



concerned things the Commission itself had directed Gray to do. The committee recommended that the investigation be terminated and that future accusations be accompanied by evidence; the Commission accepted the committee's report.

At its May 17 meeting in San Francisco, the Commission agreed to have the Department of Consumer Affairs' Central Testing Unit (CTU) evaluate the Commission's neurological exam program, which is the subject of considerable controversy. (See CRLR Vol. 11, No. 2 (Spring 1991) p. 55 for background information.) The study will examine the examination procedure, its rationale, and its effectiveness (including validity and reliability issues), and will specifically look at whether the exam is effective in detecting early signs of mental impairment. Two workshops attended by neurologists and neuropsychologists will be convened to discuss validity and reliability issues. CTU will act as an independent consultant in this process. The Commission expects the study to be complete in approximately three months.

FUTURE MEETINGS:

- September 20 in Sacramento.
- October 18 in Sacramento.
- November 15 in Los Angeles.
- December 13 in Sacramento.

BUREAU OF AUTOMOTIVE REPAIR

Chief: James Schoning

(916) 366-5100

Toll Free Complaint Number:
1-800-952-5210

Established in 1971 by the Automotive Repair Act (Business and Professions Code sections 9880 *et seq.*), the Department of Consumer Affairs' (DCA) Bureau of Automotive Repair (BAR) registers automotive repair facilities; official smog, brake and lamp stations; and official installers/inspectors at those stations. The Bureau's regulations are located in Division 33, Title 16 of the California Code of Regulations (CCR). The Bureau's other duties include complaint mediation, routine regulatory compliance monitoring, investigating suspected wrongdoing by auto repair dealers, oversight of ignition interlock devices, and the overall administration of the California Smog Check Program.

The Smog Check Program was created in 1982 in Health and Safety Code section 44000 *et seq.* The Program provides for mandatory biennial emissions testing of motor vehicles in federally

designated urban nonattainment areas, and districts bordering a nonattainment area which request inclusion in the Program. BAR licenses approximately 16,000 smog check mechanics who will check the emissions systems of an estimated eight million vehicles this year. Testing and repair of emissions systems is conducted only by stations licensed by BAR.

Approximately 80,000 individuals and facilities—including 40,000 auto repair dealers—are registered with the Bureau. Registration revenues support an annual Bureau budget of nearly \$34 million. BAR employs approximately 600 staff members to oversee the Automotive Repair Program and the Vehicle Inspection Program.

Under the direction of Chief James Schoning, the Bureau is assisted by a nine-member Advisory Board which consists of five public and four industry representatives. Four members of the Advisory Board—Herschel Burke, Vincent Maita, Alden Oberjuerge, and Jack Thomas—will be considered for reappointment during the summer of 1991. The remaining Advisory Board members are Carl Hughett, Joe Kellejian, Louis Kemp, William Kludjian, and Gilbert Rodriguez.

MAJOR PROJECTS:

New Chief Appointed by Governor Wilson. On May 2, Governor Wilson appointed James Schoning, a former senior trainer for the Coro Foundation, as BAR's new Chief. Schoning assumed his official duties in late May after attending the May 17 Advisory Board meeting at BAR's offices in Sacramento. He replaces John Waraas, who served as Chief since January 1989 under appointment by former Governor Deukmejian.

At the same time, DCA Director James Conran announced that Amparo Garcia, BAR's former Chief of Administrative and Technical Services, would serve as BAR's new deputy chief. Ms. Garcia replaces Doug Laue, who is expected to take a position within DCA.

Clean Air Act Update. Recent amendments to the comprehensive federal Clean Air Act will become effective on November 15. In April, the U.S. Environmental Protection Agency (EPA) issued its "Draft Guidance Document" for smog check programs nationwide. This document identifies two types of programs: basic and enhanced. Basic programs require a three-pronged test, including a tailpipe emission component, an engine function component, and a visual inspection component. In contrast, enhanced program features include computerized analyzers, on-road testing

devices, and a host of more stringent emissions reduction measures. The type of program necessary for a given metropolitan area depends upon EPA classifications involving population growth, topography, and other factors. EPA was expected to release the final version of this guidance document, which is not considered to have the legal effect of formal regulations, in June.

Although there are many conflicts between the federal and state inspection program specifications (including cost limits and test equipment specifications), the major incompatibility pertains to centralization. The federal guidelines call for centralized, government-operated testing programs, whereas California maintains a decentralized system which is now the largest in the world. Regulators from many state and federal agencies will attempt to reach some sort of compromise in this area by November. (See CRLR Vol. 11, No. 2 (Spring 1991) p. 58 and Vol. 11, No. 1 (Winter 1991) pp. 50-51 for background information.)

