

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

Hearing Date: No hearing scheduled

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

Background and Statement of the Problem:

The Department of Consumer Affairs (DCA), Bureau of Automotive Repair (Bureau), 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 Business and Professions Code (BPC) (commencing with section 9880), the Bureau regulates automotive repair and has the authority to adopt, amend, and repeal necessary rules and regulations.

Existing law requires that an automotive repair dealer provide a repair estimate of labor and parts for a job and obtain authorization from the customer prior to commencing the work. Under current law, if it is necessary to perform a tear down of a vehicle or vehicle component(s) in order to evaluate the condition of the vehicle or vehicle component(s), an automotive repair dealer must provide the customer with the estimated cost to tear down and reassemble the vehicle or vehicle component(s) and the estimated cost of all parts and labor. Additionally, existing law requires that work done by an automotive repair dealer be recorded on an invoice. The invoice shall clearly state work done, and parts supplied.

An area in which the Bureau seeks to promote greater transparency by automotive repair dealers involves repair estimates in repair transactions in which insurance companies or other third-party payors (third-party payor) are responsible for paying all or a portion of a final automotive repair invoice. While existing statutes and regulations require the automotive repair dealer to obtain repair authorization from the consumer after providing them with the estimate, in repair transactions involving third-party payors, consumers often give authorization under the assumption they will only be responsible for the deductible, as detailed in their insurance policy. However, an ongoing practice of third- party payors is to adjust the estimate based upon policy limitations that will lower the amount to be paid by the third-party payor, increasing the direct cost to the consumer.

In recent years, the Bureau has received many consumer complaints resulting from third- party payors notifying repair facilities of such adjustments to the coverage amounts without consumers simultaneously receiving notification of these adjustments. This has resulted in consumers being presented with invoices for amounts greater than they had expected when retrieving their vehicle from the automotive repair dealer. Additionally, these practices have increased in recent years with the proliferation of vehicle service contracts that provide repair coverage after the expiration of any existing warranty.

Automotive repair transactions involving service contracts proceed in the same manner as collision repair transactions and involve the same third-party payor challenges, also resulting in consumer complaints.

To address these challenges, the Bureau has met with the public, automotive repair industry representatives, insurers, and other stakeholders to discuss and draft the solutions herein.

In addition to addressing third-party payor challenges, the Bureau proposes updating regulation language to account for changing industry practices. As the use of certain technology in retail transactions has increased, so has the use of electronic transmittal of automotive repair estimates, repair authorizations, and invoices. This shift to the use of technology necessitates updating the regulations to ensure consumers receive the same level of disclosure as achieved through the use of actual physical documentation such as estimates and invoices. Additionally, the Bureau proposes updating terms used in the regulations which are most applicable to physical documentation as opposed to electronic documentation. An example is the use of the word “give”, which implies giving someone a tangible object. With transactions conducted electronically, “provide” is a more accurate description of the requirement to provide consumers with copies of estimates and invoices.

The Bureau proposes to: (1) amend existing section 3303 of Article 1 of Division 33 of Title 16 of the CCR and (2) amend existing sections 3352 and 3353 of Article 7 of Division 33 of Title 16 of the CCR as follows:

- Amend section 3303 to include a definition for “third-party payor”, which will identify entities that provide payment for repairs or maintenance necessary to repair a vehicle.
- Amending section 3352 by re-lettering existing subdivisions to accommodate new subdivisions.
- Amend section 3352 to include a definition for “specific job”, which will identify that an automotive repair dealer must provide the customer a description of repair(s) to be performed in terms the customer can understand.
- Amend section 3352’s definition of “tear down” to clarify how an automotive repair dealer will describe the portion(s) of the vehicle that will be disassembled in order to evaluate the condition of the vehicle or vehicle component(s).
- Amending section 3353 by re-lettering existing subdivisions to accommodate new subdivisions.
- Amend section 3353 to make terminology consistent with related regulations.
- Amend section 3353 to clarify language pertaining to repair estimates provided to customers electronically.
- Amending section 3353 to identify all the tear down information that an automotive repair dealer shall provide the customer on the repair estimate. Additionally, this section will be amended to require that the automotive repair dealer provide on the repair estimate the amount to be paid by a third-party payor when obtaining authorization from the customer to move forward with repairs of the vehicle.
- Amend section 3353 to correct gendered pronouns.

