

BUREAU OF AUTOMOTIVE REPAIR
INITIAL STATEMENT OF REASONS

HEARING DATE: NORTHERN CALIFORNIA
Tuesday, January 19, 2016

SUBJECT MATTER OF PROPOSED REGULATIONS: WINDSHIELD REPLACEMENT STANDARDS

SECTIONS AFFECTED: Adopt §3365.1 within Article 8, Chapter 1, Division 33, Title 16, California Code of Regulations

SPECIFIC PURPOSE OF REGULATORY PROPOSAL:

Pursuant to Business and Professions Code section 9880.3, protecting the public is the highest priority of the Bureau of Automotive Repair (Bureau) in exercising its licensing, regulatory, and disciplinary functions. To that end, Article 8, Chapter 1, Division 33 of the California Code of Regulations sets forth “accepted trade standards for good and workmanlike automotive repair as performed by automotive repair dealers,” including standards for auto body and frame repairs.

Windshields are an important safety feature in motor vehicles. They play a role in reducing crash-related fatalities and injuries by supporting the vehicle frame, preventing ejection of occupants through the windshield portal, and in some vehicles providing reinforcement for airbag deployment.

Manufacturers of vehicles and vehicle components such as windshields must meet federal safety standards that protect against unreasonable risk of death or injury in the event crashes occur. The National Highway Traffic Safety Administration (NHTSA), a division of the U.S. Department of Transportation, has a legislative mandate under the Motor Vehicle Safety Act of 1966 to issue Federal Motor Vehicle Safety Standards (FMVSS) and regulations to which manufacturers of vehicles and vehicle components must conform and certify compliance.

To certify new vehicles, manufacturers must ensure vehicles and component safety features pass destructive tests in accordance with the FMVSS and their own standards, which may exceed government requirements. For example, the federal windshield mounting standard, FMVSS 212, requires that in a 30 mph frontal crash test, a certain percentage of the windshield periphery must remain attached to the vehicle. In the event a consumer must replace their windshield, a number of variables bear on the safety and quality of the repair, such as the products and methods used in the installation and the amount of time allowed for the installation to cure.

The Bureau is proposing to adopt standards for windshield replacement in regulation. These standards require automotive repair dealers who replace windshields to (1) meet or exceed FMVSS and vehicle manufacturer specifications in the selection of windshields; (2) meet or exceed manufacturer specifications in the selection, use, and/or application of windshield adhesives and adhesive systems; and (3) notify consumers on both the estimate and invoice of the cure time of the windshield installation, as well as notify consumers on the invoice whether the installed windshield is an original equipment manufacturer part or non-original equipment manufacturer part.

The specific purpose of each adopted requirement is as follows:

Requirement to use windshields that meet or exceed FMVSS and vehicle manufacturer specifications

Problem: Federal standards pertaining to windshield glass and installation help to ensure a vehicle's crashworthiness, or ability to protect vehicle occupants during an impact. For example, the glass material standard, FMVSS 205, minimizes the possibility of injuries from glass fragments or bodily impact with windshields in a collision. FMVSS 205 requires manufacturers of automotive glass to certify each windshield complies with applicable safety standards by adding a Department of Transportation code number associated with the manufacturer to the windshield. Windshields that do not meet these standards are more likely to present safety risks to the driving public.

Anticipated benefit: This provision would ensure replacement windshields adhere to federal crash safety standards as well as vehicle manufacturer specifications, which may exceed the federal standard.

Requirement to use windshield adhesives that meet or exceed vehicle manufacturer specifications and to use and apply these adhesives in accordance with the vehicle and adhesive manufacturer's standards and specifications

Problem: Windshield adhesives hold the windshield in place during impact. In order to create a bond between the glass and the vehicle strong enough to endure a collision, adhesive systems must be used in a series of steps specified by the adhesive manufacturer. The adhesive must then be applied to the body of the vehicle in a manner specified by the vehicle manufacturer. Windshields installed improperly or with lower quality adhesives present a greater risk of injury to the driving public. Virtually all ejections through the windshield portal occur after the windshield has been partially or completely dislodged from its frame.

Anticipated benefit: This provision requires automotive repair dealers to follow manufacturer specifications in selecting, using, and applying adhesives and adhesive systems. Following these specifications ensures the windshield will remain sufficiently intact in a collision to meet federal crash safety standards.

Requirement to disclose the minimum cure time or “drive-away” time on both the estimate and invoice; and to additionally disclose on the invoice (1) the date and time upon which installation is completed and (2) whether the windshield is an original or nonoriginal equipment manufacturer part

Problem: The minimum cure time or “drive-away” time is the amount of time following installation that is necessary for an adhesive system to cure until the windshield can function at minimum standards of safety performance under the FMVSS and vehicle manufacturer specifications. Adhesive manufacturers provide specifications regarding the cure time appropriate for a given adhesive in given environmental conditions. If the consumer is not notified of the minimum cure time prior to and following the installation, there is an increased risk they will resume driving with a windshield that does not perform to federal and vehicle manufacturer safety standards.

Further, information regarding whether the installed windshield was made according to the specifications of the original equipment manufacturer or is one potentially not made to such specifications is relevant to the safety and quality of the repair.

Anticipated benefit: This provision requires compliance with the minimum drive-away time as specified by the adhesive manufacturer and disclosure to the consumer of the minimum drive-away time, including date and time of installation. The disclosure requirement ensures consumers are aware of the both the period of time needed for the installation to cure and when that period of time begins. The provision also requires notification of whether the windshield is an original or nonoriginal equipment manufacturer part in the invoice. Together, these requirements ensure consumers are made aware of information relevant to their safety and the quality of the repair, such as the appropriate amount of time they must wait before driving a vehicle following a windshield installation.

