

NEW MOTOR VEHICLE BOARD

Arbitration Certification Program Fee Collection -- FY 2022-23

Statement Specifying Why The Changes Are Without Regulatory Effect

Business and Professions Code section 472.1 authorizes the Department of Consumer Affairs (Department) to establish a program for certifying each third-party dispute resolution process used for the arbitration of motor vehicle disputes pursuant to Civil Code section 1793.22(d)(9). Business and Professions Code section 472.5 designates the New Motor Vehicle Board (Board) as the agency responsible for administering the collection of fees from new motor vehicle manufacturers and distributors to fully fund the Arbitration Certification Program (ACP) within the Department of Consumer Affairs.

Business and Professions Code section 472.5 further requires:

- a) That each manufacturer and distributor file a statement with the Board, on or before May 1 of each year, which contains specified information, and to pay a fee within a specified time after written notification by the Board;
- b) That the Department notify the Board, on or before February 1 of each year, of the dollar amount necessary to fully fund the Arbitration Certification Program for the upcoming fiscal year, but not specify to the method by which the Board is to determine the dollar amount;
- c) That the regulations which the Board adopts to implement the provisions relating to the collection of fees shall include, at a minimum, a formula for calculating the fee to be collected for each motor vehicle and the total amount of fees to be collected from each manufacturer or distributor.

The Board adopted regulations in Title 13 of the California Code of Regulations (sections 553.50 et seq.), to clarify and implement the collection of the fees.

Currently, the Board is proposing to adopt changes to 13 CCR section 553.70. These changes merely reflect the dollar amount to be charged for the 2022-23 fee collection and are without regulatory effect. The amount to be collected pursuant to Section 472.5(b) of the Business and Professions Code is to be determined each year by a specific formula as delineated in 13 CCR 553.70. Pursuant to 13 CCR 553.70, the Board is required to divide the dollar amount necessary to fully fund the Department's Arbitration Certification Program by the number of new motor vehicles sold, leased or otherwise distributed in California during the previous calendar year. It was reported that 1,818,783 new motor vehicles were sold, leased or otherwise distributed in California during 2021 (see attached Exhibit A). The Department reports that it will need \$1,642,000 to fund the Arbitration Certification Program for fiscal year 2022-23 (see attached Exhibit B). The Department's figure does not, however, include the Board's costs of administering the collection of fees to fund this program.

Section 3016 of the Vehicle Code requires that the Department reimburse the Board for its costs associated with the administration of the collection of the fees. The Board's costs for this program during the period from September 21, 2021, through March 29, 2022 (see attached Exhibit C) were \$1,505.74. As such, computation of the fee to be charged per vehicle is as follows:

ACP's funding requirements	\$ 1,642,000
Board's costs	\$ 1,505.74
Total funding requirements	\$ 1,643,505.74
Number of vehicles distributed in 2021	1,818,783
Fee per vehicle (calculated by dividing the total funding needed by the number of vehicles distributed)	\$ 0.904

Accordingly, a fee of \$0.904 per vehicle will cover all costs associated with this program.

The proposed changes in the regulation are implementing the conditions and prescriptions contained in the regulation. The Board is merely specifying the amount to be charged and does not alter the requirements, rights, responsibilities, conditions, or prescriptions contained in the existing regulation.