Anticipated benefits from this regulatory action:

Providing additional and updated definitions will increase clarity for the industry regarding automotive repair dealers' responsibilities when providing repair estimates to customers. The proposed changes will clarify the responsibilities of the automotive repair dealer when they provide the customer with a repair estimate prior to obtaining authorization to perform any repairs. In turn, this will increase clarity the customer has regarding the payment amount they will be responsible for after any payment provided by a third-party payor. The proposed regulations amend and add language in order to increase transparency on the repair estimate provided to the customer, enhancing public protection, which benefits California residents.

Specific purpose of, and rationale for, each adoption, amendment, or repeal:

1. Amend section 3303. Definitions.

Subdivision (t)

The Bureau proposes adopting subdivision (t) to provide “‘Third-party payor’ means an aftermarket warranty provider, insurer, or other entity who is responsible for, or has contracted with, the customer to provide payment for repairs to a vehicle.”

The purpose of this amendment is to define the term “third-party payor”, thereby clarifying what it means when used in the Division 33 of Title 16.

This definition is necessary to clarify to the automotive repair dealer who constitutes a third-party payor. Section 3353 requires automotive repair dealers to provide on the repair estimate (to the customer) the estimated repair amount a third-party payor will pay prior to obtaining authorization to commence repairs.

2. Amend section 3352. Definitions.

Changes throughout

The Bureau proposes re-lettering the subdivisions. The purpose of this is to accommodate the adoption of new subdivisions.

This is necessary to ensure consistent lettering and formatting throughout the entire definitions section.

Subdivision (b)

The Bureau proposes adopting a new subdivision (b) to section 3352 to provide a “‘Specific job’ means all the repair work to be performed in a single transaction, with a statement of each repair to be performed and a description of each repair provided in a manner free of technical and industry terms that a person without professional or specialized knowledge in a particular subject would understand.”

The purpose is to define what “specific job” means when used in Division 33 of Title 16.

BPC section 9884.9 requires automotive repair dealers to provide a customer a written repair with the estimated price for labor and parts necessary for a specific job. ((BPC section 9884.9(a).) This definition is necessary to require and explain that the repairs to be performed must be provided in terms the customer can understand. This definition enables a customer to easily understand the

repair estimate. Adding this definition is necessary to ensure that descriptions of the job(s) to be performed are clear, consistent, and not vague. Further, by specifying that the description is provided in layman's terms, the description is intended to avoid highly technical/industry terms and with the purpose that the consumer will understand what they are paying for.

Subdivision (e)

The Bureau proposes amending subdivision (e) to add "is a repair as defined in Business and Professions Code Section 9880.1(k) and". The Bureau proposes adding "portion(s) or area(s) of the" and. The Bureau proposes adding a "(s)" to vehicle components. The Bureau proposes adding "necessary to assess the extent of the damage or to evaluate the condition of the vehicle or vehicle component(s) in order to prepare" and striking "for the purpose of preparing".

The purpose of amending the definition of a tear down is to provide clarity to the automotive repair dealer regarding what constitutes a repair and information is required to be provided to the customer when a tear down is necessary in order to provide a repair estimate.

Clarifying the definition of a tear down is necessary for protection of the public, to ensure that automotive repair dealers are only performing necessary work in order to prepare a repair estimate for repairs. It will also ensure transparency of the repair estimate provided to the customer by the automotive repair dealer, allowing the customer to make a fully informed decision regarding the repair of a vehicle or vehicle component(s).

3. Amend section 3353. Estimate/Work Order Requirements.

Changes throughout

The Bureau proposes re-lettering the subdivisions. The purpose of this is to accommodate the adoption of new subdivisions.

