

July 20, 2017 Advisory Council Meeting Materials Packet

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BUREAU ADVISORY COUNCIL MEETING NOTICE & AGENDA

Thursday, July 20, 2017, 9:00 a.m.

Meeting Location

Department of Consumer Affairs
Bureau of Electronic and Appliance Repair, Home Furnishings and Thermal Insulation
4244 South Market Ct., Suite D, Sacramento, CA 95834

Or by Teleconference (866) 842-2981 Participant Passcode #: 4598662

General Bureau Business Agenda Items

1. Welcome and Introductions
 - a. Roll call of the Council
 - b. Advisory Council membership expiration in October, applications
 - c. Review meeting dates for 2017, discuss 2018 plans
2. Licensing and Enforcement
 - a. Licensing Numbers
 - b. Enforcement Numbers
3. Operations Update
 - a. Personnel/Duty Statements Refined
 - b. Legislative/Regulatory Update
 - c. Sunset Preparation
 - d. Surveys (Consumer Satisfaction, Label Change, and Advertising)

Public Comment on General Business Agenda Items

Home Furnishings and Thermal Insulation Agenda Items

4. Lab Operations
 - a. Accreditation/Facility Updates
 - b. Barrier Research Study Update
 - c. Label Types, When To Be Used
 - d. SB-1019/New Contract, B&P 19094, DTSC, Prop. 65 Confusion
 - e. Lab Statistics

Public Comment on Home Furnishings and Thermal Insulation Items

Electronic and Appliance Repair Agenda Items

5. Field Enforcement Update
6. Service Contract Industry
7. Consumer License Check, Scams

Public Comment on Electronic and Appliance Repair Agenda Items

Closing: Feature Presentations

Adjournment

This meeting facility is accessible to the physically disabled. A person who needs a disability-related accommodation or modifications in order to participate in the meeting may make a request by contacting Victoria Hernandez at (916) 999-2055 or for the hearing impaired, TDD (800) 326-2297; or by sending a written request to the Bureau at 4244 South Market Court, Suite D, Sacramento, CA 95834-1243, Attention: Victoria. Providing at least five working days' notice before the meeting will help ensure the availability of accommodations or modifications.

Agenda Item 1b: Advisory Council Membership Application



BUREAU OF ELECTRONIC & APPLIANCE REPAIR,
HOME FURNISHINGS & THERMAL INSULATION

4244 South Market Court, Suite D
Sacramento, California 95834-1243
(916) 999-2041 FAX (916) 921-7279
WWW.BEARHFTI.CA.GOV

ADVISORY COUNCIL MEMBERSHIP APPLICATION

The Advisory Council (Council) is an informal, voluntary council dedicated to assisting the Bureau by providing perspective information and insight. Although the Council does not have regulatory authority, it is a critical resource to the Bureau.

The Council provides professional and technical assistance to the Bureau on issues it regulates in California. Members serve in an advisory capacity on policy matters, making non-binding recommendations directly to the Bureau Chief.

The Council's primary responsibilities include:

- ❖ Perspective and advice on consumer and market issues
- ❖ Research and recommend creative solutions to consumer and industry problems
- ❖ Advise the Bureau Chief on outreach efforts to consumers, the public, licensees and the industry
- ❖ Provide information and comments to the Chief on a broad range of policy issues including consumer education, industry outreach and regulatory compliance

The Director of the Department of Consumer Affairs appoints members who serve two-year terms. Members are expected to attend meetings as necessary at various locations throughout the state. The Bureau may provide reasonable travel accommodations for each Council member except when under an Executive Order, which prohibits all discretionary travel.

Name:	_____	Date: _____
Mailing Address:	_____ _____	
Home Phone:	(____) _____	
Email:	_____	

Company: _____
Title: _____
Address: _____

Work Phone: (_____) _____ Fax: (_____) _____
Email: _____
Web Site: _____

Position Sought:

Public Member Affiliation _____

Industry Member: (check all that apply)

Industry Role: Manufacturer Service Contract Seller Retailer
 Independent Service Repair Professional Service Contract Administrator
 Importer Custom Upholsterer Supply Dealer

Product Market: Electronic Appliance Computer Bedding
 Upholstered Furniture Thermal Insulation

Related Experience:

Professional Licenses, Organizational Memberships, etc.:

Education:

Have you ever served on a Board, Committee or Council for the Department of Consumer Affairs or other California State Agency? Yes No

If yes, please provide the name of the agency or agencies and time period you served in this capacity:

Agency:	_____
From:	_____
To:	_____
Agency:	_____
From:	_____
To:	_____
Agency:	_____
From:	_____
To:	_____

Why do you wish to serve on this Advisory Council?

If applicable, what do you feel are 2-3 areas of concern for California consumers in the electronic, appliance and computer repair markets and/or the service contract market?

If applicable, what do you feel are 2-3 areas of concern for California consumers in the upholstered furniture, bedding or thermal insulation market?

