

TITLE 13: DEPARTMENT OF MOTOR VEHICLES
Division 1, Chapter 1
Article 2.4 – Driver Safety

NOTICE IS HEREBY GIVEN

The Department of Motor Vehicles (department) proposes to adopt Sections 115.00, 115.11, 115.12, 115.13, 115.14, and 115.15 and to amend Sections 115.01, 115.05, 115.06, 115.07, 115.08, 115.09, 115.10, in Article 2.4, Chapter 1, Division 1, Title 13 of the California Code of Regulations, related to Driver Safety Hearings.

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 **February 20, 2024**, the final day of the written comment period, for them to be considered by the department before it adopts the proposed regulation.

AUTHORITY AND REFERENCE

The department proposes to adopt the proposed action under the authority granted by Vehicle Code sections 1651 and 1801.2, and Government Code sections 11400.20, in order to implement, interpret, or make specific Vehicle Code sections 13558, 16070, and 16075, and Government Code sections 11440.20, 11440.30, 11440.60, 11450.05, 11450.30, 11455.30, and 11524.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Vehicle Code section 13558 allows a person who receives a notice of an order of suspension or revocation of the person's privilege to operate a motor vehicle for violation of specified Vehicle Code sections, to request a hearing on the matter. Upon receipt of a hearing request, the department is required to conduct a hearing at a place designated by the department as close as practicable to the place of the revocation. Government Code section 11425.20 requires departmental hearings to be open to public observation yet allows a presiding officer to order the closure of a hearing under certain circumstances.

Government Code section 11440.20 establishes provisions related to the transfer of documents related to hearing and Government Code section 11440.30 allows a presiding officer to conduct all or part of a hearing by telephone, television, or other electronic means if each participant in the hearing has an opportunity to participate in and to hear the entire proceeding while it is taking place and to observe exhibits.

Assembly Bill 1578 (Chapter 401; Statutes of 2022) amended Government Code section 11440.20 to allow for the service of hearing documents to be transmitted electronically and

amended Government Code section 11440.30 to allow a hearing officer, in circumstances where a party objects to a hearing being conducted electronically, to structure the hearing in a manner that addresses the party's specific objections.

As more driver safety hearings are being conducted electronically, the department determined it necessary to amend Article 2.4 to ensure its regulations related to administrative hearings are consistent with recent changes made to various statutes.

BENEFITS OF THE PROPOSED REGULATION

The department anticipates the changes made to the regulations through passage of AB 1578 will allow departmental driver safety hearings to be conducted more efficiently which will benefit the department but will also benefit the driver by removing barriers that cause hearings to be unnecessarily delayed.

CONSISTENCY AND COMPATIBILITY WITH STATE REGULATIONS

The department conducted a review of other state regulations and found there are no other regulations related to driver safety hearings conducted by the department, therefore, the department has determined this action is neither inconsistent nor incompatible with other state regulations.

COMPARABLE FEDERAL STATUTES OR STATE REGULATIONS

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:* The department does not anticipate this action will impact representative private persons or businesses as there are no costs to the driver to have a driver safety hearing.
- *Small Business Impact:* This action may impact small businesses.

- *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 directly affecting businesses, including the ability of California to compete with businesses in other states. This action streamlines the process in which driver hearings are conducting allowing the hearings to progress more efficiently. The changes will not likely have an adverse economic impact.

RESULTS OF THE ECONOMIC IMPACT STATEMENT

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

This proposed action is unlikely to 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 may benefit the welfare of California residents by ensuring driver safety hearings progress efficiently.

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 strikethrough 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.