This is necessary to ensure consistent lettering and formatting throughout the entire definitions section.

Subdivision (a)

The Bureau proposes amending subdivision (a) to strike "Estimate for Parts and Labor. Every" and add "An" in the first sentence.

The purpose of the amendment is to streamline formatting of the regulations to get rid of hanging headers.

The amendment is necessary to create regulations that are consistent in formatting and easy for the regulated public to understand.

The Bureau proposes amending subdivision (a) to replace "give" with "provide".

The purpose of the amendment is to clarify language pertaining to automotive repair dealers providing repair estimates to customers.

The amendment is necessary because there has been a change in industry practices in such that automotive repair dealers are more frequently providing customers with electronic repair estimates. Changing the terminology from “give” to “provide” accounts for electronic repair estimates.

The Bureau proposes amending subdivision (a) to strike “to each” and replace it with “the” in front of the word “customer”.

This change is non-substantive because it is a grammatical change as part of an effort to “[revise] structure, syntax, cross-reference, grammar, or punctuation” within the meaning of Title 1, CCR section 100(a)(4).

The purpose of the amendment is to ensure grammatical correctness and streamline the language.

The amendment is necessary to create regulations that are consistent in language and easy for the regulated public to understand.

Subdivision (b)

The Bureau proposes amending subdivision (b) to strike “Estimate for Auto Body or Collision Repairs. Every” and add “An” in the first sentence.

The purpose of the amendment is to streamline formatting of the regulations to get rid of hanging headers.

The amendment is necessary to create regulations that are consistent in formatting and easy for the regulated public to understand.

The Bureau proposes amending subdivision (b) to replace “give” with “provide”.

The purpose of the amendment is to clarify language pertaining to automotive repair dealers providing repair estimates to customers.

The amendment is necessary because there has been a change in industry practices in such that automotive repair dealers are more frequently providing customers with electronic repair estimates. Changing the terminology from “give” to “provide” accounts for electronic repair estimates.

The Bureau proposes amending subdivision (b) to replace “to each” with “the” in front of the word “customer”.

This change is non-substantive because it is a grammatical change as part of an effort to “[revise] structure, syntax, cross-reference, grammar, or punctuation” within the meaning of Title 1, CCR section 100(a)(4).

The purpose of the amendment is to ensure grammatical correctness and streamline the language.

The amendment is necessary to create regulations that are consistent in language and easy for the regulated public to understand.

Subdivision (c)

The Bureau proposes amending subdivision (c) to strike “Teardown Repair estimates:” and replace it with “Any automotive repair dealer, when performing a tear down, shall do all of the following:”.

The purpose of this amendment is to streamline formatting of the regulations to get rid of hanging headers. Additionally, the purpose of this amendment is to establish the required elements an automotive repair dealer must fulfill when performing a vehicle tear down. The amendment is necessary to create regulations that are consistent in formatting and easy for the regulated public to understand. It is also necessary to introduce the required elements for a work repair estimate, pursuant to BPC section 9984.9.

The Bureau proposes striking “If it is necessary to tear down a vehicle or vehicle component in order to diagnose, the automotive repair dealer shall do all of the following:”.

The purpose of this amendment is to remove language made redundant by proposed amendments to the introduction of this subdivision.

The amendment is necessary to avoid unnecessary repetition and keep regulations concise and easy for the regulated public to understand.

Subdivision (c)(1)

The Bureau proposes amending subdivision (c)(1) to replace “Estimate of teardown. The automotive repair dealer shall first give the customer an estimate for the teardown and obtain authorization for the teardown. The repair estimate shall include the following:” with “Provide the customer an estimate which shall include all of the following:”.

The purpose of this amendment is to streamline formatting of the regulations and establish the required elements an automotive repair dealer must have on a repair estimate regarding performing a vehicle tear down.

The amendment is necessary to create regulations that are consistent in formatting and easy for the regulated public to understand. It is also necessary to introduce the required elements of for what information must be on a work repair estimate, pursuant to BPC 9984.9.

