AUTOMOTIVE REPAIR DEALER CITATION PROGRAM

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REGULATORY WORKSHOP
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PURPOSE OF REGULATIONS

• This proposed regulation would give BAR the ability to:
  • Create an Automotive Repair Dealer citation program that is consistent with existing citation programs for Smog Check licensees and Unlicensed Activity.
  • Address violations of the Automotive Repair Act that do not rise to the level of an administrative action through the issuance of a citation.
  • Define “Negligence” in automotive repair.
  • Make other minor clarifying changes.
ARTICLE 11.3 Administrative Citations and Fines for Automotive Repair Act Violations

CCR § 3394.50 Authority to Issue Citations, Fines, and Orders of Abatement to Automotive Repair Dealers

(a) The bureau chief or his/her designee is authorized to determine when and against whom a citation will be issued and to issue citations containing orders of abatement and fines for a violation by licensees of Chapter 20.3 of Division 3 of the California Automotive Repair Act (Business and Professions Code section 9880, et seq.) or any regulation adopted by the Bureau.
(b) Each citation shall be in writing and shall describe with particularity the nature and facts of the violation, including a reference to the statute or regulations alleged to have been violated. The citation shall be served upon the individual personally or by certified mail.
CCR § 3394.51 Administrative Fine Amounts, Orders of Abatement, and Citable Offenses for Licensed Auto Repair Dealer Violations

(a) The Chief or his/her designee may issue a citation containing an order of abatement without issuing a fine for the first violation of any provision set forth below in subsection (b). A citation may include a fine from one hundred dollars ($100) to five thousand dollars ($5000). In assessing a fine or an order of abatement, the Bureau shall consider the following:

1. Gravity of the violation
2. Good faith of the licensee
3. Violation history
4. “Factors in Aggravation and In Mitigation” of the “Guidelines For Disciplinary Orders and Terms of Probation” as referenced in section 3395.4
(b) The Chief or his/her designee may issue a citation for violation of any of the following provisions:

**Trade Standards**

- CCR § 3360.2  Ball Joints
- CCR § 3361.1  Automatic Transmissions
- CCR § 3362.1  Engine Changes
- B&P § 9882.14/
- CCR § 3363.4  Ignition Interlock Devices
- CCR § 3364  Vehicle Identification Information
- CCR § 3365  Auto Body and Frame Repairs
- CCR § 3365.1  Automotive Windshields
- CCR § 3366  Automotive Air Conditioning
Trade Standards (continued)
CCR § 3367 Inflatable Restraint Systems; Airbags
CCR § 3368 Commissions, Considerations, Inducements, or Referral Fees; Towing Services

Equipment Requirements
CCR § 3351.5 Auto Body Repair Shops
CCR § 3351.6 Air Conditioning Repair Dealers

Negligence
CCR § 3351.7 (new)

Inaccurate Invoices
CCR § 3356.1 (new)

Maintenance of Records
B&P § 9884.11/CCR 3358
(c) A citation that lists multiple violations shall not exceed five thousand dollars ($5000) as specified by Business and Professions Code section 125.9. A citation issued under this section shall be separate from and in addition to any other administrative, civil, or criminal remedies.

CCR section 3394.53 Contested Citations and Request for Formal Citation Hearing for Automotive Repair Dealers

(a) If a person cited wishes to contest the citation, that person shall, within 30 days after service of the citation, file in writing a request for an administrative hearing to the Bureau as specified by Business and Professions Code section 125.9.

(b) If a hearing is not requested pursuant to this section, payment of any fine shall not constitute an admission of the violation charged. Hearings shall be held pursuant to Chapter 5 (commencing with section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.
CCR § 3356.1 Inaccurate Invoices

An automotive repair dealer shall not create an invoice that is inaccurate in the recording of service and repair work performed, and/or parts supplied.
CCR § 3351.7 Negligence

(a) An automotive repair dealer shall not commit negligence in the maintenance of and/or repairs to a motor vehicle.

(b) “Negligence” means deviation from an ordinary standard of care that could foreseeably result in injury or harm to a consumer, personal property, or the public during or as a result repairing a motor vehicle.
Pursuant to Section 9884.11 of the Business and Professions Code, each automotive repair dealer shall maintain, in either written or electronic form, legible copies of the following records for at least three years:

*(d)* All such records shall be open for reasonable inspection and/or reproduction by the Bureau or other law enforcement officials during normal business hours.
(1) Failure to maintain and make such records open for reasonable inspection and/or reproduction when requested by the Bureau as part of a consumer complaint investigation may be grounds for disciplinary action or issuance of a citation.

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QUESTIONS AND COMMENTS

Submit questions and/or comments to:

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