

DEPARTMENT OF CONSUMER AFFAIRS
Title 16. PROFESSIONAL AND VOCATIONAL REGULATIONS
Division 33.
BUREAU OF AUTOMOTIVE REPAIR

NOTICE OF PROPOSED REGULATORY ACTION CONCERNING

Mobile and Referral Automotive Repair Dealers

NOTICE IS HEREBY GIVEN that the Bureau of Automotive Repair (Bureau or BAR) is proposing to take the rulemaking action described below under the heading Informative Digest/Policy Statement Overview, after considering all comments, objections, and recommendations regarding the proposed action.

PUBLIC HEARING

The Bureau has not scheduled a public hearing on this proposed action. The Bureau will, however, hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days prior to the close of the written comment period. A hearing may be requested by making such request in writing addressed to the individuals listed under “Contact Person” in this notice.

WRITTEN COMMENT PERIOD

Written comments relevant to the action proposed, including those sent by mail, facsimile, or e-mail to the addresses listed under “Contact Person” in this Notice, must be received by the Bureau at its office no later than **by Monday, May 12, 2025**, or must be received by the Bureau at the hearing, should one be scheduled.

AUTHORITY AND REFERENCE

Pursuant to the authority vested by Business and Professions Code (BPC) sections 9882, 9884.2, 9884.4, and 9884.19, to implement, interpret, and make specific BPC sections 27, 30, 31, 114.5, 115.4, 135.4, 141, 142, 480, 490, 9880.1, 9884, 9884.1, 9884.2, 9884.4, 9884.6, 9884.7, 9884.19, 9889.52, 17500, and 17505, the Bureau proposes adopting the following changes to California Code of Regulations (CCR) Title 16, Division 33, Chapter 1.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Department of Consumer Affairs (DCA), Bureau of Automotive Repair is the state agency charged with licensing automotive repair dealers (ARDs), Smog Check stations, STAR stations, brake and lamp stations, Vehicle Safety Systems Inspection Stations, and their respective inspectors, repair technicians, and adjusters. The Bureau also accepts and mediates complaints from the public and investigates violations of the

Automotive Repair Act and associated regulations. Pursuant to Article 1, Chapter 20.3 of Division 3 of the BPC (commencing with section 9880), the Bureau regulates automotive repair and has the authority to adopt, amend, and repeal necessary rules and regulations.

The Bureau regulates approximately 35,000 ARDs in the State of California. The Bureau ensures persons operating as ARDs are registered with the Bureau and comply with laws and regulations established to protect consumers in repair transactions. The Bureau proposes adopting new regulations specific to mobile ARDs and referral ARDs. These regulations are necessary to adequately ensure persons operating mobile ARDs and/or referral ARDs are registered with the Bureau and comply with consumer protection laws and regulations.

Mobile ARDs

Existing law defines mobile automotive repair and outlines the requirements of mobile ARDs. This regulatory proposal will update the definition of mobile ARD to include a geographical radius—in relation to where diagnosis or repair is performed—that will help specify who is a “mobile” ARD. This proposal will also specify additional information that must be included on an invoice when a mobile repair transaction takes place.

Referral ARDs

BPC section 9880.1(a) previously defined an automotive repair dealer (ARD) only as “a person who, for compensation, engages in the business of repairing or diagnosing malfunctions of motor vehicles.” Assembly Bill (AB) 1263 (Berman, Chapter 681, Statutes of 2023) expanded this definition to additionally include any person that “engages in the business of collecting compensation for automotive repair services that are referred or sublet to someone other than the dealer or their employees.”

Although there are numerous circumstances under which this new definition applies, there are two specific business types that warrant further clarification. The first is a referral, broker, or concierge service that provides automotive repair services. With this business type, a consumer seeking a specific automotive service utilizes a third-party website for recommendations and scheduling of the service. The website provides a quote for the desired services and, if the consumer accepts, collects payment. Once the consumer pays for the service, they are referred to a physical location or to a mobile ARD who will perform the repairs at a place usually chosen by the consumer. In this situation, the business operating the website collects compensation for the repairs and, therefore, under the amended definition of an ARD, must be registered as an ARD with BAR. It is important to note that if the business only refers the consumer to a provider of repair services and does NOT collect payment for the repairs, there is no requirement for that business to register with BAR. The second business is an online retailer of automotive parts that not only sells parts but also arranges for the installation of the

parts. With this business type, the consumer is typically seeking a specific automotive part or component and some online retailers may offer an installation option as part of the purchase transaction. Collecting compensation for the installation of the parts is considered to be an automotive repair transaction and, therefore, the business is required to be registered with BAR.

