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# LEGISLATION/REGULATIONS UPDATE

DEPARTMENT OF CONSUMER AFFAIRS



Bureau of Automotive Repair

BRIAN CLARK  
EXECUTIVE OFFICE  
BAR ADVISORY GROUP MEETING  
JULY 12, 2018

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# LEGISLATION

- AB 2138 (Chiu and Low): Licensing Boards: Criminal Convictions
- AB 2276 (Burke): Motor Vehicle Insurance: Auto Body Repair
- AB 2392 (Santiago): Towing and Storage
- AB 2825 (Jones-Sawyer): Debt Collection Practices
- AB 2832 (Dahle): Lithium-ion Vehicle Battery Recycling Advisory Group
- AB 2908 (Berman): Tire Recycling
- AB 3097 (Salas): Smog Check Report
- AB 3141 (Low): Bureau of Automotive Repair
- SB 210 (Leyva): Heavy-Duty Vehicle Smog Check Program

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# LEGISLATION (CONTINUED)

- AB 2908 (Berman): Tire Recycling
- AB 3097 (Salas): Smog Check Report
- AB 3141 (Low): Bureau of Automotive Repair
- SB 210 (Leyva): Heavy-Duty Vehicle Smog Check Program

\* Disclaimer: Though every effort is made to ensure information provided on these slides is the most current, given the nature of the legislative process, hearing dates or bill summaries shown here may not reflect the latest updates. Please be sure to check [www.leginfo.legislature.ca.gov](http://www.leginfo.legislature.ca.gov) for the most current bill information.

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# AB 2138 (CHIU AND LOW): LICENSING BOARDS: CRIMINAL CONVICTIONS

- Status: Passed Assembly and ordered to Senate on 05/31/18. Referred to Senate Business, Professions and Economic Development Committee and Public Safety Committee on 06/13/18. Passed Senate Committee on Business, Professions and Economic Development on 06/19/18. Amended by author and re-referred to Public Safety Committee on 06/20/18. Passed Public Safety Committee and referred to Senate Appropriations Committee on 06/26/18.
- Date of Next Hearing: 08/06/18, Senate Appropriations Committee

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# AB 2138 (CHIU AND LOW): LICENSING BOARDS: CRIMINAL CONVICTIONS (CONTINUED)

- Summary:

- Limits the use of criminal history by DCA entities to deny, suspend or revoke a license to convictions for crimes substantially related to the qualifications, functions or duties of the business or profession for which the individual is seeking licensure or is licensed. Each licensing entity would be required develop criteria for determining whether a crime is directly and adversely related to the qualifications, functions, or duties of the business or profession, and to post on its website a summary the criteria, and to develop criteria used to evaluate the rehabilitation of an applicant or licensee.

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## AB 2138 (CHIU AND LOW): LICENSING BOARDS: CRIMINAL CONVICTIONS (CONTINUED 2)

- “Conviction”, for purposes of DCA licensing actions, will mean a judgment following a plea or verdict of guilty or a plea of nolo contendere or finding of guilt.
- Denials of professional licenses based on criminal convictions or professional discipline will be limited to:
  - convictions for which the applicant is presently incarcerated or, except for convictions for “serious felonies” as defined in the Penal Code, that occurred within the preceding seven years; or
  - formal discipline by a licensing board within the preceding five years based on professional misconduct that would have been cause for discipline before the board for which the present application is made.

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## AB 2138 (CHIU AND LOW): LICENSING BOARDS: CRIMINAL CONVICTIONS (CONTINUED 3)

- Licensure applications may not be denied based upon:
  - acts for which there has been no due process in a criminal or disciplinary proceeding;
  - any conviction, or the acts underlying the conviction, that has been dismissed, expunged, for which a pardon, clemency or certificate of rehabilitation has been granted or for which evidence of rehabilitation has been provided;
  - an arrest that resulted in a disposition other than a conviction; or
  - failure to disclose a fact that would not have been cause for denial of the license had it been disclosed.
- Prohibits applicants from being required to disclose any criminal history information or documentation.

