training gymnasium owner or operator, fighter, boxer, trainer, second, or manager to fail to report to the Athletic Commission an injury or knockout of a licensed boxer, or the holder of a sparring permit. This bill would delete that provision and would instead require all boxing club physicians to report all cases where boxers have been injured during a bout or have applied for medical aid after a contest, and would require a boxer, with his manager, to submit to the Commission a full report from a physician when the boxer has suffered a knockout or other serious injury, whether or not arising from boxing, and when he has been treated for that injury by his personal physician or has been hospitalized. This bill is pending in the Senate Business and Professions Committee.

AB 3156 (Polanco). Business and Professions Code section 18711 provides that the Athletic Commission shall require an applicant for licensure as a professional boxer or for renewal of a license if the boxer has boxed within the preceding year, as a condition of licensure or renewal, to be examined by a physician who specializes in neurology, and authorizes the physician to recommend additional tests as deemed necessary. This bill would have provided that those additional tests may be performed by a psychologist who specializes in neurology, within the scope of his/her licensure, and who is approved by the Athletic Commission, and that any person performing an examination pursuant to that provision shall be considered to be a boxing official. This bill was dropped by its author.

RECENT MEETINGS:

At its January meeting in San Diego, the Commission unanimously elected Jerry Nathanson as Chair and Charles Westlund as Vice-Chair. Also at the January meeting, the Commission reviewed its decision to withdraw from all boxing organizations which sanction championship contests. (See CRLR Vol. 9, No. 4 (Fall 1989) p. 44 for background information.) Chair Nathanson appointed a committee of Commissioners Silva, Montemayor, and Westlund to submit a report on boxing organizations with their recommendations.

At its March meeting in Los Angeles, the Commission announced four clinics for boxing officials throughout 1990. Two clinics each will be held in Los Angeles and Sacramento. Topics will include medical aspects of officiating, timekeepers' responsibilities, and a referee clinic. The Commission also discussed the Governor's directive to use state facilities for agency meetings. The Commission will attempt to comply with the directive; however, overcrowding of public facilities has resulted and may interfere with complete compliance.

Also in March, the Commission granted professional boxer's licenses to Monroe Brooks and Stan Ward, and a professional martial arts fighter's license to James Claggett. These licenses were granted pursuant to Rule 281, which requires applicants over the age of 36 to have special permission from the Commission for the granting of a license. The Commission adopted the following policy regarding Rule 281: (1) boxers licensed under Rule 281 must appear before the Commission every second calendar year until they have reached their fortieth birthday; and (2) boxers forty years of age or older must appear before the Commission every calendar year.

FUTURE MEETINGS:

September 21 in Los Angeles.
October 19 in Sacramento.
November 16 in Los Angeles.
December 14 in Los Angeles.

BUREAU OF AUTOMOTIVE REPAIR

Chief: John Waraas
(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 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 Chapter 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 25,000 smog check mechanics who will check the emissions systems of an estimated six million vehicles this year. Testing and repair of emissions systems is conducted only by stations licensed by BAR.

Approximately 130,000 individuals and facilities—including 39,800 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 John Waraas, the Bureau is assisted by a nine-member Advisory Board which consists of five public and four industry representatives. They are Herschel Burke, Carl Hughett, Joe Kellejian, Louis Kemp, William Kludjian, Vincent Maita, Alden Oberjuerge, Gilbert Rodriquez, and Jack Thomas.

MAJOR PROJECTS:

SB 1997 Implementation. Among other things, SB 1997 (Presley) (Chapter 1544, Statutes of 1988) required the establishment of a new process for the certification of mechanics who perform Smog Check Program inspections. As of January 1, 1990, all mechanics were required to be retested pursuant to the two-tiered mechanic testing program. (See CRLR Vol. 10, No. 1 (Winter 1990) p. 56 and Vol. 9, No. 4 (Fall 1989) p. 44 for a detailed description of the program.) As of March, 22,000 mechanics had been retested; of those, about half have passed and are currently certified to perform smog checks.

BAR is also in the process of implementing SB 1997's requirement mandating new equipment to perform the emissions testing. Four prototypes of the new BAR-90 test analyzer system machines have already been submitted to BAR for testing. At this writing, three have passed the testing stage and are currently certified, and will soon be available on the market. Seven thousand new machines are expected to be in place by July 1 when the new systems must be used for motor vehicle inspections. Also as of July 1, the following areas will be incorporated into the Smog Check Program: Stanislaus, Merced, Santa Barbara, San Luis Obispo, Kern, Coachella, Ventura, and Riverside counties, and the remainder of Los Angeles County.

