



Monthly Bulletin

December 2022

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Chairman's Corner: Latest Association Updates

By: John Oh, Lexus of Westminster, Chairman, CNCDA

As I look back on the last twelve months as your Chairman, I would like to express my gratitude to our Board of Directors, Committees, and the CNCDA staff for your hard work and dedication to serving California's franchised new car dealers. To our members, thank you for your commitment and for belonging to the California New Car Dealers Association.

I am encouraged by the hard work at the association this past year as we negotiated the details of a bill that allowed for an increase from the strict 2% GAP coverage charge up to 4% of the amount financed. This allows dealers to offer GAP to more customers.

Collectively, we stopped a proposed bill requiring dealer ID marking on all new and used vehicle catalytic converters, as well as a bill that would have allowed an annual cost-free, 30-day right to return for service members. Both would have put a significant financial burden on our members.

Lastly, I'm proud of the strong effort at CNCDA and from our membership to lead the charge as we helped qualify the California Fair Pay and Employer Accountability Act (PAGA) for the November 2024 General Election ballot. This is the first qualifying step to ending frivolous employment lawsuits that only benefit attorneys and cost both dealers and employees.

Looking ahead, we have more advocacy work planned for 2023. Please look for registration for CNCDA's 2023 Dealer Day in Sacramento coming soon. This event allows our members to directly interface with Sacramento legislators and tell our story as we advocate to protect the State's franchised new car dealers.

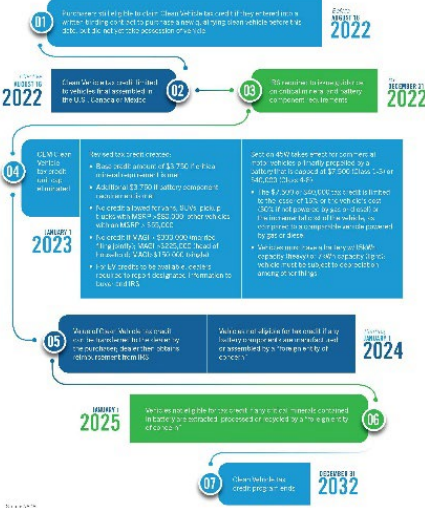
Just for our dealers and invited guests: CNCDA will again host the [NADA Convention 2023 Welcome Party](#) at the Omni Hotel in Dallas, TX. Please join us for an evening of networking and socializing. Enjoy drinks and small bites while catching up with associates from around the state. [RSVP today!](#)

Again, I appreciate your confidence in allowing me to serve as your chairman over the past year; I can't thank you enough for the opportunity to represent you all. Thank you.

John Oh
Lexus of Westminster
Chairman, CNCDA



A Timeline for Implementation
NEW CLEAN VEHICLES TAX CREDIT



Changes to Federal EV Tax Credit Coming in 2023

By: Anthony Bento, Director of Legal & Regulatory Affairs

Major changes to the federal EV tax credit are coming January 1, 2023. The credit is being restructured in significant ways, including new income and MSRP limitations. Dealers will also be expected to report specified information to the IRS following the sale of a qualifying vehicle, including customer name and VIN.

At the point of the writing of this article (December 8), the IRS has not yet issued guidance on how dealers should report this information. Watch for alerts from NADA and CNCD A on this topic, as we will promptly inform you once the IRS issues such guidance.

If you're interested in learning more about future changes to the federal EV tax credit, check out [NADA's flowchart on the topic](#).

Take Advantage of Membership Benefits: Access CNCD A Comply Compliance Manuals

By: Les Swizer, Staff Counsel

Over the past few weeks, the Legal Hotline has received numerous inquiries regarding Proposition 65 warning label requirements. Specifically, there have been inquiries into the labeling requirements for the parts counter and questions about what safe harbor guidance is available for dealers to remain compliant in the most efficient way possible.

