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**SENATE COMMITTEE ON  
BUSINESS, PROFESSIONS AND ECONOMIC DEVELOPMENT**  
Senator Richard Roth, Chair  
2021 - 2022 Regular

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<b>Bill No:</b>	AB 471	<b>Hearing Date:</b>	June 30, 2021
<b>Author:</b>	Low		
<b>Version:</b>	June 15, 2021		
<b>Urgency:</b>	No	<b>Fiscal:</b>	Yes
<b>Consultant:</b>	Elissa Silva		

**Subject:** Bureau of Automotive Repair: administration: citations: safety inspections

**NOTE:** *Double-referral to Judiciary Committee, Second.*

**SUMMARY:** Authorizes the Bureau of Automotive Repair (BAR) to establish an informal citation conference for automotive repair dealers (ARD), requires BAR to establish a program to permit remedial training in lieu of posting minor violations online, requires BAR to collect additional information on licensing applications, and revises and recasts the provisions of the brake and lamp inspection act into a new Vehicle Safety Inspection program, as determined by the BAR.

**Existing law:**

- 1) Establishes the Bureau of Automotive Repair (BAR) tasked with the licensure and regulation of automotive repair dealers, smog check stations, and administering the STAR certification programs through the Automotive Repair Act (Act). (Business and Professions Code (BPC) §§ 9880, 9882).
- 2) States that the duty of enforcing the Act is vested in a Chief appointed by the Governor, permitted to adopt and enforce rules and regulations that the Chief determines are reasonably necessary to carry out the Act, including a system for citations. (BPC §§ 9882(a), 9882.2)
- 3) Requires the Director of the Department of Consumer Affairs (DCA), on their own initiative or in response to complaints, to investigate violations of the Act and of any regulation by an automotive repair dealer or automotive technician, whether registered or not, and by any employee, partner, officer, or member of any ARD, and further requires the director to establish the procedures for accepting complaints from the public against any ARD or automotive technician. (BPC § 9882.5)
- 4) Requires an ARD to pay a fee for each place of business and register those locations with the Director on a form prescribed by the BAR. (BPC § 9884(a))
- 5) Requires the form specified in 4) to include sufficient information to identify the ARD, including the following:
  - a) Name;

- b) Address of each location;
  - c) Statement by the ARD that each location is authorized to operate per local zoning ordinances, as specified;
  - d) Retail sellers permit, if required;
  - e) The business's fictitious name, if applicable;
  - f) Owners, directors, partners, members, trustees, managers, and any other person who directly or indirectly control or conduct the business, as required by the Director of DCA; and,
  - g) A statement signed under penalty of perjury that the information provide is true and correct. (BPC § 9884(a))
- 6) Authorizes the Director of DCA to deny, suspend, revoke, or place on probation the registration of an ARD for any of the following, as specified;
- a) Making or authorizing a written or oral statement that is untrue or misleading;
  - b) Causing or allowing a customer to sign a work order that does not state the repairs requested by the customer or contain the automobile's odometer at the time of repair;
  - c) Failing or refusing to give the customer a copy of any document requiring their signature, as soon as the customer signs the document;
  - d) Conduct that constitutes fraud, or gross negligence;
  - e) Willful departure from or disregard of accepted trade standards for good and workmanlike repair in any material respect, which is prejudicial to another without consent of the owner or the owner's duly authorized representative;
  - f) Making false promises, as specified, for a customer to authorize the repair, service or maintenance of a vehicle;
  - g) Having repair work done by someone other than the ARD or its employees without the knowledge or consent of the customer unless the ARD can demonstrate that the customer could not reasonably have been notified;
  - h) Conviction of a violation of the prohibition on (BPC § 9884.7(a))
- 7) Prohibits a person who is required to have a registration under the Act from the benefit of any lien for labor or materials, unless that person has a valid registration. (BPC § 9884.16)
- 8) Authorizes an owner of a fleet of three or more vehicles who is not an interstate carrier to be licensed by the Director as a licensed station if the owner complies with the rules and regulations of the BAR, and may not certify the adjustment of lamps or

brakes except on vehicles, which constitute the owner's fleet. (BPC § 9888.4)

