

FINAL STATEMENT OF REASONS

1) The Update to the Initial Statement of Reasons

There are no changes to the initial statement of reasons.

2) Imposition of Mandate on Local Agencies or School Districts

The department's regulatory action amending Section 272.02 in Article 4.2, Chapter 1, Division 1, of Title 13, does not impose any mandate on local agencies or school districts and imposes (1) no cost or savings to any state agency, (2) no cost to any local agency or school district that is required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of the Government Code, (3) no other discretionary cost or savings to local agencies, and (4) no cost or savings in federal funding to the state. No studies or data were relied upon to make this determination.

3) Summary of Comments Received and Department Response

The proposal was noticed on April 10, 2020, and made available to the public from April 10, 2020 through May 25, 2020. The department received two written comments during the 45-day comment period.

The first letter received by the department was from Rachel Bell, representing Bicoastal Consulting, questioned whether it is possible for the department to mirror the current standard for financial and real estate entities which allows real estate records to be stored electronically regardless of the document's origination.

The second letter received by the department was from Brian Maas, President of the California New Car Dealers Association (CNCDA), requesting that the department eliminate the need for dealers to physically retain documents and noting that allowing a completely electronic form of recordkeeping would be more efficient for dealerships, the department's investigators and consumers. The CNCDA also noted that, given the statute of limitations is longer than 90 days for the consumer to raise a complaint, there seems to be no solid reason for implementing a physical record retention requirement.

Department's Response: The department believes there is a valid regulatory reason for maintaining a minimum retention period for original transaction documents. The department's Investigations Division has advised that the large majority of customer complaints will arise in the first 90 day of the vehicle transaction and having the immediate access to the original documents during the investigative process greatly assists the department's ability to investigate those customer complaints.

Final Statement of Reasons

The CNCDA's letter indicated that, in response to the COVID-19 outbreak, the department responded by allowing dealers to process transactions completely online and allowed for transactions and negotiations to be completed remotely.

Department's Response: Applicable Vehicle Code provisions are still in place. Vehicle Code section 11714(b) prohibits a dealer from selling any vehicle at retail at a location that is not posted pursuant to Vehicle Code section 11709, a dealer's established place of business. Vehicle Code section 5901(d) makes clear that a sale is deemed complete and consummated when the purchaser of the vehicle has paid the purchase price, or in lieu thereof, has signed a purchase contract or security agreement and has taken physical possession or deliver of the vehicle.

Even though the department supports online vehicle sales and delivery, all contracts are printed and signed by the dealership before delivery and the purchaser must sign the documents at the time of delivery.

4) Determination of Alternatives

The department has determined that no reasonable alternative considered by the department or that has otherwise been identified and brought to the attention of the department would be more effective in carrying out the purpose for which the action is proposed, or would be effective as and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law. The department has further determined that the retention period adopted in this action will allow dealers to decrease the amount of paper they are required to retain, but also allow the department access to documents if they are needed. As stated above, there is a valid necessity for dealers to retain original transaction documents. No other method will allow the department to have immediate access to documents should those documents be needed for review.