



Angeles, the Commission approved the licensure of boxing promoters George Stassi and John Ellis.

Also at the March meeting, boxer Victor "Pit Bull" Gonzales appealed the Commission's decision to retire him. The Commission granted Gonzales a temporary license pending results of neurological testing and review of his performance in subsequent fights. According to Executive Officer Ken Gray, the temporary license has since been revoked and Gonzales is again retired.

At the March meeting, the Commission also ratified decisions to retire boxers Otis Lee Rodgers, Kick Green, Francis Charles, S.T. Gordon, and Juan Torres.

FUTURE MEETINGS:
To be announced.

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. Governor Deukmejian recently appointed two new public members and one industry member to the Board, and reappointed two industry members. Gilbert Rodriguez, a San Jose graphic designer and art director, replaces public member Charles R. English, whose term expired. Louis R. Kemp, a Sacramento-area business consultant, replaces public member Wesley M. Balbuena. Vincent L. Maita of Sacramento has been appointed to fill an industry member position on the Board. Reappointed were Herschel Burke and Alden P. Oberjunge, both of Long Beach.

MAJOR PROJECTS:

San Joaquin County Smog Check Program. In April 1987, San Joaquin County became the eighth California district to request implementation of the Smog Check Program. (See CRLR Vol. 7, No. 4 (Fall 1987) p. 40.) The program officially commenced on April 1, 1988, with the Department of Motor Vehicles (DMV) notifying selected San Joaquin motorists that Smog Check certificates will now be required for renewal of their vehicle registrations. Smog Check certificates will also be required for transfer-of-registration and initial transactions.

BAR has designated a new District 8, consisting of all of San Joaquin County, which was formerly part of District 1, Sacramento. The new San Joaquin BAR District office opened for business on February 1. (See CRLR Vol. 8, No. 1 (Winter 1988) p. 45.)

Regulatory Changes. The Board's numerous changes to regulations contained in Subchapter 1 of Chapter 33, Title 16 of the California Code of Regulations, described in CRLR Vol. 8, No. 2 (Spring 1988) at pp. 42-43, were submitted to the Office of Administrative Law (OAL) for review in early June.

Regulatory changes which were described in CRLR Vol. 8, No. 1 (Winter 1988) at p. 44, and disapproved by OAL on February 19, were resubmitted to OAL in early June.

LEGISLATION:

SB 1997 (Presley) passed the Senate on May 20. The measure would, *inter alia*, abolish the Bureau of Automotive Repair; create the Department of Vehicle Inspection and Repair within the Resources Agency; and transfer all BAR duties and functions to the newly-created department. (See CRLR Vol. 8, No. 2 (Spring 1988) pp. 43-44 for background information.)

SB 1997 was amended several times in April and May. As originally proposed, the bill would have required new car makers to warrant defects in a car's pollution control system for ten years or 100,000 miles, if the repair costs exceed \$300. As amended, the bill would require the manufacturer to warrant that the vehicle or engine is designed, built, or equipped to conform to applicable emission standards for five years or 50,000 miles; that it is free from defects which could cause it to fail to conform to applicable requirements for three years or 50,000 miles; and that it is free from defects in emissions-related parts which individually cost more than \$300 to replace, for seven years or 70,000 miles, as specified.

AB 4620 (Bader) proposes revisions to the Smog Check Program. As amended in April, AB 4620 would revise, rather than delete, the Smog Check Program exemption for older vehicles, specifying that the exemption applies to vehicles manufactured prior to the 1966-model year. AB 4620 is pending in the Assembly Transportation Committee. (See CRLR Vol. 8, No. 2 (Spring 1988) p. 43 for details.)

AB 3345 (Floyd). Existing law generally requires all motor vehicles to be equipped with pollution control devices and prohibits both the modification of those devices and the installation of any pollution control device which does not meet required standards. These prohibitions do not apply to modifications which, as found by resolution of the state Air Resources Board (ARB), do not adversely impact the effectiveness of required pollution control devices. This bill would have eliminated the requirement that the ARB make those findings by resolution. AB 3345 failed passage in the Assembly Transportation Committee.

AB 1250 (Lewis), as amended in January, would affect BAR by exempting registered electronic and appliance repair dealers from the Automotive Repair Act. The measure would also revise a provision of existing law which exempts automobile dealers or manufacturers from the Electronic and Appliance Repair Dealer Registration Law where the dealer or manufacturer installs or replaces a motor vehicle radio, antenna, or audio or video playback equipment related to the sale of a motor vehicle. This bill would revise the exemption to provide that it applies to the repair of a motor vehicle in addition to the sale of a motor vehicle. AB 1250 passed the Assembly and is pending in the Senate Business and Professions Committee.



REGULATORY AGENCY ACTION

SB 2808 (McCorquodale) would prohibit any automotive repair dealer from charging more than the dealer's regular shop hourly rate, and would define and prohibit the use of the so-called "flat rate" method of charging. SB 2808 is pending in the Senate Business and Professions Committee.