The second major difficulty posed by EPA's draft guidelines involves chlorofluorocarbon (CFC) handling by automobile repair dealers. Automobile air-conditioning units account for much of the CFC threat to the ozone layer. The principal concern from BAR's perspective appears to be the proposed certification of technicians and equipment to handle air-conditioning refrigerants. EPA has indicated that a rule is being drafted to mandate a nationwide certification system, and that adoption of the final rule is expected by November 15.

LA District Attorney Seeks to Reduce Smog Device Tampering. In May, Los Angeles District Attorney Ira Reiner announced plans to reduce or eliminate tampering with automobile pollution control devices; these plans include roadside smog checks, use of a sensing device to identify violators, and stiff fines for offenders. According to Reiner, the proposal is meant to augment BAR's Smog Check Program test required for motor vehicle registration. BAR estimates that 25% of vehicles on the road show evidence of tampering.

Under the proposal, the state would purchase 100 infrared pollution detectors which some researchers believe are able to sense the amount of carbon monoxide being emitted from vehicles. California Highway Patrol officers would pull over suspect cars and Air Resources Board staff members would inspect under the hood and administer a more detailed smog check with standard testing machines.

Where there is a deliberate effort to disconnect or remove the emission control



system, Reiner suggests a \$500 fine for a first offense; for subsequent violations, Reiner recommends suspension of a driver's license, forfeiture of the vehicle, or jail time. Evidence of tampering without proof of deliberate efforts would warrant a \$100 fine.

Reiner's proposals are expected to be heard this fall when legislative hearings on the smog check program will be conducted by Senator Robert Presley.

Regulatory Amendments Sought. On April 23 in El Monte and April 30 in Sacramento, BAR held public hearings on its proposed adoption of sections 3340.22.2 and 3364 and proposed amendments to sections 3306, 3309, 3316, 3321, 3340.10, 3340.15, 3340.16, 3340.16.4, 3340.42, and 3340.42.1, Division 33, Title 16 of the CCR.

The proposed amendments to section 3306 would require lamp or brake stations that change their name, address, or corporate officers or directors to notify BAR within 14 calendar days of such change. The proposed change to section 3309 would delete sign requirements for specified inspection stations and pollution control device installers whose licenses are invalidated by Health and Safety Code section 44022. Sections 3316 and 3321 would be amended to establish a 90-day validity period for certificates of adjustment issued when a licensed station has determined that the lamps and brakes, respectively, on a vehicle conform to the requirements of the Vehicle Code.

BAR proposes to amend section 3340.10 to require licensed Smog Check stations that change their name, address, or corporate officers or directors to notify BAR within 14 calendar days of such change. Proposed amendments to section 3340.15 would require stations participating in the Smog Check Program to post inspection prices for vans and/or heavy-duty vehicles if they differ from the price charged for passenger vehicles. Also, if a station charges an hourly labor rate for repairs, that hourly labor rate must be posted. Proposed amendments to sections 3340.16 and 3340.16.5 would make equipment requirements for Smog Check stations less restrictive. Proposed amendments to sections 3340.42 and 3340.42.1 would revise the emission standards for motor vehicles subject to the Smog Check Program, and would combine the standards, currently contained in two tables in the two sections, into one table contained in section 3340.42.

Health and Safety Code section 44017.3 requires each Smog Check station which performs repairs to conspicuously post a sign in an area frequented

by customers which lists the price ranges for the maximum amounts established by law to be spent on necessary repairs for a vehicle in order to pass a Smog Check. New section 3340.22.2 would specify that the sign be 22 inches by 16 inches, be black face on white background, and meet other specific requirements, including a requirement that the sign contain a notice of the schedule of maximum repair costs. Proposed new section 3364 would prohibit automobile repair dealers from removing, painting over, or otherwise defacing labels or stickers which identify a vehicle's emission control requirements.

On May 10, BAR announced that it would submit these regulatory changes for approval to DCA and the Office of Administrative Law as proposed, with the exception of new section 3340.22.2. BAR revised proposed section 3340.22.2 to specify that BAR will provide the signs mandated by Health and Safety Code section 44017.3; BAR released the modified version of section 3340.22.2 for a 15-day public comment period, which ended on May 28.