In 2018, CNCD A developed a Proposition 65 Handbook, intended to give the state's franchised new car dealers compliance guidance with respect to this area of law promulgated by California's Office of Environmental Health Hazard Assessment ("OEHHA"). The handbook does not cover every circumstance contemplated by the regulations but does cover many warning label requirements and safe harbors to aid in dealership compliance.

Access to this manual is one of the many benefits of CNCD A membership. CNCD A members may access this and other compliance manuals on [CNCD A Comply](#). For access to the Proposition 65 manual, [click here](#). Should you have any questions about this, or any other manual offered on CNCD A Comply, please feel free to reach out to us via the legal hotline at 916-441-2599 or legalhotline@cncda.org.



Don't Be Caught Off-Guard by Legislative Changes to GAP

By: Les Swizer, CNCDA Staff Counsel



This past legislative season brought with it new rules on the offering of guaranteed asset protection waiver (or “GAP waiver”). As of January 1, 2023, there will be various new restrictions in the offering of a GAP waiver, including caps on pricing correlative with the amount financed, automatic refunds, and additional required disclosures. (AB 2311) Also new this year are restrictions regarding GAP waiver and military servicemembers, (SB 1311).

Stay abreast with these new laws by reviewing CNCDA’s 2022 Legislative Summary, [available here](#). We also encourage dealers to stay informed by attending our New Laws Seminars offered every year. While many of the in-person seminars have already sold out, webinar registration is still open. Visit our [Events Page](#) to register today.

New Director of Government Affairs

By: Autumn Heacox, Director of Communications & Marketing

CNCDA would like to welcome Kenton Stanhope, our new Director of Government Affairs.

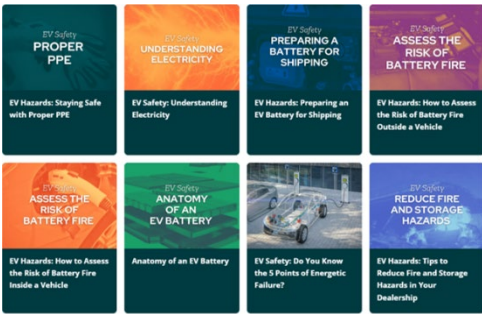
Kenton brings over 10 years of experience in legislative and government affairs to the CNCDA team. He has worked in the California Legislature as a policy analyst for Senator Jim Beall. Stanhope also was a Committee Consultant for the Assembly Governmental Organization Committee. More recently, he managed government affairs for the western states for Juul Labs.

We are so happy to have you join the team, Kenton! Kenton can be reached at kstanhope@cncda.org.



EV Safety Resource Hub

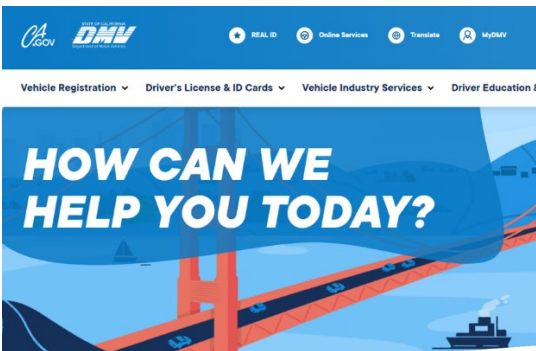
By: KPA



Servicing Electric Vehicles will introduce new hazards to the auto industry. Now businesses are dealing with new compliance questions and challenges never seen in this industry – high voltage electricity, battery fires, and special shipping or storage needs for EV batteries. Now more than ever, it is important for businesses to install safety programs to train employees and maintain compliance. [We've built this resource hub to help you stay up to speed on EV Safety.](#)

