
LEGISLATION / REGULATIONS UPDATE

DEPARTMENT OF CONSUMER AFFAIRS



Bureau of Automotive Repair

BRIAN CLARK / HOLLY O'CONNOR
EXECUTIVE OFFICE
BAR ADVISORY GROUP MEETING
OCTOBER 18, 2018

LEGISLATION

- AB 2138 (Chiu and Low): Licensing Boards: Criminal Convictions (Chaptered)
- AB 2276 (Burke): Motor Vehicle Insurance: Auto Body Repair
- AB 2392 (Santiago): Towing and Storage (Chaptered)
- AB 2825 (Jones-Sawyer): Debt Collection Practices
- AB 2832 (Dahle): Vehicle Battery Recycling Advisory Group (Chaptered)

LEGISLATION (CONTINUED)

- AB 2908 (Berman): Tire Recycling
- AB 3097 (Salas): Smog Check Report
- AB 3141 (Low): Bureau of Automotive Repair (Chaptered)
- SB 210 (Leyva): Heavy-Duty Vehicle Smog Check Program

* Disclaimer: Though every effort is made to ensure information provided on these slides is the most current, given the nature of the legislative process, hearing dates or bill summaries shown here may not reflect the latest updates. Please be sure to check www.leginfo.legislature.ca.gov for the most current bill information.

AB 2138 (CHIU AND LOW): LICENSING BOARDS: CRIMINAL CONVICTIONS

- Status: Signed by Governor and Chaptered by Secretary of State on September 30, 2018.
- Summary:
 - Beginning July 1, 2020, programs within the Department of Consumer Affairs will be restricted in using prior criminal history as grounds for licensing determinations and will be subject to new prohibitions relating to the denial, suspension, and revocation of licensure.
 - Programs may not use acts involving dishonesty, fraud, or deceit that did not result in a conviction as a basis for the denial of a license. Other revisions include the adoption of a seven-year limitation on convictions eligible for licensure denial, subject to specified exemptions, and a ban on requiring applicants to self-disclose prior convictions unless the application is made for a license type that does not require a fingerprint background check.

AB 2138 (CHIU AND LOW): LICENSING BOARDS: CRIMINAL CONVICTIONS (CONTINUED)

- Department programs, as specified, are required to track data relating to licensure denials, to publish that data on its website, and submit an annual report to the Legislature, among other provisions.

AB 2276 (BURKE): MOTOR VEHICLE INSURANCE: AUTO BODY REPAIR

- Status: Died in committee and not passed into law.
- Summary:
 - Creates a statutory methodology for insurers to use in surveying auto body repair shops to determine the prevailing auto body repair labor rate in a particular geographic area, as specified.
 - An insurer is not required to conduct an auto body repair labor rate survey and may use other methodologies to determine a prevailing auto body repair labor rate.

AB 2392 (SANTIAGO): TOWING AND STORAGE

- Status: Signed by Governor and Chaptered by Secretary of State on September 17, 2018.
- Summary:
 - Beginning January 1, 2019, all towing and storage fees are required to be reasonable. The following fees are presumed to be reasonable:
 - Rates charged for similar services provided in response to requests initiated by a public agency (CHP, local police departments, etc.).
 - Comparable storage-related rates charged by other facilities in the same locale.

AB 2392 (SANTIAGO): TOWING AND STORAGE (CONTINUED)

- Designates the following as unreasonable fees:
 - Administrative or filing fees, except those incurred related to documentation from the DMV and those related to the lien sale of a vehicle.
 - Security fees, dolly fees, load and unload fees, pull-out fees.
 - Gate fees, except when the owner or insurer of the vehicle requests that the vehicle be released outside of regular business hours.
- Requires storage facilities to be open during normal business hours, as specified. Outside of normal business hours, the facility shall provide a telephone number that permits the caller to leave a message. Calls to this number shall be returned no later than six business hours after a message has been left.

AB 2392 (SANTIAGO): TOWING AND STORAGE (CONTINUED 2)

- Requires storage facilities to have a specified Towing and Storage Fees and Access Notice posted in the plain view of the public in the office area of the storage facility and have copies readily available to the public. ARDs that do not provide towing services are exempt from the notice requirements.
- Provides a vehicle owner, agent or licensed reposessor with the following rights:
 - Receive personal property from the vehicle, at no charge, during normal business hours, as specified.
 - Retrieve the vehicle during the first 72 hours of storage without paying a lien fee.
 - Inspect the vehicle free of charge.
 - Receive a copy of the specified Towing and Storage Fees and Access Notice.
 - Pay by cash, insurer's check or credit card.

