

DEPARTMENT OF CONSUMER AFFAIRS
TITLE 16. PROFESSIONAL AND VOCATIONAL REGULATIONS
DIVISION 33.
BUREAU OF AUTOMOTIVE REPAIR

NOTICE OF PROPOSED REGULATORY ACTION CONCERNING:
Vehicle Safety Systems Inspection Program

NOTICE IS HEREBY GIVEN that the Bureau of Automotive Repair (“Bureau” or “BAR”) is proposing to take the action described in the Informative Digest below, 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. However, the Bureau will 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 Tuesday, December 26, 2023**, or must be received by the Bureau at the hearing, should one be scheduled.

AUTHORITY AND REFERENCE

Pursuant to the authority vested by sections 9882, 9882.2, 9884, 9884.9, 9884.19, 9887.1, 9887.2, 9888.2, 9888.5, and 9888.6 of the Business and Professions Code (“BPC”), the Bureau is considering the following changes to the California Code of Regulations (“CCR”): 1) amending sections 3303, 3303.2, 3305, 3306, 3307, 3308, 3309, 3310, 3315, 3316, 3320, and 3321 of Title 16, Division 33, Chapter 1, Articles 1, 2, 3, and 4 of the CCR and 2) adopting Article 2.5, sections 3311.1, 3311.2, 3311.3, 3312.1, 3312.1.1, 3312.2, 3313.1, 3313.2, 3314.1, 3314.1.1, and 3314.2 in Title 16, Division 33, Chapter 1 of the CCR.

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 adjusting stations, and their respective inspectors, repair technicians, and adjusters.

Existing law provides for the regulation and licensing of lamp and brake adjusters and adjusting stations, including specific qualifications and inspection criteria. In 2021, the Legislature passed Assembly Bill 471 (“AB 471”; Low, Chapter 372, Statutes of 2021), which modified the BPC (adding new sections, and amending or repealing existing sections), requiring the Bureau to develop regulations implementing a new vehicle safety systems inspection program. This new program promotes the safe and uniform installation, maintenance, and servicing of vehicle safety systems and components. The program includes inspection criteria and standards for specific safety systems and vehicle components, and the issuance of vehicle safety systems inspection licenses to stations and technicians to conduct inspections of, and repair, vehicle safety systems. Pursuant to AB 471 and BPC section 9888.5(c), regulations creating this new

vehicle safety systems inspection program must be adopted by January 1, 2024. Additionally, AB 471 modified BPC section 9888.5(d) to include that these vehicle safety systems inspection licenses replace licenses issued pursuant to existing provisions—governing the licensure of brake and lamp adjusting stations and adjusters—that the bill will repeal on the effective date of the new regulations. Modifications to the current regulations are necessary to comply with the requirements of AB 471 and the BPC.

This regulatory proposal will implement, interpret, and make specific the requirements of AB 471 and the BPC, as follows: it will implement the vehicle safety systems inspection program, with a specific process for vehicles to receive certification. Through an incorporated inspection manual, the proposal will implement specific inspection criteria and standards for performing a vehicle safety systems inspection. This proposal will implement fraud prevention measures, including biometric data collection, and mid-inspection remote intervention by the Bureau if it suspects fraud. The proposal will implement a road test, as part of each inspection, to test vehicle safety systems for functionality. The proposal will implement a procedure for current brake and lamp licensees to apply for and obtain new comprehensive vehicle safety systems inspection licenses (for both stations and technicians), and make specific the applicable licensing fee and renewal process. The proposal will implement an application process for stations and technicians to obtain the new comprehensive vehicle safety systems inspection licenses, and make specific the application fee and renewal process.

Anticipated Benefits of Proposal

The Bureau has determined that this regulatory proposal will enhance public protection.

This regulatory proposal implements a more comprehensive inspection program to replace the current brake and lamp adjusting programs. The new vehicle safety systems inspection program will expand on the existing programs, which only include inspections of vehicle brakes and lamps, to include inspections of more safety systems, including passenger compartment components, tires and wheels, steering and suspension, and body structure. Furthermore, the new inspection includes a road test that will test the vehicle safety systems for functionality. Implementing this regulatory proposal will address safety concerns by ensuring salvaged vehicles returning to the roadways are safe for consumers. Currently, the vast majority of vehicles requiring a brake and lamp certification are vehicles revived to a salvaged title after being deemed a total loss. The current brake and lamp program certifies salvaged titled vehicles returning to the roadways after inspecting only the brake and lamp systems; however, with this regulatory proposal, revived vehicles will receive a more comprehensive safety inspection, ensuring the safety of consumers on the roadways.

This regulatory proposal is intended to provide greater measures to ensure that those vehicles are safe before returning them to California roadways. Having more vehicle safety systems inspected is intended to increase vehicle safety for not only the people in these vehicles (both drivers and passengers), but also for any California resident who shares the road with these vehicles, thereby enhancing public protection.

