

DEPARTMENT OF INDUSTRIAL RELATIONS

Division of Labor Standards Enforcement

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**2008 REPORT ON THE STATUS OF ENFORCEMENT IN THE
CAR WASHING AND POLISHING INDUSTRY
LABOR CODE SECTION 2068**

In 2003, Assembly Bill (AB) 1688 (Goldberg, Chapter 825) established the licensing and registration program for the car washing and polishing industry. AB 1688 required employers in this industry to register annually with the Labor Commissioner, pay registration fees, and post a surety bond. As enacted, this bill included a sunset date of January 1, 2007. To implement this new car wash licensing and registration program, the Division of Labor Standards Enforcement (DLSE) promulgated regulations which became effective on December 22, 2005.

In 2006, Senate Bill (SB) 1468 (Alarcon, Chapter 656) extended the sunset date of the licensing and registration program to January 1, 2010, and required the Labor Commissioner to report on the status of labor law violations and enforcement in the car washing and polishing industry.

Licensing & Registration

According to information supplied by the Employment Development Department (EDD), there are approximately 1,600 car washing and polishing establishments doing business in the State. In 2006, the first year of registration, 435 applications were received and 286 registrations were issued. There was a 124% increase in registrations issued in 2007 (641) over 2006 (286). The number of registrations issued in 2008 (863) has increased 35% over 2007 registrations. Adding the number of applications pending review and/or receipt of required documentation at the end of 2008, approximately 65% of the 1,600 car washing establishments listed in EDD's database are currently either in compliance or in the process of coming into compliance with the registration requirements. Statistics regarding the application process in the two full calendar years that the licensing law has been in effect are as follows:

	2007	2008
Applications received	770	972
Issued	641	863
Rejected ¹	14	150
Withdrawn	26	8
Pending Year End		174

¹ Applications may be rejected for many reasons, including but not limited to, the inability to secure a bond, failure to respond to defect letters to provide required documentation, or unpaid citations. If an application is received but defects are cured within the 60 days allowable, it is then issued and counted as "received" and "issued" and it is not counted as "rejected." If an application is received, but has defects which are not cured within the 60 day period, the initial application is recorded as "rejected" and the applicant is required to reapply and pay an additional fee to secure registration. That re-application will be counted as a new application "received" and if all requirements are complied with, will be counted as "issued."

In addition to posting the requirements for registration on the DLSE website, the Licensing & Registration Unit has attempted to contact and notify all car washing and polishing businesses to register by direct letter mailings and by requesting assistance “to get the word out” from industry-related publications and organizations. Despite these proactive efforts we do not yet have full compliance with the registration requirement. However, as described below, DLSE has an aggressive enforcement program aimed at identifying and pursuing those businesses not in compliance, concentrating on the geographic locations with the highest concentrations of car washing and polishing businesses.

Enforcement Activities

In 2008, the Bureau of Field Enforcement (BOFE), including the Economic and Employment Enforcement Coalition (EEEC) unit, inspected 576 car washes—36% of the number of car washes in the state listed by EDD.

Calendar Year 2008			
	Total Inspections	576	
	Total Citations Issued	519	
<i>Citation Type</i> ²	<i># of Citations</i>	<i>Penalties Assessed</i>	<i>Penalties Collected</i> ³
Workers' Compensation	142	\$ 925,000	\$ 602,342
Child Labor	25	\$ 22,000	\$ 23,883
Itemized Statement	67	\$ 645,500	\$ 571,850
Minimum Wage	4	\$ 19,600	\$ 16,898
Overtime	7	\$ 7,250	\$ 55,521
Registration	274	\$2,216,622	\$ 754,193
TOTAL	519	\$3,835,972	\$2,024,687

Calendar Year 2007			
	Total Inspections	559	
	Total Citations Issued	732	
<i>Citation Type</i>	<i># of Citations</i>	<i>Penalties Assessed</i>	<i>Penalties Collected</i> ⁴
Workers' Compensation	184	\$1,616,000	
Child Labor	26	\$ 24,500	
Itemized Statement	80	\$1,142,250	
Minimum Wage	18	\$ 193,350	
Overtime	16	\$ 125,900	
Registration	408	\$3,759,400	
TOTAL	732	\$6,861,400	\$1,076,758

² It should be noted that of the penalties listed, only “Registration” penalties are deposited into the Car Wash Worker Restitution Fund and the Car Wash Worker Fund (50% of receipts into each fund). Workers’ compensation penalties are deposited into the Uninsured Employers’ Benefits Trust Fund. All other citation penalties are deposited into the General Fund.

