

TITLE 16. BUREAU OF AUTOMOTIVE REPAIR
DEPARTMENT OF CONSUMER AFFAIRS
FINAL STATEMENT OF REASONS

Subject Matter of Proposed Regulations: Tear Down Disclosure Requirements for Automotive Repair Dealers

Section(s) Affected: Amend California Code of Regulations (CCR), Title 16, Division 33, Chapter 1: Article 1, section 3303; Article 7, sections 3352 and 3353.

Updated Information

The Informative Digest and Initial Statement of Reasons are included in the rulemaking file and incorporated as though set forth herein.

The Bureau of Automotive Repair (Bureau) noticed the rulemaking on November 1, 2024, with a forty-five (45) day comment period ending on December 16, 2024. The Bureau received 6 comments during the 45-day comment period.

The Bureau prepared modified text. On February 7, 2025, the Bureau issued a 15-day notice of availability of modified text and modified text containing the amendments discussed below. This comment period closed on February 28, 2025. The Bureau responds to all comments below.

Section 3303

1. Updated one subdivision's letter in the alphanumeric sequence from "t" to "w".

One subdivision's letter in the alphanumeric sequence for the proposed new definitions was updated to reflect "w". The subdivision's letter previously reflected "t", and another rulemaking simultaneously under promulgation by the Bureau proposed adding definitions under "t", "u", and "v". However, the other regulatory proposal moved through the formal rulemaking process faster, so the subdivision lettering in the proposed regulatory text for this rulemaking has been changed so that the section's alphanumeric sequence continues uninterrupted. This change is non-substantive.

Section 3353

1. Creation of a new subdivision 3353(b)(1) to state "If an automotive repair dealer uses an estimate prepared by or on behalf of the customer's third-party payor ("third-party estimate") to create its own estimate ("ARD estimate"), the automotive repair dealer shall:"

The purpose of this addition is to outline the requirements for automotive repair dealers when providing estimates based on third-party payor estimates. This ensures that even when an automotive repair dealer adopts a third-party estimate, it still meets the minimum requirements for repair estimates.

This language is necessary due to the process utilized by insurers, consumers, and the

automotive repair industry for processing insurance claims for the repair of a vehicle after a collision. Bureau statutes and regulations require the automotive repair dealer to prepare an estimate that contains a specific price for a specific job(s), present the estimate to the consumer, and obtain authorization to repair the vehicle pursuant to the estimate. However, in collision repair circumstances, third-party payors will frequently have the vehicle inspected by an independent “adjuster” or appraiser who will prepare an estimate on behalf of the third-party payor and provide that estimate to the consumer. In this circumstance, automotive repair dealers will frequently choose to follow the estimate created on behalf of the third-party payor rather than go through the process of creating another estimate, and often, the third party estimates are missing information required by laws and regulations, information crucial for transparency to consumers. The new language codifies that process and places responsibility upon the automotive repair dealer to ensure the third-party payor estimates complies with existing statutes and regulations.

2. Creation of new subdivision 3353(b)(1)(A) to state “Notify the customer that the third-party estimate is subject to the Fair Claims Settlement Practice Regulations as adopted by the California Department of Insurance contained in Title 10, Chapter 5, Subchapter 7.5, Article 1 of the California Code of Regulations;”

The purpose of this addition is to inform automotive repair dealers that any estimate that was generated utilizing third-party payor estimates are subject to the Fair Claims Settlement Practice regulations.

The Fair Claims Settlement Practices Regulations are a set of rules established by California Department of Insurance that govern how insurance companies must handle claims, ensuring they are settled fairly, promptly, and without discriminatory practices. These regulations include timeframes for claim decisions, requirements for proper communication with claimants, and restrictions against unreasonable claim denials or low settlement offers. This addition is necessary to ensure that a customer with an insurance policy that covers automotive collision repairs is aware of the third-party payor’s responsibilities in a repair transaction. This language reiterates that the customer must understand the responsibilities of the third-party payor as well as their own responsibilities to obtain payment from the third-party payor as described in subdivision 3353(d)(2).

3. Creation of new subdivision 3353(b)(1)(B) to state “Ensure the ARD estimate provided to the customer complies with all estimate requirements of the Business and Professions Code and this Article;”

The purpose of this addition is to require that when an automotive repair dealer adopts the third-party payor estimate, the automotive repair dealer is responsible for ensuring that the estimate meets all requirements set forth in this Article and the Business and Professions Code.

