



# REGULATORY AGENCY ACTION

officials and timekeepers, who have not received an increase in five years. However, the Commission received opposition from a representative of the promoters' association. The promoters' and officials' representatives were scheduled to meet and discuss possible solutions. If they are unable to agree on a compromise, the Commission will implement its proposed pay scale.

Also in September, the Commission denied former professional boxer Jerry Quarry's application for a boxing license. The Commission had approved a sparring permit for Quarry in August, and Commission staff observed Quarry—now 45 years old—in a sparring demonstration on August 23. Based on their observations and Quarry's seven-year inactive lay-off from boxing, staff recommended that Quarry's application be denied; the Commission agreed.

#### FUTURE MEETINGS:

To be announced.

#### BUREAU OF AUTOMOTIVE REPAIR

Chief: John Waraas

(916) 366-5100

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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 Oberjuege, Gilbert Rodriguez, and Jack Thomas.

#### MAJOR PROJECTS:

*Proposed Regulatory Changes.* On September 19 in Los Angeles and September 27 in Sacramento, BAR held public hearings to receive comments on a series of proposed regulatory changes.

First, the Permit Reform Act of 1981 (Government Code section 15374 *et seq.*) requires agencies which issue licenses or permits to adopt regulations setting forth maximum application processing timeframes. To comply with the Act, BAR proposed an amendment to section 3303.2 to include a processing time of up to seventy days for mechanics' licenses issued pursuant to the Smog Check Program. The proposed amendments also include minimum, median, and maximum processing issuance times for such licenses.

A proposed amendment to section 3305 would clarify that the Director of the Department of Consumer Affairs (DCA) may adopt general performance standards applicable to inspections performed by lamp and brake stations.

Proposed amendments to section 3353 would prescribe the conditions for valid oral authorization by a customer for work to be performed in circumstances where the written authorization usually required by Business and Professions Code section 9884.9 cannot be obtained. Those circumstances would no longer be limited to the circumstance in which the customer is unable to deliver the vehicle to the auto repair dealer during business hours. The conditions for valid oral authorization would include the following:

-the dealer has prepared a work order stating the written estimated price for parts and labor necessary to diagnose or repair the motor vehicle;

-by telephone or otherwise, the customer has been given all of the information on the work order and the customer has approved the work order; and

-the customer has authorized the dealer to make the diagnosis or repairs pursuant to the work order.

Proposed amendments to section 3356 would prohibit dealers from billing on an invoice for items generically described as "shop supplies," "miscellaneous parts," or the like. Each and every part must be specifically listed on the invoice before the dealer may charge for it.

BAR proposes to adopt new section 3356.1, to allow automotive repair dealers to charge a customer for costs associated with the handling and disposal of toxic wastes that directly relate to the servicing or repair of the customer's vehicle. In order to assess this charge, the automotive repair dealer would have to make a notation of the station's Environmental Protection Agency identification number required by section 262.12 of the Code of Federal Regulations. Such notation must be made on both the invoice and the written estimate.

Finally, BAR proposes to amend section 3362.1, to add to the prohibition against engine changes that degrade the effectiveness of a vehicle's emission control system. The proposed addition would prohibit degrading the effectiveness of a vehicle's original emission control system in the course of rebuilding an engine or installing a replacement engine.

At this writing, BAR is evaluating all of the comments received both in writing and at the hearings.

*SB 1997 Implementation Update.* BAR continues to implement provisions of SB 1997 (Presley) (Chapter 1544, Statutes of 1988), which—among other things—requires the establishment of a two-tiered process for the certification of mechanics who perform Smog Check Program inspections. (See CRLR Vol. 10, Nos. 2 & 3 (Spring/Summer 1990) p. 70 and Vol. 9, No. 4 (Fall 1989) p. 44 for background information.) As of August 4, 1,694 EL licenses and 15,412 EU licenses were issued. EL license holders are authorized to test and repair only 1979 and older model vehicles; EU license holders are authorized to test and repair all model year vehicles. The first-time pass rate for EU examinations was 53.53%.

SB 1997 also requires Smog Check stations to purchase new equipment to perform emissions testing. As of August 1, new BAR-90 test analyzer system machines were operational in 6,300 stations.

New areas that came into the Smog Check Program as of July 1 include Stanislaus, Merced, Santa Barbara, and San Luis Obispo counties, the remainder



of Kern, Ventura, and Los Angeles counties, and the Coachella Valley area of Riverside County. As of October 1, the remainder of Placer County (except for the Tahoe Basin) was added. Areas that will be added to the Smog Check Program as of January 1, 1991 include Santa Cruz and Monterey counties. As of March 1, 1991, Glenn County and the remainder of Yolo and Solano counties will join the program. San Benito will be added to the program as of January 1, 1992.

