

AMENDED IN SENATE MARCH 7, 2016
AMENDED IN ASSEMBLY JANUARY 4, 2016
AMENDED IN ASSEMBLY APRIL 20, 2015
CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1174

Introduced by Assembly Member Bonilla

February 27, 2015

An act to amend ~~Section 800~~ Sections 9882 and 9882.5 of the Business and Professions Code, relating to ~~healing arts~~: *automotive repair*.

LEGISLATIVE COUNSEL'S DIGEST

AB 1174, as amended, Bonilla. ~~Healing arts: licensee records. Automotive Repair Act: violations: response.~~

The Automotive Repair Act provides for the licensure and regulation of automotive repair dealers, among others, by the Chief of the Bureau of Automotive Repair under the supervision and control of the Director of Consumer Affairs. The act requires the director, on the director's initiative or in response to a complaint, to investigate a violation of the act, or of any regulation adopted pursuant to the act, by any automotive repair dealer, automotive technician, or employee, partner, officer, or member of any automotive repair dealer. The act authorizes the director to adopt and enforce the rules and regulations that the director determines are reasonably necessary to carry out the purposes of the act and declaring the policy of the bureau, including a system for the issuance of citations pursuant to a specified law.

This bill would clarify that the specified law under which the director may adopt and enforce rules and regulations under the Automotive

Repair Act authorizes any board, bureau, or commission within the Department of Consumer Affairs to establish, by regulation, a system for the issuance to a licensee of a citation when the licensee is in violation of the applicable licensing act or any regulation adopted pursuant thereto. The bill would require the director to publicly post on the bureau’s Internet Web site the findings of, and specified information related to, each investigation completed by the director in response to a complaint.

~~Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs. Existing law requires various state licensing boards, including the Medical Board of California and the Board of Psychology, to create and maintain a central file of the names of licensees to provide an individual historical record for each licensee with information on acts of licensee misconduct and discipline, as specified.~~

~~This bill would add the California Board of Podiatric Medicine to the list of state licensing boards required to create and maintain such records.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 9882 of the Business and Professions
2 Code is amended to read:
3 9882. (a) There is in the Department of Consumer Affairs a
4 Bureau of Automotive Repair under the supervision and control
5 of the director. The duty of enforcing and administering this chapter
6 is vested in the chief who is responsible to the director. The director
7 may adopt and enforce those rules and regulations that he or she
8 determines are reasonably necessary to carry out the purposes of
9 this chapter and declaring the policy of the bureau, including a
10 system for the issuance of citations for violations of this chapter
11 as specified in Section ~~125.9~~. 125.9, which authorizes any board,
12 bureau, or commission within the department to establish, by
13 regulation, a system for the issuance to a licensee of a citation
14 when the licensee is in violation of the applicable licensing act or
15 any regulation adopted pursuant thereto. These rules and
16 regulations shall be adopted pursuant to Chapter 3.5 (commencing
17 with Section 11340) of Part 1 of Division 3 of Title 2 of the
18 Government Code.

1 (b) Notwithstanding any other law, the powers and duties of the
2 bureau, as set forth in this article and under the Automotive Repair
3 Act, shall be subject to review by the appropriate policy committees
4 of the Legislature. In that review, the bureau shall have the burden
5 of demonstrating a compelling public need for the continued
6 existence of the bureau and its regulatory program, and that its
7 function is the least restrictive regulation consistent with the public
8 health, safety, and welfare. The review shall be performed as if
9 this chapter were scheduled to be repealed as of January 1, 2019.

10 *SEC. 2. Section 9882.5 of the Business and Professions Code*
11 *is amended to read:*

12 9882.5. (a) The director shall on his or her own initiative or
13 in response to complaints, investigate on a continuous basis and
14 gather evidence of violations of this chapter and of any regulation
15 adopted pursuant to this chapter, by any automotive repair dealer
16 or automotive technician, whether registered or not, and by any
17 employee, partner, officer, or member of any automotive repair
18 dealer. The director shall establish procedures for accepting
19 complaints from the public against any dealer or automotive
20 technician. The director may suggest measures that, in the
21 director's judgment, would compensate for any damages suffered
22 as a result of an alleged violation. If the dealer accepts the
23 suggestions and performs accordingly, such fact shall be given
24 due consideration in any subsequent disciplinary proceeding.

