

## FINAL STATEMENT OF REASONS

### 1) The Update to the Initial Statement of Reasons (ISR)

The following statement of reasons in the ISR are being corrected as follows:

- **§ 153.00(b):** The ISR incorrectly cites Sections 153.40(a)(4) and 153.10(b)(4), which do not exist, instead of Sections 153.04(a)(4) and 153.10(b)(3), respectively.
- **§ 153.00(e) and (f):** The ISR incorrectly describes the definitions for “Title information” and “Service Provider” as appearing in Section 153.00(d) and (e), respectively, instead of Section 153.00(e) and (f), respectively.
- **§ 153.02(a):** The ISR incorrectly states that “Lienholder” is defined in Section 153.00(e) instead of Section 153.00(d).
- **153.14(b):** A statement in the ISR regarding this subdivision should not have been included as this subdivision was not part of the originally proposed text.
- **REG 678:** The ISR incorrectly (1) states that the introductory paragraph includes the phrase “and department policies” and (2) identifies the title of form REG 677 in describing Paragraph 2 of the form instead of the title of form REG 678.
- **REG 677:** The ISR incorrectly states that the introductory paragraph includes the phrase “and department policies”. Additionally, the fifth paragraph on the form includes the phrase “using a computer”, but this phrase is omitted in the quoted passage of this same paragraph in the ISR.
- **§ 153.10(b):** The ISR incorrectly states that there are paragraphs (b)(1) through (4) when, in fact, the last paragraph is (b)(3).
- **§ 153.20(a):** The “necessity” statement incorrectly states that “Title information” is defined in Section 153.00(d) instead of Section 153.00(e).

The department modified the originally proposed regulations and provided those amendments for public comment. Below are the changes made to the modified express terms.

#### § 153.00 Definitions

Subsection (c) is amended to change the term “defined” to the term “described”.

Necessity: Since section 4451 of the Vehicle Code does not define a certificate of ownership but rather describes what it must contain, it is necessary to amend the terminology used in this subsection for consistency.

The ‘Note’ was amended to make a non-substantive change to the reference section 4451 citation.

#### § 153.04 Service Provider’s Permit Application

*Electronic Lien and Title (ELT) Program Service Provider Application, form REG 670*

Subsection 2 of Section 6 – General, was amended to add the phrase “In the event the DMV discontinues its ELT program, the...” and to change the word “may” to “shall”.

Necessity: As originally written, the subsection could be interpreted in more than one way, therefore it is necessary to make the amendments so that the applicant knows they are acknowledging the department will terminate their permit, upon 30 days written notice, in the event the department discontinues its Electronic Lien and Title program.

*Electronic Lien and Title (ELT) Program Information Security and Disclosure Statement Service Provider/Lienholder Firm, form REG 678*

Item 10 on page 2 was amended to change: “Federal Law” to “18 U.S.C. §2724” and “Any” to “(a) Cause of Action – A...”; and to add “(b) Remedies – “(1)”, “(2)”, “(3)”, and “(4)”; and to make non-substantive punctuation corrections.

Necessity: Since item 10 is a direct quote from 18 U.S.C. §2724 it needs to match exactly which it did not, therefore it is necessary to make the amendments.

*Electronic Lien and Title (ELT) Program Information Security and Disclosure Statement Service Provider/Lienholder Employee, form REG 677*

Item 8 was amended to change: “Federal Law” to “18 U.S.C. §2724” and “Any” to “(a) Cause of Action – A...”; and to add “(b) Remedies – “(1)”, “(2)”, “(3)”, and “(4)”; and to make non-substantive punctuation corrections.

Necessity: Since item 8 is a direct quote from 18 U.S.C. §2724 it needs to match exactly which it did not, therefore it is necessary to make the amendments.

The ‘Note’ was amended to add the term “Sections” after “Reference:” and to make non-substantive punctuation correction.

Necessity: In order to maintain consistency, it is necessary to make this addition.

### **§ 153.10 Renewal of Service Provider’s Permit**

The ‘Note’ was amended to make a non-substantive change to the reference section by reordering the Vehicle Code sections cited.

### **§ 153.14 Suspension or Revocation of Service Provider’s Permit**

Subsection (a) was amended to delete “or may revoke”.

