

**OFFICE OF THE DIRECTOR
DEPARTMENT OF MOTOR VEHICLES**P.O. BOX 932328
SACRAMENTO, CA 94232-3280**TITLE 13: DEPARTMENT OF MOTOR VEHICLES****NOTICE IS HEREBY GIVEN**

The Department of Motor Vehicles (department) proposes to adopt Sections 153 through 153.22 in Article 3.0, Chapter 1, Division 1, Title 13 of the California Code of Regulations, relating to Vehicle Registration and Titling.

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 5:00 P.M., 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 5:00 P.M., **AUGUST 20, 2012**, 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 this regulation under the authority granted by Vehicle Code section 1651, in order to implement, interpret, or make specific Vehicle Code section 4450.5.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Department of Motor Vehicles (department) proposes to adopt sections 153.00 through 153.22 in Article 3.0, Chapter 1, Division 1, Title 13 of the California Code of Regulations, relating to Vehicle Registration and Titling.

Assembly Bill 1515 (Chapter 540, Statutes of 2009) enacted Vehicle Code section 4450.5 requiring the department to develop an Electronic Lien and Titling Program in consultation with lien holders and other stakeholders. This will require that all lien holders' title information be held in an electronic format.

Per the requirements of AB 1515, the department conducted an evaluation of the effectiveness of the current ELT program and offered three alternatives for implementation. The department chose to implement the program through their second alternative, which will require updates to the existing ELT system along with new regulations and an improved contract management process. This option will require all

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financial institutions to participate in the ELT program. Based on this alternative, the changes will achieve a savings of approximately \$1.7 million annually over a five year period. These savings will be achieved through less processing, secure paper, printing, and mailing costs to the department.

This action provides information to mandatory and voluntary participants regarding the application process and eligibility requirements for the Electronic Lien and Title (ELT) Program. Each participant must provide proof of connectivity with a software/service provider in order for approval as a participant.

This action provides information to participants and ELT Service Providers regarding their responsibilities and security requirements.

This action also provides information to participants and ELT Service Providers regarding causes for refusal of eligibility in the ELT Program, authority of the department to investigate and review records, information regarding participant changes, and information regarding cancellation or termination from the program.

This action specifically benefits the Department of Motor Vehicles by achieving a savings of approximately \$1.7 million annually over a five year period which will be achieved through less processing, secure paper, printing, and mailing costs. It will also reduce the average cost for tracking, handling, and storing of title information from \$12 down to approximately \$2 per title. This action will benefit the lienholders by allowing them to hold their titles electronically allowing them to replace the large banks of paper titles with the electronic records. This action also specifically benefits the public because it will save them time and money and their information is more secure. With paper titles, they get lost, stolen, and destroyed. This necessitates paying for a duplicate title in order to transfer or sell a vehicle, along with the time frame for waiting. Also, when a vehicle has been financed and is paid off, they normally would get the title signed off by the lender and it would be their responsibility to turn it in to DMV to remove the lien. Many times people forget to turn it in, the document gets lost, and by the time they attempt to get a lien release, the company has moved or gone out of business and is untraceable. With Electronic Titles, once a lien has been paid, the new title is then issued for the first time and sent to the owner with the lien already removed. With the ELT database, the information is held securely within an online database system with only authorized people given access, so names and addresses are not on paper sitting in a file cabinet in someone's office just waiting to be stolen.

The proposed regulations are not inconsistent or incompatible with existing state regulations because no other regulations impact the Electronic Lien and Title Program.

DOCUMENTS INCORPORATED BY REFERENCE

The following documents are incorporated by reference in section 153.02:

- ELECTRONIC LIEN AND TITLE (ELT) PROGRAM FINANCIAL INSTITUTION /LENDER APPLICATION, REG 671 (NEW 11/2011)

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- ELECTRONIC LIEN AND TITLE (ELT) PROGRAM SERVICE PROVIDER APPLICATION, REG 670 (NEW 11/2011)

The following document is incorporated by reference in section 153.04:

- ELECTRONIC LIEN AND TITLE SERVICE PROVIDER PERMIT, REG 672 (NEW 11/2011)

The following document is incorporated by reference in section 153.08:

- INFORMATION SECURITY AND DISCLOSURE STATEMENT PUBLIC /PRIVATE PARTNERSHIPS EMPLOYEE, EXEC 200X, (REV. 3/2003)

These documents are not published in the California Code of Regulations because it would be impractical and cumbersome to do so; however, these documents are readily available to interested parties by contacting the department representative identified below.

