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# AUTOMOTIVE REPAIR DEALER CITATION PROGRAM

DEPARTMENT OF CONSUMER AFFAIRS

**BAR**

Bureau of Automotive Repair

MATHEW GIBSON  
ENFORCEMENT OPERATIONS BRANCH  
REGULATORY WORKSHOP  
APRIL 22, 2021

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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 “Gross Negligence” in automotive repair.
  - Make other minor clarifying changes.

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# PROPOSED REGULATION TEXT

## ARTICLE 11.1.2. Citations and Administrative Fines for Automotive Repair Dealers (ARD)

### CCR 3394.30. Authority to Issue Citations and Fines for ARDs

- (a) The director 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 violations by licensees of the statutes and regulations referred to in Business and Professions Code section 125.9.
- (b) A citation shall be issued whenever any fine is issued. 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.

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# PROPOSED REGULATION TEXT

## CCR 3394.31. Citation Fine Amounts for ARDs

- a) The minimum and maximum fine amounts are established in Table I, Citation Fine Schedule for ARDs. A citation that lists multiple violations arising from an investigation/inspection shall not exceed five thousand dollars (\$5,000) pursuant to Business and Professions Code section 125.9. In assessing a fine, the Bureau shall consider the following:
  - (1) Gravity of the violation
  - (2) Good faith of the licensee
  - (3) History of previous violations

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# PROPOSED REGULATION TEXT

- (b) A citation may include a fine up to \$5,000 if one or more of the following circumstances apply:
  - (1) The cited person or establishment has received two or more prior citations for the same or similar violations;
  - (2) The violation demonstrates a willful disregard for the law.
  - (3) The violation could result in foreseeable injury or significant harm to the consumer, consumer's property, or public.
  
- (c) The citation issued under this section shall be separate from and in addition to any other administrative, civil, or criminal remedies.

# PROPOSED REGULATION TEXT

**Table 1: Citation Fine Schedule**

Violation Section	Violation Name	Minimum Citation	Maximum Citation
<b>BPC §9884.7(a)(1) specifically relating to CCR §§3371, 3372.1 and/or 3373</b>	False or Misleading Advertising	\$100	\$5000
<b>BPC §9884.7(a)(1) specifically relating to CCR 3373</b>	Generating False or Misleading Invoice	\$100	\$5000
<b>BPC §9884.7(a)(5)</b>	Conduct Constituting Gross Negligence	\$500	\$5000
<b>BPC §9884.7(a)(7) specifically relating to §§CCR 3360 - 3367</b>	Disregard of Accepted Trade Standards	\$100	\$5000
<b>BPC §9884.11 CCR §3358</b>	Failure to Produce Records for Inspection	\$100	\$5000
<b>CCR §3351.5</b>	Failure to Possess Required Equipment: Auto Body Repair	\$100	\$5000
<b>CCR §3368</b>	Payment of Referral Fee for Towing Delivery	\$100	\$5000

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# PROPOSED REGULATION TEXT

## CCR 3394.32. Contested Citations and Request for formal Citation Hearing for ARDs

- (a) If a person cited pursuant to Section 125.9 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.
- (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.

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# PROPOSED REGULATION TEXT

CCR 3394.32. Contested Citations and Request for formal Citation Hearing for ARDs

- (c) Failure of a licensee to pay a fine or comply with an order of abatement, or both, within 30 days of the date of assessment or order, unless the citation is being appealed, may result in disciplinary action being taken by the board, bureau, or commission. Where a citation is not contested and a fine is not paid, the full amount of the assessed fine shall be added to the fee for renewal of the license. A license shall not be renewed without payment of the renewal fee and fine.



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# PROPOSED REGULATION TEXT

Amend Section 3303, Article 1, Chapter 1, Division 33, Title 16, California Code of Regulations, to read as follows:

CCR 3303. Definitions

(r) “Gross Negligence” means deviation from a standard of care that could foreseeably result in injury or significant harm to a consumer, personal property, or the public during or as a result of the repairs to a motor vehicle.

Amend Section 3371, Article 9, Chapter 1, Division 33, Title 16, California Code of Regulations, to read as follows:

CCR 3371. False ~~Untrue~~-or Misleading Statements or Advertising

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# QUESTIONS AND COMMENTS

Submit questions and/or comments to:

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