Regulatory Changes. BAR's numerous proposed regulatory changes revising Article 5.5, Chapter 33, Title 16 of the CCR, were submitted to the Office of Administrative Law (OAL) on

December 19, 1989. These regulations are designed to implement SB 1997 and update the Smog Check Program in a variety of ways. (See CRLR Vol. 10, No. 1 (Winter 1990) p. 56 and Vol. 9, No. 4 (Fall 1989) pp. 44-45 for detailed background information on these changes.) On January 18, OAL disapproved the regulatory action because BAR did not comply with the necessity, clarity, and authority standards of Government Code section 11347.5, nor did BAR comply with the procedural requirements of the Administrative Procedure Act (APA) because it failed to summarize and respond to all public comments received regarding the proposed regulations. Further, BAR failed to include all data and factual information submitted regarding the proposed regulations.

The Bureau subsequently proposed modifications to remedy these technical errors, and accepted written public comments on the modifications until March 5. BAR resubmitted the proposed regulatory action to OAL, which approved the package on April 16.

Proposed Regulatory Changes. On March 13 in Los Angeles and on March 20 in Sacramento, the Advisory Board held public hearings to receive public input on a new series of regulatory amendments which revise the Smog Check Program in a variety of ways. Following the hearings, BAR adopted the proposed changes and submitted them to OAL for approval.

BAR amended section 3303.2 to establish processing times for Smog Check station and inspector licenses and certificates issued by BAR. The Bureau also deleted language referring to the "Motor Vehicle Pollution Control" (MVPC) Program because that program has been superseded by the Smog Check Program. Similarly, obsolete MVPC material was eliminated or repealed from sections 3305, 3307, 3308, 3309, 3310, 3325, 3326, and 3327.

Additionally, BAR amended section 3340.1 to identify those Smog Check stations which are not required to be registered as automotive repair dealers. These stations are defined as those which exclusively service commercial vehicles with gross vehicle weight ratings of at least 10,000 pounds.

BAR also adopted new sections 3340.16.6 and 3340.18, which deal with the test analyzer system (TAS). The first section requires each TAS to be connected via modem to a standard single-party business telephone line, in order to transmit required program information. New section 3340.18 provides that TAS calibration gases used by Smog Check stations and gas lenders who provide such calibration gases shall be certified by BAR in accordance with BAR's "Specifications and Accreditation Procedures for Calibration and Audit Gases Used in the California Emissions I/M Program" ("Specifications"), dated January 1990.

In conjunction with implementing the two-tiered mechanic testing program, BAR amended section 3340.30, to change the validity period of Smog Check Program mechanics' licenses and certificates of completion of the Clean Air Car Course from one year to two years.

Finally, BAR amended section 3340.16 to prohibit the subletting of test or repair work required by the Program; and sections 3340.42 and 3340.42.1 to make technical corrections regarding the definition of heavy duty vehicles.

On May 11, OAL approved all of the above-described regulatory changes except the amendment to section 3303.2 and the proposed adoption of section 3340.18. OAL disapproved the amendment to section 3303.2 on grounds that BAR failed to disclose the data upon which it based its proposed processing times. New section 3340.18 was rejected because BAR incorporated by reference its "Specifications" manual but failed to prove necessity for each regulatory provision contained in the incorporated manual. OAL also found that new section 3340.18 failed to comply with the clarity and consistency requirements of the APA.

Federal Clean Air Act Amendments. On April 3, the U.S. Senate passed its version of amendments to the federal Clean Air Act. Among other things, the bill—which is based on a Bush administration proposal—would require that only reformulated gasoline (cleaner-burning fuels) may be sold in the nation's nine smoggiest cities after 1992. In addition, the Senate approved provisions requiring reductions in hydrocarbon tailpipe emissions by 22% and in nitrogen oxide emissions by 60%. These emissions standards would be phased in such that they would apply to 40% of vehicles sold in 1993; by 1995, all cars would fall under the standards. If 12 or more cities considered to have serious pollution problems fail to meet EPA-promulgated health standards, then a second round of stricter emissions controls would be implemented in 2003. Finally, the Senate bill would require states themselves to implement pollution control plans to reduce smog and other pollution by 3-4% each year until federal air quality standards are met.

