

BUREAU OF AUTOMOTIVE REPAIR

**INITIAL STATEMENT OF REASONS**

**Hearing Date:** No hearing has been scheduled.

**Subject Matter of Proposed Regulations:** Automotive Repair Dealer Registration Application Requirements

**Section(s) Affected:** Title 16, California Code of Regulations (CCR), sections 3303, 3351, and [New] 3395.6

**Specific purpose of each adoption, amendment, or repeal:**

**1. Background/Statement of the Problem**

The Department of Consumer Affairs (DCA), Bureau of Automotive Repair (BAR or Bureau), is the state agency charged with licensing automotive repair dealers (ARDs), Smog Check stations, STAR stations, brake and lamp stations, and their respective inspectors, repair technicians, and adjusters.

Before January 1, 2022, Business and Professions Code section 9884 (BPC) required ARDs to register with the Director (of DCA) upon forms prescribed by the Director that contained sufficient information to identify the automotive repair dealer, including, among other things, the address of each location and the dealer's retail seller's permit number if a permit is required by law. Assembly Bill (AB) 471 (Low, Chapter 372, Statutes of 2021) amended BPC section 9884 to additionally require the forms to include, among other things, the automotive repair dealer's telephone number, email address, and motor vehicle license plate number if engaged in mobile automotive repairs. Currently, applicants submit an application to the Bureau electronically or as a hard copy. Applications are available electronically on the Bureau's website or hard copies are available at Bureau headquarters or field offices. Currently, the application components are not set forth in regulation, nor is the application incorporated by reference. The regulation simply states: "An application for registration as an automotive repair dealer shall be filed on an application form prescribed and provided by the Bureau...."

AB 471 also requires the Bureau to accept "nationally recognized and industry-accepted educational certifications," and "any Bureau-approved educational certifications" as part of the ARD application. (Bus. & Prof. Code, § 9884 subd. (b)(4).) This requirement necessitates the Bureau develop a definition for "nationally recognized and industry-accepted educational certifications," and a process for an automotive repair training provider to have their educational certifications deemed "Bureau-approved educational certifications."

The Bureau proposes to: (1) amend existing section 3303 of Article 1 of Chapter 1 of Division 33 of Title 16 of the CCR and section 3351 of Article 6 of Chapter 1 of Division 33 of Title 16 of the CCR; and (2) adopt a new section 3395.6 in Article 12 of Chapter 1 of Division 33 of Title 16 of the CCR, as follows:

- Section 3303 will establish a definition for "nationally recognized and industry-accepted educational certifications" to identify the certifications an ARD must submit to the Bureau as part of the ARD application process.

- Section 3351 will establish the required information those wishing to obtain an ARD registration must provide to the Bureau during the application process.
- Section 3395.6 will establish the requirements for educational certifications, which might not otherwise be recognized under the definition of “nationally recognized and industry-accepted,” to be deemed “bureau-approved educational certifications” for purposes of the ARD application process.

**2. Anticipated Benefits**

By establishing the required information in regulation for those wishing to obtain an ARD registration, the Bureau is providing a more straightforward and transparent application process. The applicant’s provision of a telephone number and email address will facilitate communication with ARD applicants and enhance Bureau efficiency in processing applications.

Establishing definitions for “nationally recognized and industry-accepted educational certifications” and “Bureau-approved educational certifications” will clarify the certifications ARDs must provide in the application process. Providing this information to the Bureau will incentivize ARD owners to invest in their staff’s training and hire individuals who possess such certifications. Trained and certified automotive repair staff should result in more repairs being performed in a good and workmanlike manner, and greater adherence to the Bureau’s accepted trade standards, both of which will benefit the motoring public.

**Factual Basis/Rationale**

A detailed explanation of the amendments are as follows:

**(1) Amend section 3303, Definitions.**

The Bureau proposes to add a new subdivision (r) to section 3303 to provide a “Nationally Recognized and Industry-Accepted Educational Certification” is “a diploma, certificate of completion, or a degree as defined in section 94830 of the Education Code obtained after successful completion of any training on automotive repair, the diagnosis and repair of a motor vehicle, automotive technology, automotive service technology, or customer service related to automotive repair and/or testing provided by any of the following: a vehicle manufacturer, the Inter-Industry Conference on Automotive Collision Repair (I-CAR), the National Institute for Automotive Service Excellence (ASE), or by an educational institution accredited by an accrediting agency recognized by the U.S. Department of Education.”

The purpose of this subdivision is to provide a definition for “Nationally Recognized and Industry-Accepted Educational Certification” for purposes of Article 1 of Chapter 1 of Division 33 of Title 16. (Bus. & Prof. Code, § 9884, subd. (b)(4).)

This definition is necessary because BPC section 9884 requires ARD applicants to disclose any nationally recognized and industry-accepted educational certifications. (Bus. & Prof. Code, § 9884, subd. (b)(4).) This definition is necessary to explain the term as used in section 3351(a)(2)(O). This definition enables an applicant to determine what information they are required to provide as part of the application process.

The Bureau requires applicants to have received a diploma, certificate of completion, or a degree as defined in Education Code 94830 because these documents typically signify an individual has successfully completed a specified course of study. Consistently, Education Code section 94830 defines a degree as “a recognized educational credential awarded by an institution that signifies satisfactory completion of the requirements of a postsecondary educational program at the associate's level or above.”

