

**TITLE 16. PROFESSIONAL AND VOCATIONAL REGULATIONS  
DIVISION 33. BUREAU OF AUTOMOTIVE REPAIR**

**FINAL STATEMENT OF REASONS**

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

**Sections Affected:** Article 1, section 3303; Article 6, section 3351, and Article 12, [New] section 3395.6.

**Updated Information**

The Informative Digest and Initial Statement of Reasons are included in the rulemaking file and incorporated as though set forth herein.

The Bureau of Automotive Repair (Bureau) noticed the rulemaking on November 10, 2022, with a forty-five (45) day comment period ending on December 27, 2022. The Bureau received 1 comment during the 45-day comment period.

The Bureau prepared modified text. On January 13, 2023, the Bureau issued a 15-day notice of availability of modified text containing the amendments discussed below. This comment period closed on January 28, 2023, and the Bureau received 1 comment during this period. The Bureau responds to all comments below.

After discussion with the Business, Consumer Services, and Housing Agency, further text clarification was requested. The Bureau prepared modified text. On February 28, 2023, the Bureau issued a 15-day notice of availability of modified text containing the amendments discussed below. This comment period closed on March 15, 2023, and the Bureau received no comments during this period.

**Summary of Comment Received During the 45-day Notice Period**

**Jack Molodanof, December 20, 2022**

**Comment 1:**

Commenter states BAR should permit existing automotive repair dealer (ARD) registrants, when renewing their registrations, to provide the Bureau with the newly required information contained in the proposed ARD Registration Application Requirements regulations.

**Response:**

The Bureau has considered the comment and declines to modify the text based thereon.

The comment regarding the renewal process for existing ARDs is outside of the scope of this rulemaking proposal. However, the Bureau may consider amending section 3351.2 to address the comment in a future rulemaking proposal.

**Summary of Comments Received During the 15-day Notice Period**

**David Winkowski, January 17, 2023**

**Comment 1:**

Commenter recommends removing “/or” from section 3351(a)(2)(A) with an example of “Joe John Smith Jr or just Jr?”

**Response:**

The Bureau has considered the comment and declines to modify the text based thereon.

The comment is outside the scope of the amendments made by the Bureau during the 15-day notice period.

**Comment 2:**

Commenter recommends adding the word “solely” to 3351(a)(2)(M) to state: “Whether the business will be “solely” engaged in mobile automotive repairs....”

Commenter refers to section 3351.7.1(a) which states: “The provisions of this article shall apply to automotive repair dealers that engage in the business of mobile automotive repair and do not operate a currently registered place of business where the diagnosis or repair of motor vehicles is performed.”

**Response:**

The Bureau has considered the comment and declines to modify the text based thereon.

The comment is outside the scope of the amendments made by the Bureau during the 15-day notice period.

## **First Modified Text Changes**

### **Section 3351(a)(2)(R)**

1. Replacement of the word “program” with “board (as defined in Section 22 of the Code).”

The Bureau amended the language to utilize the term “board” as defined in Business and Professions Code (BPC) section 22 for clarity, as board under that section includes “program” as well as “bureau,” “commission,” “committee,” “department,” “division,” “examining committee,” and “agency.”.

### **Section 3351(a)(2)(S)**

2. Renumbering of subdivision 3351(a)(2)(S) to 3351(a)(2)(T)

The Bureau renumbered the subdivision based on the addition of the new subdivision (a)(2)(S).

3. Creation of new subdivision 3351(a)(2)(S): “Whether, within the preceding seven years from the date of application, the applicant or any controlling individual has previously been denied a registration or received a citation for committing acts prohibited by Section 9884.7 of the Code from a licensing board in or outside of California, including the Bureau, or any board (as defined in Section 22 of the Code) in the Department of Consumer Affairs.”

The Bureau added this new subdivision to ascertain whether the applicant has been denied a registration or received a citation. Knowing if a denial or citation had been issued because the applicant has made an untrue or misleading statement, which is one of the enumerated categories of prohibited conduct under section 9884.7, the Bureau may decide to deny the registration based upon the severity of the untrue or misleading statement.