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# AB 2276 (BURKE): MOTOR VEHICLE INSURANCE: AUTO BODY REPAIR

- Status: Passed Assembly and ordered to Senate on 05/31/18. Referred to Senate Insurance Committee on 06/13/18. Passed as amended by Insurance Committee on 07/02/18. Amended and referred to Senate Appropriations Committee on 07/03/18.
- Date of Next Hearing: 08/06/18, Senate Appropriations Committee.
- Summary:
  - Requires an auto body repair shop participating in an auto body repair labor rate survey to declare specified information, including, among other things, that it meets specified equipment requirements and has proof of insurance.

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## AB 2276 (BURKE): MOTOR VEHICLE INSURANCE: AUTO BODY REPAIR (CONTINUED)

- Requires an auto body repair labor rate survey to meet specified standards, including that it randomly surveys the number of shops necessary to obtain responses that achieve a minimum confidence level of 90% and a standard error of no more than 10%, and would eliminate a rebuttable presumption that the insurer has attempted, in good faith, to effectuate a fair and equitable labor rate or adjustment of the labor rate component of a written estimate if the survey complies with specified regulations.
- Permits an auto body repair shop to negotiate a labor rate that is higher or lower than the prevailing auto body labor rate.

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## AB 2276 (BURKE): MOTOR VEHICLE INSURANCE: AUTO BODY REPAIR (CONTINUED 2)

- The bill supplements, and does not supersede or take precedence over DOI regulations regarding methods for conducting auto body repair labor rate surveys, except as specified.
- Clarifies that an insurer is not required to conduct an auto body repair labor rate survey and may use other methodologies to determine a prevailing auto body repair labor rate.

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## AB 2392 (SANTIAGO): TOWING AND STORAGE

- Status: Passed Assembly and ordered to Senate on 05/29/18. Referred to Senate Business, Professions and Economic Development Committee and Judiciary Committee on 06/07/18. Passed as amended by Business, Professions and Economic Development Committee on June 19, 2016. Amended and re-referred to Judiciary Committee on June 20, 2018. Withdrawn from Judiciary Committee and referred to Senate Appropriations Committee on 06/21/18.
- Date of Next Hearing: 08/06/18, Senate Appropriations Committee.
- Summary:
  - Requires all storage and towing fees to be reasonable and establishes criteria and presumptions for reasonable towing and storage fees.

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## AB 2392 (SANTIAGO): TOWING AND STORAGE (CONTINUED)

- Specifies presumptively unreasonable rates and fees.
- Requires facilities to be open and accessible during normal business hours and allows inspection of a stored vehicle at no charge for no less than 45 minutes. Outside of normal business hours, facilities must provide a telephone number that permits callers to leave messages and calls must be returned within six business hours after a message is left.
- Requires towing or storage facilities to accept an insurer's check as a form of payment.
- Removes an exemption for notice to be posted by repair shops that charge for vehicle storage but do not provide towing services.

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# AB 2825 (JONES-SAWYER): DEBT COLLECTION PRACTICES

- Status: Passed Assembly and ordered to Senate on 05/30/18. Referred to Senate Judiciary Committee on 06/07/18. Amended by Author and re-referred to Senate Judiciary Committee on 06/18/18. Passed Judiciary Committee and referred to Senate Appropriations Committee on 06/27/18.
- Date of Next Hearing: 08/06/18, Senate Appropriations Committee.
- Summary:
  - The bill generally applies the protections of the Rosenthal Fair Debt Collections Practices Act and the Fair Debt Buying Practices Act to the collection of certain government debts and debts arising from the towing, impounding and storing of vehicles.

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## AB 2825 (JONES-SAWYER): DEBT COLLECTION PRACTICES (CONTINUED)

- Defines the terms “towing debt collection”, “towing debt collector” and “towing debt.”
- Lists proscribed conduct and practices that towing debt collectors will be prohibited from engaging in when collecting or attempting to collect a debt and provides monetary penalties for violations.