On May 23, the House of Representatives passed a tougher version of the Clean Air Act amendments, which is preferred by most environmentalist organizations. The House version would require a 60% cut in nitrogen oxide tailpipe emissions and a 40% reduction in hydrocarbon emissions by 1996. The House version requires automakers to provide expanded warranties up to eight years and 80,000 miles on pollution-control devices; contains a provision which will phase out CFCs and stimulate development of more benign alternative chemicals to replace them; calls for production of up to 300,000 alternative-fueled vehicles in the Los Angeles area by 1997; includes a provision to reduce acid rain emissions; and imposes stronger emission controls on fleet vehicles and urban buses for cities with major smog problems. A House-Senate conference committee must now iron out the significant differences between the two versions; that decision is not expected until late August. The extent to which the federal legislation would preempt state regulation of emissions requirements will remain unclear until that time.

Certification of Third Party Dispute Resolution Processes. Following OAL's October 16 rejection, BAR's Arbitration Review Program (ARP) made minor revisions to its proposed regulations establishing standards for third party dispute resolution processes. (See CRLR Vol. 10, No. 1 (Winter 1990) p. 56 for background information.) ARP then resubmitted them to OAL on December 4; OAL approved the regulations on January 3. These regulations amend sections 3396.1 through 3399.6, Title 16 of the CCR.

LEGISLATION:

AB 37 (Bane), as amended June 7, would make it unlawful for any automobile repair dealer to offer or give any discount intended to offset a deductible required by a motor vehicle insurance policy and would increase the penalty for these offenses. This provision would remain in effect until January 1, 1996, when it would be repealed. The bill would also provide that anyone convicted of such an offense would be liable for up to ten times the amount of the fraudulent claim, which amount could be awarded to the prosecuting attorney, and in some instances, to persons providing leads. This bill passed the Senate on June 12 and has been returned to the Assembly for concurrence.

AB 3106 (Klehs), as amended May 22, would require that the equipment used to perform motor vehicle smog checks be capable of logging repairs

made at the time of a smog check that cause the vehicle to pass the inspection. Existing law prescribes procedures for service of citations on smog check stations and mechanics that violate applicable laws and regulations. This bill would require, in addition to those procedures, notification of the station or mechanic orally or in writing within three working days, and in writing within 30 days. The bill would require the owner or manager to undergo training sufficient to avoid recurrence of a violation of regulations if the person has been issued a citation. The bill is pending in the Senate Transportation Committee.

AB 4070 (Connelly), as amended April 26, would require the Air Resources Board (ARB) to request BAR to implement the biennial motor vehicle emissions inspection program in all districts, except in the Lake Tahoe Air Basin, designated as nonattainment for ozone or carbon monoxide, in which it is not already implemented, unless the problem is caused by transport, or the program would not mitigate or resolve the problem. This bill passed the Assembly on May 31, and is pending in the Senate Transportation Committee.

SB 1874 (Presley) would require ARB to request BAR to implement the motor vehicle inspection program in districts which are in nonattainment for ozone or carbon monoxide and in which it is not already being implemented, unless ARB determines that the problem is predominantly caused by transport and the program would not mitigate or resolve the problem. The bill would not apply to the Lake Tahoe Air Basin. As amended May 5, this bill would also increase the charge for a certificate of compliance with the Smog Check Program from $6 to $7. This bill passed the Senate on June 14 and is awaiting committee assignment in the Assembly at this writing.

SB 1764 (Roberti), as amended May 1, would make a statement of legislative intent and would require ARB to adopt a program to reduce CFC emissions. ARB would be required to evaluate data, conduct hearings, prepare a report which would be reviewed by an advisory committee created by the bill, and enact appropriate regulations. This bill is pending in the Assembly Committee on Environmental Safety and Toxic Materials.

AB 2766 (Sher). Existing law provides for the collection of registration and other specified fees on motor vehicles, including fees or surcharges authorized to be imposed by the South Coast and Sacramento Metropolitan Air Quality Management Districts, which fees are required to be used to reduce air pollution. This bill would authorize an additional $2 fee, which may be increased to $4, to be imposed by a county, unified, or regional air pollution control district, or air quality management district, and used to reduce air pollution. This bill, as amended June 12, would prescribe the distribution of revenues from that fee in the South Coast District. It would also impose certain duties on the DMV with respect to the collection of the fees, and on ARB with respect to determining the efficacy of the air pollution reduction programs. This bill passed the Assembly on June 14 and is pending in the Senate Transportation Committee.