Subdivision (c)(1)(A)

The Bureau proposes adopting subdivision (c)(1)(A) to state, “The cost of the tear down and a description of the portion(s) or area(s) of the vehicle or vehicle component(s) necessary to evaluate the condition of the vehicle or vehicle component(s).”

The purpose of this subdivision is to require automotive repair dealers to include not only the cost of the tear down on a repair estimate, but to also expressly state the area(s) of the vehicle that will be disassembled in order to evaluate the repair(s) necessary.

The amendment is necessary for transparency, requiring automotive repair dealers to inform customers of the cost associated with the vehicle tear down and the area(s) of the vehicle that will be disassembled. This subdivision creates transparency on the automotive repair dealers’ repair estimate that is provided to the customer. Previously, it was not a requirement for automotive repair dealers to include the cost of the tear down.

Subdivision (c)(1)(B)

The Bureau proposes to amend subdivision (c)(1)(B) to state, “The cost of reassembling the portion(s) or area(s) of the vehicle or vehicle component(s) after performing the tear down.”.

The purpose of this amendment is to require automotive repair dealers to include not only the cost of reassembling the portion(s) or component(s) of the vehicle on a repair estimate, but to expressly state the area(s) of the vehicle that will be disassembled to evaluate the repair(s) necessary.

The amendment is necessary for transparency, requiring automotive repair dealers to inform customers of the costs associated with reassembling the portion of the vehicle or vehicle components that were assessed for damage. This subdivision creates transparency on the automotive repair dealers’ repair estimate that is provided to the customer.

Subdivision (c)(1)(C)

The Bureau proposes amending subdivision (c)(1)(C) to replace “teardown” with “the tear down”.

The purpose of the amendment is to streamline language.

The amendment is necessary to create regulations that are consistent in language and easy for the regulated public to understand.

The Bureau proposes striking “of the vehicle or component”. The purpose of the amendment is to streamline language.

The amendment is necessary to create regulations that are consistent in language and easy for the regulated public to understand.

The Bureau proposes to add a “,” after “seals”.

This change is non-substantive because it is a grammatical change as part of an effort to “[revise] structure, syntax, cross-reference, grammar, or punctuation” within the meaning of Title 1, CCR section 100(a)(4).

The purpose of the amendment is to ensure the language is grammatically correct and consistent.

The amendment is necessary to create regulations that are consistent in language and easy for the industry to understand.

Subdivision (c)(1)(D)

The Bureau proposes amending subdivision (c)(2)(D) to strike “the act of teardown” and replace it with “the tear down”.

The purpose of the amendment is to streamline language.

The amendment is necessary to create regulations that are consistent in language and easy for the regulated public to understand.

The Bureau proposes adding “(s)” to the end of “component”.

The purpose of the amendment is to specify the automotive repair dealer must inform the customer that the act of the tear down might prevent the restoration of any and all vehicle components to the condition in which it was provided to the customer.

The amendment is necessary to require the automotive repair dealer to inform the customer of this disclaimer to *all* components related to the vehicle tear down.

Subdivision (c)(1)(E)

The Bureau proposes amending subdivision (c)(1)(E) to add “(s)” to the end of “component”.

The purpose of the amendment is to specify the automotive repair dealer must inform the customer of the maximum time it will take to reassemble any and all components related to the vehicle tear down.

The amendment is necessary to require the automotive repair dealer to inform the customer that this disclosure applies to any and *all* vehicle component(s) related to the vehicle tear down.

The Bureau proposes amending subdivision (c)(2)(E) to strike “teardown” and replace it with “tear down”.

The purpose of the amendment is to streamline language.

The amendment is necessary to create regulations that are consistent in language and easy for the regulated public to understand.

Subdivision (c)(2)

The Bureau proposes amending subdivision (c)(2) to strike “Itemized estimate for repair after teardown.”

The purpose of this amendment is to streamline formatting of the regulations by getting rid of hanging headers and establish the required elements an automotive repair dealer must have on a repair estimate to perform a vehicle tear down.