*Status of Federal Clean Air Act Amendments.* Both houses of Congress have approved comprehensive amendments to the federal Clean Air Act. (See CRLR Vol. 10, Nos. 2 & 3 (Spring/Summer 1990) p. 71 for detailed background information.) The amendments call for significant reductions in tailpipe emissions and the introduction of "cleaner" fuels to reduce smog in certain major cities. A House-Senate conference committee began meeting July 13 to reconcile the differences between the two versions, but has not completed that task at this writing. The extent to which this legislation would preempt state regulation of emissions requirements remains unclear.

#### LEGISLATION:

*SB 1905 (Hart)*, as amended August 23, would have created the Demand-Based Reduction in Vehicle Emissions (Plus Reductions in Carbon Monoxide) (or "Drive-Plus") Program of 1990; increased the state sales tax on new vehicles which produce more pollutants than average; and decreased the sales tax on cleaner vehicles. This bill was vetoed by the Governor on September 30.

The following is a status update on bills reported in detail in CRLR Vol. 10, Nos. 2 & 3 (Spring/Summer 1990) at pages 71-72:

*AB 37 (Bane)*, as amended June 7, would have made 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 have increased the penalty for these offenses. This bill was vetoed by the Governor on September 17.

*AB 3106 (Klehs)*, as amended August 23, permits the data collected by the equipment of a Smog Check station, as required by BAR's regulations, to be used by a licensed Smog Check station mechanic or operator when appealing a citation issued by BAR. The bill requires Smog Check stations to post a sign notifying customers of the maximum Smog Check Program repair amounts, and requires stations where Smog Check

repairs are not performed to post a statement to that effect. This bill was signed by the Governor on September 25 (Chapter 1324, Statutes of 1990).

*AB 4070 (Connelly)*, as amended August 21, increases the charge for a certificate of compliance with the Smog Check Program from \$6 to \$7. The bill also requires 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, unless the problem is caused by transport, or the program would not mitigate or resolve the problem. This bill was signed by the Governor on September 29 (Chapter 1432, Statutes of 1990).

*SB 1874 (Presley)*, as amended August 21, requires 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. This bill would not apply to the Lake Tahoe Air Basin.

Existing law prohibits the sale, rental, or lease of a new motor vehicle or vehicle with a new engine in prescribed instances, unless the vehicle or engine is certified by ARB. Existing law also provides for the issuance of certificates of compliance or noncompliance by Smog Check stations. This bill prohibits the issuance of a certificate of compliance or requires a certificate of noncompliance by Smog Check stations as to those vehicles not certified by ARB.

*SB 1874*, which also increases the charge for a certificate of compliance with the Smog Check Program from \$6 to \$7, was signed by the Governor on September 30 (Chapter 1433, Statutes of 1990).

*SB 1764 (Roberti)*, as amended August 23, would have made a statement of legislative intent and required the California Energy Commission (CEC) to adopt a program to reduce chlorofluorocarbons (CFCs). CEC would have been required to evaluate data, conduct hearings, prepare a report to be reviewed by an advisory committee created by the bill, and adopt appropriate regulations. This bill was vetoed by the Governor on September 28.

*AB 2766 (Sher)*, as amended August 27, authorizes a \$2 fee (which may be increased to \$4) which may be imposed by a county, unified, or regional air pollution control district, or air quality management district, to be used to reduce air

pollution. This bill was signed by the Governor on September 30 (Chapter 1705, Statutes of 1990).

*AB 1332 (Peace)* would have prohibited ARB from certifying a 1995 or later model year motor vehicle which has an air conditioning system using CFCs. The bill also would have prohibited 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 died in the Senate Committee on Natural Resources and Wildlife.

*AB 3242 (Lancaster)*, as amended July 27, exempts 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 was signed by the Governor on September 21 (Chapter 1207, Statutes of 1990).

*AB 2650 (Peace)* was substantially amended on August 30 and no longer relates to BAR.

*AB 2532 (Vasconcellos)*, as amended August 28, would have required BAR-approved refrigerant recycling equipment to be used in servicing air conditioners with CFC refrigerants. Also, BAR would have been required to establish and enforce procedures regarding the installation and use of the recycling equipment and certify people trained to use such equipment. This bill was vetoed by the Governor on September 29.

*AB 1718 (Hayden)*, as amended July 3, would have required CEC and ARB to prepare and implement a specified plan as provided by the Environmental Protection Act of 1990 (Proposition 128 on the November 6 general election ballot). This bill died in the Senate Committee on Natural Resources and Wildlife.

*AB 2025 (Farr)*, which would have extended the operation of the ignition interlock program in specified counties until January 1, 1994, died in the Senate Judiciary Committee.

*AB 2040 (Farr)*, as amended August 28, requires 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. This bill was signed by the Governor on September 27 (Chapter 1403, Statutes of 1990).

*SB 1429 (Green)* was substantially amended on June 28 and no longer relates to BAR.

#### RECENT MEETINGS:

At the August 10 Advisory Board meeting, BAR Deputy Chief Doug Laue reported the findings of an emissions



# REGULATORY AGENCY ACTION

control study which compared and contrasted the emissions test programs in Arizona, California, Kentucky, New Jersey, and Oregon. Among other things, the study revealed that California has the highest cost for inspection or reinspection, as well as the longest reported average inspection time. California also conducts the largest number of annual inspections.