This addition is necessary to ensure ARDs are aware of and meet the requirements for estimates as outlined in section 3353 and the Business and Professions Code. Providing customers with transparent estimates that meet these requirements helps ensure that

consumers are fully informed.

4. Creation of new subdivision 3353(b)(1)(C) to state “Record the following on the ARD estimate:”

The purpose of this addition is to outline the information requirements for automotive repair dealers when generating an ARD estimate based on a third-party estimate. This inclusion is necessary to ensure that even when an automotive repair dealer adopts a third-party estimate, it still meets the minimum requirements for repair estimates.

5. Creation of new subdivision 3353(b)(1)(C)(i) to state “A statement of the intent to repair the vehicle per the third-party estimate;”

The purpose of this addition is to specify that automotive repair dealers must include a statement on the ARD estimate that confirms the ARD intends to repair the vehicle in line with the third-party estimate.

This addition is necessary to require the automotive repair dealer to provide clear notice to the consumer of the intent to provide the parts and labor necessary to repair the vehicle as detailed on the estimate prepared by or on behalf of the third-party payor.

6. Creation of new subdivision 3353(b)(1)(C)(ii) to state “The name of the third-party payor;”

The purpose of this addition is to require the automotive repair dealer to record the name of the third-party payor on the ARD estimate so that the name on the ARD estimate matches the name of the third-party on the estimate prepared by the third-party payor (third-party estimate).

This addition is necessary so that, in combination with the other information required in section 3353(b)(1)(C), the name of the third-party payor on the automotive repair dealer’s estimate clearly identifies the specific estimate prepared by the third-party payor as the document detailing the repairs to be performed, and links it to the ARD estimate.

7. Creation of new subdivision 3353(b)(1)(C)(iii) to state “The unique identifier contained on the third-party estimate. This unique identifier may be, but is not limited to, a ‘claim number’, ‘file number’, or similar identifying number;”

The purpose of this addition is to require the automotive repair dealer to record a unique identifier (number) on their estimate that matches the unique identifier (number) on the estimate prepared by the third-party payor. This inclusion is necessary to ensure consistency and transparency to the consumer when an automotive repair dealer generates an estimate based on an estimate prepared by a third-party payor. This will link to two estimates so that it is easy to identify that the two estimates are “related”, connected to the same repair transaction.

8. Creation of new subdivision 3353(b)(1)(C)(iv) to state “The total cost of repair listed on the third-party estimate.”

The purpose of this addition is to require the automotive repair dealer to record the total cost of the repair on their estimate which matches the total cost of repair on the estimate prepared by the third-party payor. This addition is necessary to ensure consistency and

transparency to the consumer when an automotive repair dealer generates an estimate based on an estimate prepared by a third-party payor.

9. Creation of new subdivision 3353(b)(1)(D) to state “Attach the third-party estimate (the original, a duplicate, or printout of the original) to the ARD estimate provided to the customer.”

The purpose of this addition is to require the automotive repair dealer to attach a copy of the estimate prepared by the third-party payor to the estimate generated by the automotive repair dealer. This is necessary to ensure there is a consistent paper trail that enables both the consumer and the automotive repair dealer to track the estimate transaction.

In addition to a consistent paper trail, attaching the third-party estimate provides the automotive repair dealer, the consumer, and Bureau representatives with the ability to verify that all repairs were performed as agreed upon.

10. Creation of new subdivision 3353(b)(1)(E) to state “If the customer authorizes changes to the repair, prior to continuing with the repair, notify the third-party payor of customer-approved changes in the ARD estimate that would alter the payment amount specified in the third-party estimate.”

The purpose of this addition is to require the ARD to notify third-party payors of all customer-approved changes in the ARD estimate that would alter the payment amount specified in the third-party estimate.

During collision repair transactions, automotive repair dealers will often identify the need for additional necessary repairs or, conversely, will determine it is possible to repair the vehicle per industry standards at a cost less than originally estimated. The addition of this language is necessary to create an obligation for the automotive repair dealer to notify the third-party payor of any change in the estimated cost to repair the vehicle.

11. Replacement of language in subdivision 3353(d) which stated, “An automotive repair dealer, when accepting payment for repairs from a third-party payor, shall, prior to obtaining authorization from the customer, do one of the following:” with language stating “If an automotive repair dealer will be accepting payment for repairs from a third-party payor, the automotive repair dealer shall, prior to obtaining authorization from the customer, do one of the following:”.

