AUTOMOTIVE REPAIR CITATIONS CONCEPT

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BUREAU ADVISORY GROUP MEETING
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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:

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