
THIRD READING

Bill No: AB 471
Author: Low (D), et al.
Amended: 9/3/21 in Senate
Vote: 21

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 12-0, 6/30/21
AYES: Roth, Archuleta, Becker, Dodd, Eggman, Hurtado, Jones, Leyva, Min,
Newman, Ochoa Bogh, Pan
NO VOTE RECORDED: Melendez, Bates

SENATE JUDICIARY COMMITTEE: 11-0, 7/13/21
AYES: Umberg, Borgeas, Caballero, Durazo, Gonzalez, Hertzberg, Jones, Laird,
Skinner, Stern, Wieckowski

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/26/21
AYES: Portantino, Bates, Bradford, Jones, Kamlager, Laird, McGuire

ASSEMBLY FLOOR: 77-1, 6/1/21 - See last page for vote

SUBJECT: Bureau of Automotive Repair: administration: citations: safety
inspections

SOURCE: Author

DIGEST: This bill authorizes the Bureau of Automotive Repair (BAR) to establish an informal citation conference for automotive repair dealers (ARD) on or after July 1, 2023, requires BAR until July 1, 2026 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.

Senate Floor Amendments of 9/3/21 address implementation issues and resolve chaptering conflicts.

ANALYSIS:

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) 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)

This bill:

- 1) Authorizes the Director of DCA to include in the citation system on or after July 1, 2023:
 - 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) Until 2026, 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) Authorizes, until July 1, 2026, 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 and 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 servicing 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 VISIP 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.

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.

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.

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 allows 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 specifies 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 requires 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 (DMV) as salvaged, or when a fix-it tissue 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.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

According to the Senate Appropriations Committee, the BAR notes administrative costs of approximately \$6,848, total costs of approximately \$149,752 to establish and implement a process for an automotive repair detailer to prevent disclosure of a citation upon successful remedial training, total costs of approximately \$303,904

to administer the Vehicle Safety Systems Inspection program, information technology costs of approximately \$100,000 to the Office of Information Services to add two new license categories and transition existing license types, unknown IT costs ranging between \$2.0 million to \$2.5 million for added system functionality that would electronically transmit vehicle safety inspection results and certificates, total annual revenue loss of approximately \$1.7 million from the discontinuation of brake and lamp adjustment certificates and licenses, and unknown annual revenue gain from new vehicle safety systems inspection certificates and licenses. Costs are not anticipated to be absorbable.”

SUPPORT: (Verified 9/1/21)

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: (Verified 9/1/21)

None received

ARGUMENTS IN SUPPORT: Supporters say that “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.”

ASSEMBLY FLOOR: 77-1, 6/1/21

AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Bryan, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer,

Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, McCarty,
Medina, Mullin, Muratsuchi, Nazarian, O'Donnell, Patterson, Petrie-Norris,
Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca
Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua,
Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon

NOES: Nguyen

NO VOTE RECORDED: Mayes

Prepared by: Elissa Silva / B., P. & E.D. /

9/7/21 16:48:41

**** END ****