

ASCCA Legislative Update

March 2023

REGULATORY

California Energy Commission – Replacement Tire Efficiency Regulations - Concerns

The California Energy Commission (CEC) is in the process of creating new regulations to require all retailers of tires including all automotive repair shops to post signs and provide disclosures to consumers who are purchasing replacement tires. ASCCA is concerned about the proposed tire regulations and has submitted written comments to CEC. See attached CEC comments.

LEGISLATIVE HEARINGS

BAR Sunset Review Hearing – Comments Submitted

The BAR Sunset Review is a comprehensive process that provides BAR the opportunity to engage with the Legislature, DCA, and stakeholders to review Bureau operations and make recommendations for improvements. The Sunset Review is conducted every four years by the Senate Committee on Business, Professions and Economic Development and the Assembly Committee on Business and Professions. ASCCA provided written comments and also testified before the Committees. See attached BAR Sunset Review Coalition letter.

LEGISLATIVE BILLS

Catalytic Converter Theft Bills

- AB 641 - Catalytic Converters - Revises the definition of automotive dismantler to include a person who keeps 2 or more used catalytic converters that have been cut from a vehicle using a sharp instrument;
- AB 1519 - Catalytic Converters – Concerns. Requires ARDs that install or replace catalytic converters to permanently mark with VIN; Requires smog check stations to visually inspect vehicles and determine whether the catalytic converter is marked with the VIN and notify the customer whether the converter is permanently marked.
- SB 55 - Prohibits a dealer from selling a new vehicle with a catalytic converter unless the converter has been engraved or etched with the VIN.

Career Technical Educational

- AB 290 - Career Tech Education- Increases funding to \$450 million each year;
- AB 377- Career Tech Education- Support. Increases funding to \$450 million each year;
- AB 1189 - Career Technical Education - Declares the intent to establish legislation requiring school districts maintaining grades 7-12, to offer Career Technical Education;
- AB 1346 - States the Intent to enact legislation relating to Career Education and Career Guidance

Bureau of Automotive Repair

- AB 1263 - Bureau of Automotive Repair - Requires the BAR to send specified newsletters at least three times a year. Place holder for BAR Sunset Review legislation.

Hazardous Waste

- AB 407 - Used Oil- Deletes the criterion that used oil not be subject to regulation as used oil under federal law;

- AB 1614 - Gas Fueling Stations - Requires State Water Resources to conduct a study on how to phase out the existence of gas fueling stations.
- AB 1716 - Hazardous Waste Management - Extends risk management prevention program by an operator of station source that is engaged in a manufacturing lithium battery.

Employment

- AB 518 - Paid Family leave - Expands eligibility benefits for paid family leave;
- AB 1100 - Employment Workweek – Concerns. Declares the intent to establish a 4-day workweek,
- SB 616 - Paid Sick Days- Modifies employer sick leave and requires an employee have no less than 56 hours of accrued sick leave
- SB 703 – Support. Permits a nonexempt employee to request a flexible work schedule providing up to 10 hours per day within a 40-hour workweek without to obligation to pay overtime.

Vehicle Batteries

- AB 1579- Vehicle Batteries - States intent to enact legislation that beginning 2035, electric vehicles used for state purposes to be equipped with lithium-ion batteries that are sourced from operations with near zero carbon footprints.
- SB 615 - Requires an automotive repair dealer to be responsible for ensuring responsible end-of-life management of an electric battery once it is removed from a vehicle.

Zero Emissions Aftermarket

- SB 301 - Zero-Emission Aftermarket - Requires CARB to establish the Zero Emissions Aftermarket project to provide an applicant with a rebate for a vehicle that has been converted to a zero-emission vehicle.

Vehicle Cruising

- AB 436 – Cruising. Support. Repeals the authority for a local authority to adopt rules and regulations regarding vehicle cruising.

Other Bills of Interest

- AB 9 - Global Warming- Requires CARB to ensure reduction greenhouse gas emissions to at least 55% below 1990 level by 2030;
- AB 473 - New Motor Vehicle Board - Prohibits additional acts by new vehicle manufacturers.
- SB 244 - Right to Repair - Right to repair for electronic equipment.
- SB 271 - Right to Repair - Right to repair for powered wheelchairs.