AB 1332 (Peace), as amended January 22, would prohibit ARB from certifying a 1995 or later model year motor vehicle which has an air conditioning system using CFCs. The bill would also prohibit anyone from installing, selling, or offering to sell an air conditioning system which uses CFCs and is intended for use on a 1995 or later model year motor vehicle. This bill is currently pending in the Senate Committee on Natural Resources and Wildlife.

AB 3242 (Lancaster), the Department of Consumer Affairs' omnibus bill, would exempt a person registered as a service dealer under the Electronic and Appliance Repair Dealer Registration Law from the requirement of registration under the Automotive Repair Act. This bill, as amended May 15, is pending in the Senate Business and Professions Committee.

AB 2650 (Peace) would, among other things, require BAR to implement a random safety inspection program in conjunction with the Smog Check Program as soon as possible after July 1, 1991, to continue until July 1, 1994. This bill has passed the Assembly, and has been double-referred to the Senate Judiciary Committee and the Senate Committee on Insurance, Claims and Corporations.

The following is a status update on bills previously reported in CRLR Vol. 10, No. 1 (Winter 1990) at page 57:

AB 2532 (Vasconcellos) would require BAR-approved refrigerant recycling equipment to be used in servicing air conditioners with CFC refrigerants. BAR would also have to establish and enforce procedures regarding the installation and use of the recycling equipment and certify people trained to use such equipment. This bill is currently pending in the Senate Committee on Natural Resources and Wildlife.

AB 1718 (Hayden) would also require BAR to establish and administer procedures for the installation and use of refrigerant recycling equipment and to certify businesses and persons who are trained to use the equipment. This bill is currently pending in the Senate Committee on Natural Resources and Wildlife.

AB 2025 (Farr), which would extend operation of the ignition interlock program in specified counties until January 1, 1994, is pending in the Senate Judiciary Committee.

AB 2040 (Farr), which would require BAR to work with the Office of Traffic Safety in designating stations for the installation of ignition interlock devices and to establish standards for manufacturers of those devices, is currently pending in the Senate Appropriations Committee.

SB 1429 (Green), as amended May 7, would expand the ignition interlock program to eight counties and extend the program termination date to January 1, 1992. It is now pending in the Assembly Public Safety Committee.

The following are bills were dropped by their author or died in committee: *SB 787 (Rosenthal)*, which would have authorized BAR to administer a state-certified third party arbitration process for used cars; *SB 155 (Leonard)*, which would have imposed an additional tax on specified motor vehicle fuels; *AB 2404 (Connelly)*, which would have prohibited the sale or offer for sale of CFC coolants suitable for use in mobile air conditioners; *AB 292 (Floyd)*, which would have eliminated the requirement that ARB find by resolution that certain modifications of pollution control devices are not prohibited; and *AB 2036 (Speier)*, which would have enabled counties in nonattainment areas to impose a $1 surcharge on Smog Check Program certificates, to be allocated to the county's transportation planning agency.

RECENT MEETINGS:

On February 9, BAR's Advisory Board held a public meeting in Santa Barbara. A representative of the California Department of Transportation (CalTrans) explained the ramifications of two propositions appearing on the upcoming June 5 ballot. Proposition 111 is a constitutional amendment and would raise the gas tax and increase truck weight fees. As of August 1990, Proposition 111 would impose a five-cent-per-gallon increase in the gas tax, with an additional penny-per-gallon increase over the following four years. This nine-cent-per-gallon total increase would raise approximately $13 billion.

The truck weight fee increase would yield and expected $2 billion. These revenues would be deposited in the State Highway Account, whose funds may be used only for transportation purposes. Proposition 108, also on the June ballot, would authorize the sale of bonds for rail transit capital improvement and urban rail construction; it is expected to raise $3 billion.

The purpose of these propositions is to raise money to implement measures designed to improve California's transportation system and to reduce highway and freeway congestion. Such measures include interregional road systems in rural areas; urban rail construction; more meters or diamond lanes on freeways to facilitate traffic flow; freeway sound walls; and maintaining the present system. Both measures were subsequently successful on the June ballot.