Necessity: Since this section is being amended to separately identify when the department will suspend a Service Provider’s permit from when it will revoke the permit, it is necessary to remove the reference to revocation.

Subsection (a)(1) was amended to change the beginning of the sentence from “For any violation of sections...” to “For violating one of the following sections:...”

Necessity: In order to conform this subsection with the changes being made to the entire section, it is necessary to make this amendment.

Subsection (a)(2) was amended to make a grammatical correction changing the phrase “and/or” to just the word “or”.

Subsection (b) et. al was added to distinguish the reason why the department will revoke a Service Provider’s permit from the reason the department will suspend one, as described in subsection (a). The grounds for revocation are similar to the grounds for suspension. However, each instance for revocation must be more severe than the grounds for suspension.

Necessity: In order to separately identify when the department will revoke a Service Provider’s permit from when it will suspend the permit, it is necessary to add this subsection here. Regarding subsection (b)(3) the department determined that 30 days was an appropriate amount of time for a permit holder to obtain “Active” status with the California Secretary of State after receiving notification from the department of the defect.

### **§ 153.22 Lienholder’s Permit Application**

#### *Electronic Lien and Title (ELT) Program Lienholder Application form, REG 671*

Subsection 1 of Section 6 – General, was amended to add the phrase “In the event the DMV discontinues its ELT program, the...” and to change the word “may” to “shall”.

Necessity: As originally written, the subsection could be interpreted in more than one way, therefore it is necessary to make the amendments so that the applicant knows they are acknowledging the department will terminate their permit, upon 30 days written notice, in the event the department discontinues its Electronic Lien and Title program.

Subsection (a)(3) is amended to delete the phrase “, which is hereby incorporated by reference;”

Necessity: Since the form REG 678 was already incorporated by reference in subsection 153.04(a)(3) it is unnecessary to do so again here.

The ‘Note’ was amended to make a non-substantive change to the reference section by reordering the Vehicle Code sections cited.

### **§ 153.24 Review of Lienholder’s Permit Application**

Subsection (b) was amended to make a non-substantive change to the revision date of the form.

### **§ 153.26 Term of Lienholder's Permit**

Subsection (b) was amended to make a non-substantive change to the revision date of the form.

#### **2) Imposition of Mandate on Local Agencies or School Districts**

The department's regulatory action adopting Sections 153.00, 153.02, 153.04, 153.06, 153.08, 153.10, 153.12, 153.14, 153.16, 153.18, 153.20, 153.22, 153.24, 153.26, and 153.28 in Article 3.0, Chapter 1, Division 1, of Title 13 of the California Code of Regulations, 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 January 10, 2020, and made available to the public from January 10, 2020 through February 25, 2020. During the 45-day comment period, the department did not receive any request for a public hearing and no public hearing was scheduled/held. Below is a summary of the written comments and the department's response to those comments.

**A. Matthew Kownacki**  
**American Financial Services Associate**  
Mr. Kownacki's written comments:

Comment	Department's Response
<p>A.1. – The proposal of Section 153.22 (a)(4) creates a new requirement for lienholders in the area of Information Security and Disclosure.</p>	<p>While Section 153.22 (a)(4) identifies a new form (Electronic Lien and Title (ELT) Program Information Security and Disclosure Statement Service Provider/Lienholder Employee, REG 677 (NEW 1/2019)) to be completed and submitted to the department with the application, it does not create a new requirement. The current requirements to apply to the department's Electronic Lien and Title program includes the completion and submission of a very similar form, the EXEC 200X Information Security and Disclosure Statement Public/Private Partnerships Employee (REV.3/2003), which is not required in the proposed regulations.</p>
<p>A.2. – Specific to 153.22(a)(4), the department should consider additional language to clarify its intent and to be consistent with other DMV programs. The proposed alternative language to add is “to be maintained by the lienholder and presented to the department upon request” at the end of 153.22(a)(4).</p>	<p>The department's intent is for the completed REG 677 to be submitted with the application and therefore the changing the language from “shall submit” to “to be maintained by the lienholder and presented to the department upon request” would not clarify the department's intent and is in direct conflict with 153.22(a) which states “A Lienholder shall submit the following to the department:”. Additionally, the requirement is consistent with other departmental programs. For example, in the department's Interstate Carrier Program, the form EXEC 200X Information Security and Disclosure Statement Public/Private Partnerships Employee (REV.3/2003), which is very similar to the REG 677, is required for all designated employees of the Interstate Carrier Program applicants and must be submitted to the department.</p>
<p>A.3. – We request the regulations authorize the use of an electronic signature on the REG 677 and all other forms required to participate in the ELT.</p>	<p>The department does not have the authority to accept electronic signatures at this time. Applications submitted via email with a wet signature will be accepted.</p>