This subdivision defines a nationally recognized and industry-accepted educational certification by reference to successful completion of training in specified subjects from any of the following:

- A vehicle manufacturer. This would include, for instance, manufacturers such as Chevrolet, Nissan, or Volkswagen. The industry considers training provided by a domestic automobile manufacturer such as Chevrolet, or a foreign automobile manufacturer such as Nissan, or Volkswagen, to represent a high standard of training specific to repairs on that manufacturer’s vehicles. Automobile manufacturers provide repair specifications and repair procedures the industry uses for the vehicles those manufacturers design, engineer, and build.
- Inter-Industry Conference on Automotive Collision Repair (I-CAR). This is a nonprofit organization that provides training and certification for the auto collision industry. I-CAR has trained and tested autobody repair technicians in all aspects of autobody and collision repair industry for over 40 years. Within the autobody and collision industry, an I-CAR certification indicates an autobody technician has a proficient level of understanding and ability in the repair area the certification was awarded.
- National Institute for Automotive Service Excellence (ASE). This is a nonprofit organization that provides testing and certification in automotive repair. ASE has been providing independent testing of automotive repair technicians in all aspects of automotive repair for over 50 years, and within the industry, an ASE certification indicates a technician has a proficient level of understanding and ability in the repair area the certification was awarded.
- An educational institution accredited by an accrediting agency recognized by the U.S. Department of Education (USDOE). USDOE accredited schools including community colleges and trade schools provide education and training on automotive technology, vehicle systems, and fundamental automotive repair principles. A technician who possesses a diploma, certificate of completion, or a degree from an accredited community college or trade school indicates the technician has obtained a fundamental understanding of automotive repair and automotive technology.

A nationally recognized and industry-accepted educational certification must be awarded for subject matter areas specific to automotive repair, the diagnosis and repair of a motor vehicle, automotive technology, automotive service technology, or customer service related to automotive repair and/or testing. ASE, I-CAR, community colleges, and trade schools have certifications, such as automotive parts supplier and business management, that the Bureau does not regulate, and are not of specific interest to the motoring public when choosing an automotive repair facility. The Bureau limits the acceptable subject matter areas for certification

to ensure the certifications are within the Bureau's scope of authority and relevant to consumer protection.

The Bureau chooses the subject matter areas of automotive repair, diagnosis and repair of a motor vehicle, automotive technology, and automotive service technology because these are the areas the Bureau regulates pursuant to Article 8 of Division 33 of Title 16 of the CCR.

The Bureau includes customer service related to automotive repair and/or testing because under Article 7 of Division 33 of Title 16 of the CCR, repair facilities are responsible for, among other things, obtaining the consumer's authorization for the diagnosis and/or repair of the motor vehicle, keeping the consumer informed about the repair process, obtaining additional authorization when repairs will exceed the originally estimated amount, and completing an invoice after the completion of the repairs.

## **(2) Amend section 3351, Registration of Automotive Repair Dealers.**

### **Deletion of existing language**

The Bureau proposes to delete the existing language providing, "An application for registration as an automotive repair dealer shall be filed on an application form prescribed and provided by the Bureau. The application shall be accompanied by the registration fee and such evidence, statements or documents as therein required. No separate registration shall be required for the mobile emergency road service or towing equipment of a registered automotive repair dealer."

This deletion is necessary because the Bureau proposes to reorganize the regulation to separately identify each component of the application an ARD is required to submit to the Bureau for registration.

### **Subdivision (a)**

The Bureau proposes to adopt subdivision (a) to provide "Any person or entity ("applicant") seeking Bureau registration as an automotive repair dealer shall submit a completed application that includes all of the following[.]"

The purpose of this subdivision is to establish the required elements of an application to obtain an ARD registration.

This subdivision is necessary to introduce the required elements of an application to obtain an ARD registration. BPC section 9884 requires those wishing to become an ARD to register with the Bureau, and the Bureau to collect sufficient information to identify the applicant. This application process implements the statute.

### **Subdivision (a)(1)**

The Bureau proposes to adopt subdivision (a)(1) to provide "The nonrefundable application fee set forth in section 3351.1 for each location or each vehicle pursuant to section 3351.7.3 unless the applicant meets the requirements for waiver of the fee specified in subsection (g)."

The purpose of this subdivision is to establish an applicant must pay a nonrefundable application fee of \$200 and to require each automotive repair facility location or vehicle used for mobile automotive repair to have a unique registration.

This subdivision is necessary to include all application criteria conveniently in one location in regulation. Section 3351.1 establishes an application fee of \$200. Once an ARD application is submitted, BAR incurs costs associated with the processing and review of the application. Therefore, the application fee is nonrefundable to ensure BAR is reimbursed for the review process.

If the applicant is applying for ARD registration at multiple locations, BPC section 9884(a) requires an applicant submit an application and application fee for each location. Additionally, applicants applying to perform mobile automotive repair must have a separate registration for each motor vehicle used to perform those repairs as provided in section 3351.7.3(b).

Effective July 1, 2022, pursuant to BPC section 115.5, the Bureau is required to waive the fee if they meet the requirements of section 115.5(a)(1) and (a)(2). Subdivision (g) of the regulation details the information an applicant must submit to qualify for such a waiver.

### **Subdivision (a)(2)**

The Bureau proposes to adopt subdivision (a)(2) to provide “The following identifying information[.]”

The purpose of this subdivision is to introduce the required identifying information to be submitted by an applicant to obtain an ARD registration.

This subdivision is necessary to list the items of identifying information an applicant must submit to be registered as an ARD.

- (1) Subdivision (a)(2)(A). The legal name of the applicant. An individual must apply using their full legal name: (Last Name) (First Name) (Middle Name) and/or (Suffix) and provide information from a government issued photo identification including issuing authority, document title, and number. A business entity must apply using the business' legal name;

This information is necessary to identify the true and correct identity of the applicant, and whether that applicant is an individual or a business entity. This subdivision is necessary to list the items of identifying information an applicant must submit to become registered as an ARD such as full legal name, and information from a government issued photo identification to enable the Bureau to verify the applicant’s true and correct identity.

- (2) Subdivision (a)(2)(B). If the business is to be carried out under a fictitious name (i.e., the applicant intends to operate under a name other than their legal name), the fictitious name shall be provided

This information is necessary for identifying and tracking the business, as required by BPC section 9884 which states, “if the business is to be carried on under a fictitious name, the fictitious name shall be stated.” (Bus. & Prof. Code, § 9884, subd. (b)(2).)