CNCDA Can Assist Your Store with Licensing Issues at the DMV

By: Anthony Bento, Director of Legal & Regulatory Affairs

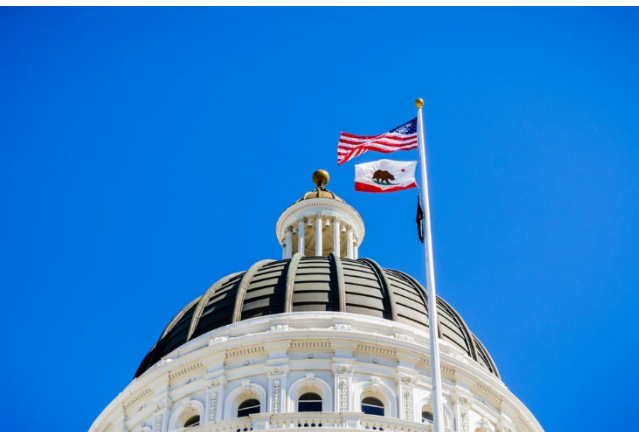


Several months ago, the DMV launched a new online portal to submit occupational licenses (such as dealership and salesperson licenses). This portal is designed to make the licensing process easier for both DMV staff and applicants. However, these changes have created confusion. And over the past several months, CNCDA has assisted many dealerships with urgent licensing issues.

If you cannot resolve your licensing issue with DMV staff, please contact our legal hotline at 916-441-2599. We will do our best to advocate on your behalf to resolve the matter with the DMV.

2022 General Election 2022 Recap

By: Kenton Stanhope, Director of Government Affairs



We are one month removed from polls closing for the 2022 General Election and the dust has settled with more than 11 million votes counted in California. The national environment that was predicted to deliver crushing losses to Democrats in the form of a 'red wave' that would sweep from coast to coast proved to be more of a localized phenomenon, concentrated in the states of Florida and New York, however, not in California – Democrats maintained control of all statewide constitutional offices and their 2/3 supermajority in both houses.

Statewide:

Democrats once again dominated the statewide races, sweeping all constitutional offices, including another convincing win by Governor Gavin Newsom who won his reelection bid over Republican Senator Brian Dahle by more than 19% of the vote.

Ballot Propositions advocating for abortion to be enshrined in California's constitution (Prop 1), arts and music education funding for public schools (Prop 28), and upholding California's flavored tobacco ban (Prop 31) easily passed. The dueling legalized sports betting propositions (Prop 26 and 27) that saw over \$460 million spent between them went down to defeat, as did the Lyft-funded millionaire tax for EV infrastructure and wildfire prevention proposition (Prop 30) and SEIU-UHW's perennial effort to impose additional regulations on the kidney dialysis industry (Prop 29).

Assembly:

Democrats will slightly expand their super-majority in the Assembly. Entering election day, Democrats held a 61 DEM – 18 REP – 1 IND advantage over Republicans. Redistricting gave Democrats a favorable map in the Assembly; they are slated to pick up one seat to increase their majority to 62-18. When the Assembly does reconvene for its 2023-24 session, it is poised to look dramatically different. The freshmen Assembly class will be one of the largest in history, consisting of 24 new members, 18 of which will be Democrats. One of those new additions will be Dr. Jasmeet Bains who will represent Assembly District 35. Dr. Bains' family owns dealerships in Turlock, CA – CNCDA was one of the largest supporters of her campaign to victory.

Senate:

Democrats will slightly expand their super-majority in the Senate as well. The upper house will see a 32-8 Democrat to Republican split after the Democrats picked up one seat. Next year's freshmen senatorial class will include 8 newcomers (of which 7 are Democrats). The lone Republican freshmen will be Senator Roger Niello who will represent District 6. Roger's family owns and operates The Niello Company which has several dealerships around the greater Sacramento area. CNCDA was one of the largest supporters of Roger Niello's bid to win the Senate seat.

Order Your 2023 Employment Posters

By: Anthony Bento, Director of Legal & Regulatory Affairs

The new year is approaching, which means it's time to order your new employment posters. Like in prior years, CNCDA works with Reynolds & Reynolds to prepare a California dealership compliant poster set for your store.