The amendment is necessary to create regulations that are consistent in formatting and easy for the regulated public to understand.

The Bureau proposes striking “teardown” and replacing it with “tear down”. The purpose of the amendment is to streamline language.

The amendment is necessary to create regulations that are consistent in language and easy for the regulated public to understand.

The Bureau proposes striking “give” and replacing it with “provide”.

The purpose of the amendment is to clarify language pertaining to automotive repair dealers providing repair estimates to customers.

The amendment is necessary to reflect the change in industry practices whereby automotive repair dealers are more frequently providing customers with electronic repair estimates. Changing the terminology from “give” to “provide” accounts for electronic repair estimates.

The Bureau proposes amending “labor and parts” to state, “parts and labor”.

The purpose of the amendment is to ensure the reference to “parts and labor” is consistent throughout the regulation language.

The amendment is necessary to create regulations that are consistent in language and easy for the regulated public to understand.

The Bureau proposes striking “for either” and replacing it with “to”. The purpose of the amendment is to streamline language.

The amendment is necessary to create regulations that are consistent in language and easy for the regulated public to understand.

The Bureau proposes striking “reassembly” and replacing it with “reassemble the vehicle or any disassembled component(s)”.

The purpose of the amendment is to streamline language.

The amendment is necessary to create regulations that are consistent in language and easy for the regulated public to understand. The Bureau proposes striking “before any further diagnosis or repair is done, or charges accrue.”

The purpose of the amendment is to remove redundant language. It is already stated in section 3353 that no work should commence prior to obtaining authorization by the customer.

The amendment is necessary to prevent repetition by removing redundant language.

Subdivision (c)(3)

The Bureau proposes amending subdivision (c)(3) to add “performing the” before “teardown”.

The purpose of this amendment is to create more clear and concise language to inform automotive repair dealers that this subdivision regulates requirements pertaining to the performance of the vehicle tear down.

The amendment is necessary to create regulations that are consistent in language and easy for the regulated public to understand.

The Bureau proposes striking “teardown” and replacing it with “tear down”. The purpose of the amendment is to streamline language.

The amendment is necessary to create regulations that are consistent in language and easy for the regulated public to understand.

Subdivision (d)

The Bureau proposes adopting a new subdivision (d) stating “An automotive repair dealer, when accepting payment for repairs from a third-party payor, shall, prior to obtaining authorization, do one of the following:”.

The purpose of this amendment is to introduce the alternative required elements an automotive repair dealer must include on an estimate when accepting payment for repairs from an insurer or other third-party payor.

The amendment is necessary to introduce the required elements of a work repair estimate, pursuant to BPC section 9984.9.

Subdivision (d)(1)

The Bureau proposes adopting a new subdivision (d)(1) to state, “If the amount of payment to be made by the third-party payor is known by the automotive repair dealer prior to providing a repair estimate to a customer, the automotive repair dealer shall include the total repair estimated amount and the amount of payment for which the third- party payor is responsible on the repair estimate; or”.

The purpose of this amendment is to require automotive repair dealers to include on the work repair estimate the payment amount an insurer or third-party payor will be paying towards the work repair if the amount is known.

This amendment is necessary for transparency, requiring automotive repair dealers to inform customers of the payment amount the insurer or third-party payor will pay towards the work repair estimate. This subdivision creates transparency on the automotive repair dealers’ repair estimate that will be provided to the customer. Previously, it was not a requirement for automotive repair dealers to include the payment amount to be paid by the insurer or third-party payor. It is also necessary to introduce the required elements of a work repair estimate, pursuant to BPC section 9984.9.

Subdivision (d)(2)

The Bureau proposes adopting a new subdivision (d)(2) to state, “If the amount of payment to be made by the third-party payor is not known by the automotive repair dealer prior to providing an estimate to a customer, the automotive repair dealer shall include the following notification on the estimate:

This estimate is for repairs to meet vehicle manufacturer and industry standards. 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.’

