

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

STATE OF CALIFORNIA
NEW MOTOR VEHICLE BOARD
A G E N D A
GENERAL MEETING

New Motor Vehicle Board
Hearing Room #1
1507 21st Street, Suite 330
Sacramento, California 95811

November 12, 2015

Please note that Board action may be taken regarding any of the issues listed below. As such, if any person has an interest in any of these issues, he or she may want to attend.

The Board provides an opportunity for members of the public to comment on each agenda item before or during the discussion or consideration of the item as circumstances permit. (Gov. Code § 11125.7) However, comments by the parties or by their counsel that are made regarding any proposed decision, order, or ruling must be limited to matters contained within the administrative record of the proceedings. No other information or argument will be considered by the Board. Members of the public may not comment on such matters.

1. **10:30 a.m. -- Meeting called to order.**
2. **Roll Call.**
3. **Pledge of Allegiance.**
4. **Approval of the Minutes from the June 17, 2015, General Meeting, and August 27, 2015, Special Meeting.**
5. **Introduction of Michael Gowe, Deputy Attorney General, assigned to the Board - Board Development Committee.**

6. **Report on non-substantive changes to the proposed regulatory text of Section 551.21 of Title 13 of the California Code of Regulations - Executive Committee.**
7. **Discussion and consideration of who will attend the out-of-state trips for the 2nd half of fiscal year 2015-2016 that were previously approved by the Board-Executive Committee.**
8. **Annual update concerning the development and use of the Board's website - Administration Committee.**
9. **Annual Report on Board Development Program - Board Development Committee.**
10. **Board financial condition report for the previous fiscal year and status report on the Board's proposed budget for fiscal year 2015-2016 - Fiscal Committee.**
11. **Discussion and consideration of the upcoming Industry Roundtable - Government and Industry Affairs Committee.**
12. **Discussion concerning legislation - Policy and Procedure Committee.**
 - a. Enacted Legislation of Special Interest:
 - (1) Assembly Bill 759 (Assembly Member Linder)
 - (2) Assembly Bill 1178 (Assembly Member Achadjian)
 - b. Pending Legislation of Special Interest:
 - (1) Assembly Bill 287 (Assembly Members Gordon, Eggman and Mark Stone; Principal Coauthor Assembly Member Wilk)
 - (2) Senate Bill 16 (Senator Beall)
 - c. Enacted Legislation of General Interest: none
 - d. Pending Legislation of General Interest: none
 - e. Pending Federal Legislation of General Interest:
 - (1) United States House of Representatives Bill 679 (U.S. Representative Blumenauer) - Road Usage Charge Pilot Program Act of 2015
 - (2) United States House of Representatives Bill 1181 (U.S. Representative Schakowsky) - Vehicle Safety Improvement Act of 2015
 - (3) United States Senate Bill 304 (U.S. Senator Thune) - Motor Vehicle Safety Whistleblower Act
 - (4) United States Senate Bill 617 (U.S. Senator Markey) - Repairing Every Car to Avoid Lost Lives Act (RECALL Act)

13. **Consideration of proposed regulations - Policy and Procedure Committee.**

- a. Definitions (13 CCR § 550);
- b. Dismissals of Petitions, Appeals, and Protests (13 CCR § 551.8);
- c. Notice of Assignment of Administrative Law Judges; Peremptory Challenges (13 CCR § 551.12);
- d. Filing Fees (13 CCR § 553.40);
- e. Hearings by Board or by Administrative Law Judge (13 CCR § 590);
- f. Notice of Hearing of Protest (13 CCR § 591); and
- g. Continuances (13 CCR § 592).

14. **Annual report on staff participation in the Our Promise Campaign formerly the California State Employees Charitable Campaign (CSECC).**

15. **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.

16. **Selection of Board meeting dates for 2016.**

17. **Closed Executive Session.**

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

Consideration of annual performance review for Executive Director - Executive Committee.

18. **Open Session.**

19. **Public Comment. (Gov. Code § 11125.7)**

20. **Closed Executive Session.**

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

Discussion and advice from legal counsel concerning pending litigation.

- a. NISSAN NORTH AMERICA, INC., a California corporation v. CALIFORNIA NEW MOTOR VEHICLE BOARD, a California state agency; SANTA CRUZ NISSAN, INC., dba SANTA CRUZ NISSAN, a California corporation
Sacramento Superior Court No. 34-2014-80001963

Protest No. PR-2358-13

Discussion and advice from the Board's legal counsel concerning pending litigation, by the Public members of the Board.

- b. CAPACITY OF TEXAS, INC. v. NEW MOTOR VEHICLE BOARD, a California State Administrative Agency; GUARANTEE FORKLIFT, INC. DBA GFL, INC.
Sacramento Superior Court No. 34-2014-80001848
Protest No. PR-2361-13

Discussion and advice from the Board's legal counsel concerning pending litigation, by the Public members of the Board.

21. **Open Session.**

22. **Consideration of Peremptory Writ of Mandamus in *Capacity of Texas, Inc. v. New Motor Vehicle Board; Guaranteed (sic) Forklift, Inc., dba GFL, Inc. (Real Party in Interest)*, Sacramento County Superior Court, Case No. 34-2014-80001848-CU-WM-GDS.**

GUARANTEE FORK LIFT, INC., dba GFL, INC. v. CAPACITY OF TEXAS, INC.
Protest No. PR-2361-13

Consideration of the Sacramento County Superior Court's Peremptory Writ of Mandamus wherein the Court commanded the Board to set aside its April 10, 2014 Decision in Protest No. PR-2361-13, and remanded the matter to the Board to issue a new decision overruling Guarantee Forklift, Inc., dba GFL, Inc.'s protest thereby allowing the termination of its Capacity of Texas franchise in the above-referenced matter, by the Public Members of the Board.

23. **Oral Presentation before the Public Members of the Board.**

GUARANTEE FORK LIFT, INC., dba GFL, INC. v. CAPACITY OF TEXAS, INC.
Protest No. PR-2361-13

24. **Closed Executive Session deliberations.**

Pursuant to Government Code section 11126(c)(3), Vehicle Code section 3008(a), and Title 13, California Code of Regulations, sections 581 and 588, the Board convenes in closed Executive Session to deliberate the decisions reached upon the evidence introduced in proceedings that were conducted in accordance with Chapter 5 (commencing with section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

Consideration of Decision.

GUARANTEE FORK LIFT, INC., dba GFL, INC. v. CAPACITY OF TEXAS, INC.
Protest No. PR-2361-13

Consideration of the Board's Decision in light of the Sacramento County Superior Court's Judgment on Writ of Mandamus, by the Public Members of the Board.

25. **Open Session.**

26. **Adjournment.**

To request special accommodations for persons with disabilities at this or any future Board meeting or to request any accommodation for persons with disabilities necessary to receive agendas or materials prepared for Board meetings, please contact Makalla Turner at (916) 445-1888 or mturner@nmvb.ca.gov.