**This bill:**

- 1) Authorizes the Director of DCA to include in the citation system:
  - a) A process for informal review and recommendation on citations, including establishment of an informal citation conference conducted by a panel of independent representatives appointed by the chief of BAR, which must consist of one representative from the BAR, the public and the automotive repair industry and
  - b) A process for an ARD upon successful completion of remedial training conducted by a provider, as specified, to prevent disclosure of the citation on the internet, and to be eligible for citation non-disclosure, the ARD cannot have attended remedial training in the prior 18-months period from the effective date of the citation.
- 2) Requires the BAR to adopt rules and regulations for the informal review and citation process.
- 3) Adds additional information to the form required for registration as an ARD to include the ARD's telephone, email address, motor vehicle license plate number, if engaged in mobile automotive repairs, other identifying data prescribed by the Director and any applicable nationally recognized and industry accepted educational certifications and any BAR-approved educational certifications.
- 4) Requires the Director, to establish a program to certify providers of remedial training for automotive repair dealers, employees, and other persons identified as directly, indirectly controlling, or conducting an automotive repair dealer business, who have violated the Act.
- 5) Makes remedial training available for only those violations involving documentation or record-keeping, or that the BAR determines to be minor in nature and remedial training is not available if the violation constitutes fraud.
- 6) Specifies that a person who does not have a valid registration as an ARD cannot charge a storage fee of a vehicle.
- 7) Establishes a Vehicle Safety Inspection Program (VSIP) as follows:
  - a) Authorizes 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 serving of vehicle safety systems and components.
  - b) Requires the Director to issue vehicle safety inspection licenses to stations and technicians to conduct inspections, of, repairs to, safety systems of vehicles, and permits the Director to electronically issue those licenses.

- 8) Requires the Director, by January 1, 2024, to adopt regulations including, but not limited to the following for the VSIP:
  - a) 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 the vehicle safety systems and components;
  - b) The application fee and process for applicants, as specified;
  - c) The certificate of compliance fee and certification process for vehicles including, any specialized certification process for those vehicles certified pursuant to lamp and brake adjustment stations; and,
  - d) The form for the certificate of compliance is contains, at a minimum, the date of issuance, make and registration of vehicle, name of the owner and the official license of the station.
- 9) Requires the VISP license to replace the current licensure process under the lamp and brake adjustment stations, as specified, and permits those licenses to remain valid for six months after the Director adopts the required regulations.
- 10) Requires a licensee to issue a certificate of compliance to the owner or driver of a vehicle, if after conducting an inspection of, and any necessary repair to the safety systems of the vehicle, the licensee determines that the safety systems conform with the inspection criteria and standards adopted by the director.
- 11) Authorizes the Director to require a licensee to electronically transmit to the DCA, a record of each certificate of compliance issued.
- 12) Authorizes the Director to electronically submit to the Department of Motor Vehicles, certificates of compliance issued by licensees.
- 13) Requires the Director to evaluate the feasibility of augmenting existing database systems to support the charging of fees with respect to, and the issuance and tracking of certificates of compliance.
- 14) Authorizes the Director to enter into a contract for services necessary to maintain and operate an electronic certification system for the program.
- 15) Makes other technical and conforming changes.

**FISCAL EFFECT:** This bill is keyed fiscal by Legislative Counsel. According to the Assembly Committee on Appropriations, BAR estimates it will incur the following costs:

- 1) BAR Administrative Cases.
  - a) Estimated ongoing, absorbable costs of \$2.6 million (special fund) to appoint at least one Administrative Law Judge and others for each of BAR's regional offices to conduct proceedings under the Automotive Repair Act. BAR anticipates these costs will be offset by eliminating, or at least reducing, the current costs paid by

BAR to the Office of Administrative Hearings and Attorney General's Office in support of its administrative cases against licensees. Therefore, BAR considers these costs to be absorbable within existing resources.

2) 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.

