

## **TITLE 13. NEW MOTOR VEHICLE BOARD**

(Notice published May 30, 2025)

### **NOTICE OF PROPOSED RULEMAKING**

As required by section 11346.4 of the Government Code, **NOTICE IS HEREBY GIVEN** that the California New Motor Vehicle Board ("Board"), pursuant to the authority vested in the Board by subdivision (a) of Vehicle Code section 3050 proposes to adopt the proposed regulation as described below, after considering all comments, objections, and recommendations regarding the proposed regulatory action.

### **PROPOSED REGULATORY ACTION**

The Board proposes to amend section 551.19 of Title 13 of the California Code of Regulations relating to hearings on motions with live testimony.

### **PUBLIC DISCUSSIONS PRIOR TO NOTICE**

Prior to the publication of this notice, and at a noticed General Meeting held on February 28, 2025, 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.

### **PUBLIC HEARING**

The Board has not scheduled a public hearing on this proposed action. However, the Board will hold a hearing if it receives a written request for a public hearing from any interested person, or their authorized representative, no later than 15 days before the close of the written comment period.

### **WRITTEN COMMENT PERIOD**

Any person interested, or their authorized representative, may submit written comments relevant to the proposed regulatory action to the Board. Comments may also be submitted by e-mail at [Robin.Parker@nmvb.ca.gov](mailto:Robin.Parker@nmvb.ca.gov) or [nmvb@nmvb.ca.gov](mailto:nmvb@nmvb.ca.gov). The written comment period closes on Monday, July 14, 2025. The Board will only consider comments received at the Board's offices by that time. Submit comments to:

Robin Parker, Chief Counsel  
New Motor Vehicle Board  
2415 1<sup>st</sup> Avenue, MS L242  
Sacramento, CA 95818  
(916) 244-6776 direct line  
(916) 445-1888 main line  
[robin.parker@nmvb.ca.gov](mailto:robin.parker@nmvb.ca.gov)

## **AUTHORITY AND REFERENCE**

Vehicle Code section 3050, subdivision (a), authorizes the Board to adopt the proposed regulation. The proposed regulation implements, interprets, and makes specific Vehicle Code section 3050 and Government code section 11440.30.

## **SUMMARY OF EXISTING LAWS AND REGULATIONS**

Subdivision (a) of Vehicle Code section 3050 authorizes the Board to adopt rules and regulations governing such matters as specifically committed to it.

Subdivision (b) of Vehicle Code section 3050 provides for any person to petition the Board to “[c]onsider any matter concerning the activities or practices of any person applying for or holding a license as a new motor vehicle dealer, manufacturer, manufacturer branch, distributor, distributor branch, or representative pursuant to Chapter 4 (commencing with Section 11700) of Division 5 submitted by any person. . . .”

Subdivision (c) of Vehicle Code section 3050 provides for the Board to hear and decide any protest presented by a franchisee against a franchisor.

Subdivision (d) of Vehicle Code section 3050 provides for the Board to hear and decide a protest presented by an association as defined challenging a policy of a manufacturer or distributor pursuant to Section 3085.

Subdivision (a) of Government Code section 11440.30 of the Administrative Procedure Act provides that “[t]he presiding officer may conduct all or part of a hearing by telephone, television, or other electronic means if each participant in the hearing has an opportunity to participate in and to hear the entire proceeding while it is taking place and to observe the exhibits.”

Subdivision (b) of Government Code section 11440.30 goes on to provide that “[t]he presiding officer may not conduct all of a hearing by telephone, television, or other electronic means if a party objects.” However, if a party objects, the presiding officer is required to consider the objections and has discretion to structure the hearing to address the objections and may require physical presence during all or part of the hearing.

Subdivision (c) of Government Code section 11440.30 provides that subdivision (b) is “not a limitation on the presiding officer transmitting the hearing by telephone,

television, or other electronic means or receiving comments via electronic means from participants who are not parties or witnesses.”

Section 551.19 specifies the procedural requirements for motions including whether the motion is on the record or in writing, an opposition or reply brief is permissible, and whether the hearing is held by telephone, television, or other electronic means, or in person. Subdivision (d) of Section 551.19 exempts the Board’s motion hearings from Government Code section 11440.30. This subdivision provides the administrative law Judge may conduct the hearing by telephone, television, or 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. In the event of live testimony, the hearing is conducted in person before the administrative law Judge.

## **INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

The adopted mission of the Board is to “enhance relations between dealers and manufacturers throughout the State by resolving disputes in the new motor vehicle industry in an efficient, fair and cost-effective manner.” The adopted vision statement provides that the Board “demonstrate professionalism, integrity, and accountability in securing fair resolutions to motor vehicle industry disputes.”

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 held by telephone, television, or other electronic means, or in person. This regulation requires that hearings on motions with live testimony be conducted 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 live witness testimony have been held remotely. The proposed amendments would formalize this process. Hearings with live witness testimony could 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.

## **BROAD OBJECTIVES AND SPECIFIC BENEFITS OF THE PROPOSED RULEMAKING**

The broad objective of the proposed rulemaking is to clarify for litigants that motion hearings with live testimony can be conducted either in person or electronically. This is consistent with the Board’s current practice in light of technology that did not exist when Section 551.19 was effective.

