

# March 29, 2018 Advisory Council Meeting Materials Packet

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*Note: Meeting material page numbers are underlined and found at the bottom center of each page.*



**ADVISORY COUNCIL MEETING  
NOTICE & AGENDA  
March 29, 2018 | Thursday | 9:00 am**

**Meeting Location:**

Department of Consumer Affairs, HQ1 Conference Room  
1625 North Market Blvd., Suite S102  
Sacramento, CA 95834

**Teleconference Participation Option:**

Phone Number: (866) 842-2981  
Participant Passcode #: 4598662

**Webcast Option:**

<https://thedcapage.blog/webcasts/>

**Advisory Council Members:**

Sharron Bradley, Industry  
Toni Stein, Public  
Donald Lucas, Public  
Michael Lipsett, Public  
Steve Weitekamp, Industry  
Chris Higdon, Industry

Burt Grimes, Industry  
Judy Levin, Public  
Pascal Benyamini, Industry  
Steven McDaniel, Industry  
David Yarbrough, Industry  
Brandon Wilson, Industry

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*Unless noticed for a specific time, items may be heard at any time during the period of the Council meeting. The Bureau welcomes and encourages public participation in its meetings. The public may take appropriate opportunities to comment on any issue before the Bureau at the time the item is heard. If public comment is not specifically requested, members of the public should feel free to request an opportunity to comment, either in person, written or via the conference calling system provided.*

*This designated meeting facility is accessible to the physically disabled. A person who needs a disability-related accommodation to participate in the meeting may make a request by contacting Victoria Hernandez via email [Victoria.Hernandez@dca.ca.gov](mailto:Victoria.Hernandez@dca.ca.gov) or at (916) 999-2055, or for the hearing impaired: TDD (800) 326-2297; or by sending a written request to the address indicated above. Please provide at least five working days' notice before the meeting to help ensure accommodations.*

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**General Business Agenda Items**

1. Welcome and Introductions
  - a. Facility Safety and Courtesy Items

- b. Roll Call of the Council
  - c. Audience/Teleconference Participants Noticed
  - d. Review and Discuss Future Meeting Dates
  - e. December Council Meeting Recap
2. Statistical Overview
- a. Licensing Categories
  - b. Consumer Complaints
  - c. Enforcement and Investigations
  - d. Laboratory Testing
3. Operations Update
- a. Budget
  - b. Personnel
  - c. Household Movers Unit Integration (Staffing and Training)
  - d. Outreach, Consumer Education
  - e. Legislative/Regulatory

***Public Comment on General Business Agenda Items***

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**Electronic and Appliance Repair Agenda Items**

- 4. Ignition Interlock Devices
- 5. New Web Resource Available: "Write it Right"

***Public Comment on Electronic and Appliance Repair Industry Agenda Items***

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**Home Furnishings and Thermal Insulation Agenda Items**

- 6. Recent Field Visits
- 7. Regulatory Change Proposal: Furniture for Use in Public Occupancies
- 8. Barrier Study Update/Preliminary Findings

***Public Comment on Home Furnishings and Thermal Insulation Industry  
Agenda Items***

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## **Household Movers Agenda Items**

9. Outreach with Industry, Collaborations, and Feedback

10. Identified Challenges and Focus Points

### ***Public Comment on Household Movers Industry Agenda Items***

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11. Public Comment on Any Items not on the Agenda

12. Adjournment

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## **Agenda Item 2a: Licensing Overview**

## LICENSING STATISTICS

February 2015 – February 2018

<b><i>EAR Registrations</i></b>	<b>Feb 2015</b>	<b>Feb 2016</b>	<b>Feb 2017</b>	<b>Feb 2018</b>
Appliance Service Dealer	2,464	2,575	2,578	2,656
Electronic Service Dealer	5,514	5,058	5,072	4,813
Combination Electronic/Appliance Service Dealer	487	492	597	558
Service Contract Administrator	44	43	48	49
Service Contract Seller	10,000	10,610	12,043	14,153
<b><i>Total EAR Registrations</i></b>	<b>18,509</b>	<b>18,778</b>	<b>20,338</b>	<b>22,229</b>

<b><i>HFTI Licenses</i></b>	<b>Feb 2015</b>	<b>Feb 2016</b>	<b>Feb 2017</b>	<b>Feb 2018</b>
Furniture Retailers	2,235	2,259	2,049	2,052
Bedding Retailers	1,761	1,614	1,630	2,038
Furniture & Bedding Retailers	11,673	11,665	11,826	11,842
Custom Upholsterers	495	483	508	503
Supply Dealers	118	133	122	107
Importers (includes overseas Manufacturers)	4,153	4,553	4,878	5,255
Manufacturers	1,451	1,470	1,536	1,512
Sanitizers	16	15	12	13
Wholesalers	157	150	184	195
Thermal Insulation Manufacturers	121	117	109	110
<b><i>Total HFTI Licenses</i></b>	<b>21,180</b>	<b>22,459</b>	<b>22,854</b>	<b>23,627</b>

**Agenda Item 2b and c:  
Consumer Complaints and  
Enforcement Overview**



- There have been no cases forwarded to the Attorney General's Office in FY 2017/2018, and no cases are currently pending.
- There are currently 4 licensees on Probation.

