

BUREAU OF AUTOMOTIVE REPAIR

INITIAL STATEMENT OF REASONS

**HEARING DATE:**

March 18, 2014 at 10:00 a.m.  
Bureau of Automotive Repair  
Hearing Room, 100B  
10949 North Mather Blvd.  
Sacramento, California 95670

**SUBJECT MATTER OF  
THE PROPOSED REGULATIONS:**

Ignition Interlock Device Installations,  
Maintenance, and Servicing

**SECTIONS AFFECTED:**

§§ 3363.1, 3363.2, 3363.3 and 3363.4, of  
Title 16, Division 33, Chapter 1, Article  
11.1, California Code of Regulations

**SPECIFIC PURPOSE OF THE REGULATORY PROPOSAL:**

The Bureau of Automotive Repair (BAR), within the Department of Consumer Affairs (DCA) is proposing the following regulation in order to augment ignition interlock device (IID) installation requirements pursuant to Business and Professions Code (B&P) section 9882.14.

BAR is proposing to amend the following regulations:

- I. **Ignition Interlock Devices:** This section is amended to better define what actions must comply with BAR's ignition interlock device standards.
- II. **Ignition Interlock Device Manufacturer's Responsibilities:** This section is amended to conform to existing law.
- III. **Authorized Installers of Ignition Interlock Devices:** This section is amended to conform to recent statutory changes in B&P sections 9807 and 9880.2 by Senate Bill (SB) 1576 (Committee on Business, Professions and Economic Development, Chapter 661, Statutes of 2012).
- IV. **Installation, Maintenance, and Servicing of Ignition Interlock Devices:** This section is amended to ensure automotive repair dealers utilize modern resources, such as on-line reference manuals, to complete ignition interlock device work. Additionally, this section is amended to generalize tool and equipment requirements and instead prescribes requirements in accordance with device- and vehicle-specific manufacturer requirements. Finally, this section is amended to ensure

automotive repair dealers confirm the proper function of vehicles and ignition interlock devices after the device is installed or removed.

With the enactment of SB 1576, BAR proposes the following regulatory changes to Title 16 of the California Code of Regulations:

**Amend Section 3363.1**

- a. Add “maintenance, or servicing”

This addition better defines the overall scope of BAR’s regulatory requirements for ignition interlock devices. These additions are in conformance with the expanded scope of BAR’s statutory responsibilities by recent changes to B&P section 9882.14 subsection (a).

- b. Remove “vehicular” and insert “installed in a motor vehicle”

This text change better specifies the type of vehicle in which an IID may be installed.

- c. Remove “Section 23244, Vehicle Code; and” from the Notes section.

Section 23244 of the Vehicle Code was repealed in 1994.

**Amend Section 3363.2**

- a. Remove “Such instructions shall be in accordance with the guidelines adopted by the Office of Traffic Safety pursuant to Section 23244(b) of the Vehicle Code”

Section 23244 of the Vehicle Code was repealed in 1994 and therefore reference to it and any guidelines adopted by OTS pursuant to it are no longer applicable or enforceable.

- b. Remove “Section 23244, Vehicle Code; and” from the Notes section.

Section 23244 of the Vehicle Code was repealed in 1994.

**Amend Section 3363.3**

- a. Remove “Only” and add “pursuant to this division.”

This text is removed and added, respectively, to clear regulatory conflict between BAR and the Bureau of Electronic and Appliance Repair, Home Furnishings and Thermal Insulation’s (BEARHFTI) responsibilities with regard to ignition interlock devices. Specifically, this amendment prescribes BAR’s jurisdiction over automotive repair dealers working on ignition interlock devices and enables BEARHFTI to adopt

regulations in conformance with statute that prescribe BEARHFTI's jurisdiction over electronic appliance service dealers working on ignition interlock devices.

- b. Remove "Section 23244, Vehicle Code; and" from the Notes section.

Section 23244 of the Vehicle Code was repealed in 1994.

#### **Amend Section 3363.4**

- a. Add "maintains, or services any"

This addition better defines the overall scope of BAR's regulatory requirements for ignition interlock devices. These additions are in conformance with the expanded scope of BAR's statutory responsibilities by recent changes to B&P section 9882.14 subsection (a).