- (3) Subdivision (a)(2)(C), Form of business organization (sole proprietorship (individual), partnership, limited partnership, corporation, or limited liability company (LLC))

This information is necessary to clearly ascertain the business's legal structure and to indicate all parties responsible for the business. For instance, a sole proprietorship would have a single owner certifying and signing the application while a partnership would, at a minimum, have two or more partners certifying and signing the application.

- (4) Subdivision (a)(2)(C)(i), If the business is a corporation, the corporate number assigned by the California Secretary of State

This information is necessary to verify the business's organizational structure with the Secretary of State under its assigned number for the corporation.

- (5) Subdivision (a)(2)(C)(ii), If the business is an LLC, the domestic or foreign LLC number assigned by the California Secretary of State

This information is necessary for verifying the business's organizational structure by requiring disclosure of the Secretary of State assigned number for the LLC.

- (6) Subdivision (a)(2)(D), Federal employer identification number (FEIN), if the applicant is a partnership, or the applicant's social security number, or individual taxpayer identification number (ITIN) for all other applicants. If the applicant is a corporation or LLC, the applicant shall submit the social security numbers of its controlling individuals

This information is necessary because BPC section 30 requires the Bureau to collect a FEIN, social security number, or ITIN specific to business structure. (Bus. & Prof. Code, § 30, subs. (a)(1), & (a)(2)(A).)

- (7) Subdivision (a)(2)(E), If the applicant is a business entity, the full legal name, title, business address, telephone number, and information from a government issued photo identification including issuing authority, document title, and number for each controlling individual

This information is necessary to identify the true and correct identity of each controlling individual of a business entity applicant. Subdivision (c) of the regulation defines a "controlling individual" as owners, directors, officers, partners, members, trustees, managers, and any other persons who directly or indirectly control or conduct the business. This subdivision is necessary to obtain the identifying information of each controlling individual and will enable the Bureau to verify the true and correct identity of each controlling individual.

- (8) Subdivision (a)(2)(F), Physical address of the location operated by the applicant ("location")

This item is necessary so the Bureau can communicate with the applicant about their application and transmit notices, mailings, and other communications to the applicant.

- (9) Subdivision (a)(2)(G), Applicant's mailing address, if different than the physical address ("address of record")

This item is necessary so the Bureau can communicate with the applicant about their application and transmit notices, mailings, and other communications to the applicant when they receive mail somewhere other than their physical address.

- (10) Subdivision (a)(2)(H), Applicant's telephone number

This item is necessary so the Bureau can communicate with the applicant by telephone.

- (11) Subdivision (a)(2)(I), Applicant's email address

This item is necessary so the Bureau can communicate with the applicant about their application and transmit electronic notices, mailings, and other communications.

- (12) Subdivision (a)(2)(J), The applicant's retail seller's permit number, if a permit is required under the Sales and Use Tax Law (Part 1 commencing with section 6001) of Division 2 of the Revenue and Taxation Code

This information is necessary because BPC section 9884 requires the Bureau to collect this information. (Bus. & Prof. Code, § 9884, subd. (b)(1)(F).) Additionally, it provides verification the business has complied with local business requirements prior to the issuance of a registration.

- (13) Subdivision (a)(2)(K), Whether the applicant intends to perform auto body repair work and possesses the applicable licenses or permits set forth in Section 9889.52 of the Code

This information is necessary because BPC section 9889.52 requires an ARD applicant to disclose if they intend to perform auto body repair, and if they possess the required licenses and permits which include, but are not limited to, a city or county business license, a State Board of Equalization identification or resale permit number, an Environmental Protection Agency hazardous waste permit number, and an Air Quality Management District spray booth permit number. (Bus. & Prof. Code, § 9889.52.)

- (14) Subdivision (a)(2)(L), A designation of the services performed by the business

This information is necessary to ensure ARDs have and maintain appropriate tools and reference materials for the services offered. Additionally, the information is used for reporting statistical information regarding registrant population and distribution of services availability throughout the state.

- (15) Subdivision (a)(2)(M), Whether the business will be engaged in mobile automotive repairs. If the applicant answers affirmatively, they shall provide the vehicle license plate number for the vehicle used to perform mobile automotive repairs in accordance with Article 6.1 (commencing with section 3351.7.1)

This information is necessary because BPC section 9884 requires an ARD applicant to provide a motor vehicle license plate, if engaged in mobile automotive repairs. (Bus. & Prof. Code, § 9884, subd. (b)(1)(G).) This information also ensures the ARD meets the requirements outlined in Title 16, Article 6.1, of the CCR, "Mobile Automotive Repair," prior to the issuance of a registration. Since ARDs must have separate registrations for each vehicle used to perform mobile automotive repairs, providing the license plate number allows the Bureau to verify a vehicle is registered and licensed.

- (16) Subdivision (a)(2)(N), Whether the business is in an area that, pursuant to local zoning ordinances, permits the operation of a facility for the repair of motor vehicles

BPC section 9884(b)(1)(E) requires the Bureau to collect this information from the applicant.

- (17) Subdivision (a)(2)(O), Whether the applicant or any controlling individual of the business, or any other person(s) employed at the business possess any applicable nationally recognized and industry-accepted educational certifications as defined in section 3303 and/or any bureau-approved educational certifications as provided in section 3395.6. If the applicant answers affirmatively, the applicant shall identify the individual by name who possesses the certification, the title of the certification, the name of the certification provider and the date of issuance of the certification(s)

This information is necessary because BPC section 9884 requires ARD applicants to disclose any nationally recognized and industry-accepted educational certifications, or Bureau-approved education certifications possessed by the business or its employees as part of the application process. (Bus. & Prof. Code, § 9884, subd. (b)(4).) Section 3303(r) defines what constitutes a “nationally recognized and industry-accepted educational certification.” Section 3395.6 provides a process for automotive training providers that do not fall within the definition of section 3303(r) to have their certifications deemed “Bureau-approved educational certifications.” Requiring this information from the business, business owner(s), controlling individuals, and employees provides the Bureau with a complete and accurate picture of all certifications possessed by the ARD and all individuals working at or in an ARD’s control.

