

DEPARTMENT OF CALIFORNIA HIGHWAY PATROL

INITIAL STATEMENT OF REASONS

TITLE 13, CALIFORNIA CODE OF REGULATIONS, DIVISION 2, CHAPTER 6.5
AMEND ARTICLE 1, SECTION 1201; ARTICLE 3, SECTION 1217;
ARTICLE 6, SECTION 1232; AND ARTICLE 8, SECTIONS 1242, 1268, AND 1269
ADD ARTICLE 8, SECTION 1267.1

MODIFIED LIMOUSINE SAFETY (CHP-R-2017-09)

PURPOSE OF REGULATORY ACTION

Section 2402 of the California Vehicle Code (CVC) authorizes the Commissioner of the California Highway Patrol (CHP) to make and enforce regulations as necessary to carry out the duties of the CHP. Section 34501 CVC requires the Department to adopt reasonable regulations that, in the judgement of the Department, are designed to promote the safe operation of vehicles described in Section 34500 including, but not limited to, equipment including fire extinguishers. Section 27375 CVC requires the CHP to establish by regulation, standards to ensure push-out side window emergency exits in modified limousines are operable and sufficient.

Section 378(b) CVC defines a modified limousine as any vehicle which has been modified, altered, or extended in a manner that increases the overall wheelbase of the vehicle, exceeding the original equipment manufacturer's published wheelbase dimension for the base model and year of the vehicle, in any amount sufficient to accommodate additional passengers. A modified limousine has a seating capacity of not more than 10 passengers including the driver and is used in the transportation of passengers for hire. While existing statutory vehicle equipment requirements applicable to all vehicles operated on California highways, modified limousines are largely unregulated relative to equipment requirements.

In 2013, at least two limousines transporting passengers on a for-hire, prearranged basis, were engulfed by fire during the passenger transportation process, causing the loss of life and injury to passengers. As a result, Senate Bill (SB) 109, (Corbett, Chapter 752, Statutes of 2013) and SB 611 (Hill, Chapter 860, Statutes of 2014) were enacted to address the absence of regulations for modified limousine drivers, and modified limousine operators. Under these earlier bills, the equipment requirements would have gone into effect on January 1, 2017, however, SB 812 (Hill, 2016) moved the date for the equipment retrofit for existing modified limousine out to January 2018.

This rulemaking is initiated in order to fulfill statutory requirements contained in Section 27375 CVC. It adopts criteria which will clarify requirements regarding the location, size, marking, latching, maintenance, inspection, and operability requirements for push-out side window emergency exits. The rulemaking also adopts criteria for passenger doors, emergency exit maintenance, and fire extinguishers in modified limousines.

BENEFITS OF THE REGULATION

These regulations are critical to the protection of public and passenger transportation safety. Currently, modified limousines are largely unregulated relative to equipment requirements. The regulations will clarify new requirements that will protect users of these vehicles from catastrophic incidents like the ones that occurred in 2013. These requirements include push-out side window emergency exits, passenger doors, emergency exit maintenance, and fire extinguishers in modified limousines. These standards will meet a critical public safety need by ensuring that window exits are operable and sufficient in emergency situations for modified limousine passengers.

This proposed regulatory action will provide a nonmonetary benefit to the protection and safety of public health, employees, and the environment because changes to the application of the regulation are a response to existing statute.

SECTION BY SECTION OVERVIEW

Title 13 California Code of Regulations (CCR), Division 2, Chapter 6.5, Motor Carrier Safety Regulations.

Section 1201. Definitions.

Subsection (r) is added to define a modified limousine for the purpose of ensuring consistency in the applicability of regulations. For the purpose of Chapter 6.5, a modified limousine is as defined in Section 378(b) CVC.

Subsection (r)(1) is added to define the amount sufficient to accommodate additional passengers contained in Section 378(b) CVC. The CHP felt the need to specify what the amount sufficient to accommodate additional passengers is in order to aid both industry and enforcement in determining the applicability of these regulations. This will provide clarity in whether a modified vehicle will meet the definition of a modified limousine and thereby be subject to these regulations.

Subsection (r)(2) and (3) are added to provide specific means and methods to determine if a vehicle meets the aforementioned definition. These means and methods are necessary to ensure consistent and appropriate application of requirements related to modified limousines.

Existing Subsections (r) through (gg) are renumbered subsections (s) through (hh) in order to accommodate the new definition of modified limousine contained in new subsection (r).

Article 3, General Driving Requirements

Section 1217. Transportation of Passengers.