AB 4468 (Elder) would require a retail seller of a policy of extended service warranty to obtain insurance coverage to back up that policy. This bill would do so for the purpose of indemnifying both the seller and the purchaser of the extended service warranty in the event of loss or depletion of the claims reserve account held by the underwriter of the extended service warranty. AB 4468 was amended on April 27 to define "extended service warranty," and exempt retail sellers of such warranties who manufacture products covered therein and obligors under the warranties who manufacture, distribute, or import the goods covered. The measure passed the Assembly on May 12 and is pending before the Senate Committee on Insurance, Claims and Corporations.

AB 3531 (Tanner) would make technical, nonsubstantive changes to the provisions in existing law which require the Bureau of Automotive Repair to establish a program for the certification of third-party dispute resolution processes used for arbitration of disputes under California's "lemon law." AB 3531 is pending in the Assembly Committee on Governmental Efficiency and Consumer Protection.

AB 3321 (Duplissea), as introduced, would have exempted motor vehicles over 21 years old from the Smog Check Program, while requiring such vehicles to be equipped with exhaust devices, if required by other specified provisions of the law. AB 3321 was amended on May 4 and is no longer relevant to BAR.

SB 1863 (McCorquodale) would authorize emissions warranty service providers to perform emissions warranty service work. Under existing law, there is no authority for a vehicle owner to have emissions warranty service performed except by a person designated by the vehicle manufacturer or its agent. SB 1863 is pending in the Senate Committee on Insurance, Claims and Corporations.

LITIGATION:

Volvo North America Corporation has agreed to dismiss a key lawsuit brought in U.S. District Court in California, in a settlement which could significantly increase the amount of

generic-brand parts used in Volvo-related auto body repairs. In December 1986, Volvo brought a suit against Keystone Automotive Industries Inc., a California-based vehicle parts distributor, alleging patent infringement and challenging the company's right to sell its replacement fenders to garages which repair Volvo cars. Keystone countered that its replacement parts were as good as the Volvo originals and that, because of the generic nature of the parts, they were beyond the bounds of patent protection. The settlement between Volvo and Keystone contains a stipulation which provides that customers will be informed of any attempt to use non-original-equipment manufacturer parts in their vehicles.

FUTURE MEETINGS:

August 26 in Los Angeles.

BOARD OF BARBER EXAMINERS

*Executive Officer: Lorna P. Hill
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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.

MAJOR PROJECTS:

Regulatory Changes. On April 11, the Board conducted a hearing in San Diego on proposed changes to Chapter 3, Title 16 of the California Code of Regulations. Existing regulations provide no standards for models used by applicants taking the practical portion of the barber examination. Proposed section 229, which would set such standards, was initiated because the Board has received numerous complaints from examination candidates who believe their models have been rejected arbitrarily by the examiners. The Board established the proposed model standards after extensive discussion with examiner field representatives, barber college owners, and industry Board members on the minimum hair length required for a candidate to demonstrate a haircut; minimum beard growth required for a shave; and specific prohibitions against certain

persons serving as models. After the hearing, the Board voted to adopt the regulation as originally drafted. The Board will forward the proposed regulation to the Office of Administrative Law (OAL) for approval in the near future.

The Board's many proposed changes to regulations contained in Chapter 3, which were enumerated and discussed in CRLR Vol. 8, No. 2 (Spring 1988) at p. 44 and adopted by the Board in January, are being reviewed by the Department of Consumer Affairs (DCA) at this writing. All regulatory changes adopted by DCA boards and bureaus must be reviewed by the Department before submission to the OAL. (For background information, see CRLR Vol. 8, No. 1 (Winter 1988) p. 45.)

Changes to Practical Portion of Exam. At its April meeting, the Board voted to make major revisions to the practical portion of its licensure exam. Specifically, the BBE decided to delete sections of the practical exam covering shampoo, hairstyle, hair coloring, chemical hair straightening, and chemical waving.

The Board's action was immediately met with protests from representatives of northern California barber schools who had not been in attendance at the April meeting and were unable to comment on proposed exam revisions before the BBE voted to implement them.

The Board's agenda for its April meeting did not specify that the Board would discuss possible revisions to the practical portions of the exam, nor did it indicate that the Board would actually vote on the matter. The agenda did list "Examination Review" as an item for Board consideration and enumerated specific topics for discussion in that subject area—none of which indicated that actual exam revisions would be determined. The state's open meetings law provides that the notice of a meeting of a state body "shall include a specific agenda for the meeting, which shall include the items of business to be transacted or discussed, and no item shall be added to the agenda subsequent to the provision of this notice." Government Code section 11125(b).

At the urging of BBE Executive Officer Lorna Hill, the Board reconsidered its decision at a May 16 meeting in Los Angeles. Ms. Hill provided Board members with an analysis indicating that the exam revisions would significantly reduce the examinee passage rate. Board members voted to rescind their April decision and reconsider the matter at a future meeting.