FISCAL IMPACT STATEMENT

- Cost or Savings to Any State Agency: \$1.7 million annually to DMV
- 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: The department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- Effects on Housing Costs: None.

DETERMINATIONS

The department has made the following initial determinations concerning the proposed regulatory action:

- The proposed regulatory action will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.
- 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.

- The proposed regulatory action will not affect small businesses. This proposal implements an ELT program as required by AB 1515 requiring all financial institutions to participate in an ELT program.

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.

RESULTS OF THE ECONOMIC IMPACT ANALYSIS

Assembly Bill 1515 (Chapter 540, Statutes of 2009), a bill sponsored by the Electronic Titling industry, enacted Vehicle Code section 4450.5 requiring the department to develop an Electronic Lien and Titling Program in consultation with lien holders and other stakeholders. This will require that all lien holders' title information be held in an electronic format.

Per the requirements of AB 1515, the department conducted an evaluation of the effectiveness of the current ELT program and offered three alternatives for implementation. The department chose to implement the program through their second alternative, which will require updates to the existing ELT system along with new regulations and an improved contract management process. This option will require all financial institutions to participate in the ELT program. Based on this alternative, the changes will achieve a savings of approximately \$1.7 million annually over a five year period. These savings will be achieved through less processing, secure paper, printing, and mailing costs to the department. The current ELT system design can be utilized, eliminating the need for providers to invest in costly new equipment. In fact, current ELT service providers will see no changes to their current processes.

This option will also reduce lienholders' costs associated with the handling of paper titles. Benefits to lienholders will be realized through reduction in work effort, lower costs, no storage requirements, and better customer service by avoiding lost paper titles.

Creation or Elimination of Jobs Within the State of California

This regulation will neither create nor eliminate jobs within the State of California; however, existing jobs will see improved efficiencies and be able to perform those jobs with more accuracy.

Creation or Elimination of Existing Business Within the State of California

This regulation will neither create nor eliminate businesses within the State of California. The proposal allows business to move towards a different form of title management. Lienholders will be able to replace the large banks of paper titles with electronic records. Businesses that would function in the program may do so using the resources and technology

already at their disposal, negating the need to procure computers and other large equipment. The average cost for tracking, handling and storing a title can range from \$8 to \$12 per paper title. Using ELT, that cost is greatly reduced to only \$2 per title.

Expansion of Business Currently Doing Business Within the State of California

This regulation will neither expand nor contract businesses currently doing business within the State of California.

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

This regulation has no benefits to the Health and Welfare of California residents, worker safety, or the State's environment.

ALTERNATIVES CONSIDERED

In accordance with Government Code Section 11346.5, subdivision (a)(13), the Department must determine that no reasonable alternative it considered or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for with the action is proposed or would be as effective 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 provision of law.

CONTACT PERSON

Any inquiries or comments concerning the proposed rulemaking action may be addressed to:

Ally Grayson, Associate Governmental Program Analyst
Department of Motor Vehicles
Legal Affairs Division
P.O. Box 932382, MS C-244
Sacramento, CA 94232-3820
Telephone: (916) 657-6469
Facsimile: (916) 657-6243
E-Mail: LRegulations@dmv.ca.gov

In the event the contact person is unavailable, inquiries should be directed to the following back-up person:

Randi Calkins, Regulations Coordinator
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 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

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proposed action using underline or italics to indicate additions, and strikeouts 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 (Initial Statement of Reasons and Express Terms) may be accessed at www.dmv.ca.gov/about/lad/regactions.htm.

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 full modified text with changes clearly indicated would 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.