The Board also discussed a proposal to introduce a bill amending section 9884.8 and 9884.9 of the Business and Professions Code. The proposal would require automobile repair estimates to include the specific time estimated and the hourly rate charged for the necessary repairs. Additionally, the repair dealer would be required to itemize and list on the invoice the time actually spent and the hourly rate charged to service the car.

Since the proponents of the proposal (Automobile Club of Northern California) were unable to attend the meeting, some questions and concerns of Board and audience members remained unanswered. For example, automobile industry representatives expressed fears that such invoice itemization would increase the time spent in recordkeeping. They also worried that such a measure would effectively render unemployed those workers who actually work more slowly than the listed hourly rate. BAR representatives were concerned that questions of enforcement and possible penalties are not addressed in the proposal's present form. BAR tabled the measure pending clarification of these issues.

At the Advisory Board's May 11 meeting in Sacramento, the Board heard an update regarding BAR's referee stations. If a motor vehicle cannot pass the Smog Check inspection and cannot be repaired to pass, then the vehicle owner is referred to a referee station. These stations then determine whether a waiver will be issued. At present, approximately 6,000 referee actions are taken each week statewide, with the vast majority of problems involving vehicles which cannot be repaired within the statutorily designated cost limits.

The Advisory Board next discussed draft regulatory changes dealing with the invoicing of shop supplies and parts and toxic waste disposal charges. Section 3356, Chapter 33, Title 16 of the CCR, would be amended to require that all service work and all parts be separately listed as invoice items in order for a consumer to be charged. If the items are not individually listed, then the consumer may not be charged for them. As to the toxic waste disposal issue, a dealer may charge a customer for such costs, but that charge must be disclosed to the customer as a separate item on the estimate and on the invoice. BAR maintains that these provisions would remedy past abuses, and ensure that consumers are accurately and fairly charged for services actually rendered. These draft regulations will probably be ready for notice and public hearings in the fall.

FUTURE MEETINGS:
November 9 in San Luis Obispo.

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

MAJOR PROJECTS:

Merger with Board of Cosmetology. On March 4, BBE held a special joint meeting with the Board of Cosmetology (BOC) for purposes of discussing the provisions of Assemblymember Delaine Eastin's AB 3008, which would at long last merge the two boards. (*See infra* LEGISLATION; *see also* CRLR Vol. 10, No. 1 (Winter 1990) p. 58; Vol. 9, No. 4 (Fall 1989) p. 46; and Vol. 7, No. 1 (Winter 1987) p. 1 for extensive background information.) The boards were able to reach agreement on several issues, including provisions for a seven-member board which meets four times per year, a southern California field office, the minimum age and educational requirements for barbers and cosmetologists, and provisions regarding disciplinary proceedings.

However, at an April 18 hearing on AB 3008 before the Assembly Committee on Governmental Efficiency and Governmental Protection (chaired by Assemblymember Eastin), BBE took an oppose position on the bill as written at that time. At its May 6 meeting, BBE discussed several amendments which would make the bill more palatable, including a provision to establish a nine-member board which meets six times per year; deletion of language allowing the Director of the Department of Consumer Affairs (DCA) to reject the new board's appointment of an executive officer; deletion of language requiring each licensed establishment to provide a public toilet; a provision requiring the new board to inspect all establishments twice per year; and deletion of language requiring barbers to have completed a nail and skin care course in a school approved by the new board.

Although these amendments were not incorporated into the June 7 version of the bill, the Board took a support position on AB 3008 in a May 31 letter to Assemblymember Eastin. Noting that BOC has submitted numerous proposed amendments (many of which are consistent with BBE's proposed amendments), BBE urged Eastin that "if you accept their amendments, we request that you give the Barber Board what it wants, which is our fee bill unencumbered by any double joining or restrictive language." AB 1108 (Epple), BBE's much-needed fee bill, previously contained merger language which has now been deleted; if AB 3008 were "double-joined" to AB 1108, the fee bill would not become effective (even if it passed) unless the merger bill also passes. (*See infra* LEGISLATION for more information on AB 1108.)

Cyclical License Renewal. Presently, all BBE licensing fees are paid every two years on the same date. To help ease monetary dry spells and facilitate budget calculations, the Board recently voted to institute a cyclical payment system, whereby fee deadlines would be spread out over the year. BBE hopes to convince Assemblymember Epple to include authority for this cyclical renewal system in amendments to AB 1108.

The Shave. At its April 9 meeting, BBE once again addressed the validity