You can order a poster set by calling Reynolds & Reynolds at (800) 344-0996.

Make sure to order both the multi-notice poster and an updated copy of Wage Order 7.



New COVID Non-Emergency Regulations Bring Continued Restrictions into the New Year

By: Dave Reese, Fine Boggs & Perkins, LLP



On December 15, 2022, the Cal/OSHA Standards Board will convene to vote on proposed non-emergency COVID regulations, which are expected to take effect on January 1, 2023, and continue in place through December 31, 2024. Employers should be prepared to comply with this new standard, which includes a few key changes from previous requirements.

History

OSHA first introduced its Emergency Temporary Standards (ETS) to address COVID-19 in the workplace in November

2020. These requirements initially tracked other public health guidance that had developed since the pandemic initially interrupted business operations in March 2020, and they have been revised several times since that date as additional information and anti-pandemic aids became available, such as vaccines. Most recently, the soon-to-be-replaced edition of the standards took effect in May 2022. These changes restored some flexibility in the use of self-administered (at-home) tests, eliminated exclusion requirements for exposed individuals without symptoms, and dropped previous distinctions between vaccinated and unvaccinated individuals.

What's Changing for 2023?

The proposed language upon which the Board will vote on December 15 is intended to impose less of a burden on employers seeking to comply with the rules. Some of the changes include:

- Elimination of the exclusion pay requirements, under which employers have been required to continue wages and benefits for employees excluded from the workplace by OSHA isolation and quarantine rules, unless the employer could prove through evidence that the COVID transmission or exposure was not work-related.
- Elimination of the requirement that employers pay for COVID testing (and provide paid time for testing) for suspected cases arising outside the workplace.
- Allows an employer with a single COVID positive case within 14 days to exit “outbreak” status, up from zero permissible cases previously.

There are several key definitions that have been modified, too:

- “Close Contacts” now refers to **either** someone within 6 feet of a COVID case for 15 minutes over a 24-hour period (for extremely large indoor spaces of more than 400,000 cubic feet per floor), **or** someone sharing the same indoor airspace with a COVID case for 15 minutes over a 24-hour period (for smaller spaces). Practically speaking, this distinction will be of limited use

for most dealerships, as few will have indoor spaces large enough to avoid the “shared indoor airspace” requirements.

- “Infectious Period” is clarified to mean from two days prior to onset of symptoms (or first positive test) through the shorter of 10 days after the symptoms/test or 5 days, if the employee tests negative on or after the 5th day.
- “Returned Case” now limits to 30 days (down from 90) the time after onset of a case from which the employee has recovered during which further exposures will not trigger additional protective measures.

What About Symptom Checking?

Previous iterations of the emergency regulation required the employer to develop and implement a process for screening employees for COVID-19 symptoms. The non-emergency regulations set to take effect shortly modify this requirement, imposing on the employer only the requirement that it “effectively identify and respond to persons with COVID-19 symptoms at the workplace” and ensure that employees are “encouraged to report COVID-19 symptoms and to stay home when ill.”

Just how significant this change may turn out to be is unclear. While we are no longer required to “develop and implement a process for screening employees,” employers must continue to “effectively identify” persons with COVID-19 symptoms. Employers should watch out for clarifications regarding this new language in anticipated FAQ and other agency guidance.

Can We Eliminate our COVID-19 Response Plan? Or incorporate it into our General IIPP?

The new regulations provide employers the choice between merging their COVID-19 response plan into their more general Injury and Illness Prevention Plan (IIPP). However, because this change is not mandatory, you may wish to think twice before making that change. The proposed non-emergency regulation makes references to potentially changing public health guidelines through, for example, the California Department of Public Health. As we have seen over the course of the pandemic, these guidelines change as new data and other information become available. Most employers should expect to need periodic modifications to the COVID response protocols over the course of the next two years. As such, many employers will simply maintain a separate COVID Response Plan as a supplement to the general IIPP, rather than have to amend the entire IIPP as they happen.