The purpose of this amendment is to make clear that the automotive repair dealer is responsible for adhering to the rules that follow when accepting payment from a third-party payor prior to obtaining customer authorization for the estimated repairs.

The Bureau has investigated numerous consumer complaints wherein the consumer expected to only have to pay the deductible prescribed by their policy when in fact the third-party payor had adjusted the amount covered by the policy. This circumstance typically results in the consumer faced with a greater out of pocket expense at the time of

retrieving the vehicle after repairs. This addition is necessary to require the automotive repair dealer to provide full disclosure of the amount the consumer will be responsible for paying, ensuring transparency to the customer.

12. Replacement of language in subdivision 3353(d)(1), which stated “If the amount of payment to be made by the third-party payor is known by the automotive repair dealer prior to providing an estimate to a customer, the automotive repair dealer shall include the total estimated amount and the amount of payment for which the third-party payor is responsible on the estimate; or”, with language stating “If the amount of the payment to be made by the third-party payor is known, the automotive repair dealer shall include the amount approved to be paid by the third-party payor on the ARD estimate;”

The purpose of this change is to ensure that ARD estimates include the amount approved to be paid by the third-party payor.

This amendment is necessary to clarify that the automotive repair dealer is responsible for notating the amount approved to be paid by the third-party payor on the estimate that was prepared by the automotive repair dealer.

13. Removal of language in subdivision 3353(d)(2) stating “by the automotive repair dealer prior to providing an estimate to a customer,”

The purpose of this change is to remove language that is redundant and therefore unnecessary. This change is necessary to streamline the Bureau’s regulations.

14. Replacement of language in subdivision 3353(d)(2) which stated “Any agreement you have with a third-party payor of the final repair bill may be adjusted based upon policy provisions, resulting in you becoming responsible for an additional portion of the cost of repair beyond any deductible contained within the policy. You will be notified by the insurer of any such adjustments.” with language stating “As the customer, it is your responsibility to contact the third-party payor for approval of payment for the repairs you have authorized.”

The purpose of this change is to ensure the customer contacts the third-party payor for approval of payment for repairs the customer has authorized.

Based upon stakeholder input during workshops, the Bureau determined it was inappropriate to have the regulations indicate any possible decision about claim provisions by the third-party payor. This change is necessary to make the regulation more consistent with existing statutes and regulations that require the automotive repair dealer to only communicate with the consumer regarding the cost of repair.

15. Creation of a new subdivision 3353(e) to state “If an automotive repair dealer provides or contracts for a towing service, the towing fees shall be provided to the customer—prior to receiving payment for those services—on a separate document (electronic or printed) from any repair estimate or invoice pursuant to Vehicle Code section 22651.07(a)(3) and the Towing and Storage Fees and Access Notice in Vehicle Code section 22651.07(e). Authorization for towing fees shall be obtained separate and apart from any authorization for repair work.”

The purpose of this language is to require that only information specifically related to repairs is included on repair estimates and invoices. This is necessary to ensure that information not specifically part of a repair procedure is separate from estimate and authorization information, rather than comingled with information on the estimate and authorization process. The automotive repair dealer has an obligation to provide the consumer with full disclosure of the cost of getting the vehicle to the repair facility so that the estimate, authorization, and repair process can be initiated. However, it is crucial to have information regarding repairs separately documented from information about towing because towing services that an automotive repair dealer provides a customer may not necessarily result in a repair transaction. Therefore, the documentation of towing fees and any repair fees must be documented separately as they are considered separate transactions. Additionally, pursuant to subdivision (e) of Vehicle Code section 22651.07, any towing fees and customer authorization for towing services are required to be documented separate and apart from any repair estimate and authorization.

Local Mandate:

A mandate is not imposed on local agencies or school districts.

Consideration of Alternatives:

The Bureau has determined that no alternative it considered or that was otherwise 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 (in achieving the purposes of the regulation in a manner that ensures full compliance with the law being implemented or made specific) and less burdensome to affected private persons, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law than the adopted regulation.

The Bureau only considered one alternative to the proposed regulations. The Bureau considered taking no action. This alternative was rejected because doing so would enable automotive repair dealers to continue to not fully inform their customers regarding repair work payment balances. If the Bureau does not act, customers could still fall prey to the five o'clock surprise when picking up their vehicle after tear down, repair, and reassembly is performed.