The purpose of this amendment is to inform automotive repair dealers what information shall be provided to the customer on the work repair estimate if the amount of payment to be made by the insurer or other third-party payor is not known.

This amendment is necessary because an automotive repair dealer does not always know the payment amount the insurer or third-party payor will provide toward the repair estimate.

However, in order to enable transparency on the repair estimate, for the benefit of the customer, the automotive repair dealer would be required to inform the customer of certain information regarding responsibility for payment. It is also necessary to introduce the required elements of a work repair estimate pursuant to BPC section 9984.9.

This amendment is necessary to ensure transparency on the repair estimate for the benefit of the customer by requiring the automotive repair dealer to inform the customer that they will be responsible for any additional portion of the cost of repair after any adjustments of payment made by the insurer or third-party payer. This notification requirement is also necessary to avoid any five o'clock surprises to the customer.

Subdivision (e)

The Bureau proposes amending subdivision (e) to strike "Sublet Disclosure."

The purpose of this amendment is to streamline formatting of the regulations to get rid of hanging headers.

The amendment is necessary to create regulations that are consistent in formatting and easy for the regulated public to understand.

The Bureau proposes striking "his or her" and replacing it with "their".

The amendment is necessary to comply with Assembly Concurrent Resolution (ACR) 260, adopted in 2018, which encourages state agencies to use gender-neutral pronouns and avoid the use of gendered pronouns when drafting policies, regulations, and other guidance.

The Bureau proposes striking the "," after "customer" and before "unless".

This change is non-substantive because it is a grammatical change as part of an effort to "[revise] structure, syntax, cross-reference, grammar, or punctuation" within the meaning of Title 1, CCR section 100(a)(4).

The purpose of this amendment is to implement proper grammar.

The amendment is necessary to maintain proper grammar throughout the text.

Underlying Data

Technical, theoretical, or empirical studies, reports, or documents relied upon:

1. Bureau of Automotive Repair BAR Advisory Group Meeting – October 19, 2023
 - a. Notice of Meeting: <https://bar.ca.gov/bar-advisory-group/2023-october>
 - b. Presentation PowerPoint: <https://bar.ca.gov/pdf/workshops/202310-tear-down/presentation.pdf>
2. Assembly Bill (AB) 1263 (Berman, Chapter 681, Statutes of 202

Business Impact:

The Bureau 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.

There are no new reporting or recordkeeping requirements mandated, nor are there any performance standards imposed, technologies or equipment specified, or specific actions or procedures prescribed beyond what is currently required.

The proposed action merely implements and clarifies existing statutory requirements and the provisions of current regulation. In addition, the proposed action will recognize a current industry standard of practice adhered to by almost all automotive repair dealers. Therefore, the proposed action will not require the industry to do anything any differently than they do now, and there will be no impact from the changes to the current regulations.

Economic Impact Assessment:

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 automotive repair dealers to provide additional information on the work order repair estimates provided to customers.
- It will not create new businesses or eliminate existing businesses within the State of California because the proposal will only require automotive repair dealers to provide additional information on the work order repair estimates provided to customers.
- It will not affect the expansion of businesses currently doing business within the State of California because the proposal will only require automotive repair dealers to provide additional information on the work order repair estimates provided to customers.
- This regulatory proposal benefits the health and welfare of California residents because it increases transparency regarding payment responsibility, requiring automotive repair dealers to include more repair estimate information pertaining to the work to be done, and any payment portion provided by an insurer or third-party payor.
- 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.

Specific Technologies or Equipment:

This regulation does not mandate the use of specific technologies or equipment.

Consideration of Alternatives:

No reasonable alternative to the regulatory proposal would be either more effective in carrying out the purpose for which the action is proposed or would be as effective or less burdensome to affected private persons and equally effective in achieving the purposes of the regulation in a manner that ensures full compliance with the law being implemented or made specific.

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.

Description of reasonable alternatives to the regulation that would lessen any adverse impact on small business:

No such alternatives have been proposed, however, the Board welcomes comments from the public.