The Bureau requests the name of the individual who possesses the certification, the title of the certification, and the certification provider to verify the validity of the certification and to verify the certification meets the requirements of sections 3303(r) or 3395.6.

- (18) Subdivision (a)(2)(P), Whether the applicant or any controlling individual of the business has ever been convicted of any crime or offense for which a license may be denied pursuant to section 480 of the Code:

This subdivision is necessary to set forth the convictions an applicant or any controlling individual of the business must disclose on the application. Under BPC section 480(f)(1), the Bureau may require applicants for licensure to disclose criminal conviction history on an application for licensure.

- (19) Subdivision (a)(2)(Q) Applicants and/or controlling individuals of the business are not required to disclose convictions under California Health and Safety Code sections 11357(b), (c), (d), (e), or section 11360(b) which are two years or older.

This item is necessary to except from disclosure a conviction of specified Health and Safety Codes that are older than two years. Records of under HSC sections 11357(b), (c), (d), (e), or section 11360(b) shall not be kept beyond two years from the date of the conviction. (Health & Saf. Code, § 11361.5, subd. (a).)

- (20) Subdivision (a)(2)(R). Whether, within the preceding seven years from the date of application, the applicant or any controlling individual of the business has had a license, registration, or certification that was formally disciplined by a licensing board in or outside of California, including the Bureau, or any program in the Department of Consumer Affairs. "Discipline" for purposes of this section includes reproof, suspension, revocation, probation or any other form of restriction placed on the license, registration, or certification.

This subdivision is necessary as BPC section 480(a)(2) provides the Bureau may deny an application if the applicant has been subjected to formal discipline by a licensing board in or outside California within the preceding seven years based on professional misconduct that would have been cause for discipline, and that is substantially related to the qualifications, functions, or duties of the business or profession for which the present application is made. This subdivision collects the information the Bureau needs to evaluate whether the application should be denied based on past discipline.

- (21) Subdivision (a)(2)(S). If the applicant or any controlling individual answers affirmatively to any of the items in subdivision (a)(2)(P) or (a)(2)(R) the applicant shall provide a written statement explaining details regarding any criminal conviction or disciplinary action on a separate sheet of paper as provided in this subdivision. For criminal convictions, the statement shall include: the date and place of arrest, name of court, court case number, code section violated, brief explanation of the offense, and the sentence imposed. For discipline, the written statement shall include the type of license, effective date and type of disciplinary action, name and location of licensing board, and brief explanation of violations found by the licensing board.

This subdivision is necessary to obtain further information about relevant facts the applicant or controlling individual has provided in response to subdivisions (a)(2)(P) and (a)(2)(R). The Bureau requests this information to investigate the prior conviction or discipline and determine whether there is a substantial relationship between the reported acts and the qualifications, functions, or duties of the business or profession for which the application is made.

### **Subdivision (a)(3)**

The Bureau proposes to adopt subdivision (a)(3) to provide "The following additional applicant identifying information to expedite the registration process."

The purpose of this subdivision is to introduce the required identifying information to be submitted by an applicant who wishes to have their application expedited.

This subdivision is necessary to list the additional items of identifying information an applicant must submit for expedited application processing.

- (1) Subdivision (a)(3)(A). Whether the applicant is serving, or has previously served, in the United States Armed Forces.

This item is necessary so the Bureau can determine whether an applicant is serving or has previously served in the military. If they answer in the affirmative, this entitles the applicant to expedited application processing under certain circumstances pursuant to BPC section 115.4.

- (2) Subdivision (a)(3)(B), Whether the applicant is an honorably discharged member of the United States Armed Forces. If the applicant affirmatively states they meet this criterion, they shall provide the following documentation with the application to receive expedited review: a certificate of release or discharge from active duty (DD-214) or other documentary evidence showing date and type of discharge.

This item is necessary as BPC section 115.4 states the Bureau shall expedite, and may assist, the initial licensure process for an applicant who supplies satisfactory evidence to the board that the applicant has served as an active-duty member of the Armed Forces of the United States and was honorably discharged. The DD-214 is the standard military discharge form that indicates the date and type of discharge from military service. The Bureau will accept other documentation from the United States Armed Forces on the release and discharge from active duty as long as it has the date and type of discharge.

- (3) Subdivision (a)(3)(C), Whether the applicant is married to or in a domestic partnership or other legal union with an active duty member of the United States Armed Forces assigned to a duty station in California under official active duty military orders. If the applicant affirmatively states they meet this criterion, they shall provide the following documentation along with the application to receive expedited review: certificate of marriage, certificate of domestic partnership; a copy of the applicant's spouse's/partner's military orders reflecting assignment to a California duty station; and proof of currently being licensed as an automotive repair dealer in another state, or U.S. territory or district. Proof, for the purposes of this subdivision, shall mean the information required by subdivision (g)(3) of this section.

This item is necessary as BPC section 115.5 states the Bureau shall expedite the licensure process for an applicant who:

- Supplies evidence satisfactory to the Bureau the applicant is married to, or in a domestic partnership or other legal union with an active duty member of the Armed Forces of the United States. That evidence shall be a certificate of marriage/domestic partnership, or proof of other legal union which contains the name of applicant and the active duty service member, the date of the marriage/partnership/union, and the location where it occurred, so the Bureau can verify the relationship.
- Is assigned to a duty station in this state under official active duty military orders. The applicant shall supply a copy of the order to the Bureau, so the Bureau can verify the order and the location of the duty station; and,
- Holds a current license in another state, district, or territory of the United States in the profession or vocation for which the applicant seeks a license from the Bureau. The applicant shall provide a copy of the currently valid automotive repair dealer license to the Bureau so the Bureau can verify its validity and determine the license status.