March 6, 2023

Senator Richard Roth, Chair
Senate Business, Professions and Economic Development Committee
1021 O Street
Room 3320
Sacramento, CA 95816

Assembly member Marc Berman, Chair
Assembly Business and Professions Committee
1020 N Street
Room 379
Sacramento, CA 95816

RE: Joint Sunset Review Hearing 3/14/23 - California Bureau of Automotive Repair

Dear Senator Roth and Assembly member Berman,

We, the undersigned, automotive groups and trade organizations, are writing to offer comments with regards to the Bureau of Automotive Repair (“BAR”) Sunset Review hearing. The BAR serves an essential function for the state of California by protecting the public through oversight of the automotive repair industry. The undersigned support many of the efforts and progress BAR has made since the last Sunset Review in 2018.

We have worked with BAR and continue working for the improvement of the automotive repair industry for consumers, automotive repair dealers, education providers and other interested stakeholders.

Since the last Sunset Review, we have worked with the BAR to improve the industry, these efforts include:

- Participating in the BAR Advisory Group quarterly meetings which are intended to increase communication and awareness among the auto repair industry, educational providers, and consumers.
- Supporting AB 3141 (Low, Chapter 503, Statutes of 2018) which requires all automotive repair facilities, including those performing previously minor exempted services such as replacing spark plus, changing tires and installing batteries, to be under the oversight of BAR.
- Supporting AB 949 (Medina, Chapter 266, Statutes of 2019) which prohibits an automotive repair dealer from installing an unsafe used tire on a motor vehicle.
- Supporting AB 471 (Low, Chapter 372, Statutes of 2021) which among other things, authorizes a process for informal review and recommendations including: a review by a three-member panel and a

process to prevent disclosure of minor violation citations upon successful remedial training. It also establishes a safety systems inspection and certification program for salvage-titled vehicles, replacing the existing brake and lamp program.

- Supporting electronic documents and consumer authorization regulations in 2018 to streamline the repair process for consumers and automotive repair dealers.
- Supporting updates to the Mobile Automotive Repair and Automatic Transmissions regulations effective 2021.
- Supporting BAR Disciplinary Guideline amendments effective 2022.

Below are some of the upcoming issues that we believe are important to bring to the Committee's attention and welcome the opportunity to work with Committee on these issues.

- 1) BAR Advisory Group Committee Meetings. We strongly support the continuation of the BAR quarterly Advisory Group Committee meetings. The BAR Advisory Group committee increases the level of communication between the BAR, the automotive industry, education providers and consumers. These public meetings provide transparency to the public regarding current issues and possible solutions within the automotive repair industry.
- 2) Automotive Repair Shop Management Software. Electronic estimate and authorization regulations were adopted in 2018 that better serve consumers and automotive repair dealers in repair transactions. Since this regulatory change, vendors have marketed software to automotive repair dealers to streamline the repair process. Unfortunately, these vendors are not subject to BAR oversight. Issues have arisen that some software applications may put the automotive repair dealer at risk violating estimate, work order and invoice requirements. BAR should have jurisdiction over software and point of sale vendors that purport to comply with BAR estimate and invoice regulations.
- 3) AB 471 Implementation. BAR is in the process of developing and promulgating regulations to implement all the provisions of AB 471 (Low, Chapter 372, Statutes of 2021). BAR is moving forward, and the process is ongoing. During the regulatory process there may be areas where "cleanup" legislation is needed to properly implement the intent AB 471 and to extend sunset dates.
- 4) Automotive Service Writer. Automotive Service writers are employed by the automotive repair dealer and is the person who directly communicates with the customer, prepares estimates, obtains authorizations and records all work on the invoice. These individuals should be required to attending remedial training of laws and regulations under AB 471 on behalf of the automotive repair dealer. The pending AB 471 citation and remedial training regulations require the registrant (e.g. owner, principle, etc.) or responsible managing employee (RME) to attend remedial training, not the service writer. The service writer would be the most appropriate person to attend training and receive the greatest benefit. Due to lack of statutory authority, BAR is not able to accomplish this request in the regulations. There may be an opportunity for "clean up" legislation to allow service writers for the facility to attend remedial training, rather than the registrant or RME.
- 5) Storage Fees and Insurers. BAR has established a dedicated email to accept referrals from insurers and automotive repair dealers to determine if unreasonable storage fees were charged. BAR works to mediate an equitable solution among the parties. Some of the cases involving excessive storage fees