LEGISLATION:

AB 624 (Bane), as introduced February 20, would prohibit any automobile repair dealer from offering discounts to offset auto insurance deductibles. To deter insurance fraud, this bill would, among other things, provide that any person convicted of fraud with respect to a policy covering a motor vehicle shall be liable for up to ten times the amount of the fraudulent claim filed with an insurer. This amount could be awarded to the prosecuting attorney and, in some instances, up to 50% of that penalty could be awarded to persons providing leads. The bill, which includes a January 1, 1996 sunset provision, is pending in the Assembly Public Safety Committee.

AB 1828 (Areias), as amended May 20, would provide that in all instances where nonoriginal equipment manufacturer aftermarket crash parts are intended for use by an insurer in the repair of an insured's motor vehicle, a disclosure document containing specified information and printed in a specified type must be attached to the insured's copy of the estimate and be acknowledged by the insured. This bill was passed by the Assembly on May 29 and is pending in the Senate Committee on Insurance, Claims and Corporations.

AB 1893 (Lancaster), as amended May 24, would revise the definition of "motor vehicle" and revise and supplement certain provisions of the motor vehicle inspection program. This bill is

pending in the Assembly Ways and Means Committee.

AB 1989 (Baker), as amended April 23, would exempt, from provisions prohibiting the release of residence and mailing addresses by the Department of Motor Vehicles, persons engaged in the sale or marketing of services related to the state smog inspection program. This bill is pending in the Assembly Transportation Committee.

SB 245 (Presley), as amended April 11, would subject fleet owners to existing provisions limiting the cost of repairs required under the Smog Check Program. This bill was passed by the Senate on May 9 and is pending in the Assembly Transportation Committee.

The following is a status update on bills reported in detail in CRLR Vol. 11, No. 2 (Spring 1991) at pages 58-59:

SB 290 (Presley), as amended May 6, makes numerous changes to existing laws defining BAR's scope and responsibilities, and increases the maximum fee for automotive repair dealer registration and renewal from \$100 to \$200. This bill passed the Senate on May 24 and is pending in the Assembly Transportation Committee.

SB 295 (Calderon), as amended April 8, would limit the cost of a smog check test only to \$50, exclusive of the charges for the certificate. It would require an additional \$1 charge for the certificate; the proceeds of this charge would fund a program for individuals to report vehicles which emit unusual amounts of pollutants. This bill would also create an exemption from address disclosure laws for individuals requesting mailing addresses for purposes related to the marketing of services in support of the motor vehicle inspection program. This bill is pending in the Senate Transportation Committee.

AB 438 (Lancaster), as introduced February 6, would specifically include automotive body repair work within the definition of the term "repair of motor vehicles" for purposes of the Automotive Repair Act. This bill is pending in the Senate Business and Professions Committee.

AB 691 (Hayden), as introduced February 25, would require the use of refrigerant recycling equipment approved by the Air Resources Board (ARB) on and after January 1, 1993, in the servicing of vehicle air conditioners and other specified activities. This bill is pending in the Assembly Committee on Environmental Safety and Toxic Materials.

SB 573 (Rosenthal), as amended May 8, would require BAR to establish a program for certifying a third party dispute



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resolution process used for arbitrating disputes relating to the warranties on used cars. This bill is pending in the Senate Committee on Insurance, Claims, and Corporations.

AB 211 (Tanner), as amended April 25, would move the authority to establish and implement a program for certifying each third party dispute resolution process used for the arbitration of certain disputes involving new motor vehicles from BAR to DCA. This bill is pending in the Senate Judiciary Committee.

AB 1118 (Johnson), as amended May 1, would require DCA to publish the rules and regulations to be followed in order to suspend or revoke the license of a Smog Check station or mechanic. This bill is pending in the Assembly Transportation Committee.

RECENT MEETINGS:

At the May 17 Advisory Board meeting, staff member David Amlin reported on the ignition interlock program. After a brief overview of the program, Mr. Amlin demonstrated a prototype breath test device which activates ignitions. The ignition interlock program requires devices to be installed on the vehicles of people who have been convicted of driving under the influence; the program was established to enable courts to place drunk driving offenders on probation with greater assurance that the offender will comply with the law.

BAR staff member Kate McGuire outlined BAR's plans to increase consumer awareness of BAR and the Smog Check Program through radio announcements and "clean air fairs," which will be held on the premises of selected large corporations, shopping malls, and other commercial centers. BAR plans to combine auto technician employment recruitment with the clean air fairs this year.

