



passed the Assembly on May 18 and is pending in the Senate Business and Professions Committee.

SB 599 (Montoya) would allow the Commission to establish standards for evaluating a professional boxer's boxing ability. (See CRLR Vol. 9, No. 2 (Spring 1989) p. 46 for background information.) This bill was passed by the Senate on May 4 and is pending in the Assembly Governmental Organization Committee.

AB 1040 (Floyd) as amended in June, would deregulate professional wrestling, except for a specified tax on the amount paid for admissions to wrestling exhibitions and a specified tax on closed-circuit telecasts of wrestling exhibitions. The Commission opposes this bill, which is currently pending on the Assembly floor.

RECENT MEETINGS:

At its March 17 meeting, the Commission granted Herman Pettigrew a license to box in California. The 40-year-old Pettigrew was denied a license in December 1988 after an unfavorable ophthalmologist's exam. Pettigrew's skills and abilities were observed by Assistant Chief Inspector George Johnsen in February. Upon recommendation by Mr. Johnsen, the Commission determined that Pettigrew should be limited to four-round boxing contests.

At its April 21 meeting in Santa Clara, the Commission approved amateur martial arts promoter's licenses for Steven Crane and Barry Jahn (dba Southern California Savate Club); and approved a professional boxing promoter's license for Lawrence Lowe (dba Larry Lowe Promotions).

FUTURE MEETINGS:

August 18 in San Diego.
September 15 in San Francisco.
October 20 in Los Angeles.
November 17 in Sacramento.
December 15 in Los Angeles.

BUREAU OF AUTOMOTIVE REPAIR

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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 Waraas of Carmichael has worked in state government for 23 years, mostly with the Department of Finance. Waraas was serving as Deputy Secretary for the State and Consumer Services Agency when appointed.

MAJOR PROJECTS:

Certification of Third Party Dispute Resolution Processes. In early June, BAR's Arbitration Review Program (ARP) published proposed regulations under which third party dispute resolution processes used for the arbitration of new car warranty disputes will be certified. ARP scheduled a July 17 public hearing in Los Angeles on the proposed regulations, which will be incorporated into Title 16, California Code of Regulations (CCR). (See CRLR Vol. 9, No. 2 (Spring 1989) p. 47 and Vol. 9, No. 1 (Winter 1989) p. 39 for background information.)

Under AB 2057 (Tanner) (Chapter 1280, Statutes of 1987), BAR is required

to establish standards used to determine whether a third party dispute resolution process is in substantial compliance with various provisions of the California Song-Beverly Consumer Warranty Act. If the program is in compliance, BAR is required to certify it; if not, BAR must deny certification and explain why. BAR is also required to monitor programs and, if it determines that a program is no longer in substantial compliance, must issue a notice of decertification, which takes effect 180 calendar days following the date of the notice.

Part I of the proposed regulations (sections 3396-3396.1) sets forth the scope, purpose, and organization of the proposed subchapter, as well as definitions of terms used in the regulations. Part II (sections 3397-3397.5) sets forth minimum standards for manufacturers which create and use the arbitration program. Part III (sections 3398-3398.15) describes the requirements and procedures applicable to arbitration programs, including the qualifications, selection, and training of arbitrators; the rules governing meetings held to decide disputes; the contents of any written decision issued; and recordkeeping requirements with which arbitration programs must comply. Part IV (sections 3399-3399.6) prescribes the procedure to be used by applicants seeking certification, and reporting requirements for certified processes.

Regulatory Changes. On April 5, the Office of Administrative Law (OAL) rejected for the fourth time BAR's proposed regulatory changes affecting Smog Check Program station and inspector licenses and licensing fees, and establishing certification, decertification, and recertification standards for Smog Check Program instructors. (See CRLR Vol. 8, No. 4 (Fall 1989) p. 44 and Vol. 8, No. 1 (Winter 1988) p. 44 for background information.) OAL disapproved sections 3340.25, 3340.32, and 3340.33, because the title and dates of certain forms required for each section were not contained in the applicable regulatory text, and because they failed to comply with the "clarity" standard. In addition, the entire regulatory action failed to comply with procedural requirements which provide that the index or table of the rulemaking file must contain an affidavit or declaration under penalty of perjury specifying the date upon which the record was closed, and that the file is complete. The declaration attached to the rulemaking file did not contain the date upon which the record was closed, and the signature did not appear to be that of Bureau



REGULATORY AGENCY ACTION

Chief Waraas, the declarant. Finally, OAL noted that the Bureau is precluded from resubmitting this regulatory action, since the resubmittal would exceed the statutory one-year maximum time period for the effective period of the initial notice, which was published in the *Notice Register* on October 23, 1987.

Also rejected by OAL on March 27 was BAR's proposed adoption of section 3340.42.1. (See CRLR Vol. 9, No. 1 (Winter 1989) p. 39 for background information.) This section would set forth exhaust emissions inspection standards and test procedures for heavy-duty vehicles powered by gasoline. The notice of proposed regulatory action must contain a fiscal impact statement which has a signature and date verifying Department of Finance concurrence. Such a date and signature were not present in this notice.

