

OFFICE OF THE DIRECTOR
DEPARTMENT OF MOTOR VEHICLES
P.O. BOX 932328
SACRAMENTO, CA 94232-3280



TITLE 13: DEPARTMENT OF MOTOR VEHICLES

NOTICE IS HEREBY GIVEN

The Department of Motor Vehicles (department) proposes to amend Section 272.02 in Article 4.2, Chapter 1, Division 1, Title 13 of the California Code of Regulations, related to business records maintained by vehicle dealers.

PUBLIC HEARING

A public hearing regarding this proposed regulatory action is not scheduled. However, a public hearing will be held if any interested person or his or her duly authorized representative requests a public hearing to be held relevant to the proposed action by submitting a written request to the contact person identified in this notice no later than fifteen (15) days prior to the close of the written comment period.

DEADLINE FOR WRITTEN COMMENTS

Any interested party or his or her duly authorized representative may submit written comments relevant to the proposed regulations to the contact person identified in this notice. All written comments must be received at the department no later than **May 25, 2020**, the final day of the written comment period, in order for them to be considered by the department before it adopts the proposed regulation.

AUTHORITY AND REFERENCE

The department proposes to amend these regulations under the authority granted by Vehicle Code section 1651, in order to implement, interpret, or make specific Vehicle Code sections 320, 1801.1, 4456, 11709, 11712, and 11714.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Vehicle Code section 11700 prohibits a person from acting as a vehicle dealer unless they have first been issued an occupational license through the department. Vehicle Code section 4456 establishes the process by which a dealer is required to notify the department of a vehicle that has been sold. Vehicle Code section 1801.1 allows the department to accept a document to be submitted using electronic media instead of the actual submittal of the original documents.

Section 272.00 of Article 4.2, Chapter 1, Division 1, Title 13 of the California Code of Regulations requires a licensed vehicle dealer to maintain documents related to the purchase, sale, rental or lease of a vehicle for a period of no less than three

years. As currently written, Section 272.02 requires those original documents to be maintained at the dealer's principal place of business or branch location for at least 18 months after the purchase, sale, rental, or lease of a vehicle. Once the 18 month onsite retention period has been met, the dealer may maintain the original business documents at an offsite storage location within California, provided the documents are retrievable within three days when requested by the department. Section 272.02 also authorizes the licensed vehicle dealer to create an electronic copy of the original business documents at any time after the initial 18 month retention period has been met. Documents stored electronically are also required to be retrievable within three days, when requested by the department. (Note: When referencing 'original' business documents, it is generally understood between the department and its licensed vehicle dealers that an 'original' document is that which contains the 'wet' signature of the parties involved in the purchase, sale, rental or lease of a vehicle.)

The department is proposing to amend Section 272.02 to reduce the onsite storage of original business documents from 18 months to 90 days. This action will benefit licensed dealers in California by relieving them from the economic burden of storing paper records while also recognizing electronic storage options.

CONSISTENCY AND COMPATIBILITY WITH STATE REGULATIONS

The department conducted a review of other regulations and has determined there are no other regulations related to the document retention requirements for licensed vehicle dealers. Therefore, the proposed regulations are neither inconsistent nor incompatible with existing state regulations.

COMPARABLE FEDERAL STATUTES OR STATE REGULATIONS

This action amends record retention rules for licensed vehicle dealers in California. While there are other state and federal rules related to documentation required when a person purchases, sells, rents or leases a vehicle, this action has no impact on those rules. Therefore, the department has determined that there are no comparable federal statutes or state regulations.

DOCUMENTS INCORPORATED BY REFERENCE

There are no documents incorporated by reference.

ECONOMIC AND FISCAL IMPACT DETERMINATIONS

The department has made the following initial determinations concerning the proposed regulatory action:

- *Cost or Savings to Any State Agency:* None.
- *Other Non-Discretionary Cost or Savings to Local Agencies:* None.
- *Costs or Savings in Federal Funding to the State:* None.
- *Effects on Housing Costs:* None.
- *Cost to any local agency or school district requiring reimbursement pursuant to Gov. Code section 17500 et seq.:* None.
- *Cost Impact on Representative Private Persons or Businesses:* This action does not impose any costs on representative private persons or businesses. This action only amends record retention requirements and is not intended to have any cost impact on private persons or businesses.
- *Small Business Impact:* This proposed action may have a positive impact on small businesses by allowing them to transfer vehicle transaction records to an offsite location or transfer records to an electronic version 90 days after the transaction rather than 18 months.
- *Local Agency/School District Mandate:* The proposed regulatory action will not impose a mandate on local agencies or school districts, or a mandate that requires reimbursement pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code.
- *Significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states:* This regulation will not have an adverse economic impact on businesses. This proposed regulation is likely to have a positive economic impact on licensed vehicle dealers in California by potentially reducing the costs associated with storing paper documents and reducing document reproduction costs.

RESULTS OF THE ECONOMIC IMPACT STATEMENT

The department has made the following determinations when assessing the economic impact associated with this proposed regulation:

The department has determined that this action will not impact 1) the creation or elimination of jobs within the State of California, 2) the creation or elimination of existing businesses within the State of California, or 3) the expansion of businesses currently doing business within the State of California, or 4) worker safety or the state's environment.

This action will likely benefit California's vehicle dealer industry by allowing vehicle dealers greater control over their record retention practices by reducing the length of time a dealer is required to retain vehicle purchase documentation at their principal place of business or branch location.

PUBLIC DISCUSSIONS OF PROPOSED REGULATIONS

A pre-notice workshop, pursuant to Government Code section 11346.45, is not required because the issues addressed in the proposal are not so complex or large in number that they cannot easily be reviewed during the comment period.

ALTERNATIVES CONSIDERED

The department must determine 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.

CONTACT PERSON

Any inquiries or comments concerning the proposed rulemaking action may be addressed to:

Randi Calkins, Regulations Analyst
Department of Motor Vehicles
Legal Affairs Division
PO Box 932382, MS C-244
Sacramento, CA 94232-3820

Any inquiries or comments concerning the proposed rulemaking action requiring more immediate response may use:

Telephone: (916) 657-8898
Facsimile: (916) 657-6243
E-Mail: LADRegulations@dmv.ca.gov

In the event the contact person is unavailable, inquiries should be directed to the following back-up person:

Shelly Johnson Marker, Chief of Staff
Department of Motor Vehicles
Telephone: (916) 657-6469

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The department has prepared an Initial Statement of Reasons for the proposed regulatory action, and has available all the information upon which the proposal is based. The contact person identified in this notice shall make available to the public upon request the Express Terms of the proposed regulatory action using underline or italics to indicate additions to, and strikeout to indicate deletions from the California Code of Regulations.

The contact person identified in this notice shall also make available to the public, upon request, the Final Statement of Reasons and the location of public records, including reports, documentation and other materials related to the proposed action. In addition, the above-cited materials (the Notice of Proposed Regulatory Action, the Initial Statement of Reasons, and Express Terms) may be accessed at <http://www.dmv.ca.gov/portal/dmv/detail/about/lad/regactions>.

AVAILABILITY OF MODIFIED TEXT

Following the written comment period, and the hearing if one is held, the department may adopt the proposed regulations substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the fully modified text, with changes clearly indicated, shall be made available to the public for at least 15 days prior to the date on which the department adopts the resulting regulations. Request for copies of any modified regulations should be addressed to the department contact person identified in this notice. The department will accept written comments on the modified regulations for 15 days after the date on which they are first made available to the public.