The new vehicle safety systems inspection program will also implement security measures to prevent fraud, such as requiring technicians to use a biometric scan of their palm to log into the Bureau's Safety Inspection System (BAR-SIS) to perform an inspection, and to issue a vehicle safety systems certificate of compliance to a vehicle found to meet the inspection requirements. This will ensure the licensed vehicle safety systems technician performed the inspection, thus guaranteeing vehicle safety and preventing unlicensed activity.

Additionally, the new vehicle safety systems inspection program will utilize a Data Acquisition Device (“DAD”), which will plug directly into the vehicle’s Diagnostic Link Connector (“DLC”) to download vehicle identifying information, including the Vehicle Identification Number (“VIN”), on model year 2000 and newer On-Board Diagnostic (“OBD”) equipped vehicles. This will help both prevent new, and detect existing, fraudulent vehicle safety systems inspections and certifications. The vehicle identifying information downloaded through the DAD will be stored in the California Vehicle Information Database (“VID”). When vehicle identifying information does not match the test record for a vehicle inspected, disciplinary action may be taken against the licensed station and technician. The new vehicle safety systems inspection program will also utilize an electronic certificate of compliance, which will be sent digitally to DMV and is required for vehicle registration. This will streamline communication between the Bureau and the DMV during the registration process, and allow the DMV to independently verify the legitimacy of a vehicle safety systems certificate of compliance, which will help prevent the use of fraudulent certificates of compliance. These security measures will enhance public protection.

Evaluation of Consistency and Compatibility with Existing State Regulations

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

INCORPORATION BY REFERENCE

Notice of Collection of Personal Biometric Information and Its Use (for Vehicle Safety Systems Technician Licenses) (January 2023)

Biometric Data Collection Consent Statement (for Vehicle Safety Systems Technician Licenses) (January 2023)

Vehicle Safety Systems Inspection Manual (September 2023)

DISCLOSURES REGARDING THIS 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 anticipates 800 existing licensed brake and lamp stations, and 650 licensed brake and lamp technicians will opt to transition to the appropriate vehicle safety systems inspection license type. The Bureau estimates 120 (new) stations and 130 (new) individuals will seek initial licensure per year thereafter and 800 stations and 650 technicians renewing licensure per year ongoing.

Inspection & Licensing Workload Costs (Non-Add and New): The Bureau will inspect stations prior to initial licensure, incur workload initial and renewal licensing costs, and issue a license badge to technicians with costs including:

- 1) Non-Add – No change from current program costs, includes:
 - i. Inspection (station) – No additional training or site visit costs
 - ii. License (station and technician) – Initial and renewal
- 2) New Cost – New workload costs, includes:
 - i. Badge (one-time) – Issuance

Total inspection and licensing workload and costs (non-add and new) are projected to range from \$111,500 to \$693,035 per year and up to approximately \$5.7 million over a ten-year period.

The Bureau notes this proposal's inspection and licensing workload is consistent with the current brake and lamp inspection program. As a result, no additional training or other operational costs are anticipated. The only additional (new) workload and costs are related to the issuance of the technician's badge, which is not issued under the current brake and lamp inspection program.

Development Costs (One-Time - New): The Bureau estimates one-time costs related to information technology (IT) software development of \$547,000 and IT application development of \$133,000, as well as workload costs of \$44,000 to update the Vehicle Safety Systems Inspection Manual.

The Bureau indicates any costs related to this proposal will be absorbed within existing resources.

Revenues (Non-Add): The Bureau estimates initial and renewal license fees of \$22,500 in year-one of implementation and \$26,200 annually thereafter and up to \$258,300 over a ten-year period.

The Bureau will also receive Vehicle Safety Systems Inspection certificate revenues from consumers of \$1.75 million per year and up to \$17.5 million over a ten-year period.

The regulations do not result in savings or costs 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

The Bureau has made the initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting businesses, including small businesses and the ability of California businesses to compete with businesses in other states.

This initial determination is based on the following fact that existing brake and lamp stations and technicians will be able to transition to the new license type and this proposal better aligns the Bureau's safety inspection requirements with the modern fleet.

Additionally, any costs to comply with the proposed regulations including, licensing and exam fees, as well as vehicle safety certificate costs paid by consumers are not being increased from current levels.

The Bureau has determined that this regulatory proposal will not have an impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses in the State of California.

In addition, the proposed action is not expected to expand or reduce existing business.

Cost Impact on Representative Private Person or Business

Under this proposal, approximately 800 currently licensed brake and lamp stations and 650 currently licensed brake and lamp technicians are anticipated to apply for the corresponding vehicle safety systems inspection license type and pay the applicable fee—station (\$20 fee) or technician (\$10 fee). Of these 800 current licensees, the Bureau anticipates 140 stations will be required to purchase and install new equipment with one-time costs of \$1,500 per station.

Beginning in year two of implementation, the Bureau estimates up to 120 stations per year will apply and pay \$20 for initial licensure, of which 20 stations will be required to purchase (with each paying \$1,500) and install equipment. Additionally, each year thereafter, up to 130 individuals are projected to pay \$44 to take and pass the technician examination, as well as apply and pay \$10 for initial licensure.