LEGISLATION:

AB 1718 (Hayden), entitled the Ozone Protection Act of 1989, would make a statement of legislative intent finding that, among other things, chlorofluorocarbons (CFCs) and halons, along with carbon dioxide, methane, and nitrous oxide, contribute to the global greenhouse effect; that CFCs and halons are not essential to the operation of the world, United States, or California economy, and can be replaced with other materials and chemicals in most applications, and better managed in others; and that 25% of the total amount of CFCs produced in this country every year is lost to the atmosphere because of poor maintenance, inappropriate servicing practices, and leaking mobile air conditioners. On or after January 1, 1991, this bill would require the use of recycling and recovery equipment approved by the state Air Resources Board (ARB) in the servicing of vehicle air conditioners having CFC coolants, and would prohibit or require the labeling of those coolants when sold in specified small quantities. BAR would be required to establish and administer procedures for installation and use of that equipment. The bill would prohibit, after specified dates, the sale of hand-held fire extinguishers, medical sterilants, and other specified products containing halogenated chemicals; and the manufacture, assembly, packaging, or sale of any project containing specified CFCs, halons, or other halogenated chemicals, except under specified conditions. This bill is pending in the Assembly Ways and Means Committee.

AB 2404 (Connelly), as introduced in March 1989, would prohibit, on or

after January 1, 1992, the sale or offer for sale of CFC coolant suitable for use in mobile air conditioners in containers smaller than fifteen pounds. This bill is a spot bill pending in the Assembly Natural Resources Committee.

AB 2025 (Farr) would extend the operation of the ignition interlock program until January 1, 1994. The program provides that if a person is convicted of driving under the influence of alcohol, drugs, or a combination thereof, and is given probation, the court may order that person to have a certified ignition interlock device installed on motor vehicles owned or operated by him/her, and that person is prohibited from driving a motor vehicle unless it is equipped with a functioning ignition interlock device, with specified exceptions. This bill is pending in the Assembly Ways and Means Committee.

AB 2040 (Farr) would require BAR to cooperate with the Office of Traffic Safety and designate stations for the installation of ignition interlock devices. The bill would require manufacturers of those devices to comply with installation standards established by BAR, and would authorize the Bureau to charge those manufacturers a fee to recover the cost of monitoring those installation standards. The bill would also provide that when a person is sentenced upon conviction of driving a motor vehicle under the influence of drugs or alcohol, it is that person's responsibility to pay for the purchase and installation of any ignition interlock device if ordered by the court to do so. This bill is pending in the Assembly Ways and Means Committee.

SB 1429 (C. Green) would expand the current ignition interlock program, currently operative in four counties, to eight counties, and would extend the pilot program termination date to January 1, 1993. The bill would also reinstate until January 1, 1992, the requirement that BAR establish standards for the installation of ignition interlock devices. This bill is pending in the Senate Appropriations Committee.

AB 1120 (Areias) would regulate the use of replacement parts for the non-mechanical repair of motor vehicles. It would require any "aftermarket crash part" (a replacement for any of the sheet metal or plastic exterior parts, including inner panels) to be inscribed with the logo of the manufacturer, which is to be visible after installation whenever practicable. It would also prohibit an insurer or repair facility from requiring the use of, or using, any non-original equipment manufacturer aftermarket crash parts un-

less the consumer is advised in writing of the use of the part and consents to its use. This bill is pending in the Assembly Ways and Means Committee.

AB 2036 (Speier) would require that BAR increase the fee charged to licensed smog check stations for issuance of certificates of compliance or noncompliance from \$6 to \$7, commencing on January 1, 1990. The funds from this increase would be deposited in the Rideshare for Clean Air Fund, which is allocable by the Department of Transportation to programs which encourage commuter alternatives to the single-occupant vehicle. The bill is pending in the Assembly Ways and Means Committee.

SB 1276 (Presley), which passed the Senate on May 25 and is currently pending in the Assembly Transportation Committee, would add numerous technical corrections and changes to the Smog Check Program, as revised by SB 1997 (Presley), signed into law in September 1988. Among other things, SB 1997 extended the expiration date for the Smog Check Program until 1999 and made major revisions for the purpose of making it more effective by establishing emission reduction goals, increasing the threshold cost for required repairs, including public vehicles in the program, and tightening the licensing and testing standards for stations and mechanics.

The following is a status update on bills described in detail in CRLR Vol. 9, No. 2 (Spring 1989) at page 48:

SB 352 (Presley), providing that BAR program representatives are peace officers within the meaning of section 830.3 of the Penal Code, is pending in the Senate Appropriations Committee.

AB 292 (Floyd), still pending in the Assembly Transportation Committee, has become a two-year bill. It would eliminate the requirement that the Air Resources Board (ARB) find by resolution that certain modifications of pollutant control devices are not prohibited, and would authorize certain modifications of vehicle exhaust systems that comply with existing state or federal emissions standards.

SB 155 (Leonard) was amended on May 31 to impose an additional tax under the Motor Vehicle Fuel License Tax Law and the Use Fuel Tax Law on specified motor vehicle fuels at designated rates, based on whether the fuel meets specified standards. This bill is pending in the Senate Transportation Committee.

FUTURE MEETINGS:

August 25 in Burlingame.