

DEPARTMENT OF CALIFORNIA HIGHWAY PATROL

INITIAL STATEMENT OF REASONS

TITLE 13, CALIFORNIA CODE OF REGULATIONS, DIVISION 2, CHAPTER 6.5, ARTICLE 9,
AMEND SECTION 1294

CHILD SAFETY ALERT SYSTEMS (CHP-R-2020-06205)

PURPOSE AND NECESSITY OF REGULATIONS

On September 17, 2018, Governor Brown signed into law Assembly Bill (AB) 1840 (Chapter 426, Statutes of 2018). Assembly Bill 1840 was an education budget trailer bill which included a provision relating to child safety alert systems (CSAS), devices located at the interior rear of a vehicle that required the driver to either manually contact or scan the device before exiting the vehicle, thereby prompting the driver to inspect the entirety of the interior of the vehicle before exiting. Additionally, the State Legislature amended Section 28160 of the California Vehicle Code (CVC) to reflect changes to the effective dates for carriers required to use the CSAS.

Section 2402 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 are designed to promote the safe operation of vehicles described in Section 34500 CVC, including, but not limited to, equipment. Section 28160 CVC requires the CHP to establish, by regulation, standards regarding the specifications, installation, and use of CSAS.

In compliance with the requirements of Section 28160 CVC, the CHP proposes to amend regulations in Title 13 of the California Code of Regulations (CCR), Division 2, Chapter 6.5, Article 9, Section 1294. The amendment adopts criteria which will clarify requirements regarding the specifications, installation, and use of CSAS.

The intent of this rulemaking action is to enhance safety and fulfill statutory requirements. Amending or repealing these regulations will ensure necessary specifications, installation, and use of the CSAS pursuant to Section 28160 CVC. The changes are intended to provide clarification by removing expired provisions and repetitive statements which contribute to confusion for both the public and enforcement personnel. Additionally, the changes are intended to provide clarity specific to the activation/deactivation of the CSAS and, in doing so, conform to the legislative intent contained in AB 1840, as enacted in the 2018 legislative session. This action will consider the competitiveness of California businesses by eliminating or modifying, to the extent possible, regulations which impose a negative impact on businesses and the economy.

SECTION BY SECTION OVERVIEW

The proposed amendment to Title 13, CCR, Division 2, Chapter 6.5, Article 9, Section 1294, was made for consistency pursuant to Section 28160 CVC.

Subsection (a) is amended to remove outdated provisions and specify the CSAS must be operational per the statutory requirement.

Subsection (b) is amended to remove repetitive statements, and to specify the vehicle, rather than the device, shall not be equipped with any method which allows automatic deactivation of the CSAS, thereby, prohibiting deactivation by any means other than driver interaction with the CSAS. Additionally, the language was amended to clarify that automatic activation of the CSAS need not be predicated on vehicle movement, but shall not be delayed for any longer than the first three minutes of vehicle movement or until the vehicle reaches a speed of ten miles per hour, whichever occurs first.

Subsection (c) is amended to remove repetitive language and include language specific to the requirements for deactivation of the CSAS, and to delete “unless the vehicle is stopped, the parking brakes are applied, the ignition is in the off position, and all floor level doors are closed.” The deleted language created confusion for manufacturers and enforcement personnel who interpreted the verbiage to impose mechanical requirements between the CSAS and the parking brake system. The original intent was to allow manufacturers latitude when designing the required CSAS, while simultaneously providing direction to the driver or other responsible persons regarding the vehicle configuration prior to deactivation of the CSAS and exiting of the vehicle, as well as clarify the time limit specified. Nonsubstantive changes were also made for clarity.

Subsection (c)(2) has nonsubstantive grammar and punctuation changes made for clarity and consistency.

Subsection (c)(4) is amended to remove repetitive language and add “prior to the driver exiting the vehicle,” to clarify the mandatory vehicle configuration for the CSAS to be deactivated. Also, nonsubstantive punctuation changes were made for clarity.

Subsection (c)(4)(A) is amended to clarify the original certification of design preclusion or a legible copy is required to be made available for inspection.

Subsection (g)(1) is amended to add new language to reflect the definition of a “child safety alert system,” as defined in Section 28160 CVC, to remove redundant language in the existing definition of a “child safety alert system” device, and to further clarify the location of the device.

Subsection (g)(2) has a nonsubstantive grammar change for clarity.

Subsection (g)(4) is amended for consistency and to emphasize the intent of the language amended in subsection (c).

Subsection (g)(5) has nonsubstantive grammar and punctuation changes made for clarity and consistency.

Subsection (g)(6) has nonsubstantive grammar and punctuation changes made for clarity and consistency.

STUDIES/RELATED FACTS

None.

LOCAL MANDATE

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

IMPACT ON SMALL BUSINESS

The CHP has not identified any significant adverse effect on small businesses. The proposed regulations do not increase any requirements upon any small businesses. The proposed regulatory amendment to Title 13, CCR, Section 1294, is already applicable and enforceable on businesses subject to state jurisdiction pursuant to Section 28160 CVC.

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 as effective and less burdensome to affected persons other than the action being proposed.

Alternatives Identified and Reviewed

Alternative 1: Make no changes and allow the unclear and outdated references to remain in Title 13, CCR. This alternative could result in inconsistent application and enforcement of California's motor carrier safety regulations.

Alternative 2: Update Title 13, CCR, to implement current California statutory requirements, eliminating inconsistency between Title 13, CCR, and Section 28160 CVC. This alternative would provide clarity and consistency between statute and regulations. This is the alternative selected, as it meets the safety needs of the public and the Department.

ECONOMIC IMPACT ANALYSIS

Economic Impact on Businesses

The CHP has not identified any significant adverse impact on businesses. Businesses subject to this regulation are currently required to comply with CVC and Title 13, CCR, and therefore, the amendment of regulations to provide additional clarity of the requirements provides no additional impact on industry.

Economic Impact on Jobs

The CHP has determined this proposed regulatory action will neither create or 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.

Additionally, 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

This proposed regulatory action will continue to 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 not substantive and bring the regulation in conformance with existing statute. Minor additions and changes to the regulations are clarifying in nature and are within existing requirements for industry.

The CHP has made an initial determination that this proposed regulatory action will result in:

- No effect on housing costs;
- No new mandate upon local agencies or school districts;
- 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 cost or savings to any state agency, nor costs or savings in federal funding to the state;
- Neither the creation or elimination of jobs in the State of California, nor result in the elimination of existing businesses, nor create or expand businesses in the State of California;
- No significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states;

- A continued nonmonetary benefit to the protection and safety of public health and employees; and
- Safety to the environment by providing an updated regulatory authority for enforcement efforts.

NO SIGNIFICANT ADVERSE ECONOMIC IMPACT ON BUSINESSES

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. The Department has determined these regulation amendments will result in:

- No significant increase in costs for owners or operators of affected vehicles. This rulemaking action will simply provide a regulatory basis to provide consistency between CVC and Title 13, CCR, which are already being used in this state;
- No significant compliance cost for persons or businesses directly affected;
- 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 California to retain businesses, as the state has already adopted these requirements.