result directly from the unreasonable delay by the insurer to inspect the vehicle. There may be an opportunity to address these storage issues by creating a task force which would include the BAR, Department of Insurance, auto repair dealers, insurers and other stakeholders to make recommendations to the legislature on possible solutions.

Thank you for the opportunity to provide comments and to the Committee. Please feel free to contact us with any questions.

Sincerely,

Gloria Peterson
Executive Director
Automotive Service Councils of California



Rick Johnson
Executive Director
California Autobody Association



Johan Gallo
Executive Director
California Automotive Business Coalition





Automotive Service Councils of California
Professionals in Automotive Service ~ Since 1940

Automotive Service Councils Of California

One Capitol Mall, Suite 800
Sacramento, California 95814
(916) 924-9054
(800) 810 4272
FAX (916) 444-7462
E-mail: Info@ASCCA.com

March 7, 2023

California Energy Commission
715 P Street
Sacramento, CA 95814

Re: Replacement Tire Regulations

On behalf of the Automotive Service Councils of California (ASCCA), we are writing to provide comments regarding the proposed California Energy Commission (CEC) Replacement Tire Regulations. The ASCCA is the largest independent automotive repair organization in California representing members from all areas of the automotive repair industry including mechanical, auto body, supplier, and educators in the automotive technology field.

ASCCA supports efforts in developing and increasing energy efficient replacement tires for consumers. However, the proposed regulation (e.g. potential reduction of tire tread depth) creates issues such as: tire safety (e.g. stopping and braking consequences), harm to the environment (e.g. increasing scrap and waste tires) and increasing future tire costs to low income working families (e.g. reducing the average tire life/mileage requires frequent replacement of tires). This would be inconsistent with AB 844 (Nation, Chapter 645, Statutes of 2003)

ASCCA is concerned that the proposed regulations will negatively impact small businesses by placing unreasonable and costly mandates upon any automotive repair dealer selling tires in California. Below are comments to the proposed CEC Replacement Tire Regulations.

- **Sign Pricing information** - The language in section 3309 (a) (1) requiring pricing information on signage for each replacement tire is vague and unworkable for automotive repair dealers (ARDs). Many ARDs do not carry replacement tires in stock. On occasion, they may order a replacement tire for a customer from a wholesale distributor or sublet the tire replacement to a third-party vendor. These ARDs will not know the price of the tire until the time the tire order is placed. Some ARDs may have tires in stock. If tire prices change, due to outside economic factors, the automotive repair dealer would need to continuously replace each sign with current pricing information. Including pricing information on signs is simply not practical.
- **Placement of Signage** - The language in sections 3309 (a)(1)(A)(5)(6) is restrictive, burdensome and may not accomplish the proposed regulation goals. The Bureau of Automotive Repair (BAR) which regulates all ARD's, including tire dealers, currently has sign requirements. See 16 CCR 3307(a)(b)(c). These requirements provide the ARD

flexibility to ensure signage is placed in a location where it is clearly visible to the general public. These regulations should be revised to provide the same flexibility.

Furthermore, the last sentence of Section 3309 (a)(1) stating “The location of the California replacement tire sign shall be accessible within arm’s length of the accessible location” is vague and ambiguous and should be deleted.