25 (b) *For each investigation the director completes in response*
26 *to a complaint pursuant to subdivision (a), the director shall*
27 *publicly post on the bureau's Internet Web site both of the*
28 *following:*

29 (1) *The findings of the completed investigation.*

30 (2) *The name, business address, and, if applicable, the*
31 *registration type and number, of the investigated automotive repair*
32 *dealer, automotive technician, or employee, partner, officer, or*
33 *member of an automotive repair dealer.*

34 ~~SECTION 1. Section 800 of the Business and Professions Code~~
35 ~~is amended to read:~~

36 ~~800. (a) The Medical Board of California, the Board of~~
37 ~~Psychology, the Dental Board of California, the Dental Hygiene~~
38 ~~Committee of California, the Osteopathic Medical Board of~~
39 ~~California, the State Board of Chiropractic Examiners, the Board~~
40 ~~of Registered Nursing, the Board of Vocational Nursing and~~

1 Psychiatric Technicians of the State of California, the State Board
2 of Optometry, the Veterinary Medical Board, the Board of
3 Behavioral Sciences, the Physical Therapy Board of California,
4 the California State Board of Pharmacy, the Speech-Language
5 Pathology and Audiology and Hearing Aid Dispensers Board, the
6 California Board of Occupational Therapy, the Acupuncture Board,
7 the California Board of Podiatric Medicine, and the Physician
8 Assistant Board shall each separately create and maintain a central
9 file of the names of all persons who hold a license, certificate, or
10 similar authority from that board. Each central file shall be created
11 and maintained to provide an individual historical record for each
12 licensee with respect to the following information:

13 (1) Any conviction of a crime in this or any other state that
14 constitutes unprofessional conduct pursuant to the reporting
15 requirements of Section 803.

16 (2) Any judgment or settlement requiring the licensee or his or
17 her insurer to pay any amount of damages in excess of three
18 thousand dollars (\$3,000) for any claim that injury or death was
19 proximately caused by the licensee's negligence, error or omission
20 in practice, or by rendering unauthorized professional services,
21 pursuant to the reporting requirements of Section 801 or 802.

22 (3) Any public complaints for which provision is made pursuant
23 to subdivision (b).

24 (4) Disciplinary information reported pursuant to Section 805,
25 including any additional exculpatory or explanatory statements
26 submitted by the licensee pursuant to subdivision (f) of Section
27 805. If a court finds, in a final judgment, that the peer review
28 resulting in the 805 report was conducted in bad faith and the
29 licensee who is the subject of the report notifies the board of that
30 finding, the board shall include that finding in the central file. For
31 purposes of this paragraph, "peer review" has the same meaning
32 as defined in Section 805.

33 (5) Information reported pursuant to Section 805.01, including
34 any explanatory or exculpatory information submitted by the
35 licensee pursuant to subdivision (b) of that section.

36 (b) (1) Each board shall prescribe and promulgate forms on
37 which members of the public and other licensees or certificate
38 holders may file written complaints to the board alleging any act
39 of misconduct in, or connected with, the performance of
40 professional services by the licensee.

1 ~~(2) If a board, or division thereof, a committee, or a panel has~~
2 ~~failed to act upon a complaint or report within five years, or has~~
3 ~~found that the complaint or report is without merit, the central file~~
4 ~~shall be purged of information relating to the complaint or report.~~

5 ~~(3) Notwithstanding this subdivision, the Board of Psychology,~~
6 ~~the Board of Behavioral Sciences, and the Respiratory Care Board~~
7 ~~of California shall maintain complaints or reports as long as each~~
8 ~~board deems necessary.~~

9 ~~(e) (1) The contents of any central file that are not public~~
10 ~~records under any other law shall be confidential except that the~~
11 ~~licensee involved, or his or her counsel or representative, shall~~
12 ~~have the right to inspect and have copies made of his or her~~
13 ~~complete file except for the provision that may disclose the identity~~
14 ~~of an information source. For the purposes of this section, a board~~
15 ~~may protect an information source by providing a copy of the~~
16 ~~material with only those deletions necessary to protect the identity~~
17 ~~of the source or by providing a comprehensive summary of the~~
18 ~~substance of the material. Whichever method is used, the board~~
19 ~~shall ensure that full disclosure is made to the subject of any~~
20 ~~personal information that could reasonably in any way reflect or~~
21 ~~convey anything detrimental, disparaging, or threatening to a~~
22 ~~licensee's reputation, rights, benefits, privileges, or qualifications,~~
23 ~~or be used by a board to make a determination that would affect~~
24 ~~a licensee's rights, benefits, privileges, or qualifications. The~~
25 ~~information required to be disclosed pursuant to Section 803.1~~
26 ~~shall not be considered among the contents of a central file for the~~
27 ~~purposes of this subdivision.~~

28 ~~(2) The licensee may, but is not required to, submit any~~
29 ~~additional exculpatory or explanatory statement or other~~
30 ~~information that the board shall include in the central file.~~

31 ~~(3) Each board may permit any law enforcement or regulatory~~
32 ~~agency when required for an investigation of unlawful activity or~~
33 ~~for licensing, certification, or regulatory purposes to inspect and~~
34 ~~have copies made of that licensee's file, unless the disclosure is~~
35 ~~otherwise prohibited by law.~~

36 ~~(4) These disclosures shall effect no change in the confidential~~
37 ~~status of these records.~~

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