Also at the August 10 meeting, a representative of BAR's Public Information Office reported that the Governor had declared September "Smog Check Month," and noted that eight Clean Air Fairs were to be held throughout the state during the fall.

## FUTURE MEETINGS:

To be announced.

## 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 August 27, BBE once again voted to oppose AB 3008 (Eastin), which was signed by the Governor on September 30 (Chapter 1672, Statutes of 1990). This bill merges BBE with the Board of Cosmetology (BOC). (See *infra* LEGISLATION; see also CRLR Vol. 10, Nos. 2 & 3 (Spring/Summer 1990) p. 73; Vol. 10, No. 1 (Winter 1990) p. 58; and Vol. 7, No. 1 (Winter, 1987) p. 1 for extensive background information.) As the bill's major defect, BBE cited its failure to require an adequate number of establishment inspections. Additionally, BBE expressed concern regarding the constitutionality of Business and Professions Code section 7310(c) (to be added by the bill), a provision which subjects the new board's appointment of an executive

director to confirmation by the Director of the Department of Consumer Affairs (DCA). BBE and audience members agreed that BBE had given in on the issue of allowing the merged board to use BBE's inspectors, since BOC apparently has fewer inspectors and conducts fewer inspections than does BBE, but that Assemblymember Eastin had ignored many of BBE's requests. Therefore, the Board decided to send telegrams to Assemblymember Eastin, the Governor, and all senators voicing its opposition to the bill.

*Review of Instructors' Examination.* At the Board's July 9 meeting, BBE appointed a committee comprised of Board member Edna Mayhand, barber Frank Chirco, and trade representative Red Carter to review BBE's instructors' examination in conjunction with the staff of DCA's Central Testing Unit. The instructors' examination committee was established in response to extremely low pass rates on the exam. In fiscal year 1989-90, for example, only seven of the 26 people who took the examination passed. (See CRLR Vol. 10, Nos. 2 & 3 (Spring/Summer 1990) p. 74 for background information.)

On August 27, committee chair Edna Mayhand reported that she had reviewed the examination and would meet with instructors and barber college owners to elicit suggestions regarding the examination.

*Draft Regulations Establishing Administrative Fines.* On August 27, the Board decided to schedule public hearings to consider proposed regulatory changes establishing administrative fines for barber colleges which do not file student applications with the BBE within fourteen days of student enrollment, and for apprentices who transfer from one training class or employer to another and who fail to file a transfer form with BBE within twenty days of transfer.

BBE expected to release more information regarding these hearings in the near future.

## LEGISLATION:

*AB 3008 (Eastin)*, as amended August 27, repeals the Business and Professions Code sections which establish both BBE and BOC, and creates the Board of Barbering and Cosmetology (BBC). The bill generally revises, recasts, and consolidates the two acts presently governing the practice of barbering and cosmetology; provides for the licensing and regulation of persons engaged in the practice of performing specified acts relating to barbering, cosmetology, and electrolysis; and provides that persons licensed as barbers or cos-

metologists will be licensed pursuant to the act. BBC will consist of nine members: five public members and four members representing the professions. The bill, which will become operative on July 1, 1992, requires BBC and DCA to assess the results of merging the two boards and to report to the legislature on or before June 30, 1995. This bill was signed by the Governor September 30 (Chapter 1672, Statutes of 1990).

*AB 1108 (Epple)*, as amended July 7, deletes existing maximum limits on licensing fees charged by BBE until January, 1994, and increases the maximum fees effective January, 1992. This bill was signed by the Governor on September 30 (Chapter 1673, Statutes of 1990).

## RECENT MEETINGS:

At its August 27 meeting, BBE decided to allow the use of video educational aids in barber schools and to look for alternative locations in which to hold barber examinations in northern California. The Board also discussed BBE's projected insufficient revenues for fiscal year 1991-92. Finally, the Board reviewed its disciplinary guidelines and decided that the guidelines should remain intact and the Board should try to follow them.

## FUTURE MEETINGS:

To be announced.

## BOARD OF BEHAVIORAL SCIENCE EXAMINERS

*Executive Officer: Kathleen Callanan  
(916) 445-4933*

Authorized by Business and Professions Code section 4980 *et seq.*, the eleven-member Board of Behavioral Science Examiners (BBSE) licenses marriage, family and child counselors (MFCCs), licensed clinical social workers (LCSWs) and educational psychologists (LEPs). The Board administers tests to license applicants, adopts regulations regarding education and experience requirements for each group of licensees, and appropriately channels complaints against its licensees. The Board also has the power to suspend or revoke licenses. The Board consists of six public members, two LCSWs, one LEP, and two MFCCs. The Board's regulations appear in Chapter 18, Title 16 of the California Code of Regulations (CCR).

## MAJOR PROJECTS:

*Enforcement Program.* In April, BBSE began distributing a consumer brochure on psychotherapist sexual mis-