CITATIONS ISSUED			
Year	EAR	HFTI	Total
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
2017-18	365	233	598

TELEPHONE DISCONNECTS ORDERED			
Year	EAR	HFTI	Total
2013-14	0	0	0
2014-15	19	4	23
2015-16	78	19	97
2016-17	42	16	58
2017-18	36	14	50

CONSUMER COMPLAINTS						
Year	OPENED			CLOSED		
	EAR	HFTI	Total	EAR	HFTI	Total
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
2017-18	574	194	768	391	177	568

INTERNAL CASES (Investigations)						
Year	OPENED			CLOSED		
	EAR	HFTI	Total	EAR	HFTI	Total
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
2017-18	509	247	756	420	275	695



## **Agenda Item 2d: Laboratory Testing Overview**

## LAB STATISTICS

### Workload Analysis:

Type Test	Received 01/01/17 –12/31/17	Completed Samples 01/01/17 –12/31/17	
		Pass	Fail
TB117-2013	130	70 (93%)	5 (7%)
16CFR1633	67	37(64%)	21(36%)
TB133	11	9 (100%)	0 (0%)
Insulation	20	34(87%)	5(13%)
**Labeling	N/A	24 (18%)	109 (82%)
Total	228	---	---

\*\*This category includes labeling results for all products except for special tests, TB133 and insulation. The pass/fail will add up to the total completed samples.

### FR Chemical Labeling and Analysis:

Samples Received with the Flame Retardant Chemical Statement (TB117-2013) 01/01/17 – 12/31/17				
“NO” Chemicals Checked	Contains Chemicals	No Box Checked	FR Doc Request Sent	DTSC Analysis Conducted
100	26	4	20	20
77%	20%	3%	20% of those marked “NO”	20% of those marked “NO”

Samples Analyzed with the “NO” Flame Retardant Chemical Statement 01/01/17 - 12/31/17				
Type Test	Pass		Fail	
	No.	%	No.	%
DTSC Analysis (20)*	16	94	1	6
FR Doc Review (20)**	15	79	4	21

\*Three components are in progress - quantitative analysis

\*\*One FR Doc review in progress, resent to newly identified address

## **Agenda Item 3a: Budget Update**

# 0325 - Electronic and Appliance Repair

## Analysis of Fund Condition

Prepared 3/21/18

(Dollars in Thousands)

### 2018-19 Governor's Budget

	ACTUAL 2016-17	CY 2017-18	BY 2018-19	BY +1 2019-20
<b>BEGINNING BALANCE</b>	\$ 2,435	\$ 2,848	\$ 2,962	\$ 3,112
Prior Year Adjustment	\$ 12	\$ -	\$ -	\$ -
Adjusted Beginning Balance	\$ 2,447	\$ 2,848	\$ 2,962	\$ 3,112
<b>REVENUES, TRANSFERS, AND OTHER ADJUSTMENTS</b>				
Revenues:				
4121200 Delinquent fees	\$ 90	\$ 108	\$ 109	\$ 111
4127400 Renewal fees	\$ 2,231	\$ 2,443	\$ 2,459	\$ 2,508
4129200 Other regulatory fees	\$ 25	\$ 20	\$ 22	\$ 22
4129400 Other regulatory licenses and permits	\$ 355	\$ 398	\$ 415	\$ 423
4163000 Income from surplus money investments	\$ 15	\$ 9	\$ 9	\$ 10
4171400 Escheat of unclaimed checks and warrants	\$ 8	\$ 2	\$ 2	\$ 2
4171500 Escheat of Unclaimed Property	\$ 11	\$ -	\$ -	\$ -
4172500 Miscellaneous revenues	\$ 1	\$ -	\$ -	\$ -
Total Revenues, Transfers, and Other Adjustments	\$ 2,736	\$ 2,980	\$ 3,016	\$ 3,077
Total Resources	\$ 5,183	\$ 5,828	\$ 5,978	\$ 6,189
<b>EXPENDITURE AND EXPENDITURE ADJUSTMENTS</b>				
Expenditures:				
1111 Department of Consumer Affairs Regulatory Boards, Bureaus, Divisions (State Operations)	\$ 2,104	\$ 2,701	\$ 2,710	\$ 2,764
8880 Financial Information System for California (State Operations)	\$ 4	\$ 4	\$ -	\$ -
9892 Supplemental Pension Payments (State Operations)	\$ -	\$ -	\$ 21	\$ 21
9900 Statewide General Administrative Expenditures (Pro Rata) (State Operations)	\$ 227	\$ 161	\$ 135	\$ 138
Total Expenditures and Expenditure Adjustments	\$ 2,335	\$ 2,866	\$ 2,866	\$ 2,923
<b>FUND BALANCE</b>				
Reserve for economic uncertainties	\$ 2,848	\$ 2,962	\$ 3,112	\$ 3,266
<b>Months in Reserve</b>	11.9	12.4	12.8	13.2

# 0752 - Home Furnishings and Thermal Insulation Analysis of Fund Condition

Prepared 3/21/18

(Dollars in Thousands)