I certify under penalty of perjury, under the laws of the State of California, that the information presented above is complete, true and correct to the best of my knowledge and belief. I understand that if I am selected as a member of the Advisory Committee, I will be required to complete a Volunteer Service Agreement and an Oath of Allegiance.

Signature: _____ **Date:** _____

Agenda Item 2a: Licensing Numbers

LICENSING STATISTICS

June 2014 – June 2017

<i>EAR Registrations</i>	Jun 2014	Jun 2015	Jun 2016	Jun 2017
Appliance Service Dealer	2,430	2,466	2,629	2,595
Electronic Service Dealer	5,641	4,989	5,101	5,005
Combination Electronic/Appliance Service Dealer	501	483	634	586
Service Contract Administrator	47	43	43	48
Service Contract Seller	9,504	10,221	11,215	12,105
<i>Total EAR Registrations</i>	18,197	18,202	19,623	20,339

<i>HFTI Licenses</i>	Jun 2014	Jun 2015	Jun 2016	Jun 2017
Furniture Retailers	2,265	2,245	2,315	2,055
Bedding Retailers	1,868	1,708	1,592	1,960
Furniture & Bedding Retailers	11,553	11,738	11,715	11,879
Custom Upholsterers	496	491	497	495
Supply Dealers	130	132	136	122
Importers (includes overseas Manufacturers)	4,008	4,274	4,695	5,006
Manufacturers	1,435	1,441	1,481	1,540
Sanitizers	20	17	13	12
Wholesalers	162	150	170	198
Thermal Insulation Manufacturers	123	120	115	111
<i>Total HFTI Licenses</i>	22,190	22,316	22,729	23,378

Agenda Item 2b: Enforcement Numbers



- There has been 6 cases forwarded to the Attorney General's Office in FY 2016/2017, with a total 6 cases currently pending.
- There are currently 4 licensees on Probation.

CITATIONS ISSUED			
Year	EAR	HFTI	Total
2012-13	442	26	468
2013-14	1,047	488	1,535
2014-15	1,007	489	1,496
2015-16	985	537	1,522
2016-17	684	402	1,086

TELEPHONE DISCONNECTS ORDERED			
Year	EAR	HFTI	Total
2012-13	3	5	8
2013-14	0	0	0
2014-15	19	4	23
2015-16	78	19	97
2016-17	42	16	58

CONSUMER COMPLAINTS						
Year	OPENED			CLOSED		
	EAR	HFTI	Total	EAR	HFTI	Total
2012-13	703	263	966	734	276	1,010
2013-14	730	272	1,002	718	277	995
2014-15	739	307	1,046	705	297	1,002
2015-16	678	299	977	758	303	1,061
2016-17	582	237	819	582	248	830

INTERNAL CASES (Investigations)						
Year	OPENED			CLOSED		
	EAR	HFTI	Total	EAR	HFTI	Total
2012-13	646	332	978	700	278	978
2013-14	1,336	670	2,006	1,301	685	1,986
2014-15	1,155	622	1,777	1,215	626	1,841
2015-16	1,048	584	1,632	1,109	607	1,716
2016-17	730	451	1,181	790	418	1,208

Agenda Item 3d: Surveys

The following results were generated through an online survey posted by the Department of Consumer Affairs on behalf of your program. Due to a low response rate for many Boards and Bureaus, PM6 will not be reported publicly until a larger sample size has been generated. These results are for your information only at this time. The Performance measure score is the percent of Very Good and Good ratings.

April 1, 2017 - June 30 31, 2017	
Total responses:	13
Performance measure score	89%

April 1, 2017 - June 30 31, 2017	
Performance measure score	
81%	

Electronic and Appliance Repair, Home Furnishings and Thermal Insulation, Bureau of

DCA Average

How well did we explain the complaint process to you?	Number	% of Total
Very Poor	1	8%
Poor	0	0%
Good	4	31%
Very Good	8	62%
Total	13	

% of Total
11%
8%
18%
64%

How clearly was the outcome of your complaint explained to you?	Number	% of Total
Very Poor	1	8%
Poor	0	0%
Good	4	31%
Very Good	8	62%
Total	13	

% of Total
16%
5%
14%
65%

How well did we meet the timeframe provided to you?	Number	% of Total
Very Poor	1	8%
Poor	1	8%
Good	2	17%
Very Good	8	67%
Total	12	

% of Total
13%
5%
15%
67%

How courteous and helpful was staff?	Number	% of Total
Very Poor	1	8%
Poor	0	0%
Good	2	15%
Very Good	10	77%
Total	13	

% of Total
8%
6%
11%
75%

Overall, how well did we handle your complaint?	Number	% of Total
Very Poor	2	15%
Poor	0	0%
Good	3	23%
Very Good	8	62%
Total	13	

% of Total
20%
6%
10%
64%

If we were unable to assist you, were alternatives provided to you?	Number	% of Total
Yes	5	83%
No	1	17%
Not Applicable	0	0%
Total	6	