Objections or Recommendations/Responses

Below are summaries of the comments the Bureau received during the 45-day and 15-day comment periods and the Bureau's responses thereto.

Summary of Comments Received During the 45-day Notice Period

Melanie Allen, November 12, 2024

Comment 1:

Commenter states that repair shops should inform customers about third-party payor (insurance) shortfalls but cannot and should not speak on behalf of insurers.

Response:

The Bureau has considered the comment and has modified the proposed text based thereon.

The Bureau replaced the original language in section 3353(d)(2) with, “As the customer, it is your responsibility to contact the third-party payor for approval of payment for the repairs you have authorized.” This modification removes the responsibility from automotive repair dealers to communicate with third-party payors about unknown payment amounts, placing the responsibility on the consumer instead.

Comment 2:

Commenter states that while repair shops often secure additional cost coverage, insurers sometimes deny or underpay, leaving shops to ask customers to cover the difference. Such shortfalls are increasing, burdening both shops and customers. Shops provide detailed documentation but lack insight into insurers' communications with customers.

Response:

The Bureau has considered the comment and has modified the proposed text based thereon.

The Bureau replaced the original proposed language in section 3353(d)(2) with, “As the customer, it is your responsibility to contact the third-party payor for approval of payment for the repairs you have authorized.” This modification removes the responsibility from automotive repair dealers to communicate with third-party payors about unknown payment amounts, placing the responsibility on the consumer instead.

Comment 3:

Commenter suggests amending language in 3353(d)(2) to state “your insurance policy provisions would potentially adjust the final repair bill payment.”

Response:

The Bureau has considered the comment and has modified the proposed text.

The Bureau proposes to repeal any language relating to “policy provisions” from 3353(d)(2), the Bureau proposed the following modifications to the language in this subdivision: “This estimate is for repairs to meet vehicle manufacturer and industry standards. As the customer, it is your responsibility to contact the third-party payor for approval of payment for the repairs you have authorized.”

The Bureau’s proposed modifications to language in 3353(d)(2) remove any reference to “policy provisions”; therefore, the potential for confusion no longer exists.

Comment 4:

Commenter suggests repealing the language in 3353(d)(2), “You will be notified by the insurer of any such adjustments.” Commenter states automotive repair dealers cannot and should not speak on behalf of insurers or third-party payors, nor be held responsible for their customer communications, especially since its unclear what insurers are

required to disclose or how they communicate with customers.

Response:

The Bureau has considered the comment and has modified the proposed text based thereon.

The Bureau proposes the following modifications to the language in this subdivision, “This estimate is for repairs to meet vehicle manufacturer and industry standards. As the customer, it is your responsibility to contact the third-party payor for approval of payment for the repairs you have authorized.”

It is the Bureau’s objective to require the automotive repair dealers to inform the consumer that the vehicle will be repaired to original equipment manufacturer standards and that it is the consumer’s responsibility to communicate with the third-party payor or insurer regarding payments for repair.

Comment 5:

Commenter inquires why the language in 3353(d)(2) is third-party payor in one sentence, but then insurer is used in another.

Response:

The Bureau has considered the comment and has modified the proposed text based thereon.

The Bureau proposes to repeal any language relating to “insurer” from 3353(d)(2), the Bureau proposed the following modifications to the language in this subdivision, “This estimate is for repairs to meet vehicle manufacturer and industry standards. As the customer, it is your responsibility to contact the third-party payor for approval of payment for the repairs you have authorized.”

The proposed modification ensures consistency in language throughout the entirety of the proposed text.

Comment 6:

Commenter postulates that if the Bureau decides to keep the language in 3353(d)(2) to state, “You will be notified by the insurer of any such adjustments”, the Bureau must have enforcement authority upon third-party payors to provide payment adjustments.

Response:

The Bureau has considered the comment and has modified the proposed text based thereon.

The Bureau proposes removing the language “You will be notified by the insurer of any such adjustments” from 3353(d)(2) and adding language so that the subdivision reads “This estimate is for repairs to meet vehicle manufacturer and industry standards. As the customer, it is your responsibility to contact the third-party payor for approval of payment for the repairs you have authorized.”

It is the Bureau’s objective to require the automotive repair dealers to inform the

consumer that the vehicle will be repaired to original equipment manufacturer standards and that it is the consumer's responsibility to communicate with the third-party payor or insurer regarding payments for repair.

