 1819 and a New Motor Vehicle Board Policy and Procedure Committee Memorandum dated October 4, 2000, in adopting the proposed regulatory text.

ALTERNATIVES TO THE REGULATION

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.

At the November 28, 2000, General meeting, wherein the Board preliminarily adopted the proposed regulatory text, no other alternatives were considered. However, the Board President, Robert T. (Tom) Flesh invited and encouraged the submission of written and oral comments. Furthermore, Mr. Flesh indicated that the Board instructing staff to go forward with the proposed rulemaking, did not necessarily indicate final Board action. If any written or oral comments were received, the full Board would consider the comments and reconsider the text of the proposed rulemaking. Lastly, if the staff decided that modifications to the proposed text were necessary, the Board would consider those modifications at a noticed meeting. If there were no written or oral comments received, then the rulemaking process will proceed without further Board involvement.