

## ASSEMBLY THIRD READING

AB 471 (Low)

As Amended May 24, 2021

Majority vote

**SUMMARY**

This bill makes a variety of changes to the Automotive Repair Act, which provides for the registration and regulation of automotive repair dealers by the Bureau of Automotive Repair (BAR), within the department of consumer Affairs (DCA).

**Major Provisions**

- 1) Authorizes the DCA director (director) to include in the citation system a process for informal review of and recommendation on citations, including the establishment of an informal citation conference, as specified.
- 2) Requires the director to employ legal counsel, legal assistants and other personnel that may be necessary for the administration and enforcement of the Automotive Repair Act.
- 3) Authorizes the director to establish a process for an automotive repair dealer, upon successful completion of a specified remedial training, to prevent disclosure of the citation on the internet, except if the violation constitutes fraud. Further requires the director to establish through regulation a program to certify providers of remedial training.
- 4) Recasts and revises dealer registration forms to additionally include, among other things, the automotive repair dealer's telephone number, email address and motor vehicle license plate number if engaged in mobile automotive repairs.
- 5) Requires the director to issue vehicle safety systems inspection licenses to stations and technicians to conduct inspections of, and repairs to, safety systems of vehicles. Requires the director to develop inspection criteria and standards for specific safety systems and components of the vehicle in order to promote the safe and uniform installation, maintenance and servicing of vehicle safety systems and components. Requires the director to adopt regulations by January 1, 2023, including, but not limited to, the application process for licensees and the certification process for vehicles, as specified.
- 6) Provides the vehicle safety systems inspection license replaces licenses issued pursuant to the existing provisions governing the licensure of lamp and brake adjusting stations and adjusters and would repeal those provisions on the effective date of the new regulations.

**COMMENTS**

*Bureau of Automotive Repair.* The BAR is the state agency tasked with enforcing the Automotive Repair Act. Both the Automotive Repair Act and the BAR were established by SB 51 (Beilenson), Chapter 1578, Statutes of 1971. The purpose of the Act is to provide an additional layer of consumer protection from unsafe and unethical automotive repair practices and improve consumer confidence.

The BAR is an administrative and regulatory agency, not a law enforcement agency. The BAR's statutory authority is limited to administrative fines and various actions related to an Automotive

Repair Dealers (ARD's) registration. Further, as a state agency, it is required to comply with the due process rights of its registrants, and all registrants are entitled to notice and a hearing when being deprived of a registration. Still, operating without a registration when required by the Act is a crime. If the BAR finds an egregious case, it is authorized to refer the case to a district attorney or city attorney for prosecution. In addition, consumers may sue for damages.

*Bureau of Automotive Repair (BAR) Cite and Fine Program.* BAR currently can issue citation and fines to automotive repair dealers who are licensed smog check stations and those who are performing unlicensed repairs. Under current authority established in Health and Safety Code section 44014.5(d)(2) and Title 16, CA Code of Regulations (CCR) section 3392.6.1 (Star Program) and CCR section 3394.45 (Unlicensed Activity) the BAR has established an informal citation conference (ICC) process to hear appeals. The current process allows for informal appeals but is heard before a single BAR representative. This bill takes the current ICC process and expands it for automotive repair dealers that receive citations and establishes an independent panel to hear these informal appeals. The panel shall consist of three members, with one from the BAR, the public and the automotive repair industry all appointed by the BAR Chief.

*Remedial Training/Traffic School Model.* Current law does not provide the ability for BAR to have a citation for minor record keeping violation removed from the internet. The bill provides an opportunity for an automotive repair shop that receives a citation for documentation, record keeping or other minor types of violations, not fraud related, to attend remedial training (certified by BAR) and upon successful completion, would prevent the disclosure of the citation on internet, similar to attending traffic school under Vehicle Code section 1808.7. To be eligible, the automotive repair dealer shall not have attended remedial training in the prior 18-month period.

*Training/Educational Certifications.* Current law limits the amount of information that can be collected by the BAR from automotive repair dealers. The bill allows BAR to collect information from automotive repair dealer application, including email addresses and educational and training certifications that are nationally recognized and generally accepted by the auto repair industry (e.g., ASE, I-CAR, etc.) or any BAR-approved educational certificates. This information would be collected voluntarily from the automotive repair dealers. After this information is collected, BAR would be able to provide to consumers through the BAR *Auto Shop Locator* Program.

*BAR Discipline Case Overview.* Based on the DCA Annual Report FY 2019/20, it took an average 721 days to impose discipline from the initiation of investigation to decision effect date. Some disciplinary cases took over three (3) years to conclude. See DCA Annual Report pp. 27-30. [https://www.dca.ca.gov/publications/2020\\_annrpt.pdf](https://www.dca.ca.gov/publications/2020_annrpt.pdf).

*Salvage Vehicle Safety Inspection.* Generally, when a consumer's vehicle is involved in accident, it is repaired by a licensed repair shop in a good and workmanlike manner which meets all safety requirements of the original equipment manufacturer. Basically, it's brought back to pre-accident condition. However, if it is determined that the vehicle is not economically feasible to repair due to extensive damage, it is declared a "total loss" and towed to the auction to be sold as "junk" and gets a "salvage" certificate.