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# AB 2832 (DAHLE): LITHIUM-ION VEHICLE BATTERY RECYCLING ADVISORY GROUP

- Status: Passed Assembly and ordered to Senate on May 30, 2018. Referred to Senate Environmental Quality Committee on 06/07/18. Amended by author and re-referred to Environmental Quality Committee on 06/11/18. Passed as amended by Environmental Quality Committee on 06/28/18. Amended and referred to Senate Appropriations Committee on 07/02/18.
- Date of Next Hearing: 08/06/18, Senate Appropriations Committee.
- Summary:
  - Requires the Secretary for Environmental Protection, on or before 04/01/19, to convene the Lithium-Ion Car Battery Recycling Advisory Group to review and advise the Legislature on policies pertaining to the recovery and recycling of lithium-ion vehicle batteries.

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## AB 2832 (DAHLE): LITHIUM-ION VEHICLE BATTERY RECYCLING ADVISORY GROUP (CONTINUED)

- Requires appointment of advisory group members from specified departments, vocations, and organizations (including a vehicle manufacturer or organization representing manufacturers, an ARD or organization that represents ARDs and an auto dismantler or organization that represents auto dismantlers) and requires the advisory group to consult with specified entities.
- Requires the advisory group, on or before April 1, 2020, to submit policy recommendations to the Legislature aimed at ensuring that as close to 100% as possible of end-of-life lithium-ion batteries discarded in the state are recycled in a safe and cost-effective manner. The policy recommendations shall reflect entire life cycle considerations for lithium-ion vehicle batteries, best management considerations for those batteries at end-of-life, and the overall effect of different management practices on the environment.

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# AB 2908 (BERMAN): TIRE RECYCLING

- Status: Passed Assembly and ordered to Senate on 05/30/18. Referred to Senate Environmental Quality Committee on 06/13/18. Amended by author and re-referred to Environmental Quality Committee on 06/14/18. Passed as amended by Environmental Quality Committee on 06/28/18. Amended and referred to Senate Appropriations Committee on 07/02/18.
- Date of Hearing: 08/06/18, Senate Appropriations Committee.
- Summary:
  - Requires CalRecycle to adopt regulations establishing the CA tire regulatory fee based on specific criteria and not to exceed \$1 per new tire sold.

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## AB 2908 (BERMAN): TIRE RECYCLING (CONTINUED)

- Authorizes CalRecycle to set different fees based upon the number of tires wasted, nature of activity generating waste tires, and other factors as appropriate.
- Establishes a goal of not less than 75% of solid waste tires generated be source-reduced or recycled in the state annually.
- Requires a waste tire generator that is a retail seller of new tires for consumer vehicles to pay a CA tire regulatory fee and remit fees quarterly to the CA Tire Recycling Management Fund.
- Enacts the Tire Recycling Incentive Program Act, requiring CalRecycle to establish an incentive program for entities that purchase waste tire products for incorporation in products for sale for use in local public works.

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# AB 3097 (SALAS) SMOG CHECK REPORT

- Status: Passed Assembly and ordered to Senate on 05/31/18. Referred to Senate Rules Committee on 06/13/18.
- Date of Next Hearing: None scheduled.
- Summary:
  - Requires the annual Smog Check Performance Report to include the number of vehicles for which the owners failed to renew their registration with the Department of Motor Vehicles after failing a Smog Check.

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# AB 3141 (LOW): BUREAU OF AUTOMOTIVE REPAIR

- Status: Passed by Assembly and ordered to Senate on 05/30/18. Referred to Senate Business, Professions and Economic Development Committee on 05/31/18. Amended by author and re-referred Senate Business, Professions and Economic Development Committee on 06/18/18. Passed Senate Business, Professions and Economic Development Committee and referred to Senate Appropriations Committee on 06/26/18.
- Date of Hearing: 08/06/18, Senate Appropriations Committee.
- Summary:
  - Amends Business and Professions Code § 9882 to provide that the powers and duties of BAR be subject to review by the appropriate policy committees of the Legislature as if the Automotive Repair Act were to be repealed on January 1, 2023.

