

## INITIAL STATEMENT OF REASONS

The following Initial Statement of Reasons has been prepared in regard to the proposal of the California New Motor Vehicle Board ("Board") to amend sections 551.14, 555.1, and 584 of Articles 1, 2, and 5, Chapter 2, Division 1, of Title 13 of the California Code of Regulations.

### INTRODUCTION

The Board is an agency within the Department of Motor Vehicles ("Department") with oversight provided by the Business, Transportation and Housing Agency. The Board consists of nine members, seven of who are appointed by the Governor, one by the Speaker of the Assembly, and one by the Senate Rules Committee (Veh. Code §§ 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. (Veh. Code § 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. (Veh. Code § 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. (Veh. Code §§ 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).

The Board is a quasi-judicial administrative agency with independent authority to resolve disputes between franchised dealers and manufacturers or distributors of new vehicles (includes in part motorcycles, recreational vehicles, and all-terrain vehicles).

## **SECTION 551.14**

### **PURPOSE OF THE REGULATION**

The amendments to Section 551.14, which pertain to informal mediation, add “manufacturer” for consistency with other regulations and corrects an oversight. The proposed regulations change an inaccurate reference to Code of Civil Procedure section 1013(a). The proper reference is section 1013a. This is consistent with changes recommended in Sections 555.1 and 584.

### **NECESSITY**

The amendments to section 551.14 of the Board’s regulations are reasonably necessary to ensure that litigants know the procedure for service and proof of service of a request for informal mediation.

## **SECTION 555.1**

### **PURPOSE OF THE REGULATION**

The amendments to Section 555.1 pertain to the service of a petition upon the respondent(s) and proof of service. The proposed regulations change an inaccurate reference to Code of Civil Procedure section 1013(a). The proper reference is section 1013a. This is consistent with changes recommended in Sections 551.14 and 584.

### **NECESSITY**

The amendments to section 555.1 of the Board’s regulations are reasonably necessary to ensure that litigants know the procedure for service and proof of service of a petition.

## **SECTION 584**

### **PURPOSE OF THE REGULATION**

The amendments to Section 584 pertain to service of the protest upon the franchisor and proof of service. The proposed regulations change an inaccurate reference to Code of Civil Procedure section 1013(a). The proper reference is section 1013a. This is consistent with changes recommended in Sections 551.14 and 555.1

### **NECESSITY**

The amendments to Section 584 are reasonably necessary to ensure that litigants know the procedure for service and proof of service of a protest.

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

The Board relied upon the provisions of a New Motor Vehicle Board Policy and Procedure Committee Memorandum dated January 25, 2010, in adopting the proposed regulatory text. No other technical, theoretical, and/or empirical studies, reports, or documents were relied upon in drafting the proposed regulation.

## **REASONABLE ALTERNATIVES TO THE REGULATION AND THE AGENCY'S REASONS FOR REJECTING THOSE ALTERNATIVES**

Prior to the publication of this notice, the Board considered an initial draft of the proposed regulations at a noticed meeting held on February 11, 2008. At that meeting comments were received by members of the industry. Based on those comments and those of its members, the Board revised the proposed text. The proposed text was adopted at a noticed meeting held on February 4, 2010. Ten days prior to the meeting, a detailed agenda including the consideration of the proposed text of the regulations was mailed to the Board's Public Mailing List and Electronic Public Mailing List, a list of approximately 90-100 individuals, entities and governmental agencies who have requested notification by the Board of pending Board matters, and the 38 California New Car Dealers Association Directors. The agenda was also posted on the Board's website. No comments by the public were received at the February 4, 2010, General Meeting, and no further public discussions were held prior to publication of the notice.

## **REASONABLE ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON SMALL BUSINESS**

The Board has determined that the proposed regulations will have no effect on small businesses. This determination was made because no small businesses are legally required to comply with the regulation, are legally required to enforce the regulation, or derive a benefit from or incur an obligation from the enforcement of the regulation.

## **EVIDENCE SUPPORTING FINDING OF NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS**

There are no associated costs with the proposed regulatory amendments; they merely correct an inaccurate reference to the Code of Civil Procedure pertaining to service and proof of service for franchised new motor vehicle dealers and their franchisors (new vehicle manufacturers or distributors) that choose to file a request for informal mediation, petition or protest with the Board.