% of Total
42%
58%
0%

Did you verify the provider's license prior to service?	Number	% of Total
Yes	4	31%
No	5	38%
Not Applicable	4	31%
Total	13	

% of Total
36%
35%
29%

Complaint Number	Comment
cm201764	They were referred and connected to XXX, so I assumed they were licensed. It was a bundle deal.
CM2017000282	*****: 5 star service!! Excellent service. Very Happy.
cm2017000290	Thank you for the excellent service.
HM2017000103	Thank you for helping me resolve this issue.
CM2017000341	Xxxxxx Xxxxxx was exceptional at helping me with my complaint. Great person. Thank you Xxxxxx.
cm2016001584	Xxxxxx Xxxxxx is the most professional employee you dept. has. Her ability to resolve my issue is to be commended. great job.
2017000303	No resolution. The company I complained about is a rip off! You guys didnt help.
CM2017000183	I would like to say thanks!! For your help. Now, I know that when I'll have a problem like this. There is someone can help me.
CM2017000289	It appears that I ended up doing all the work on this and your dept just sent off a form letter. 40 plus days and over 30 hours invested including a no show tech I (not the state) got the problem resolved. Worst service i have ever seen in my life. Just wish state could have levied sanctions aginst XXX

The following results were generated through an online survey posted by the Department of Consumer Affairs on behalf of your program. Due to a low response rate for many Boards and Bureaus, PM6 will not be reported publicly until a larger sample size has been generated. These results are for your information only at this time. The Performance measure score is the percent of Very Good and Good ratings.

January 1, 2017 - March 31, 2017	
Total responses:	33
Performance measure score	93%

January 1, 2017 - March 31, 2017	
Performance measure score	
80%	

Electronic and Appliance Repair, Home Furnishings and Thermal Insulation,

DCA Average

How well did we explain the complaint process to you?	Number	% of Total
Very Poor	1	3%
Poor	1	3%
Good	2	6%
Very Good	28	88%
Total	32	

% of Total
10%
8%
16%
66%

How clearly was the outcome of your complaint explained to you?	Number	% of Total
Very Poor	1	3%
Poor	0	0%
Good	4	13%
Very Good	27	84%
Total	32	

% of Total
16%
6%
14%
65%

How well did we meet the timeframe provided to you?	Number	% of Total
Very Poor	1	3%
Poor	1	3%
Good	1	3%
Very Good	28	90%
Total	31	

% of Total
14%
9%
14%
64%

How courteous and helpful was staff?	Number	% of Total
Very Poor	1	3%
Poor	2	6%
Good	0	0%
Very Good	29	91%
Total	32	

% of Total
10%
6%
11%
73%

Overall, how well did we handle your complaint?	Number	% of Total
Very Poor	2	6%
Poor	1	3%
Good	1	3%
Very Good	27	87%
Total	31	

% of Total
19%
6%
9%
66%

If we were unable to assist you, were alternatives provided to you?	Number	% of Total
Yes	4	50%
No	4	50%
Not Applicable	0	0%
Total	8	

% of Total
42%
58%
0%

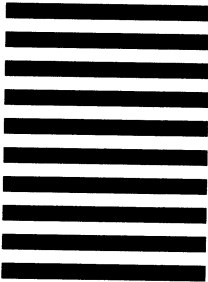
Did you verify the provider's license prior to service?	Number	% of Total
Yes	8	26%
No	7	23%
Not Applicable	16	52%
Total	31	

% of Total
35%
35%
30%

Complaint Number	Comment
HM2015898	Xxxxxx is awesome!! He tracked and closed the case effectively.
CM20161015	Xxxxxx Xxxxxx did a great job with this complaint and I am more than satisfied with the results. Thank you so much for the great customer service.
CM2017000020	Doing excellent job!
CM201792	excellent job
cm20117000230	Excellent service thank you! Xxxxxx Xxxxxx
cm2017000219	Felt like u were a conduit to parrot the company's message.
hm2017000080	Great Job! I love the attention to detail.
HM2016000580	I explained my situation to representative and she noted that it was an outstanding accomplishment when the right people do their job. Whether positive or negative great job. Thanks!
CM2016001154	I really appreciate your assistance in this matter. In my opinion, it would not have resulted in a satisfactory outcome without your help. Thanks. MS
cm2017000143	Im not sure what the point of this bureau is if I complain, the co. says "no", and that's the end. How is that consumer protection?
CM2017000108	Xxxxxx Xxxxxx was very responsive and provided great customer service. I was impressed with how quickly she responded to my initial complaint (within 2 days), and with how quickly she contacted XXX. Although the resolution wasn't what I was hoping for, it was reasonable and acceptable given the circumstances, and she also got XXX to reimburse me for the electrician bill that was due to a problem caused by their repair person. She also called XXX's xxxx xxxx company for me since I was having trouble getting any info on how to file a claim for the clothing the dryer damaged. All in all, I feel I had a true advocate in Xx. Xxxxxx and the Dept of Consumer Affairs, and it made me grateful to be a California resident. Thank you!
HM20160000789	Xxxxxx Xxxxxx was very nice, patient and informative. I wish all state/federal/public employees could be like him.
CM2016 1055	Xx. Xxxxxx was very wonderful! I am very pleased with the resolution. Thanks!
cm2017000159	Xx. Xxxxxx Xxxxxx did an excellent job resolving this situation for me. *****
CM2016000852	My overall experience was superior. Xx. Xxxxxx was excellent at follow up. A+++
CM2017000217	Q9: He had a license # on his card, but I did not look it up online. Fantastic Job Xxxxxx! Thank you. I thought this was going to be a lost cause. Great work!