Ventilation Maximization

The incoming non-emergency regulations are not entirely a breath of fresh air for California employers. Indeed, they impose additional ventilation requirements that mandate employers to increase and protect airflow by either (a) maximizing the supply of outside air to indoor workplaces; (b) employ the highest level of filtration efficiency compatible with existing mechanical ventilation systems; or (c) use HEPA filtration units.

Association Members are encouraged to continue to follow ongoing guidance from the Association and its legal counsel as the pandemic continues to evolve. If you have questions, you should contact John Boggs at JBogg@EmployerLawyers.com or (650) 712-8909 for further information and clarification.

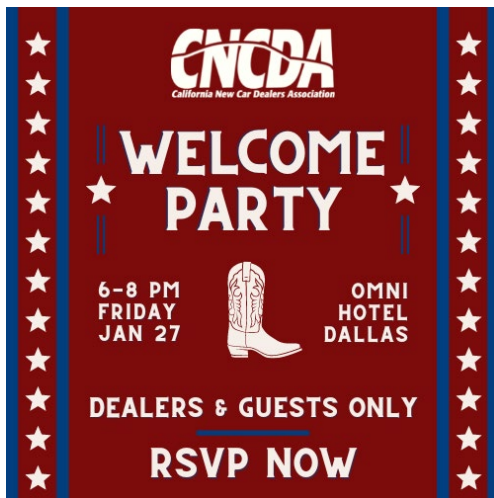
Events

New Laws Webinar

Did you miss your local New Laws Seminar? Not to worry, you can still register for our New Laws Webinar on **Thursday, December 15** and get all the same useful information. Please register by December 14.



Learn the laws and regulations for next year and how to best prepare yourself, your employees, and your business to navigate California's ever-changing political and business climate. [Register now.](#)



2023 NADA Welcome Reception

CNCDA dealers are invited to attend our 2023 CNCDA Welcome party at the NADA convention in Dallas on **Friday, January 27, from 6- 8 p.m.** We look forward to kicking off a great convention with our California members and guests.

[RSVP HERE TO RSVP AND JOIN THE PARTY!](#)

Dealer Day 2023

Save the Date: March 29, 2023

Your participation and engagement with Sacramento policymakers are critical to the success of your business and the California retail automotive industry. We look forward to hosting Dealer Day, giving you the opportunity to meet with lawmakers to



share your personal stories and compel them to continue supporting our industry. Help us create a business-friendly environment for dealers across the state. **Your voice makes a difference.**

2022-2023 UPCOMING EVENTS



Webinars:



DECEMBER 15

New Laws Webinar Series
Part I: 10 a.m. - 11:30 a.m.
Part II: 2 p.m. - 3:30 p.m.

In-Person Events:

STAY UP-TO-DATE
AND REGISTER FOR EVENTS BY VISITING

www.cncda.org/events



DECEMBER 12

New Laws Seminar
9:30 a.m. - 11:30 a.m.
Walnut Creek, CA



DECEMBER 13

New Laws Seminar
9:30 a.m. - 11:30 a.m.
Fresno, CA



DECEMBER 14

New Laws Seminar
9:30 a.m. - 11:30 a.m.
Sacramento, CA



JANUARY 5

New Laws Seminar
11 a.m. - 1:00 p.m.
Redding, CA



JANUARY 27

2023 CNCDA NADA
Welcome Party
6 p.m. - 8 p.m.
Dallas, TX



MARCH 29, 2023

Dealer Day
SAVE THE DATE
Sacramento, CA

Thank You to CNCDA's 2022 Sponsors!

Thank you for investing in CNCDA and the franchise new car system in California. We could not accomplish our goals without continued support, involvement, and enthusiasm of our committed sponsors. *Interested in securing your 2023 CNCDA sponsorship? Email [Jennifer Aragon](#) today.*

Diamond



Platinum



Gold



Silver

