

## **INITIAL STATEMENT OF REASONS**

This Initial Statement of Reasons has been prepared relative to the proposal of the California New Motor Vehicle Board ("Board") to amend section 551.19 of Article 1 of Chapter 2 of Division 1 of Title 13 of the California Code of Regulations.

### **INTRODUCTION**

The Board is an agency within the Department of Motor Vehicles with oversight provided by the California State Transportation Agency. The Board consists of nine members, seven 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. 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(b))
3. 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(c), 3060, 3062, 3064, 3065, 3065.1, 3065.3, 3065.4, 3070, 3072, 3074, 3075, and 3076) These protests pertain to specified types of franchise disputes between the dealer (franchisee) and the manufacturer or distributor (franchisor).
4. The Board also has authority to hear protests filed by an association (an organization primarily owned by, or comprised of, new motor vehicle dealers and that primarily represents the interests of dealers) challenging the legality of a manufacturer, manufacturer branch, distributor or distributor branch's export or sale-for-resale prohibition policy. (Veh. Code §§ 3050(d) and 3085)

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, cars, motorcycles, recreational vehicles, and all-terrain vehicles).

## **PURPOSE OF THE REGULATION - SECTION 551.19**

Section 551.19 specifies the procedural requirements for motions including whether the motion is on the record or in writing, if an opposition or reply brief is permissible, and whether the hearing is conducted by telephone, television, or other electronic means, or in person. In the event of live witness testimony, the hearing on the motion is held in person. When Section 551.19 was effective in 2011, electronic hearings were not feasible. Since 2020, the Board's merits hearings and motion hearings with witness testimony have been held remotely. The proposed amendments would formalize this process. Proposed amendments to subdivision (d) of section 551.19 would allow hearings in motions with live testimony to be conducted in person or via other electronic means if each party in the hearing has an opportunity to participate in and to hear the entire proceeding while it is taking place and to observe exhibits.

## **PUBLIC PROBLEM, ADMINISTRATIVE REQUIREMENT, OR OTHER CONDITION OR CIRCUMSTANCE THAT THE REGULATORY ACTION IS INTENDED TO ADDRESS**

A revised practice expressly allowing hearings on motions with live testimony to be conducted via other electronic means as an alternative to in person hearings would benefit parties, counsel, and witnesses, particularly those that often are located outside of California. The proposed regulatory amendments are necessary to ensure that the Board does not maintain regulations that are outdated or inconsistent with current practices.

## **NECESSITY**

The regulatory amendments are necessary so motion hearings with live testimony can be conducted either in person or via electronic means. This is consistent with the Board's current practice in light of technology that did not exist when Section 551.19 was effective.

## **BENEFITS ANTICIPATED FROM THE REGULATORY ACTION**

The proposed regulatory amendments benefit the public, practitioners appearing before the Board, and the State of California by updating how motion hearings with live witness testimony are conducted. It allows the use of technology not previously available so hearings can be conducted via electronic means as an alternative to in person hearings. This allows practitioners and witnesses increased accessibility, flexibility, efficiency, and cost savings.

Case management is being clarified for litigants that appear before the Board to have the information necessary to effectively represent themselves or their clients. This means the Board will continue to quickly and to economically resolve statutorily enumerated disputes between new motor vehicle dealers (franchisees) and their manufacturers or distributors (franchisors). The Board keeps these types of cases from further clogging our already congested courts. Additionally, the Board issues uniform

orders and decisions throughout California thereby allowing franchisors and their dealers to conduct their business in compliance with California law.

## **ECONOMIC IMPACT ASSESSMENT/ANALYSIS**

### **CREATION OR ELIMINATION OF JOBS WITHIN THE STATE:**

The Board has determined that the proposed amendments will not have an impact on the creation of new jobs or businesses, the elimination of any jobs or existing businesses, or the expansion of businesses currently doing business in California. The proposed amendments only impact licensed new motor vehicle dealers, manufacturers, and distributors within the Board's jurisdiction that file a protest or petition. This includes approximately 2,700 new car, motorcycle, all-terrain vehicle, low-speed vehicle, and recreational vehicle dealers and approximately 150-175 manufacturers or distributors. In the last 20 years, there have been on average 45 protests filed each year. Only 12 petitions have been filed since 2005.

### **CREATION OF NEW OR ELIMINATION OF EXISTING BUSINESSES WITHIN THE STATE:**

The proposed amendments will not impact the creation of new businesses or cause the elimination of existing businesses in California. The proposed amendments only impact licensed new motor vehicle dealers, manufacturers, and distributors within the Board's jurisdiction that file a protest or petition. This includes approximately 2,700 new car, motorcycle, all-terrain vehicle, low-speed vehicle, and recreational vehicle dealers and approximately 150-175 manufacturers or distributors. In the last 20 years, there have been on average 45 protests filed each year. Only 12 petitions have been filed since 2005.

### **EXPANSION OF BUSINESSES CURRENTLY DOING BUSINESS WITHIN THE STATE:**

The proposed amendments will not impact the business climate in the state, and therefore, will not result in the expansion of businesses doing business in California. The proposed amendments only impact licensed new motor vehicle dealers, manufacturers, and distributors within the Board's jurisdiction that file a protest or petition. This includes approximately 2,700 new car, motorcycle, all-terrain vehicle, low-speed vehicle, and recreational vehicle dealers and approximately 150-175 manufacturers or distributors. In the last 20 years, there have been on average 45 protests filed each year. Only 12 petitions have been filed since 2005.

### **BENEFITS TO THE HEALTH AND WELFARE OF CALIFORNIA RESIDENTS, WORKER SAFETY, AND THE STATE'S ENVIRONMENT:**

The Board does not anticipate any impact on the health and welfare of California residents.

The proposed amendments will not benefit worker safety because it does not regulate worker safety standards.

The proposed amendments will not benefit the state's environment because it does change any applicable environmental standards.

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

The Board relied on the following document in drafting and proposing the adoption of the proposed regulation:

- (1) Memorandum dated February 3, 2025, from Timothy M. Corcoran and Robin P. Parker to the Policy and Procedure Committee regarding Discussion and Consideration of Proposed Regulatory Amendments to Section 551.19 (Motions; Form, Briefing, and Hearings) of Title 13 of the California Code of Regulations.

No other technical, theoretical, and/or empirical studies or reports were relied upon in drafting the proposed regulation.

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

Prior to the publication of this notice, and at a noticed General Meeting held on February 28, 2025, the Board considered potential amendments to the regulation that are the subject of this rulemaking action. After discussion, the Board considered and adopted the proposed regulation. Fifteen days prior to the meeting, a detailed agenda including the consideration of the proposed text of the regulation was mailed to all individuals and entities on the Board's Public Mailing list and Electronic Public Mailing list. The agenda and materials were also posted on the Board's website.

The public was invited to comment at the General Meeting in relation to the proposed changes to the regulation in this notice. No comments by the public were received at the February 28, 2025, General Meeting, and no further public discussion was held prior to publication of the notice. No other alternatives were presented to or considered by the Board.

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

The Board has determined that the proposed regulation 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**

The proposed regulation would not have a significant statewide adverse economic impact directly affecting business. There are no associated costs with the proposed regulatory amendments; they clarify motion hearing procedures for franchised new motor vehicle dealers and their franchisors (new motor vehicle manufacturers or distributors) who choose to file a protest or petition with the Board.