cm2017000108	Xxxxxx Xxxxxx was very responsive and provided great customer service. I was impressed with how quickly she responded to my initial complaint (within 2 days), and with how quickly she contacted XXX. Although the resolution wasn't what I was hoping for, it was reasonable and acceptable given the circumstances, and she also got XXX to reimburse me for the electrician bill that was due to a problem caused by their repair person. She also called XXX's xxxx xxxx company for me since I was having trouble getting any info on how to file a claim for the clothing the dryer damaged. All in all, I feel I had a true advocate in Xx. Xxxxxx and the Dept of Consumer Affairs, and it made me grateful to be a California resident. Thank you!
HM2016920	Thank you for your assistance with this matter. I really appreciate it.
HM2016000847	Thank you so much! Xxxxxx did a very great job!!
CM2016 1249	The agent that assisted me was very responsive and great. Unfortunately, no resolution was really made. So, I will continue to pursue this matter.
HM2016000820	The first letter that I wrote to consumer affair was missing for more than three month so in 9-30-16 I decided to go to my representative district in san Fernando to inform about the problem, was until Christmas 2016 that finally I receive(the frame guaranty part of my sofa) but I don't received any money and help for the replacement, the furniture company representative told me that I have to fix it myself; the repair and the installation, because they don't cover the labor. I don't understand why they dint do it I bought brand new sofa no used I ask myself what to say about this experience? Is a mystery about my letter nobody know how disappear, to many hand and nobody responsible is amazing, well this is a briefly commentary of humble person that was seeking your assistant to solve this small problem Xxxxxx Xxxxxx
CM2017000014	This was the best customer service I've ever received from a government agency. Thank you!
hm2016001484	We could not resolve this compliant without your assistance! thank you!
HM2016000864	We have hired a private detective to locate the fraudulent furniture owner. We are planning on providing you this info to re-open claim.

NO POSTAGE
NECESSARY
IF MAILED
IN THE
UNITED STATES



BUSINESS REPLY MAIL

FIRST-CLASS MAIL PERMIT NO. 379 SACRAMENTO CA

POSTAGE WILL BE PAID BY ADDRESSEE

DEPARTMENT OF CONSUMER AFFAIRS
SOLID

1625 N. MARKET BLVD.

SACRAMENTO, CA 95834-9954



Consumer Satisfaction Survey

Help us improve our service!

Please complete this survey, or take it online at:
surveymonkey.com/s/consumeraffairs

1. Board/Bureau: _____

2. Complaint Number: _____

Rate the following, using the scale: very poor --- very good

3. How well did we explain the complaint process to you?

4. How clearly was the outcome of your complaint explained to you?

5. How well did we meet the time frame provided to you?

6. How courteous and helpful was staff?

7. Overall, how well did we handle your complaint?

8. If we were unable to assist you, were alternatives provided to you? Y N N/A

9. Did you verify the provider's license prior to service? Y N N/A

Comments



Scan this code to take online.

Your opinion matters. Thank you!