AB 2825 (JONES-SAWYER): DEBT COLLECTION PRACTICES

- Status: Died in committee and not passed into law.
- Summary:
 - The bill generally applies the protections of the Rosenthal Fair Debt Collections Practices Act and the Fair Debt Buying Practices Act to the collection of certain government debts and debts arising from the towing, impounding and storing of vehicles.
 - Defines the terms “towing debt collection,” “towing debt collector” and “towing debt.”
 - Lists prescribed conduct and practices that towing debt collectors will be prohibited from engaging in when collecting or attempting to collect a debt and provides monetary penalties for violations.

AB 2832 (DAHLE): LITHIUM-ION VEHICLE BATTERY RECYCLING ADVISORY GROUP

- Status: Signed by Governor and Chaptered by Secretary of State on September 27, 2018.
- Summary:
 - Requires the Secretary for Environmental Protection, on or before April 1, 2019, to convene the Lithium-Ion Car Battery Recycling Advisory Group to review and advise the Legislature on policies pertaining to the recovery and recycling of lithium-ion vehicle batteries.

AB 2832 (DAHLE): LITHIUM-ION VEHICLE BATTERY RECYCLING ADVISORY GROUP (CONTINUED)

- Requires appointment of advisory group members from specified departments, vocations, and organizations (including a vehicle manufacturer or organization representing manufacturers, an ARD or organization that represents ARDs and an auto dismantler or organization that represents auto dismantlers) and requires the advisory group to consult with specified entities.
- Requires the advisory group, on or before April 1, 2020, to submit policy recommendations to the Legislature aimed at ensuring that as close to 100% as possible of end-of-life lithium-ion batteries discarded in the state are recycled in a safe and cost-effective manner.

AB 2908 (BERMAN): TIRE RECYCLING

- Status: Vetoed by Governor on September 30, 2018.
- Summary:
 - Requires CalRecycle to establish an incentive program for entities that purchase waste tire products for incorporation in products for sale for use in local public works.
 - Requires CalRecycle to adopt regulations establishing the CA tire regulatory fee based on specific criteria and not to exceed \$1 per new tire sold.
 - Requires a waste tire generator that is a retail seller of new tires for consumer vehicles to pay a CA tire regulatory fee and remit fees quarterly to the CA Tire Recycling Management Fund.

AB 3097 (SALAS) SMOG CHECK REPORT

- Status: Died in committee and not passed into law.
- Summary:
 - Requires the annual Smog Check Performance Report to include the number of vehicles for which the owners failed to renew their registration with the Department of Motor Vehicles after failing a Smog Check.

AB 3141 (LOW): BUREAU OF AUTOMOTIVE REPAIR

- Status: Signed by Governor and Chaptered by Secretary of State on September 18, 2018.
- Summary:
 - Extends the sunset date of the Bureau of Automotive Repair to January 1, 2023.
 - Repeals the exemption for previously specified “minor services” from the definition of “repair of motor vehicles.”
 - Exempts “roadside services”, as defined in section 9880.1(I), from the definition of “repair of motor vehicles.”

AB 3141 (LOW): BUREAU OF AUTOMOTIVE REPAIR (CONTINUED)

- Adds section 9880.1(j) definition of “preventative maintenance services” and allows these services to be conducted without a written estimate if:
 - The specified service is performed free of charge; or
 - The total price for labor and parts necessary to perform the service is displayed in a place and manner conspicuous to the customer or is made available to and acknowledged by the customer at the automotive repair facility where the service is performed.
- Authorizes BAR to access DMV photographic license database for purposes of enforcing the Automotive Repair Act and the Motor Vehicle Inspection Program.

SB 210 (LEYVA): HEAVY-DUTY VEHICLE SMOG CHECK PROGRAM

- Status: Died in committee and not passed into law.
- Summary:
 - Authorizes the Air Resources Board to develop and implement a Heavy-Duty Vehicle Inspection and Maintenance program for non-gasoline heavy-duty on-road vehicles and permits the Board to impose fees to recover its program implementation costs.
 - Prohibits the operation of a heavy-duty vehicle on public roads in this state if the vehicle has an illuminated malfunction indicator light displaying a specified engine symbol.
 - Prohibits the operation of a heavy-duty vehicle in a manner resulting in the escape of visible smoke, except during active regeneration.

BAR REGULATIONS

- BAR-97 Specifications
- Electronic Documents and Consumer Authorization
- ARD Oil Change Requirements
- Training Provider Requirements
- STAR Program Clean-Up
- Exempt Services
- Brake/Lamp Stations and Adjusters

BAR-97 SPECIFICATIONS

- Purpose: To Modernize BAR-97 equipment standards for Smog Check stations by: (1) removing dedicated analog phone line requirement; (2) requiring LPFET to communicate directly with BAR-97; and (3) updating minimum computer hardware and software standards.
- Status: Approved by the Office of Administrative Law (OAL); regulations adopted and effective on August 2, 2018.