- **Sign effectiveness** - There are so many signs that already required to be posted by ARDs, such as Bureau of Automotive Repair signs, Prop 65 signs, smog check signs, brake station signs, storage signs, battery fee signs, video recording signs, ADA signs and permit postings such as business licenses, fire permits, air quality management permits and the list goes on. There is a Proliferation of signs currently required to be posted by dealers and the question becomes – How effective would another sign be?
- **Independent Verification of Disclosure Information** – Section 3309 (a) (1) (B), it is not clear whether the ARD must independent verify every tire energy efficiency disclosure to make sure it’s accurate. Will the ARD be able to rely on the tire manufacturer disclosures and simply pass information along to consumer without liability? It would be impractical to have an ARD independently verify tire energy disclosure information for every tire it sells. Who is ultimately responsible for this information? It is not clear, and this should be addressed in the regulation.
- **Replacement Tires Sold Internet & Print Catalog** – Sections 3309 (a) (2) (3) make vague and ambiguous references to tire pricing. Does the language mean that if a dealer does not list the specific price of the tire or offer a specific brand name tire for sale on the internet or catalog the regulations do not apply? In other words, if a dealer uses general terms such as “lowest tire prices” “tire rollbacks” “great deals on tires” “\$50.00 discount off tires” or any expressions of like meaning, then the regulations would not apply?
- **Existing Inventory of Non-Compliant Tires** - Do ARDs have to stop selling noncompliant efficiency rated tires on the date specified in the proposed regulations, namely: January 1, 2025? How do ARDs comply with the regulations if exiting tire stock/inventory is noncompliant after the deadline? Will tires manufactured before the deadline be exempt?
- **How to Identify & Confirm California Tire Compliant Tires** - How do ARDs easily ascertain and verify that tires are California compliant with the proposed regulations. Will tire manufacturers be required to mark tires as CA compliant? If so, with what type of markings? If not, how will the ARDs ascertain and verify compliance?
- **Customer Tires** - If a customer purchases and brings their own non-compliant tire to the dealer for installation, can the ARD install tire without violating the law and incurring penalties? How does the ARD handle such a customer request under the proposed regulations and remain compliant?
- **ARD Documentation Requirements** - What documentation and records, if any, will be necessary for the tire dealer to show that they are in compliance with the regulations? The regulations are silent on such requirements.

- **Enforcement of Regulations** - How will the CEC enforce these new regulations against ARDs or will other agencies such as the BAR enforce?
- **Economic Impacts and Cost to Small Business** - Has the CEC conducted any research or gathered any information as to the economic impacts and costs to small business ARD's, if these regulations were implemented?
- **Exemptions for ARDs that occasional replace tires-** Auto body shops, smog check test/repair shops, preventative maintenance facilities and other small mechanical shops on occasions will replace a tire upon a consumer request. The primary business of such facilities is not selling tires. Requiring these types of businesses to meet the same requirements as those that primarily are in the business of selling tires is unfair. The CA Air Resources Board took such types of business in consideration when they developed the "check and inflate" tire regulations and provided exemptions for certain businesses. See Title 17 CCR section 95550.

As an alternative to exemptions, the CEC should consider revising the definitions of "Tire Dealer" and "Tire Retailer" under section 3302 to include only those that are primarily in the business of selling tires which would exempt the occasional tire replacement situations. For example, the CEC should consider including in the definition only those automotive repair businesses that represented and obtained BAR licenses/registrations to BAR (under penalty of perjury) that they are primarily in the business of selling tires. Please refer to the BAR application - question #13, Primary Business Type – and the specific Tire Shop designation. See link below to the BAR application.
<https://www.bar.ca.gov/pdf/ard-reg-app frm.pdf>

- **Exemptions for Fleet work/Commercial Business Arrangements** - Will there be exemptions for tire dealers who have commercial business agreements with other commercial businesses for tire replacement on a continuing basis? These types of arrangements are currently exempted by the BAR and should be exempted in these regulations. See Business and Professions sections 9880.2(b); 9880.1(e).
- **Bureau of Automotive Repair (BAR)** - The BAR regulates automotive repair dealers including all tire dealers. Has the CEC engaged the BAR on these regulations?

Thank you for the opportunity to provide comments to the CEC proposed Replacement Tire Regulations. We look forward to a future CEC workshop where these issues can be discussed in further detail.

Sincerely,



Gloria Peterson
 Executive Director