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

**COMMENTS:**

1. **Purpose.** The Author is the sponsor of this bill. As noted by the Author "AB 471 will improve and enhance existing consumer protections by helping consumers to easily identify automotive repair dealers that have proper training and certification credentials through the Auto Shop Locator; improve the current citation and fine regulatory program by creating an independent citation conference panel to review citations; allow BAR to hire in house legal assistants to prepare accusations; assign administrative law judges to hear cases which will allow for more efficient and expedited disciplinary hearings; allow BAR to certify providers that train auto repair dealers; protect consumers from unsafe salvage vehicles by establishing a vehicle safety inspection program, and provide opportunity for repair shops to attend training for minor documentation citation violations, similar to traffic school."
2. **Background.**

*Bureau of Automotive Repair.* Currently, BAR is responsible for the licensure and enforcement of the automotive repair industry through the Act. The Act mandates a statewide automotive repair consumer protection program, including the requirement that automotive repair dealers be registered and regulated by BAR. The Act also gives the BAR the authority to license and regulate official stations and mechanics in the areas of lamp, brake, and smog device inspection and repair.

BAR licenses and regulates the business operations of automotive repair dealers, smog Check stations and technicians, and brake and lamp stations and adjusters. BAR administers the Smog Check and Consumer Assistance programs aimed at reducing air pollution from motor vehicles. Specifically, BAR issues licenses, certificates, and registrations in the following classifications: Smog Check Inspector, Smog Check Repair Technician, Brake Adjuster, Lamp Adjuster, Automotive Repair Dealer, Brake Station, Lamp Station, Smog Check Station, and STAR Station Certification. The provisions of this bill make regulatory changes for Automotive Repair Dealers, and Brake and Lamp adjusters and stations.

The Act requires BAR to mediate complaints, investigate violations, and initiate action against automobile repair dealers, and Brake and Lamp stations and adjusters that fail to comply with the provisions of the Act or BAR's regulations. In accordance with the Act, a customer is entitled to a written estimate for repair work, a detailed invoice of work done and parts supplied, and return of replaced parts, if requested at the time a work order is placed.

*Application Information.* Under current law, BPC § 9884 requires each automotive repair dealer to register each location with the BAR and pay a fee for the registration application. BPC § 9884 requires the Director to create a form containing the required information that is to be included in the application. The law permits the BAR to collect registrant information such as name, telephone number, address, proper permits from a local government, if necessary, ect. However, BPC §9884 does not specifically permit BAR to collect an email address, motor vehicle license plate for mobile dealers, and any nationally recognized or industry-accepted educational certifications, or BAR-approved certifications—this bill would permit the required collection of this information. The author notes, that by collecting this additional information, BAR would be able to provide a location-based search of licensed automotive repair dealers.

*Cite and Fine program.* BAR's Enforcement Division conducts investigations, often in response to consumer complaints, disciplines licensees who do not comply with statute or regulations, and pursues unlicensed activity against individuals who do not comply with licensure provisions specified in the Act. BAR currently has authority to issue a citation and fine for violations of the Act. BPC § 9882 requires the Director to determine the specific system required for issuing citations. Currently, the director is permitted to establish an informal citation conference for smog check licensees, but not others under the automotive repair division. The current informal citation conference program and requirements utilized by BAR for the smog check program are specified in 16 CCR § 3394.45. Currently, a request for an informal conference must be in writing, within 10 days after service of the citation to the chief of BAR, and further requires the informal citation conference to

be held within 60 days from the receipt of the request for an informal conference with the cited person.

At the conclusion of the informal conference, the chief of BAR may affirm, modify or dismiss the citation, including any fine levied, order of abatement or order of correction issued and must state in writing the reasons for the action and transmit within fifteen 15 days a copy of his or her findings and decision to the cited person. Currently, the informal citation conference includes the chief of BAR, and one additional individual.

This bill would allow the Director of DCA to include an informal citation conference for all licensees under the Act, and requires the BAR to determine, through regulations, many of the requirements for the program including the time frame in which one must request a hearing and the timeframe in which the hearing must occur, along with how the BAR would inform the licensee of the decision. Unlike the current program utilized by the BAR, this bill would specify that the informal citation conference would need to include a panel of three individuals including a representative from BAR, the public and the industry. BAR would be charged with determining the appropriate participants on the panel.