Agenda Item 4c: Label Types



LAW LABELS FOR UPHOLSTERED FURNITURE

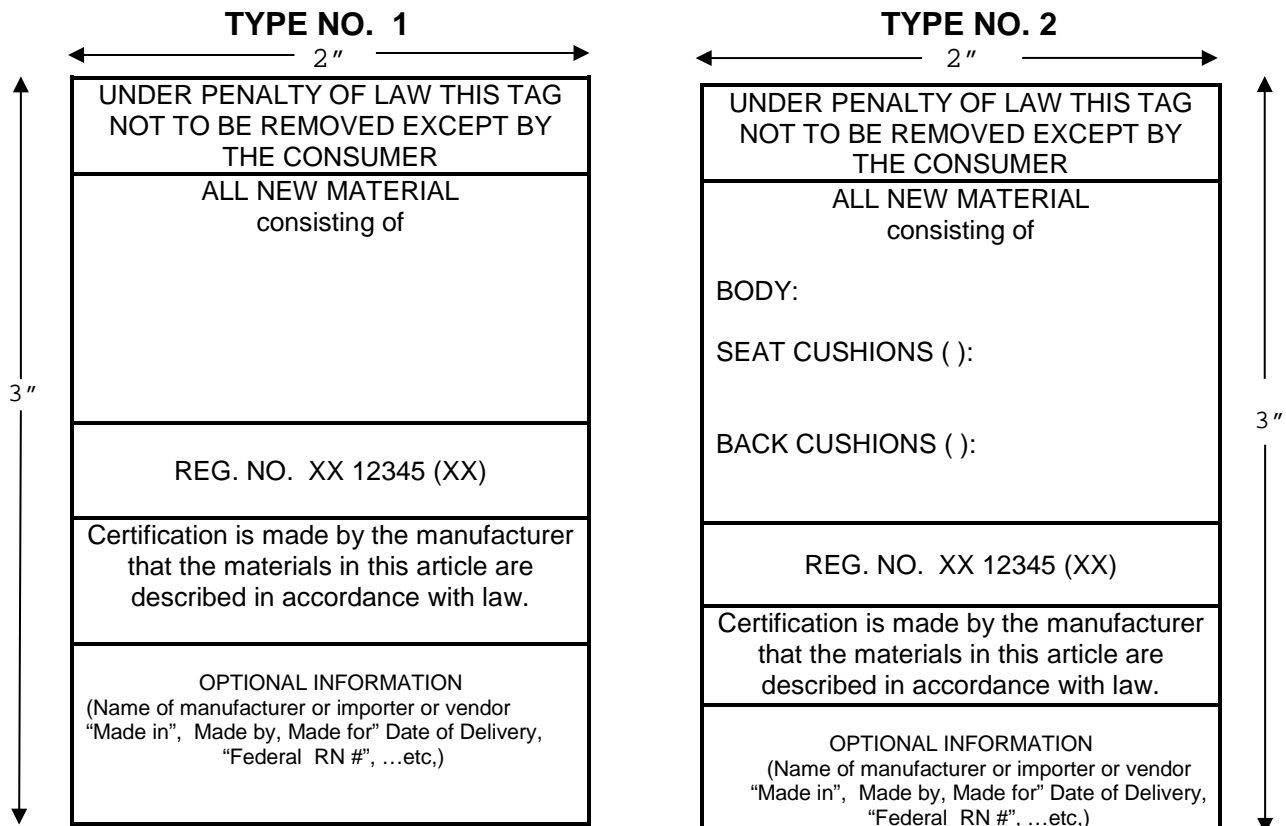
California law requires that law and TB 117-2013 flammability/SB 1019 labels be attached to every article of upholstered furniture offered for sale in the state.

There are two types of law labels for upholstered furniture

1. Type No. 1 law label
2. Type No. 2 law label
 - Type No. 1 law label is for upholstered furniture products **without** detachable cushions.
 - Type No. 2 law label is for upholstered furniture products **with** detachable cushions. The information regarding the filling material for the loose seat or back cushions is written beneath the respective “**seat cushion or back cushion**” indicated on the law label. Also, the number of cushions is written in parentheses. Components (filling material) attached to the frame shall be listed under the ‘Body’ section of the law label.

Products with loose cushions: There are two options for labeling:

1. You may attach a separate law label Type No. 1 on each detachable cushion included with the product and on the main body and describe filling contents separately on each law label.
2. You may attach a law label Type No. 2 to the body of the product and describe filling contents beneath each section on one law label.



Agenda Item 4d: SB 1019,
BPC Section 19094

DEPARTMENT OF CONSUMER AFFAIRS
BUREAU OF ELECTRONIC AND APPLIANCE REPAIR, HOME FURNISHINGS, AND THERMAL INSULATION

19094. (a) For the purposes of this section, the following definitions shall apply:

(1) "Component" means the separate constituent parts of upholstered furniture sold in California, as identified in Technical Bulletin 117-2013, specifically cover fabrics, barrier materials, resilient filling materials, and decking materials.

19094. (a) For the purposes of this section, the following definitions shall apply:

(2) "Covered products" means any flexible polyurethane foam or upholstered or reupholstered furniture sold in California that is required to meet the test requirements set forth in Technical Bulletin 117-2013, entitled "Requirements, Test Procedure and Apparatus for Testing the Smolder Resistance of Materials Used in Upholstered Furniture."

(3) "Flame retardant chemical" means any chemical or chemical compound for which a functional use is to resist or inhibit the spread of fire. Flame retardant chemicals include, but are not limited to, halogenated, phosphorous-based, nitrogen-based, and nanoscale flame retardants, flame retardant chemicals listed as "designated chemicals" pursuant to Section 105440 of the Health and Safety Code, and any chemical or chemical compound for which "flame retardant" appears on the substance Safety Data Sheet (SDS) pursuant to Section 1910.1200(g) of Title 29 of the Code of Federal Regulations.