Finally, BAR staff member Allen Wood described BAR's toll-free telephone complaint system and presented statistics on consumer satisfaction. Calls to the system, which average 1,300 per day, are processed by 17 technicians and two supervisors. During calendar year 1990, the telephone unit received over 328,000 calls, mailed out over 72,000 complaint forms, and processed over 30,000 consumer complaints. A recent consumer survey indicated generally high satisfaction with BAR's handling of complaints. After adjournment, those present were invited to tour the telephone complaint processing center with Mr. Wood and other staff members.

FUTURE MEETINGS:

November 8 in Napa.

BOARD OF BARBER EXAMINERS

Executive Officer: Lorna P. Hill
(916) 445-7008

In 1927, the California legislature created the Board of Barber Examiners (BBE) to control the spread of disease in hair salons for men. The Board, which consists of three public and two industry representatives, regulates and licenses barber schools, instructors, barbers, and shops. It sets training requirements and examines applicants, inspects barber shops, and disciplines violators with licensing sanctions. The Board licenses approximately 22,000 barbers, 5,000 shops, and 20 schools.

BBE's enabling act is currently found at Business and Professions Code section 6500 *et seq.*; the Board's regulations are located in Division 3, Title 16 of the California Code of Regulations (CCR).

On July 1, 1992, BBE and Board of Cosmetology (BOC) will merge, pursuant to AB 3008 (Eastin) (Chapter 1672, Statutes of 1990). The Business and Professions Code sections which establish BBE and BOC will be repealed and replaced with an enabling act creating the Board of Barbering and Cosmetology (BBC), which will provide for the licensure and regulation of persons engaged in the practice of performing specified acts relating to barbering, cosmetology, and electrolysis.

MAJOR PROJECTS:

BBE/BOC Hold Joint Hearing on Draft BBC Regulations. On May 20 in Sacramento, BBE and BOC held a joint public hearing to discuss and receive comments on proposed draft regulations which have been formulated for BBC. The proposed regulations and issues relating to them were discussed extensively during the hearing. Specific regulatory proposals which received considerable attention at the hearing include the following:

-Proposed section 75, regarding leasing and rental agreements, would prohibit the carrying out of any agreement, whether it be with respect to the renting or leasing of chairs, or otherwise, which divides, limits, or restricts the authority or duties of the licensee supervising and managing the establishment. The discussion at the May 20 hearing focused on whether or not this regulatory section would prohibit the use of booth rentals to conduct the practice of barbering and/or cosmetology.

-Proposed section 97 sets forth the requirements which must be met for a barber college seeking to teach the 400-

hour course prescribed in Business and Professions Code section 7321.5; proposed section 105 sets forth the curriculum for students enrolled in a cosmetology crossover course for barbers. Members of the boards and the public discussed whether the number of curriculum hours for cosmetology crossover courses should remain at 400 or be increased to 600.

-Proposed section 108 specifies that a student enrolled in a school specified in the Barbering and Cosmetology Act shall not be permitted to work upon a patron paying for services until he/she has completed the freshman period of 150 hours of training and instruction. At the hearing, discussion centered on whether completion of a 150-hour freshman period provides enough training and instruction to allow students to work upon patrons paying for services.

Another joint public hearing to receive additional comments was scheduled for June 17 in El Segundo.

Merger with Board of Cosmetology. At its April 22 meeting, BBE discussed various issues relating to the upcoming merger with the BOC. (See CRLR Vol. 11, No. 2 (Spring 1991) p. 59; Vol. 11, No. 1 (Winter 1991) p. 51; and Vol. 7, No. 1 (Winter 1987) p. 1 for extensive background information on the merger.)

Personnel and classification issues for the merged board are a primary concern of BBE. Specifically, BBE has one position, Examiner Field Representative, which administers examinations and performs inspections. BOC has two separate positions to fulfill these duties. Arlyce Ten Broeck, a representative of the Department of Consumer Affairs' Personnel Division, suggested that both boards create specification sheets for inspection and examination personnel which include their duties and justifications for the positions.

At the meeting, BBE also voted to pursue a modified work week for BBC inspectors which permits Saturday inspections on a rotating basis; BBE contends that a substantial amount of illegal activity occurs on the weekends because violators know that inspectors work Monday through Friday. Finally, BBE agreed to pursue the standardization of a number of operational procedures prior to the merger, including a requirement that BOC field staff file travel plans and weekly activity reports.

Board to Retain the Shave on Licensing Examination. At its April meeting, the Board heard a report from the committee formed to study the proposed removal of the shaving requirement from BBE's licensing examination. (See CRLR Vol. 11, No. 2 (Spring 1991) pp.