³ Note that penalties collected can include money collected on penalties assessed in 2007 or earlier and may not necessarily coincide with the number of citations issued and/or the amount of penalties assessed.

⁴ Although the total amount of penalties collected were maintained for 2007, these collections were not recorded based on citation category until May 2007. Therefore, because full year statistics are not available for 2007, those partial statistics are not included here.

Although the number of inspections conducted has remained consistent, with an increase in the amount of penalties collected in 2008, it is believed that the decrease in penalties assessed in 2008 can be attributed to the increase in compliance in that the number of businesses registered has increased with a resultant decrease in the number of citations required to be issued for failure to register.

Re-inspections

Part of the concerted effort of enforcement in the industry has been re-inspections of businesses previously cited for violations, in order to identify repeat offenders and to verify continued compliance. The goal has been to perform an additional follow-up inspection of approximately 10% of those employers, selected on a random basis, who were cited in 2007. Fifteen of the 101 businesses re-inspected had repeat violations, which included 11 that were cited for continued failure to register. The results of these re-inspections are:

Calendar Year 2008		
	Total Re-inspections	101
	Total Businesses Re-cited	15
	Total Citations Issued	19
<i>Citation Type</i>	<i># of Citations</i>	<i>Penalties Assessed</i>
Workers' Compensation	5	\$34,000
Itemized Statement	1	\$20,000
Child Labor	1	\$ 1,000
Overtime	1	\$ 1,200
Registration	11	\$84,100
TOTAL	19	\$140,300

Litigation

In addition to field enforcement by BOFE and EEEEC, the DLSE Legal Unit has placed a priority on pursuing enforcement through litigation initiated by DLSE, and in defending actions brought by businesses cited for non-registration that have attempted to have those citations overturned. In 2007 DLSE brought a lawsuit against a non-compliant car wash for unpaid wages and penalties. In September 2008, DLSE negotiated the settlement of this lawsuit in Los Angeles Superior Court on behalf of 60 workers. A BOFE investigation uncovered a systematic practice of allowing employees to work 8 or 9 hours per day, but only paying them for 3 to 5 hours, and failing to maintain individual employee time records. The settlement reached includes the payment of \$400,000 in back wages, \$5,000 in penalties, \$5,000 in liquidated damages, and \$40,000 in attorney's fees.

In 2008 DLSE brought three more lawsuits against unlicensed car washes which continued to operate illegally after being cited for failure to register, to enjoin them from continuing to operate. As a result of the lawsuits, one of the businesses came into compliance by paying the penalties and registering. Litigation against the other two car washes is ongoing.

Outreach Efforts

Through its core enforcement function, and its EEEEC enforcement activities, DLSE attempts to proactively reach out to the car washing and polishing community in an effort to provide education regarding their legal duties, to help reduce the need to perform traditional enforcement activities of inspections and citations. Such outreach efforts include: maintaining a website and public information pre-recorded information lines containing detailed information on a myriad of labor law topics and regulatory information; making presentations to, and regularly meeting with industry groups; providing information on labor law compliance to employees and employers in the form of information sheets and resource information at the time of, and following, field inspections; and providing post-inspection labor law compliance presentations to employers with specific emphasis on the violations found during inspection sweeps.

DLSE will continue its efforts to enforce the laws to ensure that workers in the car washing and polishing industry receive the benefits to which they are entitled under the law, and ensuring a level playing field for all businesses in the industry.

Respectfully submitted,

A handwritten signature in cursive script that reads "Angela Bradstreet". The signature is written in black ink and is positioned above the printed name.

Angela Bradstreet
Labor Commissioner