## 2018-19 Governor's Budget

	ACTUAL 2016-17	CY 2017-18	BY 2018-19	BY +1 2019-20
<b>BEGINNING BALANCE</b>	\$ 2,876	\$ 3,054	\$ 2,837	\$ 2,799
Prior Year Adjustment	\$ 146	\$ -	\$ -	\$ -
Adjusted Beginning Balance	\$ 3,022	\$ 3,054	\$ 2,837	\$ 2,799
<b>REVENUES, TRANSFERS, AND OTHER ADJUSTMENTS</b>				
Revenues:				
4121200 Delinquent fees	\$ 107	\$ 116	\$ 111	\$ 111
4127400 Renewal fees	\$ 3,354	\$ 3,679	\$ 3,643	\$ 3,643
4129200 Other regulatory fees	\$ 135	\$ 114	\$ 114	\$ 114
4129400 Other regulatory licenses and permits	\$ 1,119	\$ 1,116	\$ 1,196	\$ 1,196
4163000 Investment Income - Surplus Money Investments	\$ 19	\$ 9	\$ 9	\$ 24
4171400 Escheat - Unclaimed Checks, Warrants, Bonds, and Coupons	\$ 26	\$ 6	\$ 7	\$ 7
4171500 Escheat - Unclaimed Property	\$ -	\$ -	\$ 7	\$ -
4172500 Miscellaneous revenues	\$ 8	\$ 1	\$ 1	\$ 1
Total Revenues, Transfers, and Other Adjustments	\$ 4,768	\$ 5,041	\$ 5,088	\$ 5,096
Total Resources	\$ 7,790	\$ 8,095	\$ 7,925	\$ 7,895
<b>EXPENDITURE AND EXPENDITURE ADJUSTMENTS</b>				
Expenditures:				
1111 Department of Consumer Affairs Regulatory Boards, Bureaus, Divisions (State Operations)	\$ 4,354	\$ 4,984	\$ 4,874	\$ 4,874
8880 Financial Information System for California (State Operations)	\$ 5	\$ 6	\$ 1	\$ 1
9892 Supplemental Pension Payments (State Operations)	\$ -	\$ -	\$ 50	\$ 50
9900 Statewide General Administrative Expenditures (Pro Rata) (State Operations)	\$ 377	\$ 268	\$ 201	\$ 201
Total Expenditures and Expenditure Adjustments	\$ 4,736	\$ 5,258	\$ 5,126	\$ 5,126
<b>FUND BALANCE</b>				
Reserve for economic uncertainties	\$ 3,054	\$ 2,837	\$ 2,799	\$ 2,769
<b>Months in Reserve</b>	7.0	6.6	6.6	6.4

# 3315 - Household Movers Fund

## Analysis of Fund Condition

Prepared 3/21/18

(Dollars in Thousands)

### 2018-19 Governor's Budget

	CY 2017-18	BY 2018-19	BY +1 2019-20
<b>BEGINNING BALANCE</b>	\$ -	\$ -	\$ 757
Prior Year Adjustment	\$ -	\$ -	\$ -
Adjusted Beginning Balance	<u>\$ -</u>	<u>\$ -</u>	<u>\$ 757</u>
 <b>REVENUES, TRANSFERS, AND OTHER ADJUSTMENTS</b>			
Revenues:			
4129200 Other Regulatory Fees	\$ -	\$ 2,400	\$ 2,400
4129400 Other Regulatory Licenses and Permits	\$ -	\$ 80	\$ 80
4163000 Investment Income - Surplus Money Investments	\$ -	\$ 4	\$ 4
4173000 Penalty Assessments - Other	\$ -	\$ 1	\$ 1
Transfers and Other Adjustments			
Revenue Transfer from Household Mover's Fund (3315) to Motor Carriers Safety Improvement Fund (0293) per Public Utilities Code Section 5003.1	\$ -	\$ (21)	\$ -
Revenue Transfer from the Transportation Rate Fund (0412) to the Household Mover's Fund (3315) per 8660-011-0412 and 8660-401, Budget Act of 2018	<u>\$ -</u>	<u>\$ 750</u>	<u>\$ -</u>
Total Revenues, Transfers, and Other Adjustments	<u>\$ -</u>	<u>\$ 3,214</u>	<u>\$ 2,485</u>
Total Resources	<u>\$ -</u>	<u>\$ 3,214</u>	<u>\$ 3,242</u>
 <b>EXPENDITURE AND EXPENDITURE ADJUSTMENTS</b>			
Expenditures:			
1111 Department of Consumer Affairs Regulatory Boards, Bureaus, Divisions (State Operations)	\$ -	\$ 2,457	\$ 2,457
Total Expenditures and Expenditure Adjustments	<u>\$ -</u>	<u>\$ 2,457</u>	<u>\$ 2,457</u>
 <b>FUND BALANCE</b>			
Reserve for economic uncertainties	\$ -	\$ 757	\$ 785
 <b>MONTHS IN RESERVE</b>	0.0	3.7	3.8

## **Agenda Item 3b: Legislative/Regulatory Update**

**Introduced by Committee on Budget and Fiscal Review**

January 10, 2018

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An act relating to the Budget Act of 2018.

**legislative counsel's digest**

SB 840, as introduced, Committee on Budget and Fiscal Review.  
Budget Act of 2018.

This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2018.

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

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

- 1 SECTION 1. It is the intent of the Legislature to enact statutory
- 2 changes relating to the Budget Act of 2018.

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**Introduced by Senator Hill**

February 16, 2018

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An act to amend Section 19032 of the Business and Professions Code, relating to professions and vocations.

**legislative counsel's digest**

SB 1483, as introduced, Hill. Home furnishings and thermal insulation.

Existing law establishes the Bureau of Electronic and Appliance Repair, Home Furnishings, and Thermal Insulation, under the direction of a chief who is responsible to the Director of Consumer Affairs, and authorizes the director, in accordance with the State Civil Service Act, to appoint and fix the compensation of inspectors and other personnel as may be necessary for the administration of the Home Furnishings and Thermal Insulation Act. Existing law also establishes the Division of Investigation within the Department of Consumer Affairs, comprised of investigators who have the authority of peace officers and the division is headed by the Chief of the Division of Investigation.