The Bureau anticipates license renewals to be consistent with historical averages, with 800 stations and 650 technicians applying for annual license renewal per year and paying renewal fees of \$20 for stations and \$10 for technicians.

The Bureau anticipates the number of vehicle inspections will be consistent with historical averages, and projects up to 250,000 inspections completed per year. Under this proposal, the vehicle safety systems inspection certificate cost will not increase and will remain \$7, as it is for the current brake and lamp certificate.

RESULTS OF ECONOMIC IMPACT ASSESSMENT / ANALYSIS

The Bureau has determined this regulatory proposal would have no significant statewide adverse economic impact directly affecting businesses, including small businesses and the ability of California businesses to compete with businesses in other states.

The proposed regulations establish the vehicle safety system inspection program to replace the Bureau's existing brake and lamp inspection program to better enhance consumer safety by updating inspection requirements to address and meet the needs of the modern fleet.

The Bureau notes license, exam, and inspection certificate fees will not be increased from current levels. However, because this proposal establishes a new program, and to be thoroughly transparent, the Bureau is opting to report the full costs of the vehicle safety inspection program, with impacts identified as either:

- 1) Non-Add – No change from current program costs, includes:
 - i. License fees (station and technician) – Initial and renewal
 - ii. Exam fees (one-time) – Technician
 - iii. Inspection Certificate fees (consumer)
- 2) New Cost – New business costs of compliance, includes:
 - i. Equipment (one-time)

Station and Technician Costs (Non-Add and New):

The Bureau estimates 800 existing licensed brake and lamp stations and 650 licensed brake and lamp technicians will opt to transition to the appropriate vehicle safety systems inspection license type. Stations will be required to apply and pay \$20, and technicians apply and pay \$10.

Of these 800 stations, the Bureau anticipates 140 current brake and lamp stations will be required to purchase and install new equipment with one-time costs of \$1,500 per station.

Beginning in year two of implementation, the Bureau estimates up to 120 (new) stations per year will apply and pay \$20 for initial licensure, of which 20 stations will be required to purchase (\$1,500) and install equipment. Additionally, up to 130 (new) individuals are projected to pay \$44 to take and pass the technician examination, as well as apply and pay \$10 for initial licensure per year ongoing.

The Bureau anticipates license renewals to be consistent with historical averages, with 800 stations and 650 technicians applying for annual license renewal per year, with renewal fees of \$20 for stations and \$10 for technicians.

The total costs (non-add and new) to applicants and licensees are estimated to be \$232,500 in year one of implementation and \$61,920 annually thereafter, and up to \$789,780 over a ten-year period.

The Bureau anticipates the number of automobile inspections will be consistent with historical averages and projects up to 250,000 inspections completed per year. Under this proposal, the vehicle safety systems inspection certificate will not be increased and will remain \$7, the same as the current brake and lamp certificate.

Total consumer automobile vehicle safety systems inspection costs (non-add) are estimated at \$1.75 million per year and up to \$17.5 million over a ten-year period.

Impact on Jobs/Businesses

The Bureau has determined that this regulatory proposal will not have any impact on the creation or elimination of jobs or businesses, or the expansion of businesses, in the State of California.

Benefits of Regulation:

The Bureau has determined that this regulatory proposal will have the following benefits to the health and welfare of California residents and worker safety. This regulatory proposal does not affect the state's environment.

The vehicle safety systems inspections program will be a more comprehensive inspection program that increases vehicle safety, thereby increasing the safety of California residents on the road and making the state's roads safer generally. In addition, the program includes new security measures for the safety systems technicians, and vehicle identification, which will help prevent and detect unlicensed and fraudulent activity, benefiting the welfare of California residents. The program will promote safer inspection and repair methods by providing an inspection manual, and recommended additional resources, technicians should refer to during inspections, which will benefit worker safety.

Business Reporting Requirements

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

Effect on Small Business

The Bureau currently provides licensure to approximately 800 brake and lamp stations. To the extent an existing licensed brake and lamp station qualifies as a small business and opts to transition to the new vehicle safety systems license status, these small businesses may be impacted.

However, because the Bureau does not track the number of these licensees designated as a small business, it does not have an estimate at this time.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5(a)(13), the Bureau must determine that no reasonable alternative it considered to the regulation 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, as effective and less burdensome to affected private persons than the proposal described in this Notice, or more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Any interested person may submit comments—relevant to the above determinations—in writing to the Bureau at 10949 North Mather Boulevard, Rancho Cordova, CA 95670 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 at 10949 North Mather Boulevard, Rancho Cordova, CA 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 FINAL STATEMENT OF REASONS AND RULEMAKING FILE

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 PERSONS

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

Name: Kayla Shelton
Address: Bureau of Automotive Repair
10949 North Mather Blvd., Rancho Cordova, CA 95670
Telephone No.: 916-403-0307
E-Mail Address: kayla.shelton@dca.ca.gov

The backup contact person is:

Name: Mathew Gibson
Address: Bureau of Automotive Repair
10949 North Mather Blvd., Rancho Cordova, CA 95670
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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 <https://bar.ca.gov/regulatory-actions>.