Subsection (g) is amended to specify modified limousines shall not be operated to transport passengers if any emergency exit is locked or otherwise secured from being opened. This is consistent with existing requirements for buses operated in California.

Article 6, Carrier Requirements

Section 1232. Vehicle Inspection and Maintenance.

Subsection (a)(1) is necessary to meet consistency requirements contained in Title 49, Code of Federal Regulations (CFR), Part 355. The section is added to require a vehicle which is equipped with push-out windows, roof exits, emergency doors, and emergency door marking lights to be inspected at least every 90 days in accordance with provisions contained in Title 49, CFR, Part 396.3, which are incorporated by reference. Additionally, required inspections shall be documented and inspection documentation shall be retained in accordance with Title 49, CFR, Part 396.3. This requirement is applicable to any vehicle described in Section 1200 including, but not limited to, modified limousines.

Article 8, General Equipment Requirements

Section 1242. Fire Extinguishers.

Subsection (g) is necessary to ensure compliance with statutory requirements contained in Section 28062 CVC and permit, but not require, the installation of additional fire extinguishers in modified limousines. Additionally, the section is necessary to clarify statutory fire extinguisher mounting locations in the interest of passenger safety and in support of consistent enforcement efforts. The section is necessary to clarify the meaning of the phrase “readily accessible” as used within the section and to clarify the additional requirements for fire extinguishers as deemed necessary by the CHP, in order to ensure installed fire extinguishers are available for passenger use in an emergency and to ensure fire extinguishers are effective when deployed.

Section 1267.1. Door Locations on Modified Limousines.

This section is needed to clarify the requirements of Section 27375 CVC which requires specified modified limousines to be equipped with at least two doors to allow for unobstructed ingress and egress, to and from the modified limousine’s passenger compartment. Additionally, the section is needed to clarify that the lower seat cushion of a seat is deemed not to be an obstruction, but a seat back or other component of a seat is deemed to be an obstruction within the context of the section.

Subsection (a) is needed to specify the location requirement for forward passenger doors contained in Section 27375 CVC, within the passenger compartment of a modified limousine. The section also clarifies the phrase “as close as practical” as used within the section to ensure understanding and consistent application and enforcement of the requirement.

Subsection (a)(1) is necessary to clarify that when two passenger doors are installed in the passenger compartment of a modified limousine, an additional door is required to be installed when the distance between the driver compartment door and the rear passenger compartment

door on the same side of the vehicle is equal to or greater than two times the width of the rear door. This door is necessary to provide safe egress for passengers in the event of an emergency. The distance standard included within the section is deemed the most appropriate standard by the CHP because any distance less than the required standard will prohibit the installation of a door meeting the requirements of subsection (a)(3).

Subsection (a)(2) clarifies that when the distance between the driver compartment door and the rear passenger compartment door on the same side of the vehicle is less than two times the width of the rear door, the rear door will be deemed to meet the requirement for a forward passenger door as outlined in subsection (a). This standard is necessary to clarify the phrase “located near the driver’s compartment” contained in Section 27375(a)(2)(B) CVC for the purpose of clarity, safety of passengers, consistent enforcement of requirements, and compliance with the requirement contained in Section 27375(a)(2)(C) CVC.

Subsection (a)(3) clarifies that the forward passenger compartment door shall be no smaller than and of equivalent height of any other door on the vehicle in order to ensure efficient passenger ingress and egress through the door. The standard is necessary to ensure safe ingress and egress of passengers into and out of modified limousines.

Subsection (b) requires one door in the passenger compartment of a modified limousine be located on the opposite side of the vehicle from the door required by subsection (a) and be located as close to the rear of the passenger compartment as possible. These requirements are deemed necessary by the CHP to clarify that the passenger compartment of a modified limousine, notwithstanding other requirements, must be equipped with a passenger door on the opposite side of the vehicle from the door required by subsection (a) in order to permit safe ingress and egress of passengers without regard to vehicle location or position, and to clarify the installation location requirement.

Subsection (c) clarifies that when there is an unobstructed opening between the driver compartment and the passenger compartment of a modified limousine, the door within the driver compartment immediately adjacent to the driver fulfills the requirement for a forward door contained in subsection (a) and clarifies the term “unobstructed.” This subsection is necessary to clarify that when a passenger is afforded unobstructed access to the right side door installed in the driver compartment, the door immediately adjacent to the driver and installed on the right side of the vehicle is deemed to be a door which meets the “near the driver compartment” standard contained in Section 27375(a)(2)(B).