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**B. John C. Yarbrough**  
**PDP Group**

Mr. Yarbrough's written comments:

Comment	Department's Response
B.1. – PDP Group recommends the digitization of the receipt, completion and maintenance of the applications for participating organizations.	See department's response to comment A3.
B.2. – The unintended consequence is a significant administrative burden for lienholders to manage and support another paper-based process.	See department's response to comment A.1.
B.3. - Please allow the use of an electronic signature and submission on the REG 677, and all other forms.	See the department's response to comment A.3.

**C. James W. Thomason, Jr.**  
**DDI Technology**

Mr. Thomason's written comments:

Comment	Department's Response
C.1 – We believe the paper based process is likely to result in the creation of a significant administrative burden for both Service Providers and Lienholders to manage and support.	See the department's response to comment A.1.
C.2 – We propose, for all Service Provider and Lienholder employees, each user would be presented with an electronic version of REG 677 for review upon logging into the Service Providers ELT system. After a review of the REG 677, each user would electronically sign and the signed form would be stored electronically by the Service Provider. This electronic process can be automatically repeated on a recurring basis, for example annually based on when the user first signed.	The Service Providers' ELT systems are programmed and controlled by each unique Service Provider and although one Service Provider's system may easily be reprogrammed to accommodate the proposal other Service Providers' systems may not, thus making the proposal onerous for some Service Providers. Additionally, the proposal does not consider the department's oversight responsibilities in eliminating the requirement for the REG 677 to be completed and submitted with the application, for each designated employee.

The department modified the originally proposed regulations and provided those amendments for public comment. Below is a summary of the written comments and the department's response to those comments.

**D. Mr. Migliore  
Cox Automotive, Inc.**

Mr. Migliore's written comments:

Comment	Department's Response
D.1 – Please send the modified forms for us to review. And upon review – regarding the REG 677 and 678, are the signature lines that appear bold part of the proposed changes.	The department emailed the requested documents to Mr. Migliore.  None of the signatures lines of the REG 677 and 678 have had any changes to them.

**4) Documents Incorporated by Reference**

The following documents are incorporated by reference:

- Electronic Lien and Title (ELT) Program Service Provider Application, REG 670 (NEW 1/2019)
- Electronic Lien and Title (ELT) Program Service Provider Permit, REG 672 (NEW 1/2019)
- Electronic Lien and Title (ELT) Program Lienholder Application, REG 671 (NEW 1/2019)
- Electronic Lien and Title (ELT) Lienholder Permit, REG 672 F (NEW 1/2019)
- Electronic Lien and Title (ELT) Program Change Request, REG 673 (NEW 1/2019)
- Electronic Lien and Title (ELT) Program Withdrawal Request, REG 674 (NEW 1/2019)
- Electronic Lien and Title (ELT) Program Information Security and Disclosure Statement Service Provider/Lienholder Firm, REG 678 (NEW 1/2019)
- Electronic Lien and Title (ELT) Program Information Security and Disclosure Statement Service Provider/Lienholder Employee, REG 677 (NEW 1/2019)

These forms are not being published in the California Code of Regulations because it would be impractical and cumbersome to do so. During the public comment period, the department received requests for forms from three interested parties. The requesters were provided with copies of the forms through email. The department received comments on one of the forms and has provided responses in the summary of comments received and department response above.

**5) 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 that the proposed action, or would be more cost-effective to affected private persons and equally effective in implementation the statutory policy

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or other provisions of law. Not adopting these proposed regulations is not a suitable alternative because Vehicle Code section 4450.5 would be left unimplemented and the goal of reducing vehicle titling fraud would not be obtained. Except as set forth and discussed in the summary and responses to comments, no other alternatives have been proposed or otherwise brought to the department's attention.