

**TITLE 16**  
**BUREAU OF AUTOMOTIVE REPAIR**

**NOTICE OF PROPOSED REGULATORY ACTION AND PUBLIC HEARING  
CONCERNING**

**REHABILITATION AND SUBSTANTIAL RELATIONSHIP CRITERIA**

**NOTICE IS HEREBY GIVEN** that the Department of Consumer Affairs, Bureau of Automotive Repair (hereinafter “Bureau” or “BAR”) is proposing to take the actions 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 proposed regulatory action, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, to be considered by the Bureau, must be received by the Bureau at its office no later than 11:59 p.m. on Monday, April 6, 2020, or must be received by the Bureau at the above referenced hearing, if one is held.

**AUTHORITY AND REFERENCE**

Pursuant to the authority vested by sections 481, 482, 493, 9882, and 9884.19 of the Business and Professions Code (BPC), and to implement, interpret, or make specific BPC sections 141, 475-491, 493, and 9884.19 of said code, the Bureau is considering amending sections 3395 and 3395.2 of article 12 of division 33 of title 16 of the California Code of Regulations (CCR).

**INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

As required under Assembly Bill (AB) 2138 (Chiu, Chapter 995, Statutes of 2018), the primary purpose of this proposal is to implement, interpret, and make specific the provisions of BPC sections 141, 475, 480, 481, 482, 488, 490, 491, and 493, relative to substantial relationship and rehabilitation criteria. The Bureau is proposing the following changes:

Amend section 3395, Article 12, Chapter 1, Division 33 of Title 16 of the CCR (Criteria for Rehabilitation):

The proposed regulation would clarify that the Bureau, when considering a license denial or suspension or revocation on the ground that the applicant, licensee, or registrant was convicted of a crime, would have to find that the applicant or licensee made a showing of rehabilitation and is presently eligible for a license, if the applicant, licensee, or registrant completed the criminal sentence without a violation of parole or probation. The proposal would require a set of rehabilitation criteria to be considered for applicants, licensees, and registrants who had not completed the criminal sentence without a violation of parole or probation, did not sufficiently demonstrate their rehabilitation under the narrower set of criteria, or when the denial or discipline was based on something other than a conviction.

Amend section 3395.2, Article 12, Chapter 1, Division 33 of Title 16 of the CCR (Substantial Relationship Criteria):

The proposed regulation, for purposes of denial, suspension, or revocation of a license or registration, would add professional misconduct and out-of-state discipline as grounds requiring the Bureau to consider the substantially related criteria, and require the Bureau, in making the substantial relationship determination for a crime, to consider the following criteria: (1) the nature and gravity of the offense; (2) the number of years elapsed since the date of the offense; and (3) the nature and duties of a person holding the license or registration. The proposal would also add that substantially related crimes, professional misconduct, or acts would include violating other state or federal laws governing the practice of automotive repair.

**ANTICIPATED BENEFITS OF THE PROPOSED REGULATION**

As specified in the legislative analyses of AB 2138, this proposal seeks to reduce barriers to licensure for individuals with prior criminal convictions, which may reduce recidivism and provide economic opportunity to California's residents. In addition, the proposal seeks to improve clarity, transparency, and consistency for applicants, licensees, and registrants in the Bureau's use of their criminal histories. Further, by reducing barriers to licensure, the Bureau anticipates benefits to consumers who may have greater access to licensed professionals.

**CONSISTENCY AND COMPATIBILITY WITH EXISTING STATE REGULATIONS**

During the process of developing these regulations and amendments, BAR has conducted a search of any similar regulations on this topic and has concluded that these regulations are neither duplicative, nor inconsistent, nor incompatible with existing state regulations.

**DOCUMENTS INCORPORATED BY REFERENCE**

None.

**DISCLOSURES REGARDING THE PROPOSED ACTION**

MANDATED BY FEDERAL LAW OR REGULATIONS:

No.

LOCAL MANDATE:

None.

**FISCAL IMPACT ESTIMATES**

COSTS TO ANY LOCAL AGENCY OR SCHOOL DISTRICT FOR WHICH GOVERNMENT CODE SECTIONS 17500-17630 REQUIRES REIMBURSEMENT:

None.

FISCAL IMPACT ON PUBLIC AGENCIES INCLUDING COSTS OR SAVINGS TO STATE AGENCIES AND COSTS/SAVINGS IN FEDERAL FUNDING TO THE STATE:

The Bureau anticipates that the proposed regulatory action will be cost-neutral and that implementation, administration, and enforcement of the proposed changes to the licensing forms and will be fully absorbed by existing BAR personnel working within existing resources.

This proposal will result in no costs or savings in federal funding to the state.

NONDISCRETIONARY COSTS/SAVINGS TO LOCAL AGENCIES:

None.

EFFECT ON HOUSING COSTS:

None.

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS, INCLUDING ABILITY TO COMPETE:

None.

**RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS**

The Bureau has determined that this regulatory proposal will have a minimal impact, if any, 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.

For more on benefits of the regulatory proposal, see above in this notice.

**COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS:**

BAR is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

**BUSINESS REPORTING REQUIREMENTS**

None.

**EFFECT ON SMALL BUSINESS**

BAR has determined that the proposed regulatory action will not have a significant effect on small businesses. The regulatory changes do not impose additional requirements that impact the conduct of an automotive repair-related business. The regulation will impact small businesses to the extent that individual applicants or licensees are able to be licensed or retain licensure.

**CONSIDERATION OF ALTERNATIVES**

In accordance with Government Code section 11346.5(a)(13), the Bureau must determine that no reasonable alternative that it 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 than the adopted regulation or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Any interested person may present statements orally or in writing relevant to the above determinations at the above-mentioned hearing.

**CONTACT PERSON**

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

Holly O'Connor  
Bureau of Automotive Repair  
10949 North Mather Blvd.  
Rancho Cordova, CA 95670  
Telephone: (916) 403-8627  
E-mail: [Holly.OConnor@dca.ca.gov](mailto:Holly.OConnor@dca.ca.gov)

**The backup contact person is:**

Lusine Sarkisyan  
Bureau of Automotive Repair  
10949 North Mather Blvd.  
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Telephone: (916) 403-8560  
E-mail: [Lusine.Sarkisyan@dca.ca.gov](mailto:Lusine.Sarkisyan@dca.ca.gov)

**INITIAL STATEMENT OF REASONS AND INFORMATION**

BAR has prepared an Initial Statement of Reasons of the proposed action and has available all the information upon which the proposal is based.

## **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 at the hearing or prior to the hearing upon request from the Bureau of Automotive Repair at 10949 North Mather Boulevard, Rancho Cordova, California 95670.

## **AVAILABILITY OF CHANGED OR MODIFIED TEXT**

After holding the hearing and considering all timely and relevant comments received, the Bureau may adopt the proposed regulations substantially as described in this notice. If the Bureau makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Bureau adopts the regulations as revised. Please send requests for copies of any modified regulations to the attention of Holly O'Connor at the address indicated above. The Bureau will accept written comments on the modified regulations for 15 days after the date on which they are made available.

## **AVAILABILITY AND LOCATION OF THE RULEMAKING FILE AND THE FINAL STATEMENT OF REASONS**

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 above.

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 above, or by accessing the website listed below.

## **WEBSITE ACCESS**

Materials regarding this proposal can also be found on BAR's Web site at [https://www.bar.ca.gov/About\\_BAR/Regulatory\\_Actions.aspx](https://www.bar.ca.gov/About_BAR/Regulatory_Actions.aspx).