Subsection (c)(1) further clarifies size requirements associated with the term “unobstructed” as used in subsection (c). The unobstructed opening must be no smaller than the width of the door providing passenger ingress and egress. The subsection is necessary to ensure the unobstructed opening provides adequate access to the right side ingress and egress door to ensure passenger safety in the event of emergency.

Subsection (d) requires passenger ingress and egress doors outlined in subsections (a) and (b) shall be located at least one on each side of the vehicle. The section is necessary to ensure passengers can enter and exit the passenger compartment of a modified limousine safely from both the passenger and driver sides of the vehicle.

Subsection (e) requires passenger ingress and egress doors located in the passenger compartment of a modified limousine to remain accessible to and operable by any passenger without the use of tools or equipment. The section is necessary to clarify the requirements contained in Section 27375(b) CVC, ensure the ability of passengers to open doors in case of emergency, sets a standard deemed necessary by the CHP to ensure passenger safety, and is intended to prohibit and preclude the rendering of the normal door release mechanisms available to the passengers inoperative or ineffective.

Subsection (f) clarifies that all passenger ingress and egress doors located in the passenger compartment of a modified limousine must meet all applicable Federal Motor Vehicle Safety Standards (FMVSS) as required by Section 27375(a)(2)(C) CVC and to clarify the requirement is applicable notwithstanding the installation of the door during original or final stage manufacture, or installation subsequent to the first point of retail sale. Reference to these standards has been determined by the CHP to provide the best and most appropriate design and installation standards for the installation of doors in modified limousines. Additionally, compliance with these standards is necessary to ensure installation of doors in modified limousines provide passengers the best opportunity for safe ingress and egress including, but not limited to, egress in the event of an emergency.

Subsection (g) is necessary to clarify terms used within Division 2, Chapter 6.5, Article 8 and in order to ensure door and emergency exit window installations in modified limousines are consistent with applicable FMVSS. The subsection provides definitions of the terms “A-pillar,” “B-pillar,” “pillar,” “driver compartment,” and “passenger compartment” as those terms are defined in FMVSS 201 (Title 49 CFR, Part 571.201). The definitions provide clarity and consistency, are terms used within the vehicle manufacturing and modification industries, and serve to provide technical guidance consistent with national standards regarding doors installed in modified limousines. The terms have been determined by the CHP to support the best and most appropriate design and installation standards for the installation of doors and emergency exit windows in modified limousines.

The terms “passenger compartment” and “driver compartment” are specifically defined to provide clarity throughout Section 1267.1. The terms outline specific, predefined spaces within modified limousines in order to ensure clarity of the regulations and enhance compliance with the requirements.

Section 1268. Emergency Exits.

Subsection (g) is amended to include modified limousines. The CHP has determined the addition is necessary to ensure side window emergency exits in modified limousines remain unlocked, in a condition which provides passengers the opportunity to use the exits in the event of an emergency, and are consistent with similar requirements applicable to side window emergency exits in buses. The subsection requires locking devices on emergency exits, including push-out side windows, be designed and installed, so vehicle movement and vibration cannot unintentionally cause the device to move to the locked position.

Section 1269. Side Windows as Emergency Exits.

Subsection (c) is added. The subsection is necessary to clarify requirements contained in Section 27375 CVC for push-out side window emergency exits installed in modified limousines, including location, size, marking, and operational requirements. These size, location, marking, and operational requirements have been determined by the CHP to provide the best and most appropriate size and installation location standards for the installation of emergency exit windows in modified limousines and are consistent with FMVSS applicable to passenger transportation vehicles. The subsection also provides specific exceptions to side window emergency exit requirements, under specified conditions, as outlined within Section 27375 CVC.

Subsection (c)(1) is necessary to define size and location requirements applicable to side window emergency exits in modified limousines. The subsection requires, except as outlined in subsections (c)(1)(A) and (c)(1)(B), every modified limousine shall be equipped with at least two push-out side window emergency exits within the passenger compartment, consistent with requirements contained in Section 27375 CVC. The subsection requires minimum size standards for each of the push-out side window emergency exits and requires the exits to meet the size requirements in an unobstructed manner. Additionally, the push-out side window emergency exits are required to be constructed and latched in a manner which renders them easily opened by a passenger in the passenger compartment of a modified limousine without the use of tools.

The subsection requires a minimum total escape area of not less than 67 square inches for each seating space within the passenger compartment, and requires that not less than 40% of the unobstructed escape area be located on one side of the vehicle. These requirements are consistent with regulations applicable to buses subject to regulations contained in the subsection, and requirements for side window emergency exits contained in the FMVSS. The subsection clarifies that passenger seating positions located within the driver compartment of a modified limousine which is separated from the passenger compartment by a partition are not included in the total escape area calculation requirement.