BAR-97 SPECIFICATIONS (CONTINUED)

- Next Steps: The first phase of implementation will occur on November 1, 2018.
 - All Smog Check stations will be required to follow the updated 2017 Smog Check Manual.
 - All BAR-97 EIS analyzers will be required to communicate with BAR's central database through an Internet connection in lieu of a dedicated dial-up phone line connection.
 - Implementation of future phases will be communicated via ET Blasts as that information becomes available.

ELECTRONIC DOCUMENTS AND CONSUMER AUTHORIZATION

- Purpose: Allow for electronic estimates and authorizations, transmission, and storage of repair transaction documents; (2) reorganize estimate, work order, and invoice provisions to more closely align with automotive repair transactions; and (3) clarify language as necessary.
- Status: Approved by OAL; regulations adopted and effective on September 13, 2018.
- Next Steps: Update *Write It Right* guide for release in Fall 2018

ARD OIL CHANGE REQUIREMENTS

- Purpose:
 - Require ARDs to adhere to maintenance schedule published by vehicle manufacturer, industry accepted and nationally distributed automotive service specification provider, or CalRecycle, when making a recommendation to the customer.
 - Does not prohibit customer from requesting an interval that differs from manufacturer's published maintenance schedule.
 - Require ARDs, when completing an oil change, to include the following statement on the invoice:
“Your vehicle’s manufacturer publishes oil change intervals, and the conditions and factors that influence those intervals, in the owner’s manual.”

ARD OIL CHANGE REQUIREMENTS (CONTINUED)

- History: Public workshops held on April 20, 2017 and September 26, 2017. Notice filing with OAL on February 27, 2018. 45-day public comment period began on March 9, 2018. Public hearing held at BAR and public comment period ended on April 23, 2018.
- Status: On hold pending review of AB 3141 implementation.
- Next Steps: N/A.

TRAINING PROVIDER REQUIREMENTS

- Purpose: (1) Make requirements for certification of Smog Check training providers consistent with current licensing requirements; (2) authorize training for compliance with laws and regulations; and (3) make conforming changes to Disciplinary Guidelines.
- History: Public workshops held on January 9, 2014 and October 21, 2015. Submitted for DCA formal review on December 1, 2017.
- Status: BAR revising ISOR based on DCA Legal review.
- Next Steps: Completion of DCA / BCSH formal review; file with OAL to begin 45-day public comment period.

STAR PROGRAM CLEAN-UP

- Purpose: (1) Delete outdated Gold Shield Program provisions; (2) amend STAR eligibility criteria; and (3) revise STAR suspension process to be consistent with statute.
- History: Public workshop held on July 21, 2016. Rulemaking package submitted to DCA / BCSH for formal review on May 22, 2018.
- Status: BAR revising ISOR based on DCA Legal review.
- Next Steps: Completion of DCA / BCSH formal review; file with OAL to begin 45-day public comment period.

EXEMPT SERVICES

- Purpose: Exempt roadside and other services from the definition of “repair of motor vehicles.”
- History: Public workshops held on April 22, 2015, July 20, 2017 and February 12, 2018. Rulemaking package submitted to DCA for formal review on May 8, 2018.
- Status: Withdrawn from DCA formal review on September 24, 2018 due to passage of AB 3141.
- Next Steps: Review BAR regulations for consistency with AB 3141.

BRAKE/LAMP STATIONS AND ADJUSTERS

- Purpose:
 - Revise:
 - Identification numbers for station and adjuster licensing applications.
 - License renewal and equipment requirements.
 - Handbooks providing procedures related to the inspection of brake and lamp systems and issuance of brake and lamp certificates.
 - Brake and lamp certificate of adjustment/compliance.
 - Eliminate the Gross Vehicle Weight Rating (GVWR) restriction of vehicles to be inspected and certified by Class C stations.

BRAKE/LAMP STATIONS AND ADJUSTERS (CONTINUED)

- History: Public workshop held on October 20, 2016. Submitted rulemaking package to DCA Legal for preliminary review on March 30, 2018.
- Status: BAR revising rulemaking package based on DCA Legal preliminary review.
- Next Steps: Complete DCA Legal preliminary review. Submit for DCA / BCSH formal review; file with OAL to begin 45-day public comment period.

QUESTIONS AND COMMENTS

Submit questions and/or comments to:

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