(4) "Chemical" means either of the following:

(A) An organic or inorganic substance of a particular molecular identity, including any combination of those substances occurring, in whole or in part, as a result of a chemical reaction or occurring in nature, and any element, ion, or uncombined radical, and any degradate, metabolite, or reaction product of a substance with a particular molecular identity.

(B) A chemical ingredient, which means a substance comprising one or more substances described in subparagraph (A).

(5) "Molecular identity" means the substance's properties listed below:

(A) Agglomeration state.

(B) Bulk density.

(C) Chemical composition, including surface coating.

(D) Crystal structure.

(E) Dispersability*.

(F) Molecular structure.

(G) Particle density.

(H) Particle size, size distribution, and surface area.

(I) Physical form and shape, at room temperature and pressure.

(J) Physicochemical properties.

(K) Porosity.

(L) Solubility in water and biologically relevant fluids.

(M) Surface charge.

(N) Surface reactivity.

(6) "Added flame retardant chemicals" means flame retardant chemicals that are present in any covered product or component thereof at levels above 1,000 parts per million.

(7) "Department" means the Department of Toxic Substances Control.

(8) "Consumer Price Index" means the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics.

(b) (1) A manufacturer of covered products shall indicate whether or not the product contains added flame retardant chemicals by including the following "flame retardant chemical statement" on the label described in Section 1374.3 of Title 4 of the California Code of Regulations for covered products:

* The term "Dispersability" is misspelled in Senate Bill 1019. The correct spelling is "Dispersibility".

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“The upholstery materials in this product:

_____ contain added flame retardant chemicals

_____ contain NO added flame retardant chemicals

The State of California has updated the flammability standard and determined that the fire safety requirements for this product can be met without adding flame retardant chemicals. The state has identified many flame retardant chemicals as being known to, or strongly suspected of, adversely impacting human health or development.”

A manufacturer of covered products shall indicate the absence or presence of added flame retardant chemicals by placing an “X” in one of the appropriate blanks.

(2) This statement shall be included in the label described in Section 1374.3 of Title 4 of the California Code of Regulations in accordance with the bureau’s regulations for that label. The statement need not be in all capital letters, and shall follow the statement required by Section 1374.3 of Title 4 of the California Code of Regulations.

(c) (1) The manufacturer of the covered product sold in California shall retain documentation to show whether flame retardant chemicals were added. A written statement by the supplier of each component covered by Technical Bulletin 117-2013 attesting either that flame retardant chemicals were added or not added shall be sufficient documentation.

(2) The bureau shall ensure compliance with the labeling and documentation requirements in this section.

(3) (A) Upon request, a manufacturer of a covered product sold in California shall provide to the bureau, within 30 days of the request, documentation establishing the accuracy of the flame retardant chemical statement on the label required by subdivision (b).

(B) The bureau shall assess fines of not less than two thousand five hundred dollars (\$2,500) but not more than fifteen thousand dollars (\$15,000) in accordance with the factors described in subdivision (d) for the failure of the manufacturer of the covered product to maintain the documentation required by this section, or for the failure of the manufacturer of the covered product to provide, upon request, the documentation required by this section to the bureau. These fines shall replace any other fines in this article for a violation of the documentation requirements of this section. This subparagraph does not alter or amend any other penalty otherwise imposed by this article.

(C) A manufacturer of covered products and component suppliers shall be jointly and severally liable for violations of the documentation required in this section.

(D) (i) The bureau shall provide the Department of Toxic Substances Control with a selection of samples from covered products marked “contain NO added flame retardant chemicals” for testing for the presence of added flame retardant chemicals. The samples shall be from the components identified in paragraph (1) of subdivision (a). The bureau shall select samples based on consultation with the department, taking into account a range of manufacturers and types of covered products. The bureau and the department shall consult on the tests to be conducted by the department. The department shall provide the results of any completed test to the bureau. The bureau shall reimburse the department for the cost of testing for the presence of added flame retardant chemicals in covered products marked “contain NO added flame retardant chemicals”.

(ii) No later than August 1 of each fiscal year, the bureau shall assess available resources and determine the number of tests to be conducted in the corresponding fiscal year, pursuant to this subparagraph.

(E) (i) If the department’s testing shows that a covered product labeled as “contain NO added flame retardant chemicals” is mislabeled because it contains added flame retardant chemicals, the bureau may assess fines for violations against manufacturers of the covered product and component manufacturers to be held jointly and severally liable for the violation.

(ii) A fine for a violation of this subparagraph relating to mislabeling shall be assessed in accordance with the factors described in subdivision (d) and the following schedule:

(I) The fine for the first violation shall be not less than one thousand dollars (\$1,000) but not more than two thousand five hundred dollars (\$2,500).

(II) The fine for the second violation shall be not less than two thousand five hundred dollars (\$2,500) but not more than five thousand dollars (\$5,000).

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(III) The fine for the third violation shall be not less than five thousand dollars (\$5,000) but not more than seven thousand five hundred dollars (\$7,500).