*Permitting Training for Minor Violations.* Currently, information about licensees is provided on the BAR's web site including the licensee's address, name, license number, license type, license status, and license expiration date. Citations may also be posted online for review by consumers seeking automotive repair and smog check station services.

This bill proposes that for those *less egregious* violations such as record keeping violations (although still undetermined as to what types of violations would be considered), that do not constitute fraud, the licensees would be allowed to take some type of remedial education class or program approved by the BAR. The author likens this to traffic school when a speeding ticket has been issued. A licensee would not be eligible to have the citation removed from the internet if they had taken a remedial education course within the prior 18 months or the citation was for fraud. This bill would require the BAR to determine the specifics of this program, including the violations that would not be included on-line attached to the licensees record for a violation if they attended the training. This bill is silent on the type of training, the providers, and the number of hours that should be required, and instead requires BAR to determine the requirements through the regulatory process.

*Lamp and Break Adjusting Stations.* A consumer may need to utilize the services of a licensed lamp and break adjusting station when attempting to register a vehicle that has previously been reported to the Department of Motor Vehicles as salvaged, or when a fix-it ticket has been issued. A salvaged vehicle is one that has been previously reported to the DMV as a total loss, and in order for that salvage vehicle to be eligible for road use again it must have a certificate issued from a licensed lamp and brake station, pass a smog check, and obtain a California Highway Patrol inspection. Potentially, 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 the brake and lamp inspection and are sold to consumers. To help address this potential problem, this bill combines the current brake and lamp

program, re-names it the “vehicle safety inspection program”, and requires BAR to develop additional inspection criteria standards by January 1, 2024. The goal is for the BAR to create a more robust program to determine safety standards for vehicles previously salvaged. BAR will be required to determine the updated safety systems through regulations and will allow for electronic transmittal of the brake and lamp certificates to DMV.

3. **Arguments in Support.** Les Schwab Tire Center writes in support and notes, “AB 471 holds great promise for expediting the three year average enforcement timeframe for resolving disciplinary matters.”

Worldwide Environmental Products writes in support, “AB 471 will improve and enhance existing consumer protections by helping consumers to easily identify automotive repair dealers that have proper training and certification credentials through the Auto Shop Locator; improve the current citation and fine regulatory program by creating an independent citation conference panel to review citations; allow BAR to hire in house legal assistants to prepare accusations; assign administrative law judges to hear cases which will allow for more efficient and expedited disciplinary hearings; allow BAR to certify providers that train auto repair dealers; protect consumers from unsafe salvage vehicles by establishing a vehicle safety inspection program, and provide opportunity for repair shops to attend training for minor documentation citation violations, similar to traffic school.”

CAWA, Auto Care Association of California, California Autobody Association, California Automotive Business Coalition, Independent Automotive Professionals Association, Automotive Oil Change Association, Motor & Equipment Manufacturers Association, Automotive Service Association, California Tire Dealers Association, and Coalition for Automotive Repair Equality write in support and notes “AB 471 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.”

4. **Policy Consideration.** This bill requires the BAR to collect additional information on the application for an ARD, specifically, any applicable nationally recognized and industry accepted educational certifications and any BAR-approved educational certifications. Currently, additional education certifications are not required for licensure. What is the purpose of BAR collecting this information and how will this information be utilized by BAR?

## **SUPPORT AND OPPOSITION:**

### Support:

Auto Care Association of California  
 Automotive Oil Change Association  
 Automotive Service Association  
 Automotive Service Councils of California  
 CAWA



California Autobody Association  
California Automotive Business Coalition  
California Tire Dealers Association  
Coalition for Automotive Repair Equality  
Independent Automotive Professionals Association  
Les Schwab Warehouse Center, INC.  
Motor & Equipment Manufacturers Association  
Worldwide Environmental Products INC.

Opposition:

None received

**-- END --**