The specific benefit anticipated from the regulation is promoting the expeditious and economical resolution of statutorily enumerated disputes between new motor vehicle dealers (franchisees) and their manufacturers and distributors (franchisors). The Board keeps these types of cases from further clogging our already congested courts. It provides a uniformity of decisions across the state, allowing franchisors and their dealers to conduct their business in compliance with California law.

## **DETERMINATION OF INCONSISTENCY/INCOMPATIBILITY WITH EXISTING STATE REGULATIONS**

The Board has determined that the proposed regulation is not inconsistent or incompatible with existing regulations. After conducting a review for any regulations that would relate to or affect this area, the Board has concluded that this is the only regulation that authorizes motion hearings before the Board.

## **DISCLOSURES REGARDING THE PROPOSED ACTION**

The Board has made the following initial determinations:

- Mandate on local agencies and school districts: None.
- Cost or savings to any state agency: None.
- Cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500 through 17630: None.
- Other nondiscretionary cost or savings imposed on local agencies: None.
- Cost or savings in federal funding to the state: None.
- Cost impacts on a representative private person or business:

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

- Statewide adverse economic impact directly affecting businesses and individuals: None.
- Significant effect on housing costs: None.

The proposed regulatory amendments have no associated costs; they clarify case management procedures for franchised new motor vehicle dealers and their franchisors (new motor vehicle manufacturers and distributors) who choose to file a protest or petition with the Board.

## **RESULTS OF THE ECONOMIC IMPACT ANALYSIS/ASSESSMENT**

The Board concludes that the proposed regulation will not (1) create any jobs within the State of California, (2) eliminate any jobs within the State of California, (3) create any new businesses within the State of California, (4) eliminate any existing businesses within the State of California, or (5) cause the expansion of businesses currently doing business within the State of California.

The proposed regulatory amendments benefit the public, practitioners appearing before the Board, and the State of California by clarifying motion practice before the Board with witness testimony. 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.

The proposed regulation will not impact the health and welfare of California residents, and worker safety because they do not regulate worker safety standards and will also not benefit the environment because it does not change any applicable environmental standards.

## **BENEFITS OF THE REGULATION**

The benefits anticipated from the regulation is promoting the expeditious and economical resolution of statutorily enumerated disputes between new motor vehicle dealers (franchisees) and their manufacturers and distributors (franchisors). The Board keeps these types of cases from further clogging our already congested courts. It provides a uniformity of decisions across the state, allowing franchisors and their dealers to conduct their business in compliance with California law.

## **SMALL BUSINESS DETERMINATION**

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. The proposed regulation merely clarifies case management for franchised new motor vehicle dealers and their franchisors (new vehicle manufacturers and distributors) who choose to file a protest or petition with the Board.

## **CONSIDERATION OF ALTERNATIVES**

In accordance with Government Code section 11346.5, subdivision (a)(13), the Board must determine 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, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

The Board invites interested persons to present comments, statements or arguments with respect to alternatives to the proposed regulation, during the written comment period or at the public hearing, if one is requested.

## **CONTACT PERSONS**

Please direct requests for copies of the proposed text (the “express terms”) of the regulation, the initial statement of reasons, the modified text of the regulation, if any, or other information upon which the rulemaking is based to Ms. Parker at the following address:

New Motor Vehicle Board  
2415 1<sup>st</sup> Avenue, MS L242  
Sacramento, CA 95818  
(916) 244-6776 direct line  
(916) 445-1888 main line  
[Robin.Parker@nmbv.ca.gov](mailto:Robin.Parker@nmbv.ca.gov)

The backup contact person for these inquiries is:

Alejandro Martinez  
New Motor Vehicle Board  
2415 1<sup>st</sup> Avenue, MS L242  
Sacramento, CA 95818  
(916) 244-6789 direct line  
(916) 445-1888 main line  
[Alejandro.Martinez2@nmbv.ca.gov](mailto:Alejandro.Martinez2@nmbv.ca.gov)

## **AVAILABILITY OF STATEMENT OF REASONS, TEXT OF PROPOSED REGULATIONS, AND RULEMAKING FILE**

The Board will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its offices at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulation, the initial statement of reasons, the Economic and Fiscal Impact Statement, and all the information upon which the proposal is based. Copies may be obtained by contacting the contact persons identified above.

## **AVAILABILITY OF CHANGED OR MODIFIED TEXT**

After considering all timely and relevant comments received, the Board may adopt the proposed regulation substantially as described in this notice. If the Board makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Board adopts the regulation as revised. Requests for copies of any modified regulation should be addressed to the Board contact person or back-up contact person at the addresses indicated above. The Board will accept written comments on the modified regulation for 15 days after the date on which they are made available to the public.

## **AVAILABILITY OF THE FINAL STATEMENT OF REASONS**

Upon completion of the Final Statement of Reasons, copies thereof may be obtained by contacting Ms. Parker or Mr. Martinez at the above address.

## **AVAILABILITY OF DOCUMENTS ON THE INTERNET**

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulation in underline and strikeout font can be accessed through the Board's website at [www.nmvb.ca.gov](http://www.nmvb.ca.gov).