- (4) Subdivision (a)(3)(D), Whether the applicant was admitted to the United States as a refugee, has been granted asylum by the Secretary of Homeland Security or the Attorney General of the United States, or has a special immigrant visa (SIV). If the applicant affirmatively states they meet any of these criteria, they shall provide any of the following items of documentation, as applicable, with the application to receive expedited review

This item is necessary as BPC section 135.4 states the Bureau shall expedite and may assist the initial licensure process for an applicant who supplies satisfactory evidence they have been admitted to the United States as a refugee under section 1157 of Title 8 of the United States Code, have been granted asylum by the Secretary of Homeland Security or the Attorney General of the United States pursuant to section 1158 of Title 8 of the United States Code, or they have a special immigrant visa (SIV) that has been granted a status under section 1244 of Public Law 110-181, under Public Law 109-163, or under section 602(b) of Title VI of Division F of Public Law 111-8. This subdivision is necessary to introduce the list of the permissible documentation.

- (5) Subdivision (a)(3)(D)(i), Form I-94, arrival/departure record, with an admission class code such as "RE" (refugee) or "AY" (asylee) or other information designating the person a refugee or asylee;

This item is necessary to provide proof of the applicant's admission into the United States as a refugee. The I-94 confirms the person is a refugee or asylee which the Bureau may use to expedite the application.

- (6) Subdivision (a)(3)(D)(ii), Special Immigrant Visa that includes the "SI" or "SQ";

This item is necessary to provide proof the applicant possesses a special immigrant visa. The requested document will show the applicant aided the U.S. government abroad and has permanent residency, which the Bureau may use to expedite the application.

- (7) Subdivision (a)(3)(D)(iii), Permanent Resident Card (Form I-551), commonly known as a "green card," with a category designation indicating that the person was admitted as a refugee or asylee;

This item is necessary to provide proof the applicant is a refugee or asylee. The requested document will show the applicant is a permanent resident of the United States which the Bureau may use to expedite the application.

- (8) Subdivision (a)(3)(D)(iv), an order from a court of competent jurisdiction or other documentary evidence that provides reasonable assurances to the Bureau that the applicant qualifies for expedited licensure per Section 135.4 of the Code.

This item is necessary to allow for a court order that provides reliable assurances based on the language used in the order the applicant is a refugee, has been granted asylum, or has a SIV and qualifies under the statute.

#### **Subdivision (a)(4)**

The Bureau proposes to adopt subdivision (a)(4) to provide “A statement signed by the applicant under penalty of perjury that the information provided in the application is true.”

The purpose of this subdivision is to require the applicant to sign under penalty of perjury that the information provided on the application is true and correct.

BPC section 9884(b)(5) requires an application to include this statement. This subdivision is necessary because certifications under penalty of perjury help to ensure that the documentation contains truthful, factual representations made in good faith. (See e.g., *In re Marriage of Reese & Guy* (1999) 73 Cal.App.4th 1214, 1223 [judicial explanation for the use of certifications under penalty of perjury: “The whole point of permitting a declaration under penalty of perjury, in lieu of a sworn statement, is to help ensure that declarations contain a truthful factual representation and are made in good faith.”].) Accordingly, certification under penalty of perjury is necessary to ensure that applicants submit truthful and accurate information to the Bureau.

In addition, the certification under penalty of perjury helps ensure the reliability of the statements to the Bureau (since certifying under penalty of perjury can have a deterrent effect on those who may be considering not providing true, accurate or complete information), and provides the Bureau with the option of seeking sanctions and referring the matter to law enforcement in the event that such information is not true, complete or accurate. “The oath or declaration must be in such form that criminal sanctions of perjury might apply where material facts so declared to be true, are in fact not true or are not known to be true.” (*In re Marriage of Reese & Guy* (1999) 73 Cal.App.4th 1214, 1223 [holding modified by *Laborde v. Aronson* (2001) 92 Cal.App.4th 459.].)

#### **Subdivision (b)**

The Bureau proposes to adopt subdivision (b) to provide “The abandonment date for an application that has been returned to the applicant as incomplete shall be 12 months from the date of returning the application in accordance with Section 142 of the Code. An applicant who abandons an application shall submit a new application meeting the requirements of this section to obtain Bureau registration as an automotive repair dealer.”

The purpose of the subdivision is to establish that an application that is returned as incomplete to the applicant is deemed abandoned after 12 months from the date the application is returned to the applicant.

This subdivision is necessary to require the submission of a new application when an application has been abandoned. BPC section 142(b) provides that “[n]otwithstanding any other provision of law, the abandonment date for an application that has been returned to the applicant as incomplete shall be 12 months from the date of returning the application.” The Bureau recites that requirement here to organize the requirements for renewal and application abandonment in one place.

### **Subdivision (c)**

The Bureau proposes to adopt subdivision (c) to provide “For the purposes of this section, “controlling individual” means owners, directors, officers, partners, members, trustees, managers, and any other persons who directly or indirectly control or conduct the business.”

The purpose of this subdivision is to define what constitutes a “controlling individual” as used in this section.

This subdivision is necessary to provide a definition of what constitutes a “controlling individual” as used in subdivisions (a)(2)(D), (a)(2)(E), (a)(2)(O), (a)(2)(P), and (a)(2)(R), and to clarify that a controlling individual not only includes the owner of a sole proprietorship, or partners within a partnership, or members/trustees/directors of a corporation or LLC, but also managers or any other person who directly or indirectly controls or conducts the business..

