
AUTOMOTIVE REPAIR CITATIONS CONCEPT

DEPARTMENT OF CONSUMER AFFAIRS

BAR

Bureau of Automotive Repair

MATHEW GIBSON
FIELD OPERATIONS AND ENFORCEMENT DIVISION
BUREAU ADVISORY GROUP MEETING
OCTOBER 22, 2020

INTERNAL WORKGROUP ON CITATIONS

In January 2020, BAR established an internal workgroup tasked with identifying:

- The value of a citation program for Automotive Repair Dealers
- Specific violations of the Automotive Repair Act where a citation could be used
- How to provide consumers with current relevant information on BAR actions

HISTORICAL VIOLATION NOTIFICATION PROCESSES

- Inspection and Maintenance (Smog Check)
 - Citations and Administrative Fines for Licensees
 - Article 11.1, Chapter 1, Division 33, Title 16 of the California Code of Regulations (CCR)
- Unregistered/Delinquent Automotive Repair
 - Administrative Citations and Fines for Unlicensed Activity
 - Article 11.2, Chapter 1, Division 33, Title 16 of the CCR
- Consumer Protection Operations (ARDs)
 - Documented in various ways over the years

CURRENT PROCESS FOR IDENTIFYING ARD VIOLATIONS

- Violations of the Automotive Repair Act and BAR regulations are primarily identified during facility inspections and consumer complaint investigations
- These compliance issues are recorded in:
 - Consumer Complaint Reports
 - ARD advised on a Station Inspection Report
 - Citation Reports
 - ARD advised on the citation
 - Station Inspection Reports
 - Copy provided to ARD

CURRENT PROCESS FOR ADDRESSING ARD COMPLIANCE ISSUES

Compliance issues are addressed through:

- Education
 - During the complaint investigation
 - “Write It Right” Presentation
 - Proactive Conference
 - Usually held at the facility to address allegation patterns or areas of concern
 - Office Conference
 - Usually held at the field office to address an uncorrected pattern of violations
- Administrative Action

ISSUES REVIEWED BY THE WORKGROUP

- Need for additional enforcement options to address most concerning areas for consumers and BAR
- Feasibility of addressing specific business practices of concern through a citation process
- Impact on BAR and external stakeholders

ISSUES REVIEWED BY THE WORKGROUP

- Sections of the Business & Professions Code (B&P) and BAR regulations covering all aspects of the repair transaction
- Other areas considered:
 - Ignition Interlock Device Installation
 - Brake and Lamp Program
 - Posting of Signs and Licenses

BUSINESS PRACTICE AREAS

- Untrue or Misleading Statements - B&P §9884.7(a)(1)
 - Over a 3-year period:
 - 3,316 compliance issues identified during complaint investigations
 - 466 ARDs had repeated issues
 - Citations would focus on two areas:
 - False Advertising
 - Recording labor not performed or parts not supplied on an invoice (i.e., not fraud)

BUSINESS PRACTICE AREAS

- Gross Negligence - B&P §9884.7(a)(5)
 - Over a 3-year period:
 - 185 total compliance issues identified during complaint investigations
 - 5 ARDs had repeated issues
 - Regulations would need to define “Gross Negligence”
 - Example: *A deviation from a standard of care that could foreseeably result in injury or significant harm to the consumer, consumer’s property, and/or public.*

BUSINESS PRACTICE AREAS

- Accepted Trade Standards - B&P §9884.7(a)(7)
 - Over a 3-year period:
 - 1,614 compliance issues identified during complaint investigations
 - 165 ARDs had repeated issues
 - Citations would focus on areas in which trade standards currently exist in BAR regulations, such as:
 - Auto Body
 - Automatic Transmission

BUSINESS PRACTICE AREAS

- Maintenance of Records - B&P §9884.11
 - Over a 3-year period:
 - 3,355 compliance issues identified during complaint investigations
 - 230 ARDs had repeated issues
- Equipment Requirements
 - Auto Body Repair Shops - CCR §3351.5
- Referral Fees for Towing Services - CCR §3368

FINE AMOUNTS

- Establish minimums and maximums
- In assessing a fine amount, BAR would consider:
 - Gravity of the violation
 - Good faith of the licensee
 - History of previous violations
- Automotive repair citations would **NOT** impact STAR eligibility

UPON ISSUANCE OF A CITATION

- The citation would need to describe:
 - The nature of the compliance issue
 - Reference the specific provision of law
 - Provide information on how to appeal the citation
- Registrant could choose to:
 - Pay the citation
 - Appeal the citation (informally and/or formally)
- The informal and formal appeal processes would be handled similarly to current citations
 - Smog Check - Health and Safety Code §44051
 - Unregistered/Delinquent - CCR §3394.45

NEXT STEPS

- Input from industry and other stakeholders
- Draft regulations
- Hold regulatory workshop(s)
- Finalize proposal
- DCA review
- File regulations with OAL
- Formal public comment process

QUESTIONS AND COMMENTS

Submit questions and/or comments to:

Mathew Gibson, Program Manager I

Bureau of Automotive Repair

10949 North Mather Boulevard

Rancho Cordova, CA 95670

Phone: (916) 403-8060

Email: mathew.gibson@dca.ca.gov