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## AB 3141 (LOW): BUREAU OF AUTOMOTIVE REPAIR (CONTINUED)

- Authorizes BAR to obtain copies of full face engraved pictures or photographs of individuals directly from the Department of Motor Vehicles for purposes of enforcing the Automotive Repair Act and the Motor Vehicle Inspection Program.

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# SB 210 (LEYVA): HEAVY-DUTY VEHICLE SMOG CHECK PROGRAM

- Status: Passed Senate on 05/31/17 and referred to Assembly. Referred to Assembly Committees on Education and Environmental Safety and Toxic Materials on 06/12/17. Amended on 08/23/17 and re-referred to Assembly Education Committee. Referred to Assembly Rules Committee on 08/28/17 . Re-referred to Assembly Transportation Committee on 04/18/18. Amended by author and re-referred to Assembly Transportation Committee on 06/19/18.
- Date of Next Hearing: None scheduled
- Summary:
  - Authorizes the Air Resources Board to develop and implement a Heavy-Duty Vehicle Inspection and Maintenance program (program) for non-gasoline heavy-duty on-road vehicles and permits the Board to impose fees to recover its program implementation costs.

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## SB 210 (LEYVA): HEAVY-DUTY VEHICLE SMOG CHECK PROGRAM (CONTINUED)

- Creates the Truck Emission Check (TEC) Fund, with all funds deposited in the fund to be available upon appropriation.
- Requires the Department of Motor Vehicles (DMV) to confirm that a heavy-duty vehicle is compliant with, or exempt from, the program prior to the initial registration, the transfer of ownership, or the renewal of registration.
- Authorizes the DMV to issue a temporary permit to operate a vehicle that is not program compliant or exempt.

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## SB 210 (LEYVA): HEAVY-DUTY VEHICLE SMOG CHECK PROGRAM (CONTINUED 2)

- Requires the owner of a heavy-duty vehicle to maintain a certificate of compliance with the vehicle and requires the driver of the vehicle to present the certificate for examination upon demand by a peace officer.
- Prohibits the operation of a heavy-duty vehicle on public roads in this state if the vehicle has an illuminated malfunction indicator light displaying a specified engine symbol.
- Prohibits the operation of a heavy-duty vehicle in a manner resulting in the escape of visible smoke, except during active regeneration.

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# PENDING BAR REGULATIONS

- BAR-97 Specifications
- Electronic Documents and Consumer Authorization
- ARD Oil Change Requirements
- Training Provider Requirements
- STAR Program Clean-Up
- Exempt Services
- Brake/Lamp Stations and Adjusters

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# BAR-97 SPECIFICATIONS

Purpose: To modernize BAR-97 equipment standards for Smog Check stations by: (1) removing dedicated analog phone line requirement; (2) requiring LPFET to communicate directly with BAR-97; and (3) updating minimum computer hardware and software standards.

History: Public workshop on 10/20/16. ET Blasts on 04/07/17, 1/10/18, 3/30/18 and 4/16/18. Winter 2017 and Spring 2018 ARSC newsletters. Public Hearing on 02/12/18. Submitted to DCA / BCSH for final review on 02/23/18. Approved by DCA / BCSH and filed with OAL on 06/20/18.

Status: Pending OAL review.

Next Steps: Upon OAL approval, file with Secretary of State with August 1 or 2, 2018 effective date. An 11/01/18 regulations implementation date is planned (see BAR Engineering ET blast dated 06/22/18).

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# ELECTRONIC DOCUMENTS AND CONSUMER AUTHORIZATION

Purpose: To (1) allow for electronic estimates and authorizations, transmission, and storage of repair transaction documents; (2) reorganize estimate, work order, and invoice provisions to more closely align with automotive repair transactions; and (3) clarify language as necessary.