Subsection (c)(1)(A) provides one exception to the requirements of subsection (c)(1) to require the installation of a roof-mounted push-out escape window when the design of the vehicle precludes installation of a push-out escape window on one side of the modified limousine, consistent with Section 27375 CVC. The subsection is necessary to provide a minimum unobstructed escape area requirement for the roof-mounted push-out escape window and requires the window to be included in the total unobstructed escape area calculation of 67 square inches for each passenger seating space.

Subsection (c)(1)(B) provides a second exception to the requirements of subsection (c)(1) to require the installation of even one roof-mounted push-out escape window when the design of the vehicle precludes installation of a push-out escape window on even one side of the modified limousine, consistent with Section 27375 CVC. This exception is necessary to clarify the exception contained in Section 27375 CVC when the design of the modified limousine precludes the installation of any push-out, side mounted emergency escape windows in a modified limousine. The subsection provides a minimum unobstructed escape area requirement for the roof-mounted push-out escape window and requires the window to be included in total unobstructed escape area of 67 square inches for each passenger seating space.

Subsection (c)(2) is necessary to provide clarification regarding any determination that the design of the modified limousine precludes the installation of one or more required push-out side window emergency exits. The clarification has been determined by the CHP to be necessary to ensure a determination the design of the modified limousine precludes the installation of even one side window emergency exit is made by a qualified party in the interest of passenger safety. The clarification requires any such determination to be made by and attested to in writing by the entity who certified compliance of the modified limousine with applicable FMVSS, or by an independent engineering firm. This clarification is consistent with the requirement contained in Section 1272(c) of the chapter applicable to schoolbus modifications. Additionally, the requirement is intended to ensure any determination the design of a modified limousine precludes the installation of one or more required push-out side window emergency exits is made by a qualified entity in the interest of passenger safety, and prohibit an unqualified entity such as a modified limousine operator from making the determination in the interest of economy.

Subsection (c)(2)(A) is necessary to ensure any determination made pursuant to (c)(2) is properly documented. This requirement is deemed necessary by the CHP to support passenger safety and provide the basis for consistent enforcement of side window emergency exit installations in modified limousines. The subsection requires when a determination that the design of the modified limousine precludes the installation of one or more required push-out side window emergency exits is made and attested to in writing, the operating motor carrier must obtain and retain that written determination.

Subsection (c)(2)(B) requires that when possession and control of a modified limousine is transferred from one entity to another, the original, written determination document required by subsection (c)(2) shall be given to the entity purchasing or receiving possession and control of the vehicle. The subsection is necessary to ensure purchasers or entities receiving possession and control of modified limousines subject to the subsection, subsequent to the installation of required push-out side window emergency exits, are provided proof the vehicle emergency exit installations meet applicable requirements, in support of passenger safety and consistent enforcement of side window emergency exit installations.

Subsection (c)(2)(C) This requirement has been determined by the CHP to be the best standard for and is necessary to support enforcement efforts related to side window emergency exit installations in modified limousines. The subsection requires motor carriers subject to the section to retain a copy of the design preclusion determination document required by subsection (c)(2) for not less than six months after the vehicle is no longer in the possession and control of the motor carrier.

Subsection (c)(2)(D) requires the modified limousine design preclusion document required by subsection (c)(2) to be presented for inspection upon request of any authorized representative of the CHP. This requirement has been determined by the CHP to be the best standard for and is necessary to provide the Department the capacity to make an appropriate determination regarding compliance with applicable push-out side window emergency exit installation requirements during roadside inspections, or any other enforcement or inspection contact with the motor carrier operating the modified limousine.

Subsection (c)(3) is necessary to ensure passengers are provided side window emergency exit operation instructions to facilitate escape from a modified limousine in the case of emergency. The CHP has determined this requirement provides the best and most appropriate standard and is consistent with side window emergency exit marking requirements applicable to buses. The section requires all push-out side window emergency exits to be equipped with operating instructions. These requirements are consistent with emergency exit marking requirements applicable to buses, contained within the chapter. It is the intent of the subsection to ensure the required instructions are clear, undamaged, and designed in a manner which ensures, without regard to the nature of an emergency including, but not limited to, fire or loss of electricity, the instructions provide clear and concise emergency exit operating instructions.