This bill would specify that the director, in accordance with the State Civil Service Act and the provisions establishing the Division of Investigation, is authorized to appoint and fix the compensation of such clerical, inspection, investigation, and auditing personnel as well as a deputy chief as may be necessary, and would require such personnel to perform their respective duties under the supervision and the direction of the chief.

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 19032 of the Business and Professions  
2 Code is amended to read:

3 19032. ~~In~~*The director, in* accordance with the State Civil  
4 Service ~~Act, the director~~ *Act and Section 159.5,* may appoint and  
5 fix the compensation of such ~~inspectors~~ *clerical, inspection,*  
6 *investigation, and other auditing* personnel *as well as a deputy*  
7 *chief, as may be necessary for the administration to carry out the*  
8 *provisions* of this chapter. *All such personnel shall perform their*  
9 *respective duties under the supervision and the direction of the*  
10 *chief.*

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AMENDED IN ASSEMBLY MARCH 15, 2018  
california legislature—2017–18 regular session

**ASSEMBLY BILL**

**No. 2110**

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**Introduced by Assembly Member Eggman**

February 8, 2018

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An act to amend ~~Section 6501.1 of the Public Resources Code, relating to public lands.~~ and renumber the heading of Chapter 8.6 (commencing with Section 42490) of, and to add Chapter 8.6 (commencing with Section 42488) to, Part 3 of Division 30 of the Public Resources Code, relating to public resources.

**legislative counsel's digest**

AB 2110, as amended, Eggman. ~~State lands: general leasing law.~~  
*Electronics: Right to Repair Act.*

*Existing law, the Electronic Waste Recycling Act of 2003, enacts a comprehensive and innovative system for the reuse, recycling, and proper and legal disposal of covered electronic devices, as defined, and provides incentives to design electronic devices that are less toxic, more recyclable, and that use recycled materials.*

*Existing law establishes the Bureau of Electronic and Appliance Repair, Home Furnishings, and Thermal Insulation under the supervision and control of the Director of Consumer Affairs. Existing law requires the director to administer and enforce provisions relating to the licensure and regulation of, among others, electronic and appliance repair dealers.*

*This bill would enact the Right to Repair Act. The bill would require the original equipment manufacturer of electronic equipment or parts sold and used in the state to, among other things, provide to independent repair providers and owners of the equipment certain parts, tools, and*

information, including diagnostic and repair information, as specified, for the purpose of providing a fair marketplace for the repair of that equipment. The bill would require compliance with these provisions for equipment or parts that are no longer manufactured for 5 years after the date the original equipment manufacturer ceases to manufacture the equipment or parts. The bill would authorize a city, county, city and county, or the state to impose civil penalties for a violation of these provisions.

~~Existing law authorizes the State Lands Commission to lease land owned by the state, that is under the jurisdiction of the commission, for any purpose the commission deems advisable.~~

~~This bill would make nonsubstantive changes to that law.~~

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

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

1        *SECTION 1. (a) The Legislature finds and declares all of the*  
2        *following:*  
3        *(1) Electronic waste (e-waste) generation globally was*  
4        *approximately 44.7 metric tons in 2016, with an expected annual*  
5        *growth rate of 3 to 4 percent. The United States alone generated*  
6        *6.3 million tons of e-waste in 2016, but only collected 22 percent*  
7        *of that total amount.*  
8        *(2) Reducing the cost and difficulty of repairing electronics is*  
9        *critical to reducing the generation of e-waste.*  
10       *(3) Consumers should have the right to repair at a competitive*  
11       *price every product that they purchase.*  
12       *(4) Lack of competition in the electronics repair industry creates*  
13       *high costs for consumers, businesses, and governments.*  
14       *(b) It is therefore the intent of the Legislature to support the*  
15       *adoption of policies that meaningfully address the growing quantity*  
16       *of e-waste that is generated in the state, and to support the reuse,*  
17       *repair, redistribution, and refurbishing of electronics.*  
18       *SEC. 2. The heading of Chapter 8.6 (commencing with Section*  
19       *42490) of Part 3 of Division 30 of the Public Resources Code is*  
20       *amended and renumbered to read:*  
21       **Chapter ~~8.6.8.7~~ Cell Phone Recycling Act of 2004**  
22  
23

1        *SEC. 3. Chapter 8.6 (commencing with Section 42488) is added*  
2 *to Part 3 of Division 30 of the Public Resources Code, to read:*

3  
4                    **Chapter 8.6. The Right to Repair Act**

5  
6        *42488. This act shall be known, and may be cited, as the Right*  
7 *to Repair Act.*

8        *42488.1. It is the intent of the Legislature to provide a fair*  
9 *marketplace for the repair of electronic equipment and to prohibit*  
10 *intentional barriers and limitations to third-party repair.*

11        *42488.2. For purposes of this chapter, the following definitions*  
12 *apply:*

13        (a) *“Authorized repair provider” means either of the following:*

14        (1) *A person or business that has an arrangement for a definite*  
15 *or indefinite period with an OEM in which the OEM grants to the*  
16 *person or business a license to use a trade name, service mark, or*  
17 *related characteristic for purposes of offering repair services under*  
18 *the name of the OEM.*

19        (2) *A person or business retained by the OEM to provide*  
20 *refurbishing services for the OEM’s product or products.*

21        (b) *“Documentation” means a manual, schematic diagram,*  
22 *reporting output, or service code description provided to the*  
23 *authorized repair provider for purposes of effecting repair.*

