



REGULATORY AGENCY ACTION

studying the specifications and suitability of various brands of boxing gloves and ring floor padding.

Headgear Requirement. This winter, Assemblymember Lloyd Connelly sought the Commission's input about possible legislation requiring professional boxers to wear headgear. Connelly was advised by the Athletic Commission that its previous studies on the subject indicated that headgear would increase the risk to boxers because it would increase the diameter of the target. According to the Commission, the increased target area would transform otherwise glancing blows into dangerous direct hits. Moreover, the Commission asserted that although headgear would reduce comparatively minor facial injuries, the increased target area would create a greater risk of neurological and spinal injury.

Future Regulatory Changes. Under Business and Professions Code sections 18884 and 18849, promoters are prohibited from having a direct or indirect interest in boxers without the written approval of the Commission. At the February meeting, Commissioners Nathanson, Wilson, and Malkasian were appointed to a committee which will recommend criteria for approving contracts which give promoters an interest in boxers. The three-member committee will also investigate the Commission's involvement in various boxing organizations. The Athletic Commission is presently a member of the World Boxing Council (WBC), the North American Boxing Federation (NABF), and the International Boxing Federation/United States Boxing Association (IBF/USBA). The committee will determine the extent, if any, to which the Commission should participate in these groups, and whether such involvement would result in any conflicts of interest.

Also at its February meeting, the Commission discussed the need to establish criteria in accordance with Business and Professions Code sections 475-486, which define general provisions regarding the denial, suspension, and revocation of licenses. In particular, the Commission is concerned with satisfying section 482 of the Code, which calls for the development of criteria "to evaluate the rehabilitation of a person" when considering the denial, suspension, or revocation of a license. At the February meeting, Commissioner Montemayor stated that the Executive Director should wield more power in making these decisions and that cases should be heard by the full Commission only when a "specific problem" exists. Drafting of

the proposed criteria was scheduled for discussion at the Commission's March 17 meeting in Los Angeles.

LEGISLATION:

AB 112 (Floyd) would require the Commission to adopt regulations detailing the criteria for approving licensed physicians who are required to attend boxing contests. At this writing, AB 112 is pending in the Assembly Committee on Government Organization.

SB 599 (Montoya) would require a professional boxer or martial arts fighter to demonstrate his/her ability to perform prior to licensure. In evaluating licensure eligibility, the Commission would accept "whatever evidence" is available. The bill would require that all Commission evaluations or reevaluations be recorded on a Commission-approved form and maintained with the fighter's licensing file. Additionally, the operator of a professional boxers' training gymnasium would be required to maintain a daily log, which would include a record of the boxers' licenses and reports of any knockouts during a sparring session. At this writing, SB 599 is pending in the Senate Business and Professions Committee.

H.R. 5244 (Williams) is federal legislation which was originally introduced in 1988, but is currently being considered for reintroduction in 1989 in the House Commerce Committee. In its 1988 form, the bill would establish federal regulation of professional boxing through the creation of a twelve-member advisory council appointed by the Secretary of Labor. The council would consist of individuals "with a professional role in boxing, both as a sport and a business." One of the major tasks of the council would be to implement a "passport system" of boxer registration and tracking, designed to abolish the common practice of boxers working in one state after being knocked out, suspended for medical reasons or retired in another jurisdiction. The Commission supports any effort to set standards promoting the health, welfare and safety of boxers, but is concerned that the bill would weaken California's stringent regulation of all aspects of boxing.

RECENT MEETINGS:

At its January 27 meeting in San Francisco, the Commission elected Raoul Silva as its Chair and Jerry Nathanson as Vice-Chair for 1989.

Also at the January meeting, the Commission considered a proposal presented by John Jackson of Forum Boxing to put on a kickboxing match with its regular boxing show. Citing the major decline in attendance at California box-

ing matches, the Commission decided to grant Mr. Jackson a temporary experimental license.