- b. Remove "in vehicles."

This text is unnecessary because Section 3363.1 clearly states that Ignition Interlock Devices are "installed in a motor vehicle."

- c. Remove "comply with the following conditions."

This is a minor editorial text deletion.

- d. In subsection (a):

- 1. Minor formatting, grammatical, and editorial changes have been made.

- e. In subsection (b):

- 1. Remove "[t]hese include, but are not necessarily limited to, the following:" and replace with "as required by the device's and the vehicle's manufacturer instructions. Manuals need not be maintained in hard copy if they can be readily accessed electronically."
- 2. Remove clause (1): "Tools to make electrical connections in a competent manner (properly soldered, or mechanically crimped with high quality connectors) and in accordance with accepted trade standards."
- 3. Remove clause (2), "Heat gun if heat shrink tubing or heat set labels are used."
- 4. Remove clause (3): "Volt/ohmmeter."
- 5. Remove clause (4): "Test light."

6. Remove clause (5): “Battery testing equipment and servicing tools (load tester, terminal cleaning tools, and battery filler).”
7. Remove clause (6): “Electrical wiring diagrams and/or reference guide for electrical systems on import and domestic vehicles, 20 years old or less, necessary for the installation and operation of the device.”
8. Remove clause (7): “Tools and equipment listed by the device manufacturer to properly install devices in accordance with guidelines adopted by the Office of Traffic Safety (OTS) pursuant to Section 23244(b) of the Vehicle Code.”

These modifications are being made because several manufacturers provide ignition interlock devices<sup>1</sup>, which may require different tools or equipment in order to install, maintain, and service. Automotive repair dealers may also need to keep certain equipment on-hand based on vehicle-specific requirements. For example, installing a device in a 2012 Toyota Prius may require an automotive repair dealer to have certain tools while installing the same device in a 1998 Ford F-150 will require different tools.

In addition, pursuant to California Vehicle Code section 13386, the Department of Motor Vehicles must certify all ignition interlock device models before they can be installed in vehicles. In order to be certified, a manufacturer must provide the Department of Motor Vehicles with “[a] copy of the instructions that will be provided to authorized installers, including complete instructions for installation, operation, service, repair, and removal of the device.”<sup>2</sup>

The proposed regulation also specifies that an automotive repair dealer may utilize on-line resources to access appropriate written materials like manuals. This addition acknowledges recent changes in the automotive repair industry and enables automotive repair dealers to utilize on-line resources rather than maintaining cumbersome hard copies of vehicle service manuals and device technical manuals in their shops when the same materials can be easily accessed electronically.

For these reasons, BAR changed specific equipment requirements to generalized requirements that ensure automotive repair dealers keep all appropriate tools, equipment, and resources on hand to install particular devices in particular vehicles. This is achieved by requiring automotive repair dealers to follow device-specific and vehicle-specific manufacturer instructions.

- f. In subsection (d):
  - a. Remove “Appropriately.”
  - b. Add “install an ignition interlock device,” and “instructions from.”

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<sup>1</sup> For a complete list, see: <http://www.dmv.ca.gov/vehindustry/ol/forms/ignitioninterlockdevicelist.htm>.

<sup>2</sup> 13 CCR § 125.02(a)(7).

- c. Remove “each” and replace with “the condition of the.”
  - d. Remove “condition,” and replace with “systems.”
2. Remove “instructions, and correcting conditions (such as low battery or alternator voltage, or engine stalling frequently enough to require additional breath tests) which interfere with the proper functioning of the device”
  3. Add “[t]he installer must ensure that the vehicle and device function properly following installation.”

BAR acknowledges that not all installation, maintenance, or service issues that arise with ignition interlock devices will be discussed in manufacturer instructions. Therefore, BAR prescribes that automotive repair dealers must also adhere to accepted trade standards, and ensuring proper functionality of the device and vehicle post installation. Additionally, the use of “appropriately” is overly ambiguous and its removal is necessary to provide clarity for the standard being outlined.