24        (c) *“Embedded software” means any programmable instructions*  
25 *provided on firmware delivered with equipment for the purposes*  
26 *of equipment operation, including all relevant patches and fixes*  
27 *made by the OEM for that purpose, including, but not limited to,*  
28 *a basic internal operating system, internal operating system,*  
29 *machine code, assembly code, root code, or microcode.*

30        (d) *“Equipment” means electronic equipment, or a part of*  
31 *electronic equipment, originally manufactured for distribution*  
32 *and sale in the United States.*

33        (e) *“Fair and reasonable terms” means an equitable price in*  
34 *light of relevant factors. “Fair and reasonable terms,” with regard*  
35 *to diagnostic and repair information, includes, but is not limited*  
36 *to, all of the following:*

37        (1) *The net cost to the authorized repair provider for similar*  
38 *information obtained from the OEM, excluding any discounts,*  
39 *rebates, or other incentive programs.*

- 1       (2) *The cost to the OEM for preparing and distributing the*  
2 *information, excluding any research and development costs*  
3 *incurred in designing and implementing, upgrading, or altering*  
4 *the product, but including amortized capital costs for the*  
5 *preparation and distribution of the information.*
- 6       (3) *The price charged by other OEMs for similar information.*
- 7       (4) *The price charged by other OEMs for similar information*  
8 *prior to the launch of OEM Internet Web sites.*
- 9       (5) *The ability of aftermarket technicians or shops to afford the*  
10 *information.*
- 11       (6) *The means by which the information is distributed.*
- 12       (7) *The extent to which the information is used, including the*  
13 *number of users, and frequency, duration, and volume of use.*
- 14       (8) *Inflation.*
- 15       (f) *“Independent repair provider” means a person or business*  
16 *operating in the state that is not affiliated with an OEM or an*  
17 *OEM’s authorized repair provider, that is engaged in the*  
18 *diagnosis, service, maintenance, or repair of equipment, except*  
19 *that an OEM shall be considered an “independent repair provider”*  
20 *if the OEM engages in the diagnosis, service, maintenance, or*  
21 *repair of equipment that is not affiliated with that OEM.*
- 22       (g) *“Medical device” has the same definition as provided in*  
23 *the federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 321(h)).*
- 24       (h) *“Motor vehicle” has the same definition as provided in*  
25 *Section 415 of the Vehicle Code, except that “motor vehicle” does*  
26 *not include a motorcycle or a recreational vehicle or manufactured*  
27 *home equipped for habitation.*
- 28       (i) *“Motor vehicle dealer” has the same definition as provided*  
29 *in Section 285 of the Vehicle Code.*
- 30       (j) *“Motor vehicle manufacturer” has the same definition as*  
31 *provided in Section 672 of the Vehicle Code.*
- 32       (k) *“Original equipment manufacturer” or “OEM” means a*  
33 *person or business that, in the ordinary course of business, is*  
34 *engaged in the business of selling or leasing new equipment or*  
35 *parts of equipment to any person or business, and is engaged in*  
36 *the diagnosis, service, maintenance, or repair of equipment or*  
37 *parts of that equipment. “Original equipment manufacturer” does*  
38 *not include a motor vehicle dealer or the manufacturer of a motor*  
39 *vehicle or a motor vehicle part.*

1 (l) "Owner" means a person or business that owns or leases  
2 equipment purchased or used in the state.

3 (m) "Part" or "service part" means a replacement part, either  
4 new or used, made available by the OEM to the authorized repair  
5 provider for purposes of effecting repair.

6 (n) "Remote diagnostics" means a remote data transfer function  
7 between equipment and the provider of repair services, including  
8 settings controls and location identification.

9 42488.3. (a) The original equipment manufacturer of  
10 equipment or parts sold and used in the state shall do both of the  
11 following:

12 (1) Make available, in a timely manner, to independent repair  
13 providers or owners of equipment manufactured by the OEM the  
14 same diagnostic and repair information that the OEM provides to  
15 authorized repair providers, including to refurbishment facilities  
16 for subcontract repairs. The information shall be provided at no  
17 charge or for the same charge that the OEM charges to, and in  
18 the same format that the OEM makes the information available  
19 to, authorized repair providers and refurbishment facilities for  
20 subcontract repair. The information shall include repair technical  
21 updates, schematic diagrams, updates, corrections to embedded  
22 software, and safety and security patches.

23 (2) (A) Except as provided in subparagraph (B), make available  
24 for purchase by the owner, the owner's authorized agent, or an  
25 independent repair provider, equipment or service parts, including  
26 any updates to the embedded software of the equipment or parts,  
27 subject to fair and reasonable terms.

28 (B) Nothing in this chapter requires an OEM to sell equipment  
29 or service parts if the parts are no longer available to the OEM  
30 or the authorized repair provider of the OEM.

31 (b) An OEM that sells diagnostic, service, or repair  
32 documentation to an independent repair provider or to an owner  
33 in a format that is standardized with other OEMs, and on terms  
34 and conditions more favorable than the manner, terms, and  
35 conditions that an authorized repair provider receives for the same  
36 diagnostic, service, or repair documentation, shall be prohibited  
37 from requiring an authorized repair provider to continue  
38 purchasing diagnostic, service, or repair documentation in a  
39 proprietary format, unless the proprietary format includes

1 diagnostic, service, or repair documentation or functionality that  
2 is not available in the standardized format.