Subsection (c)(4) requires installation of required push-out side window emergency exits does not render any device or element of design, or any other requirement of the FMVSS in effect at the time of vehicle manufacture disabled, inoperable, or ineffective. The subsection is necessary to ensure side window emergency exit installation requirements are consistent with applicable FMVSS as required by Section 27375 CVC. The requirements of the subsection are consistent with requirements contained in the Title 49, CFR, Part 567 and intended to ensure safe and effective push-out side window emergency exit installation and operation.

Subsection (c)(5) is necessary to clarify the applicability of subdivision (c) of the subsection, consistent with the requirements of Section 27375 CVC.

STUDIES/RELATED FACTS

None

LOCAL MANDATE

These regulations do not impose a new mandate on local agencies or school districts.

ECONOMIC IMPACT ANALYSIS

Economic Impact on Business

These regulations affect motor carriers that operate modified limousines as defined in amended Section 1201. All those on the departmental motor carrier interested party list are notified of proposed changes and given the opportunity for comment. It is assumed that both small and large businesses, as well as industry advocates are included in this group, although the Department does not request nor maintain such data. Nothing in these regulations adversely impacts businesses which operate in compliance with applicable laws and regulations.

A compliance cost for persons or businesses directly affected will have an impact on businesses, as outlined in the Economic and Fiscal Impact Statement that are not already in compliance with newly enacted statutory requirements. There is not a discernible impact on the level and

distribution of costs and prices for large and small businesses. Businesses that manufacture modified limousines will be encouraged to develop modified limousines that meet these new requirements.

Cost impacts on a representative private person or business: The CHP contacted various vendors to receive an approximate cost needed to install push-out emergency exit windows in a modified limousine. The estimates for the push-out emergency exit windows ranged from \$2,000.00 - \$5,000.00 depending on vehicle configuration and vendor. The estimated fiscal impact to industry would range from \$3.4 to \$8.4 million. The CHP estimates the cost to outfit a modified limousine with the required fire extinguishers at approximately \$200 a vehicle. The estimated fiscal impact to industry would be approximately \$336,200. It is anticipated there will be a positive economic impact to small businesses that retrofit existing modified limousines and to businesses that sell and install the required fire extinguishers.

Statewide adverse economic impact directly affecting business and individuals: Although the proposed action *will* directly affect businesses statewide, including small businesses, the CHP concludes that the adverse economic impact, including the ability of California businesses to compete with businesses in other states, *will not* be significant.

The CHP has not identified any alternative which will permit operation of for-hire passenger transportation vehicles of a similar capacity which do not fall subject to the regulations. As a result, the Department does not anticipate an increase or reduction in the number of employers engaged in modified limousine transportation or employees working for modified limousine operators.

It seems unlikely that these regulations will encourage motor carriers that operate modified limousines to expand their business. The regulations adopt criteria which will clarify vehicle equipment safety requirements regarding those modified limousines being operated. Therefore, the CHP believes that these regulations will not affect the expansion of businesses currently operating within California.

The CHP has made the initial determination this proposed rulemaking action will neither create, nor eliminate jobs in the State of California, nor result in the elimination of existing businesses or create or expand businesses in the State of California. Based on the above findings, this 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.

Benefits of the Regulation

The CHP has evaluated the potential benefits of this proposed regulatory action. The CHP has made an initial determination that this proposed regulatory action:

- Will have no effect on housing costs;
- Will not impose new mandates upon local agencies or school districts;

- Will involve no nondiscretionary costs or savings to any local agency, no cost to any local agency or school district for which Sections 17500-17630 of the Government Code require reimbursement, no costs or savings to any state agency, nor costs or savings in federal funding to the state;
- Will neither create nor eliminate jobs in the state of California, nor result in the elimination of existing businesses, nor create or expand businesses in the State of California;
- Will continue to provide a nonmonetary benefit to the protection and safety of public health, employees, and safety to the environment by providing a regulatory basis for enforcement efforts as they relate to modified limousine safety; and
- Will provide safety to the environment by providing an updated regulatory authority for enforcement efforts.

FISCAL IMPACT TO THE STATE

The CHP has determined these regulation amendments will result in:

- No discernible adverse impact on the quantity and distribution of goods and services to large and small businesses or the public;
- No impact on the level of employment in the state; and
- No impact on the competitiveness of this state to retain businesses, as state, provincial, and national governments throughout North America have already adopted these requirements.

ALTERNATIVES

The CHP has not identified any alternative, including the no-action alternative, which would be more effective and less burdensome for the purpose for which this action is proposed. Additionally, the CHP has not identified any alternative which would be more cost effective and less burdensome to affected persons other than the action being proposed.