Ryan, Kenny's Kar Clinic, December 5, 2024

Comment 1:

Commenter states that the language in 3353(d)(2) will enable third-party payors to not properly pay to repair the vehicle to original equipment manufacturer standards while putting the blame on the automotive repair dealer. Commenter states that shops do not have enough staff to manage the correspondence.

Response:

The Bureau has considered the comment and declines to modify the text based thereon. Autobody trade standards section 3365 already states this requirement, language is for the consumer (laymen's) but mirrors language in section 3365.

George, Osorio, California Collision, December 5, 2024

Comment 1:

Commenter argues that the language in 3353(d)(2), stating "You will be notified by the insurer of any such adjustments", is problematic. They state that third-party payors often refuse to cover required safety inspections per manufacturer guidelines, leaving automotive repair dealers solely responsible for meeting this standard while insurers face no such obligation.

Response:

The Bureau has considered the comment and has modified the proposed text based thereon.

The Bureau proposes removing the language "You will be notified by the insurer of any such adjustments" from 3353(d)(2) and adding language so that the subdivision reads "This estimate is for repairs to meet vehicle manufacturer and industry standards. As the customer, it is your responsibility to contact the third-party payor for approval of payment for the repairs you have authorized."

Matthew Stevens, Autobody, Paint, and Collision, December 5, 2024

Comment 1:

Commenter supports the added language on third-party responsibilities, noting it will benefit consumers and repair shops. They emphasize that shops should not be responsible for third-party payor communications, denials, or payment adjustments.

Response:

The Bureau acknowledges commenter's support of the regulation.

Rob Auernig, California Auto Body Association, December 5, 2024

Comment 1:

Commenter expresses concern that the language in 3353(d)(2) requires automotive repair dealers to communicate on behalf of third-party payors and improperly assures consumers that third-party payors will notify them of any changes.

Response:

The Bureau has considered the comment and has modified the proposed text based thereon.

The Bureau replaced the original proposed language with “You may contact the third-party payor for approval of payment of the cost to repair the vehicle.” This modification removes the responsibility from automotive repair dealers to communicate with third-party payors about unknown payment amounts, placing the responsibility on the consumer instead.

Comment 2:

Commenter argues that most repair shops already include statements like “Payment is expected upon completion of all work” in their authorizations, ensuring customers are informed about payment responsibilities. If insurance companies communicate effectively with claimants and shops obtain proper customer authorization, vehicle owners are already aware of potential payment shortfalls and payment responsibilities. Therefore, mandating an additional statement is redundant, unnecessary, and could lead to errors.

Response:

The Bureau has considered the comment and has addressed this concern with the aforementioned modifications to the proposed language in 3353(d)(2).

Comment 3:

Commenter states that the language in 3353(d)(2) “Any agreement you have with a third-party payor of the final repair bill may be adjusted based upon policy provisions” is inaccurate as the majority of third-party payor payment shortages are not from allowable policy provision denials but rather the result of third-party payors refusing to cover the full costs associated with the repair, whether it’s due to the denial of required operations, parts, services, or materials.

Response:

The Bureau has considered the comment and has addressed this concern with the aforementioned modifications to the proposed language in 3353(d)(2).

Comment 4:

Commenter suggests that this issue related to short payments by a third-party payor be referred to the California Department of Insurance, that the right way to correct third-party payment shortages is to leverage legislative avenues to amend the requirements of the Department of Insurance. Commenter also expresses concerns over the ability and

desire of the California Department of Insurance to properly address the issue.

Response:

The Bureau acknowledges the comment; however, this falls outside the scope of the Bureau's authority and the proposed regulatory text and proposed changes.

Nichole Hubbard, European Motor Car Works, December 6, 2024

Comment 1:

Commenter inquires what notification or authorization is needed if a vehicle cannot be reassembled after a teardown due to damage, cut parts, or compromised safety.

Response:

The Bureau acknowledges the comment, and the Bureau advises the commenter to review existing regulations pertaining to this issue. Section 3353(c)(1)(C) (which is being re-lettered to 3353(c)(1)(D)) requires the automotive repair dealer to notify the consumer if the vehicle cannot be rebuilt to the condition the vehicle was in when it was provided to the automotive repair dealer.