3 (c) (1) An OEM of equipment sold or used in this state shall  
4 make available for purchase by owners and independent repair  
5 providers, subject to fair and reasonable terms, all diagnostic  
6 repair tools incorporating the same diagnostic, repair, and remote  
7 communications capabilities that the OEM makes available to its  
8 own repair or engineering staff or an authorized repair provider.

9 (2) An OEM that provides diagnostic repair documentation to  
10 aftermarket diagnostic tool manufacturers, diagnostics providers,  
11 and third-party service information publications and systems shall  
12 have fully satisfied its obligations under this chapter and shall not  
13 be responsible for the content and functionality of those aftermarket  
14 diagnostic tools, diagnostics, or service information publications  
15 or systems.

16 (d) OEM equipment or parts sold or used in this state for the  
17 purpose of providing security-related functions shall include  
18 diagnostic, service, and repair information necessary to reset a  
19 security-related electronic function from information provided to  
20 owners and independent repair facilities. If not required to be  
21 included under this subdivision, the information necessary to reset  
22 an immobilizer system or security-related electronic module shall  
23 be obtained by owners and independent repair facilities through  
24 the appropriate secure data release systems.

25 42488.4. (a) Notwithstanding any other law, nothing in this  
26 chapter shall be construed to affect the terms of any agreement  
27 executed and in force between an authorized repair provider and  
28 an original equipment manufacturer, including, but not limited to,  
29 the performance or provision of warranty or recall repair work  
30 by an authorized repair provider on behalf of an OEM pursuant  
31 to an authorized repair agreement, except that a provision in an  
32 agreement that purports to waive, avoid, restrict, or limit an  
33 OEM's compliance with this chapter shall be void and  
34 unenforceable.

35 (b) Nothing in this chapter shall be construed to require an  
36 OEM or authorized repair provider to provide an owner or  
37 independent repair provider access to information that is not  
38 diagnostic and repair information that an OEM provides to an  
39 authorized repair provider pursuant to the terms of the agreement  
40 between the OEM and authorized repair provider.



**Introduced by Assembly Member Quirk**

February 16, 2018

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An act to amend Section 11123 of the Government Code, relating to state government.

**legislative counsel's digest**

AB 2958, as introduced, Quirk. State bodies: meetings: teleconference.

Existing law, the Bagley-Keene Open Meeting Act, requires, with specified exceptions, that all meetings of a state body, as defined, be open and public, and all persons be permitted to attend any meeting of a state body, except as provided. Existing law does not prohibit a state body from holding an open or closed meeting by teleconference for the benefit of the public and state body. Existing law, among other things, requires a state body that elects to conduct a meeting or proceeding by teleconference to post agendas at all teleconference locations, to identify each teleconference location in the notice and agenda, and to make each teleconference location accessible to the public. Existing law requires the agenda to provide an opportunity for members of the public to address the state body directly at each teleconference location, as specified.

This bill, instead, would require a member of a state body participating by teleconference to be listed in the meeting minutes. The bill would require a state body to designate a primary physical meeting location where at least one member of the state body will attend and where participants may physically attend the meeting and participate. The bill would require that the agenda include the teleconference phone number

and, if applicable, the Internet Web site or other information indicating how the public can access the meeting remotely. The bill would require a state body, on and after January 1, 2019, to adopt teleconferencing guidelines, as specified, before holding a meeting by teleconference pursuant to these provisions.

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 11123 of the Government Code is  
 2 amended to read:  
 3 11123. (a) All meetings of a state body shall be open and  
 4 public and all persons shall be permitted to attend any meeting of  
 5 a state body except as otherwise provided in this article.  
 6 (b) (1) This article does not prohibit a state body from holding  
 7 an open or closed meeting by teleconference for the benefit of the  
 8 public and state body. The meeting or proceeding held by  
 9 teleconference shall otherwise comply with all applicable  
 10 requirements or laws relating to a specific type of meeting or  
 11 proceeding, including the following:  
 12 (A) The teleconferencing meeting shall comply with all  
 13 requirements of this article applicable to other meetings.  
 14 (B) The portion of the teleconferenced meeting that is required  
 15 to be open to the public shall be audible to the public at the location  
 16 specified in the notice of the meeting.  
 17 ~~(C) If the state body elects to conduct a meeting or proceeding~~  
 18 ~~by teleconference, it shall post agendas at all teleconference~~  
 19 ~~locations and conduct teleconference meetings in a manner that~~  
 20 ~~protects the rights of any party or member of the public appearing~~  
 21 ~~before the state body. Each teleconference location shall be~~  
 22 ~~identified in the notice and agenda of the meeting or proceeding,~~  
 23 ~~and each teleconference location shall be accessible to the public.~~  
 24 ~~The agenda shall provide an opportunity for members of the public~~  
 25 ~~to address the state body directly pursuant to Section 11125.7 at~~  
 26 ~~each teleconference location.~~  
 27 *(C) All of the following shall apply to a meeting held by*  
 28 *teleconference under this article by a state body:*  
 29 *(i) A member of a state body participating by teleconference*  
 30 *shall be listed in the minutes of the meeting and shall provide*

1 notice of his or her participation by teleconference at least 24  
2 hours before the meeting.

3 (ii) A state body shall designate a primary physical meeting  
4 location where participants may physically attend the meeting and  
5 participate. At least one member of the state body shall be in  
6 attendance at the primary physical meeting location.

7 (iii) The teleconference phone number and, if applicable, the  
8 Internet Web site or other information indicating how the public  
9 can access the meeting remotely, shall be included in the agenda,  
10 which shall be available to the public.