History: Public workshops held 07/09/14, 07/23/15, 10/21/15, and 07/21/16. Public hearing held on 09/26/17. First 15-day public comment period ended 11/18/17. Second 15-day public comment period ended 12/19/17. Third 15-day public comment period ended on 01/25/18. Submitted to DCA / BCSH for final review on 03/30/18.

Status: Pending DCA / BCSH final approval.

Next Steps: Finalize rulemaking package and submit to OAL by 08/04/18. Adoption expected by 09/17/18, with updated Write It Right guide posted to BAR website and available to all ARDs.

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# ARD OIL CHANGE REQUIREMENTS

- Purpose:
  - Require ARDs to adhere to maintenance schedule published by vehicle manufacturer, industry accepted and nationally distributed automotive service specification provider, or CalRecycle, when making a recommendation to the customer; and
  - Does not prohibit customer from requesting an interval that differs from manufacturer's published maintenance schedule; and
  - Require ARDs, when completing an oil change, to include the following statement on the invoice,  
“Your vehicle’s manufacturer publishes oil change intervals, and the conditions and factors that influence those intervals, in the owner’s manual.”

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## ARD OIL CHANGE REQUIREMENTS (CONTINUED)

- History: Public workshops held on 04/20/17 and 09/26/17. Notice filing with OAL on 02/27/18. 45-day public comment period began on 03/09/18. Public hearing held at BAR Headquarters and public comment period ended on 04/23/18.
- Status: Reviewing comments and considering various options on next steps.
- Next Steps: N/A.

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# TRAINING PROVIDER REQUIREMENTS

Purpose: To (1) make requirements for certification of Smog Check training providers consistent with current licensing requirements; (2) authorize training for compliance with laws and regulations; and (3) make conforming changes to Disciplinary Guidelines.

History: Public workshops held on 01/09/14 and 10/21/15. Submitted for DCA formal review on 12/01/17.

Status: BAR revising ISOR based on DCA Legal review.

Next Steps: Completion of DCA / BCSH formal review; file with OAL to begin 45-day public comment period.

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# STAR PROGRAM CLEAN-UP

Purpose: To (1) delete outdated Gold Shield Program provisions; (2) amend STAR eligibility criteria; and (3) revise STAR suspension process to be consistent with statute.

History: Public workshop held on 07/21/16. Rulemaking package submitted to DCA / BCSH for formal review on 05/22/18.

Status: Pending DCA / BCSH formal review.

Next Steps: Completion of DCA / BCSH formal review; file with OAL to begin 45-day public comment period.

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# EXEMPT SERVICES

Purpose: To exempt roadside and other services from the definition of “repair of motor vehicles”.

History: Public workshops held on 04/22/15, 07/20/17 and 02/12/18. Rulemaking package submitted to DCA / BCSH for formal review on 05/08/18.

Status: Monitoring 2017-18 legislative session to see if this issue is addressed via legislation.

Next Steps: N/A.

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# BRAKE/LAMP STATIONS AND ADJUSTERS

- Purpose:
  - Revise:
    - Identification numbers for station and adjuster licensing applications;
    - license renewal and equipment requirements;
    - handbooks providing procedures related to the inspection of brake and lamp systems and issuance of brake and lamp certificates; and
    - brake and lamp certificate of adjustment/compliance.
  - Eliminate the Gross Vehicle Weight Rating (GVWR) restriction of vehicles to be inspected and certified by Class C stations

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# BRAKE/LAMP STATIONS AND ADJUSTERS (CONTINUED)

History: Public workshop held on 10/20/16. Submitted rulemaking package to DCA Legal for informal review on 03/30/18.

Status: BAR revising rulemaking package based on DCA Legal informal review.

Next Steps: Complete DCA Legal informal review. Submit for DCA / BCSH formal review; upon approval file with OAL to begin 45-day public comment period.

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# QUESTIONS AND COMMENTS

Submit questions and/or comments to:

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