Finally, at the January meeting the Commission approved the promoter application of Michael C. Drysdale, and the boxing application of ex-heavyweight champion boxer Mike "Hernandes" Weaver. Although Mr. Weaver is over the age of 36, the Commission noted his career record (42-14) and past accomplishments in its unanimous decision to grant him a license to box in California.

At its February 17 meeting in San Diego, the Commission discussed its role in the continuing extortion investigation of Commission Assistant Executive Officer Marty Denkin. As reported in the *San Jose Mercury News* on January 27, Denkin is under investigation by the Los Angeles County District Attorney's Office for allegedly demanding cash and jewelry in exchange for his approval of bouts. At this writing, Denkin is on paid administrative leave. The Commission has pledged to support any official investigation of Denkin. On February 18, Commission Chair Silva met with Department of Consumer Affairs Director Michael Kelley to discuss the investigation and the Commission's stand on the matter.

FUTURE MEETINGS:

June 16 in Sacramento.

July 21 in Los Angeles.

August 18 in San Diego.

September 15 in San Francisco.

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. Approximately 39,200 auto repair dealers are registered with BAR. 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 22,000 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 are registered with the Bureau. Registration revenues support an annual Bureau budget of nearly \$34 million. BAR employs 433 staff members to oversee the Automotive Repair Program and the Vehicle Inspection Program.

The Bureau is assisted by a nine-member Advisory Board which consists of five public and four industry representatives. They are Gilbert Rodriguez, Louis R. Kemp, Vincent L. Maita, Herschel Burke, Alden P. Oberjuege, Joe Kellejian, Kathryn Lee, Jack Thomas, and William Kludjian.

A new Bureau Chief was recently appointed by Governor Deukmejian. John Waras of Carmichael has worked in state government for 23 years, mostly with the Department of Finance. Waras was serving as Deputy Secretary for the State and Consumer Services Agency when appointed.

MAJOR PROJECTS:

Proposed License Fee Increases. As part of the implementation of SB 1997 (Presley), which increased the cap on licensing fees for inspection shops, mechanics, and inspectors (see CRLR Vol. 9, No. 1 (Winter 1989) p. 40 for background information), the Advisory Board recently discussed and approved proposed fee increases as recommended by Bureau staff. Currently, the licensing fees are \$10 per year for an inspection and maintenance (I/M) station, \$10 per two-year period for a qualified mechanic, and \$20 per two-year period for an inspector. In determining the proposed increases, Bureau staff considered the license fees of other boards within the Department of Consumer Affairs and also the Bureau's actual costs in administering its licensing programs. The Bureau incurs an actual cost of \$161 to license an I/M station per year; \$35 every two years to license a qualified mechanic; approximately \$17 to examine each mechanic; and \$20 every two years to license an inspector.

In order to reduce the barriers to entry for those who want to become licensed, the staff proposed fees of \$100 for each I/M station per year; \$10 per year for the qualified mechanic's license; \$5 per year for the mechanic's examination fee; and \$10 per two-year period for the inspector's license (a decrease from the current fee). The increased fees are needed to meet two-thirds of the Bureau's \$45 million budget. The remainder will be raised by increasing the cost of a smog certificate to \$6, as proposed by industry members at the November 1988 meeting. The fee increases were approved in concept by the Advisory Board at its February 17 meeting, despite continuing industry concern that shop owners would be burdened with the licensing costs.

Three public hearings were scheduled for discussion of the proposed increases: March 21 in Sacramento, April 3 in San Francisco, and April 18 in Los Angeles. If approved after the hearings, the fee package will be presented to the Office of Administrative Law (OAL) for approval.

