

AUTO\$ENSE

BAR TO ADOPT CITE AND FINE REGULATIONS

After many years of discussion, the Bureau of Automotive Repair (BAR) will adopt Article 11.5 and sections §3394.10 through 3394.15 to the Code of California Regulations, giving authority to issue citations and fines. This will include sections §3394.12 CITATIONS FOR UNLICENSED PRACTICE and §3394.13 AMOUNT OF FINES FOR UNLICENSED PRACTICE: “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 ... in addition to criminal penalties which shall not exceed five thousand (\$5,000) for each violation.”

Industry, for the most part, has supported this concept. Duly licensed automotive repair facilities have had to compete with unlicensed shops for years. This has not only caused quality of repair to be at issue, but the unlicensed competitor may have had monetary advantage over the licensed automotive repair dealer who employs certified technicians.

Industry needs to understand that §44032 of the CALIFORNIA HEALTH AND SAFETY CODE states that “No person shall perform, for compensation, tests or repairs of emission control devices or systems of motor vehicles required by this chapter unless the person performing the test or repair is a qualified **smog check technician** and the test or repair is performed at a **licensed smog check station.**” If you contract with a consumer to repair a smog check related emission failure and are licensed by the Bureau to perform auto repair **but do not have a smog check station license** or you allow a **non-state certified smog check technician to perform a smog check related repair**, then you will be subject to both a citation and a fine (in addition to criminal penalties) of up to \$5000.

NEW REGULATION REQUIRED BY THE CALIFORNIA STATE AIR RESOURCES BOARD CCR SECTION 95550

The purpose of this regulation is to reduce greenhouse gas from vehicles operating with under-inflated tires by inflating them to the recommended tire pressure.

NEW REGS CONT.

By **July 1, 2010**, automotive service providers (ASP) are required to:

- Check and inflate each vehicle's tires to the recommended tire pressure rating, with air or nitrogen, at the time of performing any automotive maintenance or repair service; and
- Indicate on the vehicle service invoice that a tire inflation service was completed and that the tire pressure measurements after the services were performed; and
- Keep a copy of the invoice for a minimum of 3 years, and make the invoice available to the California Air Resources Board (ARB) or its authorized representative upon request.

CSSARA opposes this regulation as being overly burdensome to industry. It has the potential to create frivolous lawsuits. Unfortunately, our letters opposing this new regulatory demand were not taken into consideration.

Penalties may be assessed for any violation of this article. Each day, during any portion of which a violation occurs, is a separate offense.

Customers with vehicle tires inflated with nitrogen gas may refuse the inflation portion of the service if a nitrogen inflation system is not available at the time of the service. A customer may decline the check and inflate service if the customer affirms one of the following:

- He or she has performed (or had performed) a tire pressure check and inflate service within the last 30 days, or he or she will perform (or will have performed) a tire pressure check and inflate service within the next 7 days.

If a tire inflation service was not performed, the ASP must indicate on the vehicle service invoice why the service was not completed.

This new regulation for underinflated vehicle tires is part and parcel of overly burdensome laws to our Automotive Repair Industry. One must ask when does the customer's responsibility for the maintenance of their vehicle come into play? Government should not be mandating these types of regulatory issues as it only opens the door to what we believe will be frivolous lawsuits for maintenance issues that should be, and always have been, the responsibility of the vehicle owner.