- g. Split amended subsection (d) into new subsections (d) and (e) as follows:
  1. Subsection (d), “Install an ignition interlock device in a vehicle taking into account the condition of the vehicle’s mechanical and electrical systems.”
  2. Subsection (e), “Install an ignition interlock device following accepted trade standards and the ignition interlock device’s manufacturer instructions.”
    - a. Added “Install an ignition interlock device,” “instructions from,” and “ignition interlock.”
    - b. Removed “instructions, and correcting conditions (such as low battery or alternator voltage, or engine stalling frequent enough to require additional breath tests) which interfere with the proper functioning of the device.”

Existing subsection (d) was split to increase ease of reading and clarity. The text modifications in new subsection (d) are minor editorial changes. The text modifications in new subsection (e) are editorial or add clarity by properly identifying the device as an ignition interlock device and removes unnecessary examples of conditions that do not constitute proper operation of the vehicle or the device as further required in subsections (f) and (g) below.

- h. Add, “ignition interlock” to subsection (f).  
Adds clarity by properly identifying the device as an ignition interlock device.
- i. Change existing subsection (e) to subsection (g) and add “[e]nsure that an ignition interlock device is” and “ignition interlock.”

Text modifications add emphasis to ensure that the ignition interlock device's installation does not negatively impact the functionality of the ignition interlock device or the host vehicle.

- j. Change subsection (g) to subsection (h) to account for the splitting of subsection (d) as noted above.

### **FACTUAL BASIS:**

BAR was established within DCA in 1972 with the enactment of the Automotive Repair Act<sup>3</sup>. SB 51 (Beilenson, Chapter 1578, Statutes of 1971) mandated a statewide automotive repair consumer protection program. In furtherance of its mandate, BAR administers a statewide licensing and enforcement program.

Assembly Bill (AB) 2040 (Farr, Chapter 1403, Statutes of 1990) required BAR to cooperate with the Office of Traffic Safety (OTS) to adopt standards for the installation of ignition interlock devices as well as designate stations for these installations. The bill also required manufacturers of those devices to comply with installation standards established by BAR, and authorized BAR to charge those manufacturers a fee to recover the cost of monitoring those installation standards.

SB 1576 (Committee on Business, Professions and Economic Development, Chapter 661, Statutes of 2012) authorized electronics and appliance service dealers, licensed by the Bureau of Electronic Appliance and Repair, Home Furnishing and Thermal Insulation (BEARHFTI), to install, calibrate, service, and maintain ignition interlock devices. The bill exempts licensed electronics and appliance service dealers from BAR automotive repair dealer registration requirements for performing work related to ignition interlock devices. The bill also requires BEARHFTI to adopt regulations "consistent with the standards adopted by the Bureau of Automotive Repair and the Office of Traffic Safety."

The proposed actions described in this Initial Statement of Reasons (ISOR) are necessary because without BAR's proposed changes limiting its regulatory authority over ignition interlock device services to automotive repair dealers, there would remain a conflict with any regulations that BEARHFTI promulgates to implement the provisions of SB 1576 specific to its licensees.

With the adoption of BAR's proposed regulatory amendments, BEARHFTI will be able to promulgate regulations, in conformance with statute, permitting its licensees to install, calibrate, service, and maintain ignition interlock devices without registering with BAR.

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<sup>3</sup> Business and Professions Code § 9880, et seq.

### **UNDERLYING DATA:**

- AB 2040 (Farr, Chapter 1403, Statutes of 1990).
- SB 1576 (Committee on Business, Professions and Economic Development, Chapter 661, Statutes of 2012).
- Letter from the Office of Traffic Safety, dated 20 December, 2013.

### **ECONOMIC IMPACT ASSESSMENT:**

#### **EFFECT ON THE CREATION, ELIMINATION, OR EXPANSION OF JOBS OR BUSINESSES:**

These regulations conform BAR's standards with statute, which enables additional businesses to perform this specialized service without filing additional paperwork or paying fees with a separate licensing entity, BAR. In addition, requirements have been updated so that businesses no longer need to keep possibly outdated tools in their shops that are not necessary to install devices, and instead require that businesses follow manufacture-specific requirements and utilize applicable online materials.