Comment 2:

Commenter inquires if the automotive repair dealer is responsible for providing an estimate for reassembly if the vehicle was deemed a total loss once repairs started.

Response:

The Bureau acknowledges the comment and advises the commenter to review existing regulations pertaining to this issue. Section 3353(c)(1)(A) (which is being re-lettered to 3353(c)(1)(B)) requires the automotive repair dealer to include the cost of reassembly on the estimate, provided that the vehicle can be restored to its previous condition. If the vehicle cannot be restored, please review 3353(c)(1)(C) (which is being re-lettered to 3353(c)(1)(D)). If a vehicle is in the process of being repaired and is deemed a total loss, there is no expectation to reassemble the vehicle as there is no longer a repair contract, unless otherwise requested and authorized by the customer.

Comment 3:

Commenter states that automotive repair dealers already inform consumers of any unforeseen or out-of-pocket charges during the repair process. If an insurance company denies a claim, it is their responsibility to notify the consumer, provide an explanation, and issue a written denial. It is not the automotive repair dealer's role to communicate denials they were not involved in.

Response:

The Bureau has considered the comment and has addressed this concern with the aforementioned modifications to the proposed language in 3353(d)(2).

Summary of Comments Received During the 15-day Modified Text Notice Period

Andrew Batenhorst, February 7, 2025

Comment 1:

Commenter expresses concern that section 3353(c)(1)(A) requires an Automotive Repair Dealer to specify in advance which components will be removed to evaluate damage. They argue that this is impractical because damage is often hidden beneath outer panels, making it difficult to predict exactly what needs to be removed.

Response:

The Bureau has considered the comment and did not modify the proposed text based thereon.

Section 3353(c)(1)(A) was part of the original 45-day posting and was not modified for the 15-day posting. This comment is outside the scope of the 15-day comment period.

Comment 2:

Commenter states that section 3353(c)(1)(C) appears more relevant to mechanical repair facilities rather than collision repair facilities and that its requirements are too burdensome for collision shops.

Response:

The Bureau has considered the comment and did not modify the proposed text based thereon.

Section 3353(c)(1)(C) was part of the original 45-day posting and was not modified for the 15-day posting. This comment is outside the scope of the 15-day comment period.

Comment 3:

The Bureau has considered the comment and did not modify the proposed text based thereon.

Commenter states that that section 3353(c)(1)(E) creates a major challenge for repair shops because it starts the clock for reassembly too early—when the teardown authorization is signed rather than when the teardown is actually completed.

Response:

Section 3353(c)(1)(E) was part of the original 45-day posting and was not modified for the 15-day posting. This comment is outside the scope of the 15-day comment period.

Comment 4:

Commenter supports the language used in section 3353(d)(2) stating that this is already their business practice, and it helps clarify for customers the roles of shops and third-party payers.

Response:

The Bureau acknowledges commenter's support of the proposed regulation.

Jack Molodanof, California Autobody Association, February 17, 2025

Comment 1:

Commenter states that sections 3353(b)(1)(A-E) aims to discourage automotive repair dealers from adopting an insurance company's estimate as their own. Instead, it encourages them to create and provide customers with their own estimate, which is considered an industry best business practice.

Automotive repair dealers diagnose and repair malfunctions of vehicles, providing customers with estimated prices for both labor and parts for a specific job. Their trained employees inspect customer vehicles to diagnose and determine necessary repairs. Simply adopting an insurance company's estimate (based solely on visual assessment) without conducting their own inspection or diagnosis is inconsistent with the intent and spirit of the Automotive Repair Act. Furthermore, insurance companies are not regulated by the BAR, and their estimates or assessments are not required to meet industry repair standards or other requirements of the Automotive Repair Act.

Commenter suggests the following language to be used instead:

“An automotive repair dealer preparing an estimate for a customer shall create its own estimate and shall not adopt in its entirety a customer's third-party payor estimate or third-party payor visual assessment as its own.”

Response:

The Bureau has considered the comment and did not modify the text based thereon.

Automotive repair dealers currently adopt a third-party payor estimate as a standard business practice. Therefore, it is necessary for the Bureau to outline estimate requirements for this business practice. Additionally, the Bureau does not have statutory authority to prevent automotive repair dealers from adopting third-party payor estimates.

