
UNLICENSED ACTIVITY ENFORCEMENT



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EXISTING PROCESS: CITATION ISSUANCE

- Bureau Program Representative (PR) identifies unlicensed automotive repair activity
 - Often occurs as part of JESF operations
- PR prepares and personally serves a citation and order of abatement pursuant to Business and Professions Code (BPC) section 9884.6
 - Unlicensed actor is directed to immediately cease all activity for which an automotive repair dealer registration is required

EXISTING PROCESS: FOLLOW-UP

- PR returns to unlicensed location to confirm licensure or discontinued activity
- If continued unlicensed activity:
 - PR gathers evidence of continued unlicensed activity
 - An investigative report detailing the evidence of unlicensed activity is prepared and forwarded to Bureau headquarters to request a citation and order of abatement with monetary fine
 - Bureau headquarters will review the report. If approved, EOB will process the citation with a fine up to \$5,000 (California Code of Regulations [CCR], Title 16, section 3394.43), and serve the citation by mail pursuant to Section 11505(c) of the Government Code

EXISTING PROCESS: APPEALS

- CCR section 3394.45 allows the cited entity to informally appeal a citation for unlicensed activity before the Chief of the Bureau or their designee
- Additionally, BPC section 125.9 provides the cited entity the opportunity to appeal the citation by requesting an administrative hearing held pursuant to the Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code)

EXISTING PROCESS: CONTINUED UNLICENSED ACTIVITY

- If the PR identifies continued unlicensed activity
 - Evidence of continued unlicensed activity is gathered and a new investigative report is prepared documenting the activity
 - The report is again forwarded to Bureau headquarters for review
 - If approved, the PR and their supervisor will present the case to the local District Attorney (DA) to request criminal and/or civil prosecution pursuant to BPC sections 9884.6 (registration required), 17200 (unfair business competition) and any other applicable statutes
 - Depending on workload, the DA may or may not proceed with a court filing

REVISED PROCESS: CIVIL INJUNCTIONS FOR UNLICENSED ACTIVITY (1 of 3)

- Recognizing workload challenges faced by many District Attorneys, the Bureau collaborated with the Office of the Attorney General (OAG) to establish an alternative process
- In addition to or in lieu of a DA filing, the OAG is able to file, in Superior Court, a request to enjoin (Civil Injunction) the unlicensed entity from continued operation
- Bureau Field Office Supervisor, in discussion with the investigating PR, will determine if a DA filing and/or Civil Injunction is appropriate

REVISED PROCESS: CIVIL INJUNCTIONS FOR UNLICENSED ACTIVITY (2 of 3)

- First two steps of the process are unchanged
 - A citation and order of abatement is issued immediately upon identification of unlicensed activity
 - If unlicensed activity continues, a citation and order of abatement with monetary fine is completed and served
- Upon completion of the period for compliance with the citation and fine (30 days from service)
 - The PR gathers evidence of continued unlicensed activity and generates an investigative report
 - The report is forwarded to Bureau headquarters for review
 - If approved, Bureau headquarters forwards the report to the OAG for consideration to prepare and file a motion for Civil Injunction

REVISED PROCESS: CIVIL INJUNCTIONS FOR UNLICENSED ACTIVITY (3 of 3)

- The assigned Deputy Attorney General (DAG) will prepare the filing documents to request the Civil Injunction
- While preparing the documents, the DAG will inquire whether the Bureau is open to licensure of the entity
 - If the entity has applied but was deficient, the DAG may assist the entity in curing the deficiency
- Immediately before filing, the DAG will inquire if the unlicensed entity continues to operate
 - If continuing to operate, the DAG will request a declaration from the PR in support of a temporary restraining order to stop the entity from operating until hearing

REVISED PROCESS: CIVIL INJUNCTION FILING EXAMPLES (1 of 2)

- Unlicensed transmission repair facility
 - Entity had applied for licensure of a family inherited business, but was deficient for sales tax issues
 - DAG assisted applicant in resolving deficiency and entity is now in good standing
- Unlicensed collision repair facility
 - Applicant previously convicted for operating a 'chop shop'
 - DAG filed in Superior Court and applicant never appeared
 - DAG is preparing Default Order for Judge's signature

REVISED PROCESS: CIVIL INJUNCTION FILING EXAMPLES (2 of 2)

- Previously licensed businesses and technicians that have been revoked
 - Businesses and individuals continue to operate in defiance of a Department of Consumer Affairs Director's order revoking their license to operate
 - Citations are NOT issued in these circumstances
 - Report is prepared and immediately forwarded to OAG for filing
- Several cases currently under review at Bureau Headquarters

QUESTIONS AND COMMENTS

Submit questions and/or comments to:

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