### **Section 3351(a)(2)(T)**

4. Additions of “(a)(2)(S)” and “or citation”

The Bureau added “(a)(2)(S)” and “or citation” to the sentence “If the applicant or any controlling individual answers affirmatively to any of the items in subdivision (a)(2)(P), (a)(2)(R), or (a)(2)(S), the applicant shall provide a written statement explaining details regarding any criminal conviction, disciplinary action, or citation on a separate sheet of paper as provided in this subdivision.

The Bureau added “(a)(2)(S)” because knowing if a denial or citation had been issued because the applicant has made an untrue or misleading statement (section 9884.7), the

Bureau may decide to deny the registration based upon the severity of the untrue or misleading statement. The Bureau would want to know about such conduct because it would bear on the applicants ability to follow its laws and regulations. Adding "citation" to the list also makes this section more complete and clear, as the section references convictions and discipline, but needs to reference citations to ensure completeness and accuracy regarding the registration evaluation process.

The Bureau added "or citation" so the Bureau can ascertain if the applicant has been issued a citation in addition to a criminal conviction or disciplinary action. It would be necessary to know if a citation was issued because if it was so egregious, the Bureau may decide to deny the registration based on that prior citation.

5. Addition of "For citations, the written statement shall include the type of license, effective date, name and location of licensing board, and a brief explanation of violations cited by the licensing board."

This is added to identify the license that received a citation.

### **Section 3351(g)**

6. Replaced "Board" with "Bureau"

BAR is being added because it is not a board, it is a bureau. The correction is necessary to accurately reflect the correct title of the controlling entity, as the Bureau of Automotive Repair is a bureau, not a board.

### **Section 3351 NOTE**

7. Addition of section 9884.2 to the Authority cited.

This is added because 9884.2 grants authority to issue registrations.

### **Second Modified Text Changes**

#### **Section 3351(e) and (f)**

1. Addition of "(a)(2)(S)"

The purpose adding "(a)(2)(S)" is to include citations as described in section (a)(2)(S).

Subdivision (a)(2)(S) was added to ascertain whether the applicant has been denied a registration or received a citation. Knowing if a denial or citation had been issued because the applicant has made an untrue or misleading statement, which is one of the enumerated categories of prohibited conduct under section 9884.7, the Bureau may decide to deny the registration based upon the severity of the untrue or misleading

statement.

### **Section 3351(e)(8)**

2. Addition of “A new report of being denied a registration or receiving a citation for committing acts prohibited by Section 9884.7 of the Code from a licensing board in or outside of California, including the Bureau, or any board (as defined in Section 22 of the Code) in the Department of Consumer Affairs.”

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 the issuance of a denial or citation because the applicant has made an untrue or misleading statement (section 9884.7), the Bureau may decide to deny the registration based upon the severity of the untrue or misleading statement. The Bureau would want to know about such conduct because it would bear on the applicants ability to follow its laws and regulations.

### **Non-substantive Text Changes Requested by Office of Administrative Law**

#### **Changed throughout**

Changed the word subsection to subdivision for clarity.

Changed the words “Section” (with a capital “S”) to reference statutory provision, and “section” (with a lower-case “s”) to reference regulatory provisions for clarity.

#### **Section 3351 Authority**

Removed the underline from 9884.2 because the text was already existing in regulations.

#### **Section 3351(a)(1)**

Added a coma after location, changed “pursuant to” to “consistent with” for clarity, and “3351.7.3” was changed to “3351.7.1” to correct a typographical error.

CCR section 3351.7.1 defines a mobile automotive repair dealer as a dealer that does not operate a currently registered place of business. CCR section 3351.7.3 sets forth the requirements for mobile automotive repair but does not provide a definition. The change was made to clarify that a nonrefundable application fee is required for each vehicle operated by a mobile automotive repair dealer.

#### **Section 3351(a)(2)(M)**

Added “California Code of Regulations, Title 16” for clarity.

## **Section 3351(a)(2)(T)**

Removed “on a separate sheet of paper as provided in this subdivision” because there is no reference to a separate sheet of paper.

## **Local Mandate**

A mandate is not imposed on local agencies or school districts.

## **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 than the adopted regulations or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law. The Bureau incorporates by reference the alternatives identified in its Initial Statement of Reasons and did not receive any comments that altered its findings.

## **Objections or Recommendations/Responses**

Below is a summary of the comments the Bureau received during the 45-day and 15-day comment periods, and the Bureau’s responses thereto.