These proposed regulations define when a person is considered to be an ARD within the meaning of the new definition that now includes when a person “engages in the business of collecting compensation for automotive repair services that are referred or sublet to someone other than the dealer or their employees.”

The Bureau proposes to: (1) amend existing sections 3351.7.1, 3351.7.2, and 3351.7.3 of Article 6.1 of Chapter 1 of Division 33 of Title 16 of the CCR, and (2) amend existing section 3371.1 of Article 9 of Chapter 1 of Division 33 of Title 16 of the CCR, and (3) add section 3371.2 to Article 9 of Chapter 1 of Division 33 of Title 16 of the CCR as follows:

- Amend 16 CCR section 3351 to add on the Automotive Repair Dealer application that if an ARD engages in mobile automotive repairs, they shall provide the physical address where records are maintained and available for inspection and reproduction.
- Amend 16 CCR section 3351.7.1 to add a geographical radius (in relation to where diagnosis or repair is performed) for when automotive repair is to be considered mobile.
- Amend 16 CCR section 3351.7.2 to clarify the definition of “mobile automotive repair”.
- Amend 16 CCR section 3351.7.3 to remove a portion of text that will be moved to 16 CCR section 3371.2, and add information that must be included on an invoice when mobile automotive repair is performed.
- Amend 16 CCR section 3371.1, which details when it will be presumed that a person is an Automotive Repair Dealer (ARD), to also apply to an entity, as well as to clarify that the presumption applies when one or more of the triggering actions occurs. This section is also amended to add that a person or entity will be presumed to be an ARD if that person or entity collects compensation or payment (for which a definition is also added) for automotive repair services that are referred or sublet to another person or entity to perform. This section is also amended to remove gendered pronouns.
- Add 16 CCR section 3371.2, which will be titled “Requirements for Advertising Automotive Repair.” The language in this section is existing text that is being moved from 16 CCR section 3351.7.3 “Requirements of Mobile Automotive Repair.” This text is being moved to a different section (with an amended title) to clarify that the requirements apply to all advertising, not just to advertising by mobile ARDs.

ANTICIPATED BENEFITS OF THE PROPOSED REGULATION

The Bureau has determined that this regulatory proposal will have the following benefits to the health and welfare of California residents:

The proposed changes will clarify the definition and responsibilities of an automotive repair dealer when performing mobile automotive repair.

Providing the above updates and definitions to regulatory text will also increase clarity for the industry regarding who is a mobile ARD and who shall be deemed to be an ARD as defined by subdivision (a) of section 9880.1 of the BPC based on the updated definition due the passage of AB 1263.

There are currently people engaged in the business of collecting compensation for automotive repair services that are referred or sublet to someone other than an ARD or their employees and those people are now required to be registered as an ARD. This will allow the Bureau to have oversight over these business, in turn enhancing public protection, which benefits California residents.

This regulatory proposal does not affect worker safety or the state's environment.

EVALUATION OF CONSISTENCY AND COMPATIBILITY WITH EXISTING STATE REGULATIONS

During the process of developing this regulatory proposal, BAR has conducted a search of any similar regulations on this topic and has concluded that these regulations are neither inconsistent nor incompatible with existing state regulations.

DISCLOSURES REGARDING THE PROPOSED ACTION

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

The Bureau estimates up to 30 currently unregistered individuals or entities will be required to register as an ARD per year under the proposed regulations.

Expenditures: The Bureau estimates costs ranging from approximately \$9,000 to \$48,000 per year and up to \$273,000 over a ten-year period. Additionally, the Bureau may be required to issue a citation and fine of up to \$500 for non-compliance. In the event the Bureau issues a citation and fine, it will incur costs of approximately \$400 per citation. The Bureau does not have an estimate of the number of citations and fines for non-compliance, and therefore does not have a cost or revenue estimate at this time.

The Bureau notes, it does not anticipate an individual or entity will appeal the citation and fine because of the additional costs and because the appeal would likely be denied.

The Bureau further notes, it does not have an estimate of future enforcement-related workload or costs resulting from the additional ARD registrants at this time.

Revenues: The Bureau estimates ARD registration revenues ranging from approximately \$6,000 to \$30,000 per year and up to \$180,000 over a ten-year period.

The regulations do not result in costs or savings in federal funding to the state.

Nondiscretionary Costs/Savings to Local Agencies: None

Cost to Any Local Agency or School District for Which Government Code Sections 17500 – 17630 Require Reimbursement: None

Mandate Imposed on Local Agencies or School Districts: None

Significant Effect on Housing Costs: None

Business Impact Estimates:

BAR has made the initial determination that the proposed regulations will not have a significant statewide adverse economic impact directly affecting businesses including the ability of California businesses to compete with businesses in other states. The initial determination is based on the fact that this proposal is designed to update and clarify the definition of mobile ARD.