Development of New Test Analyzer. Also pursuant to SB 1997, the Bureau is continuing to develop the BAR 90, a new smog test analyzer whose specifications were expected to be finalized by the end of March 1989. All I/M stations are required to obtain the new analyzer by July 1, 1990. The BAR 90 unit—which is IBM-compatible with a keyboard, monochromatic high resolution monitor, and 40-megabyte hard drive—measures carbon dioxide, carbon monoxide, and hydrocarbons; takes into account barometric pressure; and is more self-diagnostic than previous analyzers. It requires two printers—one to print certificates and another to print the inspection report. Another interesting feature is the ability of the unit to read a bar code (similar to those on items at a grocery store) soon to be placed on vehicles by car manufacturers. The bar code will tell the mechanic exactly what type of smog equipment is required on a specific car; however, vehicles equipped with the bar code vehicle identification labels and emission control system labels will not be subject to the Smog Check Program until 1991. The Bureau intends to require stations to purchase bar code scanners when the proportion of labeled vehicles constitutes 25% of the vehicle fleet, which is expected in 1993.

The Bureau has contacted five different companies regarding manufacturing the analyzer; although two of the companies have indicated prices of approxi-

mately \$10,000, the Bureau estimates the cost between \$10,000 and \$14,000 per analyzer. Industry members predicted that 15-20% of the smog stations will be forced out of business as a result of this required cost; however, Bureau staff noted that the number of stations does not make a significant difference in the Bureau's revenue.

Certification of Third Party Dispute Resolution Processes. A final draft of BAR's proposed regulations for the qualified dispute resolution process certification program has been sent to the Attorney General for information and review only. (See CRLR Vol. 9, No. 1 (Winter 1989) p. 39 for background information.) Proposed sections 3396-3396.9, Chapter 16 of the California Code of Regulations (CCR), which are currently being circulated for informal comment by BAR, include definitions and set forth the information to be provided to the Bureau when an applicant files for certification; describe the duties of the manufacturer in providing a dispute resolution process; require a quarterly report describing cases closed during the quarter; require maintenance of separate files for each case; and provide for certification, review, and decertification of dispute resolution processes. Former BAR Chief Martin Dyer is now heading up the Arbitration Review Program, which is acting as a separate entity from the Bureau. An informational hearing on the draft regulations was scheduled for May 10; the proposed regulations will be formally published in the *Notice Register* after that hearing.

CalPIRG Report on The New Car Lemon Law. In February, the California Public Interest Research Group (CalPIRG) reported on the Song-Beverly Consumer Warranty Act, better known as the New Car "Lemon Law." The group indicated its support for the recent Lemon Law amendments which gave BAR the authority to set up regulations for certifying the third party arbitration programs discussed above. In addition, CalPIRG's report published several hotline numbers for consumers who have problems with automotive repair shops. BAR's toll-free number for complaints against repair shops is (800) 952-5210.

Regulatory Changes. On January 25, OAL approved the Bureau's amendments to sections 3330.35 and 3340.50.4, Title 16 of the CCR, which will increase the fee for a smog certificate from \$5 to \$6. The fee increase, which took effect on March 1, is needed to help the Bureau meet its \$45 million budget.

On January 26, OAL approved the



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Bureau's adoption of new sections 3363.1-4, Title 16 of the CCR, which establish installation standards for ignition interlock devices. (See CRLR Vol. 9, No. 1 (Winter 1989) p. 39 and Vol. 8, No. 2 (Spring 1988) p. 43 for background information.)

EPA Plan to Recycle Refrigerants. On January 27, automakers, auto repair shops, and the U.S. Environmental Protection Agency (EPA) announced a plan aimed at achieving a 10% reduction in certain automobile-related emissions, which are believed to damage the earth's protective ozone layer and help cause the so-called "greenhouse effect." Under the plan, most of the nation's 100,000 auto repair shops which fix auto air conditioners would voluntarily install machines costing from \$1,500-\$6,000 to capture and recycle increasingly expensive and environmentally damaging refrigerants. Shops may be motivated to install the machines because recycling the refrigerants will be a source of income.