11 (I) Nothing in this section shall exempt a state body from  
12 providing information regarding the physical location of a state  
13 body meeting or any teleconference participation information,  
14 including the identity of a state body member who might be  
15 participating by teleconference.

16 (II) On and after January 1, 2019, prior to holding a meeting  
17 by teleconference pursuant to this section, a state body shall adopt  
18 teleconferencing regulations consistent with this section, to address  
19 issues that include, but are not limited to, cancellations as a result  
20 of technical difficulties, ensuring transparency, and public  
21 participation.

22 (D) All votes taken during a teleconferenced meeting shall be  
23 by rollcall.

24 (E) The portion of the teleconferenced meeting that is closed  
25 to the public may not include the consideration of any agenda item  
26 being heard pursuant to Section 11125.5.

27 ~~(F) At least one member of the state body shall be physically  
28 present at the location specified in the notice of the meeting.~~

29 (2) For the purposes of this subdivision, “teleconference” means  
30 a meeting of a state body, the members of which are at different  
31 locations, connected by electronic means, through either audio or  
32 both audio and video. This section does not prohibit a state body  
33 from providing members of the public with additional locations  
34 in which the public may observe or address the state body by  
35 electronic means, through either audio or both audio and video.

36 (c) The state body shall publicly report any action taken and the  
37 vote or abstention on that action of each member present for the  
38 action.

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1 (c) *Nothing in this chapter applies to a motor vehicle*  
2 *manufacturer, a product or service of a motor vehicle*  
3 *manufacturer, or a motor vehicle dealer.*

4 (d) *Nothing in this chapter requires a manufacturer of a medical*  
5 *device to implement a provision of this chapter that is prohibited*  
6 *pursuant to the federal Food, Drug, and Cosmetic Act (21 U.S.C.*  
7 *Sec. 301 et seq.) or any other federal law to the extent that law*  
8 *preempts this chapter.*

9 42488.5. (a) *A city, county, city and county, or the state may*  
10 *impose civil liability on a person or entity that knowingly violated*  
11 *this chapter, or reasonably should have known that it violated this*  
12 *chapter, in the amount of one thousand dollars (\$1,000) per day*  
13 *for the first violation, two thousand dollars (\$2,000) per day for*  
14 *the second violation, and five thousand dollars (\$5,000) per day*  
15 *for the third and subsequent violations.*

16 (b) *A civil penalty collected pursuant to subdivision (a) shall*  
17 *be paid to the city attorney, city prosecutor, or district attorney,*  
18 *or Attorney General that brought the action, or to the state if the*  
19 *Attorney General brought the action. The penalties collected*  
20 *pursuant to this section by the Attorney General may be expended*  
21 *by the Attorney General, upon appropriation by the Legislature,*  
22 *to enforce this chapter.*

23 42488.6. *This chapter shall apply for equipment or parts that*  
24 *are no longer manufactured for five years after the date the OEM*  
25 *ceased to manufacture the equipment or parts. An OEM may*  
26 *continue to comply with this chapter beyond five years for*  
27 *equipment or parts the OEM no longer manufactures, at the*  
28 *discretion of the OEM.*

29 ~~SECTION 1. Section 6501.1 of the Public Resources Code is~~  
30 ~~amended to read:~~

31 ~~6501.1. Land owned by the state, that is under the jurisdiction~~  
32 ~~of the commission, may be leased for such purpose or purposes~~  
33 ~~as the commission deems advisable, including, but not limited to,~~  
34 ~~grazing leases and leases for commercial, industrial, and~~  
35 ~~recreational purposes.~~

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## **Agenda Item 4: Ignition Interlock Devices**



- I. Senate Bill 1046 and IID-What is it?
- II. IID Challenges
  - A. Technical aspects
    1. Various Models and Makes, Knock-offs, Distributors
    2. Device Certification and Requirements
    3. Calibrations (Wet vs. Dry Gas)
    4. Installer training
    5. Hiding install process
    6. Brick and Mortar vs. Mobile installers
  - B. Regulations
    1. Licensed (BAR/BEAR breakdown)
    2. IID Installation Confidential
    3. Enforcement/Revoke if IID not compliant with Vehicle Code
- III. BEARHFTI Action Plan
  - A. Develop more precise Regulations for IID
    1. Licensed/Unlicensed
    2. Refinement of BEAR Procedures
    3. Continue partnerships with DMV and BAR
    4. IID Installation Knowledge Build-out/Continuing Education
    5. Brick and Mortar/Mobile locations
  - B. To Tackle Challenges-IID Coalition (DMV, BAR, BEAR)
    1. DMV-Certifies Devices
    2. Joint Inspections with BAR and DMV
    3. Out-of-State collaborators
    4. Added IID notification to BEAR Licensing application
    5. Developing trackable reports based off CAS coding
    6. Stings and Sweeps on operators
    7. Next steps:
      - a. Visiting the Operators
      - b. Get to know these devices
      - c. Attend training seminars/forums

## **Agenda Item 7: Regulatory Change Proposal**

**Bureau of Electronic and Appliance Repair  
Home Furnishings, and Thermal Insulation  
Division 3 of Title 4 of the  
California Code of Regulations**

**Proposed Language**

Legend: Added text is indicated by underlining.  
Deleted text is indicated by ~~strikethrough~~.

**Amend section 1374 of Article 13 to read as follows:**

**1374. Flammability; Upholstered and Reupholstered Furniture.**

This section operative on and after January 1, 2015. See preceding Section 1374, operative until December 31, 2014 and inoperative as of January 1, 2015.