FACTUAL BASIS:

Ejection from the vehicle is one of the most injurious events that can happen to a person in a crash. The NHTSA studied fatal crash data for the five-year period from 2003 through 2007. Of the 155,359 passenger vehicle occupants studied who were fatally injured, over one quarter (27.1%) were ejected. Passenger vehicle occupants who were ejected from their vehicles were 2.3 times as likely to be fatally injured compared to occupants who remained inside their vehicles.

Studies have found a variety of factors contribute to ejection, including seatbelt use, vehicle model year and type, speed prior to the crash, and the occurrence of rollover. Although several factors relate to consumer behavior, vehicle safety features can nonetheless play a role in mitigating injury in the event an accident does occur. Windshields support the structural integrity of the vehicle, such as during a rollover, and are manufactured and installed according to certain standards to have sufficient strength and bonding to the vehicle to prevent ejection during a crash.

Pursuant to the Automotive Repair Act of 1971, the Bureau administers a statewide consumer protection program through regulation of the automotive repair industry. The Bureau protects consumers in part by regulating specified types of repair to ensure such repairs meet accepted trade standards. There are currently no regulations specifically related to windshield replacement standards. The proposed regulation addresses the problem of vehicle occupant ejection by requiring the products and procedures involved in windshield replacement to meet accepted trade standards including the FMVSS. All vehicle glass installed in the United States must pass the FMVSS, which require destructive tests. Vehicle manufacturer standards may exceed their federal counterparts.

The proposed regulation targets two areas of windshield installation: the selection of windshields and the selection and use of windshield adhesives which bond the windshield to the vehicle. These areas are critical to maintaining the safety function of the windshield. To function as a safety device, windshields must be built to withstand the impact of a crash and prevent occupant penetration through the windshield. They must also be properly bonded to the vehicle to remain intact during impact. By ensuring these areas of installation meet or exceed accepted industry standards, the proposed regulation ensures replaced windshields perform their intended safety function.

The regulation also requires written notification of the minimum drive away time before and after installation and identification of whether the windshield is an original or nonoriginal manufacturer part. No regulation currently requires these disclosures. Requiring such disclosures ensures the customer is aware of the minimum time necessary before he or she can safely drive his or her vehicle and has a basic indicator of the quality of the windshield installed.

UNDERLYING DATA:

Federal Motor Vehicle Safety Standard 205

Federal Motor Vehicle Safety Standard 212

FACTS, EVIDENCE, DOCUMENTS, TESTIMONY, OR OTHER EVIDENCE ON WHICH THE AGENCY RELIED TO SUPPORT AN INITIAL DETERMINATION THAT THE PROPOSED ACTIONS WILL NOT HAVE A SIGNIFICANT ADVERSE ECONOMIC IMPACT ON BUSINESSES:

Business Impact

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

First, when developing the regulation, the Bureau held a series of meetings attended by owners of automotive glass shops and a representative of the Inter-Industry Conference on Auto Collision Repair (I-CAR), a not-for-profit organization which provides training

programs related to auto body repair. The Bureau considered their input regarding any adverse impacts on the industry in drafting the regulation.

Second, the proposed amendments codify existing industry best practices, which follow nationally set standards.

Third, the regulation requires minimal additional notifications on the estimate and invoice. Businesses who replace windshields must be registered with the Bureau as automotive repair dealers and are subject to all the regulations applicable to automotive repair dealers. These regulations include requirements to meet specified standards in various types of repair and to include or disclose specified information on estimates, work orders, and invoices. The requirements imposed by this regulation to meet accepted trade standards in windshield installation and to disclose information pertinent to customer safety in the estimate and invoice would have a negligible, though indeterminable impact on businesses. The additional time it may cost to make additional disclosures are likely to be absorbed by any businesses subject to the regulation.

Businesses that adopt customer disclosure practices which they did not have prior may see positive benefits resulting from increased customer safety and satisfaction.

ECONOMIC IMPACT ASSESSMENT:

EFFECT ON THE CREATION, ELIMINATION, OR EXPANSION OF JOBS OR BUSINESSES:

The Bureau has made an initial determination the proposed regulatory action will not have any impact on the creation of jobs or new businesses, the elimination of jobs or existing businesses, or the expansion of jobs or businesses in the State of California. This determination was made because the proposed regulation merely requires automotive repair dealers to meet accepted trade standards when performing windshield installations and to provide additional disclosures on the customer estimate and invoice such as the minimum drive-away time. These requirements codify existing industry best practices.

IMPACT ON THE HEALTH AND WELFARE OF CALIFORNIA CITIZENS:

The Bureau has made an initial determination the regulation will have a positive impact on the health and welfare of California citizens to the extent it promotes safe windshield repair as well as safe driving practices associated with windshield repair.

IMPACT ON WORKER SAFETY:

The Bureau has made an initial determination that the proposed regulatory action may have a positive, though indeterminable, impact on worker safety in the State of California. Although the proposal does not change the occupational scope of individuals employed by affected businesses, it codifies best practice procedures established by the Department of Transportation and vehicle and equipment manufacturers.

IMPACT ON THE STATE'S ENVIRONMENT:

The Bureau has made an initial determination the proposed regulatory action would have no effect on the environment.

SPECIFIC TECHNOLOGIES OR EQUIPMENT:

This regulation does not mandate the use of any specific technologies or equipment, but does require that products and equipment used (windshields and windshield adhesive systems) meet accepted trade standards.

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.