The most widely used refrigerants in auto air conditioners are chlorofluorocarbons (CFCs)—a family of chemicals believed to harm the earth's ozone layer. About 19% of all CFCs emitted in this country come from vehicle air conditioners. The chemical is not entirely recoverable since the refrigerant leaks slowly out of auto air conditioning systems while in use. Emissions of these and related chemicals are also believed to account for 15-20% of the "greenhouse gases"—man-made pollutants that remain in the upper atmosphere, reflecting heat and gradually increasing the earth's temperature.

The EPA, car makers, and the Mobile Air Conditioning Society have agreed to use the same kind of recycled refrigerant, allowing manufacturers to put the recycling machines on the market later this year. Auto air conditioners that do not use the polluting refrigerant will be installed in new cars within the next decade.

LEGISLATION:

SB 352 (Presley) would provide that BAR program representatives are peace officers within the meaning of section 830.3 of the Penal Code. This bill is pending in the Senate Judiciary Committee.

AB 292 (Floyd) would amend section 27156 and add section 27156.5 to the Vehicle Code. Existing law generally requires all motor vehicles to be equipped with pollution control devices, and prohibits the modification of those devices and the installation of any pollutant control device that does not meet

required standards except as to modifications which—as found by resolution of the state Air Resources Board (ARB)—either do not reduce the effectiveness of required pollution control devices, or result in emissions that are at levels that comply with existing state or federal standards. This bill would eliminate the requirement that the ARB make those findings by resolution. The bill would also expressly authorize the modification of any vehicle exhaust system if the modification would result in emission levels that comply with existing state or federal emissions standards, and a certificate of compliance has been issued. AB 292 is pending in the Assembly Transportation Committee.

SB 155 (Leonard) would impose emission charges on motor vehicles and fuels at designated rates based on specified pollutants emitted, as determined by the ARB. Existing law authorizes the payment of emission nonconformance fees by engine manufacturers but does not impose charges on registration of motor vehicles or the use or distribution of fuel based on the amounts of pollutants emitted. This bill would impose a fee of \$25 per gram per mile for each of the following emissions: reactive organic gases; oxides of nitrogen; carbon monoxide and particulate matter. This fee would be a state tax within the meaning of Article XIII A of the California Constitution. The revenues would be deposited in the Clean Emission Fund, which the bill would create, and would be available for specified purposes upon appropriation. This bill is pending in the Senate Transportation Committee.

RECENT MEETINGS:

At its February 17 meeting, the Advisory Board discussed policy changes with regard to the Bureau's undercover operation to reveal tampering. Currently, the process is to inform the station owner the same day an undercover operation is made, waive a citation for a first offense, and let the shop inspect the car to see what was incorrectly done. BAR Chief Waraas expressed concern that those practices would jeopardize the operation, since the undercover vehicle would also be used as an instructional vehicle. He would implement education differently, such as using one vehicle to take to the shops overtly for instruction, but to continue to use undercover vehicles. Public members expressed concern that immediate education of the mechanics would suffer, and that if there were a time lag after violations, the operation would not work to deter tampering.

At the same meeting, organizational changes within the Bureau were announced. Chief Waraas now has the additional title of Deputy Director of the Bureau of Consumer Affairs, which enables him to attend an executive meeting once a week.

FUTURE MEETINGS:

June 2 in Sacramento.

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 schools, 6,500 shops, and 21,500 barbers.

LEGISLATION:

AB 1108 (Epple) would delete the sentence in existing section 6529 of the Business and Professions Code which establishes limits for licensing fee increases for any one category of fees imposed by the BBE within the maximum fee ceilings imposed in other sections of the Business and Professions Code. These limits on fee increases would be deleted until January 1, 1993; at that time, new maximum licensure fees for BBE licensees would become operative under the provisions of this bill.

AB 1108 would also provide for the forfeiture of an examination fee where the applicant fails to appear for the examination without good cause, rather than payment of a penalty fee as is provided by existing section 6548 of the Business and Professions Code.

At this writing, AB 1108 is pending in the Assembly Committee on Governmental Efficiency and Consumer Protection.

FUTURE MEETINGS:

July 10 in San Diego.