

TITLE 13: DEPARTMENT OF MOTOR VEHICLES
Division 1, Chapter 1
Article 4.2 – Vehicle Dealers

NOTICE IS HEREBY GIVEN

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

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 **December 11, 2023**, 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 adopt/amend/repeal 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, 5753, 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 means instead of the submittal of the actual original documents.

Section 272.00 of Article 4.2, 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 90 days. After the initial 90-day retention period has been met, a dealer may create an electronic copy of the original business record and retain the electronic copy of the business record for the remaining duration of the three-year retention period. Documents stored electronically are also required to be retrievable within three business days when requested by the department.

The department proposes to amend Section 272.02 to allow vehicle dealers to create original business records in an electronic format. Dealers are still required to retain the electronic records for the duration of the three-year retention period and the electronic records must be retrievable when requested by the department. The amended rule does not require vehicle dealers to create electronic records. Those dealers who want to continue creating and storing paper documents

can continue to do so and dealers who create paper records and transfer them to electronic copies at a later date may also continue to do so.

The department anticipates this proposed action will benefit vehicle dealers by allowing them more control over their record retention procedures and by relieving them from the potential economic burden of storing paper records.

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 incompatible nor inconsistent with existing 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 proposed action will not have any cost impact on representative private persons or businesses. The amended rule will allow vehicle dealers to retain business records in the format most convenient for them.
- *Small Business Impact:* This proposed action is likely to impact small businesses, however, the amended rule will not change record retention requirements. If a small business chooses to continue to generate original business records in a paper format, they may continue to do so. Conversely, if a business chooses to generate business records in an electronic format, they may do so.
- *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:* The department does not anticipate this action will have a significant statewide adverse economic impact on businesses, including the ability of California businesses to compete with businesses in other states. This proposed action intends to allow vehicle dealers to have more control over their record retention processes.

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 made the initial determination 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, 3) the expansion of businesses currently doing business within the State of California, or 4) worker safety or the state's environment.

This action is intended to benefit the vehicle dealer industry by allowing vehicle dealers greater control over their record retention practices by potentially eliminating the requirement that a dealer retain purchase documentation in paper format.

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 Specialist
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) 282-7294
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:

Peggy Gibson, Attorney IV
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 <https://www.dmv.ca.gov/portal/about-the-california-department-of-motor-vehicles/california-dmv-rulemaking-actions/>.

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. Requests 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.