### **Subdivision (d)**

The Bureau proposes to adopt subdivision (d) to provide “For the purposes of this section, “Government Issued Photo Identification” means an unexpired official document issued by a local, state, or federal agency, or a foreign government entity, which contains an applicant’s photograph, first and last name, document title, document number (if any), and date of birth.”

The purpose of this subdivision is to define what the Bureau considers a “Government Issued Photo Identification” as used in this section.

This subdivision is necessary to provide a definition of “Government Issued Photo Identification” as used in subdivisions (a)(2)(A), and (a)(2)(E), and to provide clarity on the types of unexpired official documents issued by governmental agencies that will be accepted as a government issued photo identification. Additionally, this subdivision lists the required information such as the applicant’s first and last name, and document title, the Bureau needs to verify the document’s validity. This definition is necessary for clarity of this section.

### **Subdivision (e)**

The Bureau proposes to adopt subdivision (e) to provide “An automotive repair dealer shall notify the Bureau in writing of any material changes to the information submitted to the Bureau under subdivision (a)(2) within thirty (30) days of the date of making any changes, or receiving notice of any change in the case of educational certifications, criminal conviction or disciplinary matters referenced in subsections (a)(2)(O), (a)(2)(P) and (a)(2)(R). For the purposes of this section, “material” means any of the following:”

The purpose of the subdivision is to establish when an ARD must update the Bureau about changes in information provided pursuant to subdivision (a)(2).

This subdivision is necessary to require registrants to notify the Bureau within 30 days of any changes in the information submitted as part of the ARD application process regarding their identifying information, military/asylee status, criminal convictions, or disciplinary matters. The Bureau needs the information to evaluate whether any new information regarding disciplinary actions or criminal actions impacts its original determination to provide a registration to the ARD. This subdivision is also necessary to introduce the list of “material” changes that fall within this notification requirement.

(1) Subdivision (e)(1). A change of ownership, as defined in Section 3306(c)(1) of these regulations

This subdivision is necessary to ensure the Bureau is notified of any change in the legal ownership of an ARD, including the addition or the deletion of a partner, the transfer of any ownership interest, incorporation, or change in the corporate status, as defined section 3306(c)(1). This information is necessary to ensure the Bureau's records regarding the ARD's ownership are accurate and reflect the actual ownership of an ARD for licensing and enforcement functions that rely on the accuracy of this information. The Bureau needs to maintain accurate ownership records for proper notification, alerts, disciplinary action, etc.

(2) Subdivision (e)(2). A change to the legal or fictitious business name

This subdivision is necessary to ensure that a change of the ARD's legal or fictitious business name is provided to the Bureau. The Bureau needs this information to ensure its records regarding the ARD's legal and fictitious name are accurate for licensing and enforcement functions.

(3) Subdivision (e)(3). A change of address, as defined in section 3306(c)(2) of these regulations

This subdivision is necessary to ensure the relocation of an ARD not involving a change of ownership and any change in the mailing address, including a change resulting from street renumbering as defined in section 3306(c)(2), is provided to the Bureau. The Bureau needs this information to ensure its records regarding the ARD's location are accurate for the purposes communication and locating the registrant for licensing and enforcement inquires.

(4) Subdivision (e)(4). A change to controlling individuals

This subdivision is necessary to ensure the Bureau is notified of any changes to an ARD's owners, directors, officers, partners, members, trustees, managers, and any other persons who directly or indirectly control or conduct the business, as defined in subdivision (c).

The Bureau needs this information to ensure its records about those in control of the ARD are accurate, to determine whether a change in controlling individuals impacts its original determination to provide a registration, and to ensure that the new controlling individuals are qualified to be licensed.

(5) Subdivision (e)(5). A change to any nationally recognized and industry-accepted educational certifications or bureau-approved educational certifications reported to the bureau as part of the application required by this section, including expiration of certification(s) or the addition of new certification(s).

This subdivision is necessary to ensure any nationally recognized and industry-accepted educational certifications as defined in section 3303(r), and Bureau-approved educational certifications as defined section 3395.6, are up to date and any invalid and/or outdated business certification information is purged from Bureau records.

(6) Subdivision (e)(6). A new report of a conviction by the automotive repair dealer or any of its controlling individuals as provided in section 490 of the code; or,

This subdivision is necessary to ensure the Bureau is notified of a new criminal conviction of any of an ARD's owners, directors, officers, partners, members, trustees, managers, and any other persons who directly or indirectly control or conduct the business, for a crime substantially related to the qualifications, functions, or duties of the business, as defined in BPC section 490. The Bureau needs this information to determine whether the new information regarding a criminal action impacts its original determination to provide a registration to the ARD and if it should take disciplinary action against the registrant.

(7) Subdivision (e)(7). A new report of formal discipline against the automotive repair dealer or any of its controlling individuals by a licensing board.

This subdivision is necessary to ensure the Bureau is notified of a new disciplinary action such as reproof, suspension, revocation, probation, or any other form of restriction against the ARD or the ARD's owners, directors, officers, partners, members, trustees, managers, and any other persons who directly or indirectly control or conduct the business. The Bureau needs this information to determine whether the new information regarding a disciplinary action impacts its original determination to provide a registration to the ARD and if it should take disciplinary action against the registrant.

**Subdivision (f)**

The Bureau proposes to adopt subdivision (f) to provide "The notice of material changes required by subdivision (e) shall include all of the following for each change: a description of the change and the effective date of each change, or the date that notice of the change was received by the automotive repair dealer in the case of reporting the convictions or formal discipline described in subdivisions (a)(2)(P) and (a)(2)(R)."

The purpose of the subdivision is to establish the information an ARD must provide when updating the Bureau about changes in information provided pursuant to subdivision (a)(2).