(IV) The fine for any subsequent violation shall be not less than seven thousand five hundred dollars (\$7,500) but not more than ten thousand dollars (\$10,000).

(iii) The fines in clause (ii) shall replace any other fines in this article for a violation of the testing requirements of this section. This clause does not alter or amend any other penalty otherwise imposed by this article.

(iv) If the department's testing shows that a covered product labeled as "contain NO added flame retardant chemicals" is mislabeled because it contains added flame retardant chemicals, in addition to a fine or any other request, the bureau may request that the label required by subdivision (b) for covered products that belong to the same stock keeping unit (SKU) currently produced by the manufacturer be corrected to reflect that flame retardant chemicals are added to the covered product.

(v) If the department's testing shows that a covered product labeled as "contain NO added flame retardant chemicals" is mislabeled because it contains added flame retardant chemicals, in addition to a fine or any other request, the bureau may request additional testing of more products belonging to the same stock keeping unit (SKU) at the manufacturer's expense to verify the accuracy of the label required by subdivision (b) for covered products if the manufacturer wishes to retain the "contain NO added flame retardant chemicals" designation on the label required by subdivision (b).

(d) (1) The bureau shall make information about any citation issued pursuant to this section available to the public on its Internet Web site.

(2) In determining the amount of the fine for violations of this section, the bureau shall consider the following factors:

- (A) The nature and severity of the violation.
- (B) The good or bad faith of the cited person.
- (C) The history of previous violations.
- (D) Evidence that the violation was willful.
- (E) The extent to which the cited person or entity has cooperated with the bureau.

(3) (A) The bureau shall adjust all minimum and maximum fines imposed by this section for inflation every five years.

(B) The adjustment shall be equivalent to the percentage, if any, that the Consumer Price Index at the time of adjustment exceeds the Consumer Price Index at the time this section goes into effect. Any increase determined under this paragraph shall be rounded as follows:

(i) In multiples of ten dollars (\$10) in the case of penalties less than or equal to one hundred dollars (\$100).

(ii) In multiples of one hundred dollars (\$100) in the case of penalties greater than one hundred dollars (\$100) but less than or equal to one thousand dollars (\$1,000).

(iii) In multiples of one thousand dollars (\$1,000) in the case of penalties greater than one thousand dollars (\$1,000).

(4) It shall be the duty of the bureau to receive complaints from consumers concerning covered products sold in California.

(e) The bureau may adopt regulations pursuant to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) to carry out this section.



INFORMATION SHEET

Comparison of B&P Code section 19094 and Proposition 65

Business and Professions (B&P) Code section 19094 (formerly referred to as SB 1019):

- B&P Code section 19094 requires the manufacturer/supplier of upholstered furniture upon request by the Bureau of Electronic Appliance Repair, Home Furnishings and Thermal Insulation (BEARHFTI) to supply documentation for each component attesting to whether flame retardant chemicals were added or not.
- Regulating Agency –BEARHFTI
- “Flame retardant chemical” means any chemical or chemical compound for which a functional use is to resist or inhibit the spread of fire. Flame retardant chemicals include, but are not limited to, halogenated, phosphorous-based, nitrogen-based, and nanoscale flame retardants, flame retardant chemicals listed as “designated chemicals” pursuant to Section 105440 of the Health and Safety Code, and any chemical or chemical compound for which “flame retardant” appears on the substance Safety Data Sheet (SDS) pursuant to Section 1910.1200(g) of Title 29 of the Code of Federal Regulations. (B&P Code section 19094(a)(3).)
- “Added flame retardant chemicals” means flame retardant chemicals that are present in any covered product or component thereof at levels above 1,000 parts per million. (B&P Code section 19094(a)(6).)
- BEARHFTI - Labeling requirement – Refer to Question 25 - Upholstered Furniture; Flame Retardant Chemicals Frequently Asked Questions (FAQs)
http://www.bearhfti.ca.gov/industry/sb_1019_faq.pdf

Proposition 65:

Proposition 65, officially known as the Safe Drinking Water and Toxic Enforcement Act of 1986, was enacted as a ballot initiative in November 1986 and is overseen by the California Environmental Protection Agency – Office of Environmental Health Hazard Assessment (CalEPA-OEHHA).

