

Initial Statement of Reasons  
Title 13, Division 1, Chapter 1  
Article 4.2 – Vehicle Dealers

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 either at an offsite storage location within California or by transferring the original documents to electronic storage, provided the documents are retrievable within three days when requested by the department.

The department is proposing to amend Section 272.02 to reduce the onsite storage of original business documents from 18 months to 90 days. When determining the storage requirements, the department relied on its Occupational Licensing Branch and Investigations Division, both of which work closely with vehicle dealers, and determined that 90 days is a reasonable amount of time for a consumer to raise a complaint about a sales transaction which would necessitate the paper records to be available at a dealership. 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.

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.

§ 272.02. Location of Business Records.

The purpose of Section 272.02 is to establish the location and retention period for a vehicle dealer's business records by requiring original business documents to be maintained at its principal place of business or at a branch location. After the initial retention period, the dealer may maintain the original business records at an offsite storage location with in California for the duration of the three year retention period. Regardless of whether the documents are stored at the principal place of business, at the business branch, or an offsite storage facility, the records are required to be made available to the department for inspection.

Subsections (a), (c), and (d) are amended to revise the initial record retention period from 18 months to 90 days. These amendments are necessary to allow vehicle dealers to have more flexibility in their record retention policies. The vehicle dealer industry has changed over the years and both new and used vehicle dealers are required to maintain numerous documents for each vehicle purchased. Most vehicle purchase files contain vehicle sales information, warranty and/or service contract agreements, privacy acknowledgements, credit score disclosures, contract

cancellation option agreements, as well as other acknowledgements and disclosures. By reducing the retention period that a dealer must maintain these documents, the department anticipates vehicle dealers will see increased efficiency, security and improved customer service.

Subsection (c) is further amended to adopt clarifying language that documents stored at an offsite location must not only be retrievable, but also shall be available for inspection by the department upon three business days' notice.

Subsection (d) is further amended to adopt clarifying language by specifying that an electronic copy of an original business record will satisfy the record retention requirements of both Section 272.02(a), as it relates to maintaining business records at the principal place of business or at a branch location for 90 days, and Section 272.00(b), as it relates to requiring all business records relating to vehicle transactions to be retained by the dealership for a period of not less than three years. This clarification is necessary to make clear that the vehicle dealer is required to adhere to retention requirements established in both Sections 272.00 and 272.02.

Subsection (d)(1)(D) is amended to remove unnecessary language by removing 'A backup of' for lack of necessity as the electronic copy is sufficient. Subsection (d)(1)(D) is further amended to add language that is consistent with subsection (c) by clarifying that documents stored at an offsite location must not only be retrievable, but also shall be available for inspection by the department upon three business days' notice.

## **DEPARTMENTAL DOCUMENTATION SUPPORTING GOVERNMENT CODE SECTIONS 11346.2(b)(3) THROUGH (b)(5)**

Studies, Reports or Documents – Gov. Code Sec. 11346.2(b)(3)

- No studies, reports or other documents were relied upon.

Reasonable Alternatives and Department's Response – Gov. Code Sec. 11346.2(b)(4)(A)

- No alternatives have yet been presented that would be as effective.

Reasonable Alternatives That Would Lessen Any Adverse Impact on Small Businesses – Gov. Code Sec. 11346.2(b)(4)(B)

- No alternatives have been yet been presented that would lessen any adverse impact on small businesses.

Evidence Supporting Determination of No Significant Adverse Economic Impact on Business – Gov. Code Sec. 11346.2(b)(5)

- This regulation will not have an adverse economic impact on businesses. This proposed action changes the record retention period for original documents produced during a vehicle transaction. The department anticipates this action will have a positive impact on dealers as it will allow them greater control over their record retention policies.

## **ECONOMIC AND FISCAL IMPACT DETERMINATIONS**

### 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

### 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.

### Effect on Housing Costs

- None

### Local Agency/School District Mandates

- The proposed regulatory action will not impose any costs on local agencies or school districts that are required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

### 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.

### 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.

**ECONOMIC IMPACT ANALYSIS** (Government Code Section 11346.3(b))

The department has made the following determination related to this proposed regulatory action:

**Creation or Elimination of Jobs Within the State of California**

- This action decreases the length of time a vehicle dealer is required to maintain documents related to vehicle transactions. While the department has determined that this amendment will have a positive impact on vehicle dealers, it is unlikely that the revised rule will result in either the creation or elimination of jobs within California.

**Creation or Elimination of Businesses Within the State of California**

- This action decreases the length of time a vehicle dealer is required to maintain documents related to vehicle transactions. While the department has determined that this amendment will have a positive impact on vehicle dealers, it is unlikely that the revised rule will result in either the creation or elimination of businesses in California.

**Expansion of Businesses Currently Doing Business Within the State of California**

- The department has determined that this amendment will have a positive impact on vehicle dealers, it is unlikely that the revised rule will result in the expansion of businesses doing business in California.

**Benefits of the Regulation to the Health and Welfare of California Residents, Worker Safety, and the State's Environment**

- This proposed action is unlikely to benefit worker safety or the state's environment, or the welfare of California residents. This action is intended to benefit the 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.