Cost Impact on Representative Private Person or Business:

The Bureau estimates up to 30 currently unlicensed individuals or entities will be required to register as an ARD per year under the proposed regulations, which would result in costs ranging from approximately \$6,000 to \$30,000 per year and up to \$180,000 over a ten-year period.

Effect on Housing Costs: None

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS

This Bureau has determined that this regulatory proposal will have the following effects:

- It will not create or eliminate jobs within the State of California because the proposal will only require a person or entity to register with the Bureau if they collect compensation for automotive repair services that are referred or sublet to another person or entity to perform.

- It will not create new businesses or eliminate existing businesses within the State of California because the proposal will only require a person or entity to register with the Bureau if they collect compensation for automotive repair services that are referred or sublet to another person or entity to perform.
- It will not affect the expansion of businesses currently doing business within the State of California because the proposal will only require a person or entity to register with the Bureau if they collect compensation for automotive repair services that are referred or sublet to another person or entity to perform.
- This regulatory proposal benefits the health and welfare of California residents because it increases transparency regarding who is a mobile ARD and who must register as an ARD.
- This regulatory proposal does not affect worker safety because it does not involve worker safety.
- This regulatory proposal does not affect the state's environment because it does not involve the environment.

Benefits of Regulation:

The Bureau has determined that this regulatory proposal will have the following benefits to the health and welfare of California residents:

The proposed changes will clarify the definition and responsibilities of an automotive repair dealer when performing mobile automotive repair.

Providing the above updates and definitions to regulatory text will also increase clarity for the industry regarding who is a mobile ARD and who shall be deemed to be an ARD as defined by subdivision (a) of section 9880.1 of the BPC based on the updated definition due the passage of AB 1263.

There are currently people engaged in the business of collecting compensation for automotive repair services that are referred or sublet to someone other than an ARD or their employees and those people are now required to be registered as an ARD. This will allow the Bureau to have oversight over these business, in turn enhancing public protection, which benefits California residents.

This regulatory proposal does not affect worker safety or the state's environment.

Business Reporting Requirements:

The regulatory action does not require businesses to file a report with the Bureau.

EFFECT ON SMALL BUSINESS

The Bureau has determined that the proposed regulations may affect small businesses, as defined in Government Code section 11342.610. Although small businesses owned by licensees of the Bureau may be impacted, the Bureau does not maintain data relating to the number or percentage of licensees who own a small business; therefore, the number or percentage of small businesses that may be impacted cannot be predicted.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5(a)(13), BAR must determine that no reasonable alternative to this proposed regulatory action it considered, or that has otherwise been identified and brought to its attention, 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 proposal described in this Notice, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Any interested person may present statements orally or in writing relevant to the above determinations during the written comment period, or at the hearing if one is scheduled or requested.

AVAILABILITY OF STATEMENT OF REASONS AND RULEMAKING FILE

The Bureau has compiled a record for this regulatory action, which includes the Initial Statement of Reasons (ISOR), proposed regulatory text, and all the information on which this proposal is based. This material is contained in the rulemaking file and is available for public inspection upon request to the contact persons named in this notice.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations, any document incorporated by reference, the Initial Statement of Reasons, and all of the information upon which the proposal is based, may be obtained upon request from the Bureau of Automotive Repair, 10949 North Mather Boulevard, Rancho Cordova, California 95670.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments, the Bureau, upon its own motion or at the request of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal, with the modifications clearly indicated, will be available for review and written comment for 15 days prior to its adoption from the person designated in this Notice as the Contact Person and will be mailed to those persons who submit written comments or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

AVAILABILITY AND LOCATION OF THE RULEMAKING FILE AND THE FINAL STATEMENT OF REASONS

All the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public inspection by contacting the person named below.

You may obtain a copy of the Final Statement of Reasons, once it has been prepared, by making a written request to the contact person named below, or by accessing the website listed below.

CONTACT PERSON

Inquiries or comments concerning the proposed administrative action may be addressed to:

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10949 North Mather Blvd.
Rancho Cordova, CA 95670
Telephone: (916) 970-8421
E-mail: Holly.Helsing@dca.ca.gov

The backup contact person is:

Kayla Shelton
Bureau of Automotive Repair
10949 North Mather Blvd.
Rancho Cordova, CA 95670
Telephone: (279) 260-2392
E-mail: Kayla.Shelton@dca.ca.gov

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations with modifications noted, as well as the Final Statement of Reasons when completed, and modified text, if any, can be accessed through the Bureau's website at www.bar.ca.gov/regulatory-actions.