

FINAL STATEMENT OF REASONS

1. Update of Initial Statement of Reasons.

The entire text of the Initial Statement of Reasons is incorporated herein by reference. The necessity of the proposed rulemaking is further justified by the following:

Filing a request for informal mediation is not adversarial. It would require the cooperation of both the petitioner (consumer, new motor vehicle/motorcycle dealer, or vehicle/motorcycle manufacturer/distributor) and the respondent (new motor vehicle/motorcycle dealer or vehicle/motorcycle manufacturer/distributor.)

A petition under Vehicle Code section 3050(c) is a formal action initiated against a licensee for alleged violations of the Vehicle Code. Given the interdependency of the automobile franchise relationship, it is important to maintain a professional and cooperative relationship. With formal litigation, this is not always feasible.

If the informal mediation is unsuccessful, then it is relatively easy to convert the matter to a petition. There are no additional filing fees. The matter would proceed with the scheduling of a mandatory settlement conference, discovery schedule, and date for a hearing on the merits.

If the informal mediation is successful, then the parties have quickly resolved their dispute without the necessity of filing a formal action. This would likely save both parties time and money, and conserve the Board's resources and staff time.

Parties that opt to proceed via informal mediation will likely save on attorneys fees and costs because of the informal nature of the proceeding in comparison to a formal action. Additionally, there are numerous intangible benefits to fostering a good working relationship between a dealer and manufacturer as indicated above.

The cost of proceeding with a formal action, i.e., a petition, that ultimately results in a hearing and consideration of the proposed decision by the members of the Board can cost the litigants hundreds of thousands of dollars in attorney and expert fees. This process would likely take a minimum of six months to complete.

2. Imposition of Mandate on Local Agencies and School Districts.

The Board's proposed regulatory action to add sections 551.14, 551.15, 551.16, 551.17, of Article 1, to amend section 553.40 of Article 1, and to amend section 595 of Article 1, Chapter 2, Division 1, of Title 13 of the California Code of Regulations, does not impose a mandate on local agencies or school districts. The proposed regulatory action imposes (1) no cost or savings to any state agency, (2) no cost to any local agency or school district that is required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of the Government Code, (3) no other non-

discretionary cost or savings to local agencies, and (4) no costs or savings in federal funding to the state. No studies or data were relied upon to make this determination.

3. Summary of Public Comments.

No public comments were received either during the public comment period, March 8, 2002, through April 29, 2002, or during the public hearing on April 29, 2002.

4. Alternatives Considered.

In accordance with Government Code section 11346.5, subdivision (a)(13), the Board has determined 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.