This subdivision is necessary to describe the information an ARD must provide when notifying the Bureau of a material change as described in subdivision (e). That information includes a description of the change and the date the change occurred, so that the Bureau can verify the timeliness of the notification and Bureau records can be updated accordingly. In the case of a criminal conviction of a controlling individual as described in subsection (a)(2)(P) or a disciplinary action, such as reproof, suspension, revocation, probation, or any other form of restriction against the ARD or any of the ARD's controlling individuals as described in subsection (a)(2)(R), that information also includes the date the notice of change was received. The date is necessary to determine the recency of the criminal conviction or disciplinary action and verify the timeliness of the notification. Additionally, the Bureau needs this information to evaluate whether any new information regarding disciplinary actions or criminal actions impacts its original determination to provide a registration to the ARD.

**Subdivision (g)**

The Bureau proposes to adopt subdivision (g) to provide "The Board shall waive the fee specified in subsection (a)(1) for an applicant who meets the requirements set forth in Section 115.5 of the Code and submits the following satisfactory evidence with the application set forth in this section[.]"

In accordance with BPC section 115.5, effective July 1, 2022, the Bureau must waive licensure application fee and the initial or original license fees charged for applicants who supply evidence satisfactory to the Bureau the applicant is married to, or in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States who is assigned to a duty station in this state under official active duty military orders and holds a current license in another state, district, or territory of the United States in the profession or vocation for which the applicant seeks a license from the board. (Bus. & Prof. Code, § 115.5, subds. (a)(1) and (a)(2).)

This subdivision is necessary to implement section 115.5 and set forth the evidence the Bureau will accept to satisfy these requirements.

- (1) Subdivision (g)(1), Certificate of marriage or certified declaration/registration of domestic partnership filed with the California Secretary of State or other documentary evidence of legal union with an active-duty member of the Armed Forces

This subdivision is necessary to supply the Bureau with proof the applicant satisfies BPC section 115.5(a)(1).

- (2) Subdivision (g)(2), A copy of the military orders establishing their spouse or partner's duty station in California

This subdivision is necessary to supply the Bureau with proof the applicant satisfies BPC section 115.5(a)(1).

- (3) Subdivision (g)(3), Written verification from the applicant's issuing agency/licensing jurisdiction that the applicant's license in another state, district or territory of the United States is current in that jurisdiction.

This subdivision is necessary to supply the Bureau with proof the applicant satisfies BPC section 115.5(a)(1).

The verification has to include all of the following:

- The full legal name of the applicant and any other name(s) the applicant has used or has been known by.
- The license type and number issued to the applicant by the original licensing agency/entity.
- The name and location of the licensing agency/entity.
- The issuance and expiration date of the license.

This information is necessary to verify applicant's name against the name on the license from another state, district, or territory of the United States. The Bureau uses the license type, number, location of the licensing agency/entity, and issuance and expiration date of the license to verify the applicant's license is current in that jurisdiction.

**(3) Adopt section 3395.6, Bureau-Approved Educational Certifications.**

The Bureau proposes to adopt section 3395.6 to provide “An educational certification shall be deemed a ‘Bureau-Approved Educational Certification’ for the purposes of Section 9884(b)(4) of the Code and section 3351 when the certification is issued by a private postsecondary educational institution as defined in Education Code Section 94858 that is either approved by or has been issued a verification of exemption pursuant to the California Private Postsecondary Education Act of 2009 from the Bureau for Private Postsecondary Education (BPPE) after successful completion of training that includes any of the following subjects[.]”

The purpose of this section is to identify the Bureau’s requirements for the Bureau-approved educational certifications.

This subdivision is necessary because BPC section 9884 and section 3351(a)(2)(O), requires ARD applicants to provide information on Bureau-approved educational certification as part of the application process. (Bus. & Prof. Code, § 9884, subd. (b)(4).) Education Code 94858 defines a “private postsecondary educational institution” as a private entity with a physical presence in this state that offers postsecondary education to the public for an institutional charge. The Bureau utilizes this definition to require a training provider be an institution with a physical presence in this state that offers postsecondary education to the public for an institutional charge, that is either licensed or issued a verification of exemption by BPPE. This provides training institutions that do not meet the definition of “nationally recognized and industry-accepted,” as defined in section 3303(r), a process to have their certifications recognized and accepted by the Bureau. Additionally, this subdivision introduces the list of subjects specific to the automotive repair industry that will be accepted.

BPPE schools are regulated under Division 7.5 of Title 5 of the CCR and meet a certain standard. The BPPE protects students and consumers through the oversight of California’s private postsecondary educational institutions by conducting qualitative reviews of educational programs and operating standards, proactively combating unlicensed activity, impartially resolving student and consumer complaints, and conducting outreach.

**Subdivision (a)**

The Bureau proposes to adopt subdivision (a) to provide “The diagnosis and repair of a motor vehicle;”

The purpose of the subdivision is to include certification in the subject of diagnosis and repair of a motor vehicle as acceptable for a Bureau-approved educational certification.

This subdivision is necessary to provide a certification issued after successful completion of training on the diagnosis and repair of a motor vehicle by a training provider that meets the requirements specified in this section will be accepted as a Bureau-approved educational certification. It is necessary to be proficient in the diagnosis and repair of a motor vehicle because these are the areas the Bureau regulates per Article 8 of Division 33 of Title 16 of the CCR.

### **Subdivision (b)**

The Bureau proposes to adopt subdivision (b) to provide “The Automotive Repair Act and the regulations of this Division; or,”

The purpose of the subdivision is to include certification in the subject of the Automotive Repair Act (Act) and the regulations adopted thereto as acceptable for a Bureau-approved educational certification.

This subdivision is necessary to provide that a certification issued after successful completion of training on the Act and the regulations of this Division by a training provider that meets the requirements specified in this section will be accepted as a Bureau-approved educational certification.

The Bureau permits training on the Act and regulations of Division 33 so technicians master the laws of automotive repair and are better able to understand and comply with the law.