- Proposition 65 requires the state to maintain and update a list of chemicals known to the state to cause cancer or reproductive toxicity and requires businesses to inform Californians about exposures to such chemicals.
- Regulating Agency - CalEPA-OEHHA
- List of Proposition 65 Chemicals – refer to <https://oehha.ca.gov/proposition-65/proposition-65-list>
- CalEPA-OEHHA – Labeling requirement: refer to <https://oehha.ca.gov/media/RegsArt6.pdf>

For additional details regarding either regulation - refer to the following web addresses:

B&P Code section 19094 (formerly referred to as SB 1019)

- Upholstered Furniture; Flame Retardant Chemicals Frequently Asked Questions (FAQs)
http://www.bearhfti.ca.gov/industry/sb_1019_faq.pdf
- Flame Retardant Testing for B&P Code section 19094
http://dtsc.ca.gov/ECL/Flame_Retardants.cfm

Proposition 65

- Answers to Frequently Asked Questions About Proposition 65
http://www.bearhfti.ca.gov/about_us/prop_65.shtml
- Clear and Reasonable Warnings Section 25601 of Title 27, California Code of Regulations – Proposition 65 Regulatory Provisions (updated OEHHA)
<https://oehha.ca.gov/media/RegsArt6.pdf>
- CalEPA – OEHHA contact information for the administration of Proposition 65
<https://oehha.ca.gov/proposition-65>



Flame Retardants Measured in Support of SB1019

List of Flame Retardants Measured in Support of SB1019 as of June 2017

<u>Compound Name</u>	<u>Abbreviation</u>	<u>CAS Number</u>
Tri-propyl phosphate	TPP	513-08-6
Tri-n-butyl phosphate	TNBP	126-73-8
Tris(2-chloroethyl) phosphate	TCEP	115-96-8
Tris(1-chloro-2-propyl) phosphate	TCIPP	13674-84-5
Tris(1,3-dichloroisopropyl) phosphate	TDCIPP	13674-87-8
Triphenyl phosphate	TPHP	115-86-6
2,2',4-Tribromodiphenyl ether	BDE-17	147217-75-2
2,4,4'-Tribromodiphenyl ether	BDE-28	41318-75-6
2,2',4,4'-Tetrabromodiphenyl ether	BDE-47	5436-43-1
2,2',3,4,4'-Pentabromodiphenyl ether	BDE-85	182346-21-0
2,2',4,4',5-Pentabromodiphenyl ether	BDE-99	60348-60-9
2,2',4,4',6-Pentabromodiphenyl ether	BDE-100	189084-64-8
2,2',4,4',5,5'-Hexabromodiphenyl ether	BDE-153	68631-49-2
2,2',4,4',5,6'-Hexabromodiphenyl ether	BDE-154	207122-15-4
2,2',3,4,4',5,6'-Heptabromodiphenyl ether	BDE-183	207122-16-5
2-Ethylhexyl-2,3,4,5-tetrabromobenzoate	EH-TBB	183658-27-7
Bis(2-ethylhexyl)-2,3,4,5-tetrabromophthalate	BEH-TEBP	26040-51-7

The referenced list is from the Department of Toxic Substance Control and can be viewed at their website: http://dtsc.ca.gov/ECL/upload/ECL_Flame-Retardants_Table.pdf

Agenda Item 4e: Laboratory Statistics

LAB STATISTICS

FR CHEMICAL LABELING

Samples Received with the Flame Retardant Chemical Statement 01/01/2017 – 07/15/2017				
“NO” Chemicals Checked	Contains Chemicals	No Box Checked	FR Doc Request Sent	DTSC Analysis Conducted
45	13	2	10	10
75%	22%	3%	22% of those marked “NO”	22% of those marked “NO”
Total TB117-2013 Samples Received: 62 (60 w/SB1019 or 97%)				

Samples Analyzed with the “NO” Flame Retardant Chemical Statement Results as of 07/15/2017				
Type Test	Pass		Fail	
	No.	%	No.	%
DTSC Analysis (10)	9	90	1	10
*FR Doc Review (10)	6	67	3	33

*One FR Doc Review was resent due to foreign delivery issues.

Agenda Item 5: Field Enforcement Update



Enforcement Sweeps 2017

The Bureau's efforts to exercise enforcement pertaining to unlicensed and delinquent activity in California for 2017:

I. Sacramento/Stockton - February 2017

- 79 inspections conducted
- 21 \$250 Citations issued
- 24 licenses determined out of business

II. San Diego - July 2017

- 57 site visits
- 10 \$250 Citations issued
- 21 licenses determined out of business

III. Overall Sweep Statistics for 2017

- 136 site visits
- 31 \$250 Citations issued
- Will be monitoring in the next few weeks' business compliance statistics for both Sweeps.

The Bureau will be continuing efforts of follow up throughout the next six months to ensure high levels of compliance by the end of 2017.

We anticipate two new Field Representatives on board by Fall 2017 who will take point on these efforts in Northern California and the Central Valley to ensure future compliance and assist with Enforcement Sweeps all throughout the State. We are currently working with the Department's Human Resources to modify current duty statements to allow for a broader candidate pool in regards to Field Rep skill sets.

Future Sweeps for 2017 include San Jose and the Bay Area. We will also be looking at targeting Service Dealers North of Sacramento that have been identified and have not responded to correspondence or have been part of consumer complaint filed.

Overall, enforcement sweeps have been an effective tool in ensuring proper enforcement action in a timely fashion given our current constraints of being down two Field Representatives in the Northern Region.