Comment 2:

Commenter states that section 3353(e) is unclear and confusing. It mentions providing towing fees to the customer, which contradicts the standard process where customers typically pay towing fees to the automotive repair dealer. Furthermore, it mandates automotive repair dealers to create two separate documents for estimates and invoices, each with distinct identifier numbers. This requirement adds costs and unnecessary paperwork burdens on dealers and may confuse consumers rather than streamline processes. Additionally, introducing towing as a new and unrelated topic within the tear-down disclosure regulations during a brief 15-day comment period is inappropriate. The commenter recommends thoroughly vetting and reviewing this issue and, if necessary, addressing it in a separate regulatory package. Therefore, the commenter suggests removing the entirety of section 3353(e).

Response:

The Bureau has considered the comment and did not modify the text based thereon.

The language proposed by the Bureau clearly states the estimate and authorization

documentation requirements when an automotive repair dealer provides towing services. Additionally, the language is consistent with existing law in Vehicle Code section 22651.07. The proposed language states that the towing fee shall be provided to the customer on a document (separate from any repair estimate or invoice) by the ARD that provides or contracts for towing services prior to receiving payment for those services—i.e. the customer will be informed in writing of the fee to pay the ARD prior to paying the ARD, and the ARD will receive payment from the customer. The entire section is about the estimates/work orders/invoices ARDs provide to customers before work begins and before payment is received for that work.

Additionally, this requirement does not add costs and unnecessary paperwork burdens to ARDs given that ARDs have the option to provide these estimates and invoices electronically.

Finally, pursuant to Government Code section 11346.8(c), 15-day changes must be “sufficiently related to the original text [so] that the public was adequately placed on notice that the change could result from the originally proposed regulatory action.” This change is sufficiently related to the original text that the change was reasonably foreseeable.

The section being amended, 16 CCR section 3353, titled “Estimate/Work Order Requirements”, is about how transactions shall be documented, and what estimates, work orders, and invoices generally shall include so that customers know what they are authorizing and paying for in transactions with ARDs. The purpose of this section is to ensure that each transaction and element of the transaction is separately itemized and/or documented for transparency, so that the customer is fully informed of what each specific job entails, all the work to be performed, all the parts and labor required, what the cost breakdown is, etc., and what the customer is authorizing and paying for regarding each element of each transaction.

The additional proposed language, for which a 15-day comment period was initiated, is being added for the purpose of furthering transparency to the customer, by requiring that 1) the towing fee to be paid be provided to the customer on a separate document from any repair estimate or invoice, and 2) authorization for towing be separate from any authorization for repair work. It is also being added for the purpose of ensuring that the customer can separately authorize repair work and towing. This section is about invoice, estimate, and work order requirements and the level of detail with which transactions must be disclosed and documented so that the customer knows what it is they are authorizing and paying for in each transaction with an ARD.

Towing is quite often a precursor to tear down and repair work, especially when the condition of the vehicle is such that the vehicle cannot be driven to the ARD, and BAR wants to ensure ARDs are transparent with customers, and that customers are fully informed about and can make separate authorizations for every transaction. Given that the regulation section in question and the changes originally noticed are about estimates, work orders, and invoices, the addition that one kind of invoice (towing fees) shall be documented separately from another kind of invoice/estimate/work order (repair) is substantially related and therefore reasonably foreseeable.

This addition is meant to ensure that repair estimates and invoices are on their own separate document from that of towing, so if towing is a precursor to the tear down and repair work, the information breakdown for the repair transaction shall be on one document, and the towing information breakdown shall be on another document, and each service shall be separately authorized. Even though the same vehicle is receiving both services, they are separate services that shall be documented and authorized independently. To ensure transparency for the customer regarding each service, and that the customer knows what each service entails and what exactly they are authorizing (in addition to having the option to separately authorize one service while declining to authorize the other), each service shall be separately documented and authorized.

This addition does not create and/or list any specific requirements for what needs to be documented for towing transactions. This addition states nothing about what information needs to appear on the invoice—there is nothing about what identifying information or notification statements need to appear on a towing invoice, it only states that the notice must appear on its own separate document, as explicitly stated in Vehicle Code section 22651.07(a)(3), and heavily inferred from Vehicle Code section 22651.07(e), which states that the Towing and Storage Fees and Access Notice shall be a “standardized document”—meaning the document shall not contain other elements that are not standardized, such as information that is specific to each repair transaction.

Therefore, this change was made in compliance with Government Code section 11346.8(c), and it was appropriate to notice this change for a 15-day comment period.