

# PROPOSED REGULATION ORDER

## Division 3. Air Resources Board Chapter 4. Criteria for the Evaluation of Motor Vehicle Pollution Control Devices and Fuel Additives Article 2. Aftermarket Parts

**Note:** This document is printed in a style to indicate changes from the existing provisions in title 13, California Code of Regulations, section 2222. All existing language is indicated by plain type. All proposed additions to the language are indicated by underlined text. All proposed deletions are indicated by ~~strikeout~~.

### § 2222. Add-on Parts and Modified Parts.

- (a) As used in this section, the terms “advertise” and “advertisement” include, but are not limited to, any notice, announcement, information, publication, catalog, listing for sale, or other statement concerning a product or service communicated to the public for the purpose of furthering the sale of the product or service.
- (b)(1) Except for publishers as provided in subsection 3, no person or company doing business solely in California or advertising only in California shall advertise any device, apparatus, or mechanism which alters or modifies the original design or performance of any required motor vehicle pollution control device or system unless such part, apparatus, or mechanism has been exempted from Vehicle Code section 27156, and the limitations of the exemption, if any, are contained within the advertisement in type size to give reasonable notice of such limitations.
- (2) Except for publishers as provided in subsection 3, no person or company doing business in interstate commerce shall advertise in California any device, apparatus, or mechanism which alters or modifies the original design or performance of any required motor vehicle pollution control device or system and not exempted from Vehicle Code section 27156 unless each advertisement contains a legally adequate disclaimer in type size adequate to give reasonable notice of any limitation on the sale or use of the device, apparatus, or mechanism.
- (3) No publisher, after receipt of notice from the state board or after otherwise being placed on notice that the advertised part is subject to and has not been exempted from the provisions of Vehicle Code section 27156, shall make or disseminate or cause to be made or disseminated before the public in this state any advertisement for add-on or modified parts subject to the provisions of this article, which have not been exempted from Vehicle Code section 27156, unless such advertisement clearly and accurately states the legal conditions, if any, on sale and use of the parts in California.
- (4) The staff of the state board shall provide, upon request, model language which satisfies these requirements.

- (c) No person shall advertise, offer for sale, or install a part as a motor vehicle pollution control device or as an approved or certified device, when in fact such part is not a motor vehicle pollution control device or is not approved or certified by the state board.
- (d) No person shall advertise, offer for sale, sell, or install an add-on or modified part as a replacement part.
- (e) The eExecutive eOfficer may exempt add-on and modified parts based on an evaluation conducted in accordance with the "Procedures for Exemption of Add-on and Modified Parts," adopted by the state board on November 4, 1977, as amended June 1, 1990.
- (f) Each person engaged in the business of retail sale or installation of an add-on or modified part which has not been exempted from Vehicle Code section 27156 shall maintain records of such activity which indicate date of sale, purchaser name and address, vehicle model and work performed if applicable. Such records shall be open for reasonable inspection by the eExecutive eOfficer or his/her representative. All such records shall be maintained for four years from the date of sale or installation.
- (g) A violation of any of the prohibitions set forth in this section shall be grounds for the eExecutive eOfficer to invoke the provisions of section 2225.
- (h)(1) Prior to January 1, 2009, the Executive Officer shall exempt new aftermarket ~~non-original equipment~~ catalytic converters from the prohibitions of California Vehicle Code sections 27156 and 38391 based on an evaluation conducted in accordance with the "California Evaluation Procedures for New Aftermarket Non-Original Equipment Catalytic Converters" as adopted by the state board on August 19, 1988.
- (2) On or after January 1, 2009, the Executive Officer shall exempt new aftermarket catalytic converters from the prohibitions of California Vehicle Code sections 27156 and 38391 based on an evaluation conducted in accordance with the "California Evaluation Procedures for New Aftermarket Catalytic Converters" as adopted by the state board on [adoption date].
- ~~(2)(3)~~ (3) No person shall install, sell, offer for sale or advertise, any new ~~non-original equipment~~ aftermarket catalytic converter in California ~~after 180 days from the date of filing of this subsection with the Secretary of State unless they have it~~ has been exempted pursuant to the procedures as provided in this subsection.
- ~~(3)(4)~~ (4) For the purposes of this regulation, a new aftermarket ~~non-original equipment~~ catalytic converter is a catalytic converter which is constructed of all new materials, ~~and is not a replacement part as defined in Title 13, California Code of Regulations, section 1900, and is not an original equipment catalytic converter. A catalytic converter or~~ which includes any new material or construction ~~which is not equivalent to the materials or construction of the original equipment catalytic converter (e.g., an original equipment catalytic~~

converter can with a new non-original equipment substrate) shall also be considered a new aftermarket catalytic converter.

- (i)(1) On or after July 1, 2008, or after 30 days from the date of filing of this subsection with the Secretary of State, whichever is later, no person shall install, sell, offer for sale, or advertise any used, recycled, or salvaged catalytic converter in California.
- ~~(1)(2) Except as provided in Subsection (i)(2) below, Prior to July 1, 2008, or 30 days from the date of filing of this subsection with the Secretary of State, whichever is later, no person shall install, sell, offer for sale or advertise, any used, recycled, or salvaged catalytic converter in California unless the catalytic converter has been exempted pursuant to the "Criteria for Evaluation Procedures for Exemption of Add-On Parts and Modified Parts," adopted by the state board on November 4, 1977, as amended May 19, 1984 June 1, 1990.~~
- ~~(2) The Executive Officer shall exempt used original equipment oxidation catalytic converters which comply with the U.S. Environmental Protection Agency interim enforcement policy for used converters (published at 51 Federal Register (FR) 28114 (August 5, 1986) and 51 FR 28132 (August 5, 1986)) from the prohibitions of California Vehicle Code sections 27156 and 38391 for the vehicle applications indicated by the federal label and installation instructions.~~
- ~~(3) No person shall install, sell, offer for sale or advertise, any recycled or salvaged used catalytic converter in California more than 30 days after the date of filing of this subsection with the Secretary of State unless they have been exempted from the prohibitions of California Vehicle Code sections 27156 and 38391 pursuant to the procedures provided in this subsection.~~
- (4)(3) For the purposes of this regulation, a "used catalytic converter" is a catalytic converter which is not a new aftermarket non-original equipment catalytic converter as defined in Subsection (h)(3)(4), or a replacement part as defined in section 1900; and "oxidation catalytic converter" is a catalytic converter designed for the control of only hydrocarbon and carbon monoxide emissions.

NOTE: Authority cited: Sections 39600, 39601, 43000, 43000.5 and 43011, Health and Safety Code. Sections 27156, 38391 and 38395, Vehicle Code. Reference: Sections 39002, 39003, 39500, 43000, 43000.5, 43011, 43204, 43205, and 43644, Health and Safety Code; and Sections 27156, 38391 and 38395, Vehicle Code.