(a) On and after January 1, 2015, all filling materials and cover fabrics contained in any article of upholstered furniture and added to reupholstered furniture shall meet the fire retardant requirements as set forth in the State of California, Bureau of Electronic and Appliance Repair, Home Furnishings and Thermal Insulation Technical Bulletin Number 117-2013, entitled "Requirements, Test Procedure and Apparatus for Testing the Smolder Resistance of Materials Used in Upholstered Furniture," dated June 2013 and be labeled in accordance with Section 1374.3. This section incorporates by reference Technical Bulletin 117-2013 and shall not apply to filling materials and cover fabric manufactured prior to January 1, 2015.

(b) In addition to the requirements of subsection (a) above, finished articles of upholstered furniture may also be tested in accordance with the State of California, Bureau of Electronic and Appliance Repair, Home Furnishings and Thermal Insulation Technical Bulletin Number 116 entitled "Test Procedures and Apparatus for Testing the Flame Retardance of Upholstered Furniture," dated January 1980.

~~(c) All upholstered seating furniture sold for use in public occupancies, as defined in subsection (d) below, shall meet the test requirements set forth in the State of California, Bureau of Electronic and Appliance Repair, Home Furnishings and Thermal Insulation Technical Bulletin Number 133, entitled "Flammability Test Procedure For Seating Furniture For Use in Public Occupancies," dated January 1994.~~

~~(d) For purposes of this section, the term "public occupancies" shall mean:~~

~~(1) Jails, prisons, and penal institutions, as defined in Chapter 3 of the California State Building Standards Code.~~

~~(2) Hospitals, mental health facilities, and similar health care facilities, as defined in Chapter 3 of the California State Building Standards Code.~~

~~(3) Nursing homes, board and care facilities, and convalescent homes, as defined in Chapter 3 of the California State Building Standards Code.~~

~~(4) Child day care centers, as defined in Chapter 3 of the California State Building Standards Code.~~

~~(5) Public auditoriums and stadiums, as defined in Chapter 3 of the California State Building Standards Code.~~



~~(6) Public assembly areas, as defined in Chapter 3 of the California State Building Standards Code, containing ten (10) or more articles of seating furniture and located in hotels, motels and lodging houses.~~

~~(e) Public occupancies and public assembly areas, as defined in Section 1374(d), which are fully sprinklered in accordance with either National Fire Protection Association (NFPA) Standard NFPA 13-1996 or Uniform Building Code Standard No. 38-1, dated 1988 shall either comply with the requirements of Section 1374(a) or the requirements of Section 1374(c).~~

~~(f) The flammability requirements contained in this section are considered to be flammability performance standards. Testing under these standards shall be at the discretion of the licensee; however, products and materials offered for sale in this state shall meet all applicable flammability requirements established in these regulations.~~

Note: Authority cited: Sections 19034 and 19161, Business and Professions Code. Reference: Section 19161, Business and Professions Code.

**Amend section 1374.3 of Article 13 to read as follows:**

**1374.3. Labeling.**

This section operative on and after January 1, 2015. See preceding Section 1374.3, operative until December 31, 2014 and inoperative as of January 1, 2015.

(a) Upholstered furniture conforming to the requirements of Section 1374(a) and 1374(b) of these regulations shall have a label permanently attached to the article, in plain view, stating the following:

NOTICE

THIS ARTICLE MEETS ALL FLAMMABILITY REQUIREMENTS OF CALIFORNIA BUREAU OF ELECTRONIC AND APPLIANCE REPAIR, HOME FURNISHINGS AND THERMAL INSULATION TECHNICAL BULLETINS 116 AND 117-2013. CARE SHOULD BE EXERCISED NEAR OPEN FLAME OR WITH BURNING CIGARETTES.

(b) Upholstered articles conforming to Section 1374(a) but which may not conform to Section 1374(b) shall have a label permanently attached to the article, in plain view, stating the following:

NOTICE

THIS ARTICLE MEETS THE FLAMMABILITY REQUIREMENTS OF CALIFORNIA BUREAU OF ELECTRONIC AND APPLIANCE REPAIR, HOME FURNISHINGS AND THERMAL INSULATION TECHNICAL BULLETIN 117-2013. CARE SHOULD BE EXERCISED NEAR OPEN FLAME OR WITH BURNING CIGARETTES.

~~(c) Articles of furniture conforming to the requirements of section 1374(c) shall have a label permanently attached to the article, in plain view, stating the following:~~

~~NOTICE~~

~~THIS ARTICLE IS MANUFACTURED FOR USE IN PUBLIC OCCUPANCIES AND MEETS THE FLAMMABILITY REQUIREMENTS OF CALIFORNIA BUREAU OF ELECTRONIC AND APPLIANCE REPAIR, HOME FURNISHINGS AND THERMAL INSULATION TECHNICAL BULLETIN 133. CARE SHOULD BE EXERCISED NEAR OPEN FLAME OR WITH BURNING CIGARETTES.~~

(ec) Minimum size of the label for subsections (a), (b) and (c) shall be 2 x 3 inches and the minimum size of the type shall be one-eighth inch in height. All type shall be in capital letters.  
(ed) All flammability labels described in sections 1373.1, and 1374.3 shall also comply with the labeling requirements of sections 1126(a) and (b).

Note: Authority cited: Sections 19034 and 19161, Business and Professions Code. Reference: Sections 19080, 19081 and 19161, Business and Professions Code.