BAR has made an initial determination that the proposed regulatory action will not have any impact on the creation of jobs or new business, the elimination of jobs or existing businesses, or the expansion of business in the State of California because, pursuant to AB 2040 and implementing regulations adopted by BAR, BAR already registers automotive repair dealers performing ignition interlock device installation, calibration, servicing, and maintenance. It is important to note, however, that BEARHFTI regulations in conformance with SB 1576 may constitute a business opportunity or cost savings for BEARHFTI licensees.

Additionally, this regulatory proposal will not have any new effect, positive or negative, on small businesses because BAR has always had jurisdiction over the installation of ignition interlock devices by automotive repair dealers. That will remain the case under this regulation. In addition, this regulatory action seeks to update tool and equipment requirements so that businesses no longer need to keep possibly outdated tools or manuals in their shops that are not necessary to install devices, and instead require that businesses follow manufacture-specific requirements and utilize applicable online materials.

#### **IMPACT ON HEALTH AND WELFARE OF CALIFORNIA CITIZENS:**

This regulatory proposal may not directly benefit the health and welfare of California residents because installation of an ignition interlock device is a court ordered measure, and therefore the court has presumably already weighed the potential negative consequence of allowing a driver requiring an ignition interlock device to operate a motor vehicle.

However, providing for BEARHFTI licentiates to perform ignition interlock device services could potentially provide consumers, subject to the provisions of the ignition interlock device program, more options when seeking installation, calibration, and maintenance services.

**IMPACT ON WORKER SAFETY:**

This regulatory proposal benefit does not affect worker safety because it does not alter any work place safety guidelines established in any state or federal statute or regulation. Further, these regulations require that ignition interlock device services be performed in accordance with the devices and the vehicle manufacturer's specifications which would detail safe techniques and procedures for performing such services.

**ENVIRONMENTAL IMPACT:**

This regulatory proposal benefit does not affect the State's environment because the use of ignition interlock devices does not alter the emissions profile of any vehicle into which it is installed.

**FACTS, EVIDENCE, DOCUMENTS, TESTIMONY, OR OTHER EVIDENCE ON WHICH THE AGENCY RELIED TO SUPPORT AN INITIAL DETERMINATION THAT THE PROPOSED ACTIONS WILL NOT HAVE A SIGNIFICANT ADVERSE ECONOMIC IMPACT ON BUSINESSES:**

Pursuant to AB 2040 (Farr, Chapter 1403, Statutes of 1990), BAR has authority to register individuals performing ignition interlock device services. With the enactment of SB 1576 (Committee on Business, Professions and Economic Development, Chapter 661, Statutes of 2012) BAR maintains this authority. However, SB 1576 provides for BEARHFTI licensees to also perform these services.

As stated under the Economic Impact Assessment above, the amendments outlined in this proposal will enable BEARHFTI licensees to perform ignition interlock device services without also registering with the bureau or paying its registration fees. This levels the playing field for BEARHFTI licensees performing ignition interlock device services by limiting their licensure requirements which directly benefits these businesses by decreasing the time and resources expended to compete in the ignition interlock device marketplace. The updated requirements also make it unnecessary for businesses providing ignition interlock device services to keep outdated or unneeded tools in their shops, and instead require that businesses follow manufacture-specific requirements and utilize applicable online materials. Because of these changes, businesses will not be adversely affected but will instead experience decreases in regulatory burdens and derive benefits from the proposed regulation. Therefore, the proposed regulations will not have any significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

**SPECIFIC TECHNOLOGIES OR EQUIPMENT:**

This regulation does not mandate the use of specific technologies or equipment.

**CONSIDERATION OF ALTERNATIVES:**

No reasonable alternative which was considered or that has otherwise been identified and brought to the attention of the bureau would be more effective in carrying out the purpose for which it was proposed or would be as effective and less burdensome to affected private persons than the adopted regulation or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Set forth below is the alternative that was considered and the reason the alternative was rejected:

**Alternative 1:** Do not implement the provisions of Business and Professions Code section 9882.14. This option does not create any additional costs or provide any benefits, and is at odds with statute.