Most of these salvage vehicles are purchased for parts and are dismantled. Some of these vehicles are purchased by "rebuilders" who repair the car as cheap as possible and then sell these vehicles via Craigslist, etc. In order to legally revive the salvage for use on public roads, they

must simply pass brake and lamp inspection, smog check, and obtain a California Highway Patrol inspection to make sure there are no stolen parts. Unfortunately, many of these revived total loss salvage vehicles could have safety issues such as cracked windshield, illuminated air bag light, no seat belts yet still pass inspection and are sold to unsuspecting consumers who think they're buying a safe vehicle.

The Bureau of Automotive Repair has recognized this as a consumer safety issue. This bill combines the current brake and lamp program and re-names it the "vehicle safety inspection program" and provides BAR the authority to develop additional inspection criteria standards for safety systems through regulations and allows for electronic transmittal of the brake and lamp certificates to DMV.

### **According to the Author**

This bill is Author sponsored. According to the Author, "Bringing a car into a repair shop for repairs or service can sometimes be an intimidating experience. Often times, the customer knows far less about cars than the technicians and might be worried that the shop will take advantage of the consumer out of hard-earned money. Fortunately, the State of California has put into place a series of automotive repair laws and regulations to protect customers of the automotive repair industry. These car repair laws provide oversight to the industry, as well as rules that give the consumer protection, and more information and control over the repair process. Many of these current consumer protections can be improved upon."

### **Arguments in Support**

The registered support is represented by a large coalition, which states, "[This bill] is multi-faceted legislation that would, among other things, enhance the Bureau of Automotive Repair ("BAR") programs for consumers, protect consumers from unsafe salvage vehicle repairs, improve the current citation and fine regulatory program and allow for a more efficient and expedited disciplinary process.

**Protect Consumers who Purchase Revived Salvage Vehicles:** This bill will protect consumers from unsafe, revived, total loss salvage vehicles (e.g. vehicles damaged and not economically feasible to repair) by establishing a vehicle safety inspection program and allowing BAR to develop the safety inspection criteria standards. Currently to revive a total loss salvage vehicle for use on public roads only requires a brake and lamp inspection, smog check and a CHP inspection to make sure there are no stolen parts – nothing else.

**Improve BAR Citation and Fine Program:** The legislation will improve the current BAR citation and fine regulatory program by creating an independent citation panel to review citations; provide opportunity for automotive repair shops to attend compliance and remedial training for minor record keeping and documentation citation violations, similar to traffic school and allows BAR to certify the training providers.

**Expedite BAR Disciplinary and Hearing Process:** Allows BAR to hire in-house legal assistants to prepare complaint accusations and pre-assigns administrative law judges to hear BAR cases which will allow for more efficient and expedited disciplinary process while preserving the automotive repair dealers right to due process."

### **Arguments in Opposition**

None on file.

## FISCAL COMMENTS

According the Assembly Appropriations Committee:

### 1) Vehicle Inspection and Certification Program.

- a) Estimated absorbable costs of \$355,000 (special fund) for issuing a new vehicle safety systems inspections license to stations and technicians to conduct inspections and repairs to safety systems of vehicles, develop inspection criteria and standards and adopt regulations.
- b) Estimated one-time information technology (IT) costs of \$100,000 (special fund) for the Office of Information Services (OIS) to update the CAS/ATS information technology programing for two license categories.
- c) Estimated one-time IT costs of approximately \$2 million (special fund) to electronically transmit vehicle safety inspection results and certificates issued by licensees to DCA and BAR.
- d) Unknown, ongoing costs to support the online transactional processing (OLTP) of electronic certificates. As similarly done with the Smog Check Program, BAR indicates it could charge a transactional fee to cover the cost to support the electronic system. The Smog Check transactional fee is currently \$0.70 per inspection. This bill strikes the fee authority for the existing certificate program, but does not reinstate it for the new electronic system proposed in this bill. DCA indicates if the fee authority was reinstated, the revenue generated by the electronic certificate process would likely offset the costs. The existing certificate fee generated \$1.575 million in 2020.
- e) Estimated ongoing annual revenue loss of \$1.7 million (special fund) from eliminating two existing license types and their corresponding fee authorities upon adoption of the new regulations for the proposed vehicle safety systems inspections license.

### 2) All other costs are anticipated to be minor and absorbable.

## VOTES

### ASM BUSINESS AND PROFESSIONS: 19-0-0

**YES:** Low, Flora, Arambula, Berman, Bloom, Chen, Chiu, Cunningham, Megan Dahle, Fong, Gipson, Grayson, Holden, Irwin, McCarty, Medina, Mullin, Salas, Ting

### ASM APPROPRIATIONS: 12-0-4

**YES:** Lorena Gonzalez, Calderon, Carrillo, Chau, Gabriel, Eduardo Garcia, Levine, Quirk, Robert Rivas, Akilah Weber, Holden, Luz Rivas

**ABS, ABST OR NV:** Bigelow, Megan Dahle, Davies, Fong

## UPDATED

VERSION: May 24, 2021

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