### **Subdivision (c)**

The Bureau proposes to adopt subdivision (c) to provide “Customer service related to automotive repair.”

The purpose of the subdivision is to include certification in customer service related to automotive repair as acceptable for a Bureau-approved educational certification.

This subdivision is necessary to provide that a certification issued after successful completion of training on customer service related to automotive repair demonstrates a knowledge of customer relations, vehicle systems knowledge, and sales skill, by a training provider that meets the requirements specified in this section will be accepted as a Bureau-approved educational certification. Including this particular subject for certification is to make sure the certifications are within the Bureau’s scope of authority and relevant to consumers.

Customer service related to automotive repair and/or testing is included because under Article 7 of Division 33 of Title 16 of the CCR repair facilities are responsible for, among other things, obtaining the consumer’s authorization for the diagnosis and/or repair of the motor vehicle, keeping the consumer informed about the repair process, obtaining additional authorization when repairs will exceed the originally estimated amount, and completing an invoice after the completion of the repairs that details all service work performed and parts supplied in a manner the consumer can understand.

### **Underlying Data**

1. Bureau of Automotive Repair BAR Advisory Group Meeting – January 27, 2022
  - A. Notice of Meeting: [https://www.bar.ca.gov/BAR\\_Advisory\\_Group/2022\\_January](https://www.bar.ca.gov/BAR_Advisory_Group/2022_January)
  - B. Presentation PowerPoint: [https://www.bar.ca.gov/pdf/BAG/202201/AB\\_471.pdf](https://www.bar.ca.gov/pdf/BAG/202201/AB_471.pdf)

2. Bureau of Automotive Repair BAR Public Workshop – April 20, 2022
  - A. Notice of Meeting:  
[ARD Application Regulations Workshop - April 20, 2022 - Bureau of Automotive Repair](#)
  - B. Presentation PowerPoint:  
[ARD Application Requirements](#)
3. U.S. Department of Education Accreditation: Postsecondary Education Institutions  
<https://www.ed.gov/accreditation?src=rn>
4. Inter-Industry Conference on Automotive Collision Repair (I-CAR)  
<https://info.i-car.com/about-us>
5. The National Institute for Automotive Service Excellence (ASE)  
<https://www.ase.com/about-ase/>
6. Universal Technical Institute  
<https://www.uti.edu/epa-test/about#wvcnyl10iu>
7. UEI College  
<https://info.uei.edu/automotive-technician/>

### **Business Impact**

BAR made the initial determination that the proposed regulations will not have statewide adverse economic impact directly affecting businesses including the inability of California businesses to compete with businesses in other States. This proposal simply lists the information an ARD applicant must provide on the ARD registration application, almost all of which are required on the current form. The new requirement of providing information on nationally recognized and industry-accepted educational certifications, and Bureau-approved educational certification will not result in extra costs, as those certifications are not required for registration, and the automotive training providers that award those certifications already exist in the state.

### **Economic Impact Assessment**

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

This regulatory proposal will have the following effects:

- It will not create or eliminate jobs within the State of California because it simply adds a definition of “nationally recognized and industry-accepted educational certifications,” adds application components in regulation, and deems specified educational certifications “Bureau-approved.”
- It will not create new business or eliminate existing businesses within the State of California because it simply adds a definition of “nationally recognized and industry-accepted educational certifications,” adds application components in regulation, and deems specified educational certifications “Bureau-approved.”
- It will not affect the expansion of businesses currently doing business within the State of California because it simply adds a definition of “nationally recognized and industry-accepted educational certifications,” adds application components in regulation, and deems specified educational certifications “Bureau-approved.”
- This regulatory proposal benefits the health and welfare of California citizens because applicants will know what will be requested on the application. In addition, establishing definitions for “nationally recognized and industry-accepted educational certifications” and “Bureau-approved educational certifications” will clarify the certifications ARDs must provide in the application process. Providing this information to the Bureau will incentivize ARD owners to invest in their staff’s training and hire individuals who possess such certifications. Trained and certified automotive repair staff should result in more repairs being performed in a good and workmanlike manner, and greater adherence to the Bureau’s accepted trade standards, both of which will benefit the motoring public and enhance public safety.
- This regulatory proposal does not affect worker safety because it is not relevant to worker safety.
- This regulatory proposal does not affect the State’s environment because it is not relevant to the State’s environment.

### **Specific Technologies or Equipment**

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

### **Consideration of Alternatives**

No reasonable alternative which was considered or that has otherwise been identified and brought to the attention of the Bureau would be more effective in carrying out the purpose for which it was proposed or would be as effective 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.

### **Alternative 1: Definition of Nationally Recognized and Industry-Accepted Educational Certifications**

The Bureau considered taking no action. However, taking no action to define the “nationally recognized and industry-accepted educational certification” the Bureau is required to accept as part of the ARD application process would have led to debate and confusion on the part of the industry and automotive training providers about what certifications met the standard of nationally recognized and industry-accepted.

### **Alternative 2: Definition and Process for Bureau-Approved Educational Certifications**

The Bureau considered taking no action. However, taking no action to define the “Bureau-approved educational certification” the Bureau is required to accept as part of the ARD application process would have led to debate and confusion on the part of the industry and automotive training providers about what certifications met the standard of Bureau-approved educational certifications. Unlike nationally recognized and industry-accepted educational certifications, the Bureau does not know how many automotive training providers exist within the state that do not meet the nationally recognized and industry-accepted definition. To accommodate those automotive training providers, the Bureau established a process for them to obtain bureau-approved status through the Bureau of Private Postsecondary Education.

### **Alternative 3: Establishing ARD Application Requirements in Regulation**

The Bureau considered taking no action to establish the ARD application requirements in regulation. However, if the Bureau were to take no action, the Bureau would miss an opportunity to provide clarity by enumerating all information ARD applicants are required to submit as part of the application process.