

August 2, 2018 Advisory Council Meeting Materials Packet

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**ADVISORY COUNCIL MEETING
NOTICE & AGENDA
August 2, 2018 | Thursday | 9:00 am
Until the Completion of Business**

Meeting Location:
Department of Consumer Affairs – DCA HQ2
1747 North Market Blvd, Room 186, Sacramento, CA 95834

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

Webcast Option:
The Bureau plans to webcast this meeting at <https://thedcapage.blog/webcasts/>. Webcast availability cannot, however, be guaranteed due to limited resources or technical difficulties. The meeting will not be cancelled if webcast is not available. If you wish to participate or to have a guaranteed opportunity to observe, please plan to attend at a physical location.

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

The time and order of agenda items are subject to change at the discretion of the Advisory Council and may be taken out of order. 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 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.

General Bureau Business Agenda Items

1. Welcome and Introductions
 - a. Facility Safety and Courtesy Items
 - b. Roll Call of the Council/Audience/Teleconference Participants Noticed
 - c. Review and Discuss Future Meeting Dates
 - d. March 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. Outreach, Consumer Education
 - d. Legislative/Regulator
-

Home Furnishings and Thermal Insulation Agenda Items

4. Presentation of Cost Benefit Analysis of Consumer Protection through Furniture Fire Barriers

 5. Update on Regulatory Change Proposal on Furniture for Use in Public Occupancies
-

Household Movers Agenda Items

6. Update on First Month of Supporting Household Movers
-
7. Public comment on Items not on the Agenda. (The Advisory Council may not discuss or take action on any matter raised during this public comment section, except to decide whether to place the matter on the agenda of a future meeting pursuant to Government Code sections 11125 and 11125.7(a))

 8. Adjournment

Agenda Item 2a: Licensing Overview

LICENSING STATISTICS

June 2015 – June 2018 Comparison

<i>EAR Registrations</i>	June 2015	June 2016	June 2017	June 2018
Appliance Service Dealer	2,466	2,629	2,595	2,695
Electronic Service Dealer	4,989	5,102	5,005	4,880
Combination Electronic/Appliance Service Dealer	483	522	586	556
Service Contract Administrator	43	43	48	51
Service Contract Seller	10,221	11,215	12,105	13,855
<i>Total EAR Registrations</i>	18,202	19,511	20,339	22,037

<i>HFTI Licenses</i>	June 2015	June 2016	June 2017	June 2018
Furniture Retailers	2,245	2,315	2,055	2,073
Bedding Retailers	1,708	1,592	1,960	2,065
Furniture & Bedding Retailers	11,738	11,715	11,879	11,713
Custom Upholsterers	491	497	495	487
Supply Dealers	132	136	122	102
Importers (includes overseas Manufacturers)	4,274	4,695	5,006	5,321
Manufacturers	1,441	1,481	1,540	1,498
Sanitizers	17	13	12	13
Wholesalers	150	170	198	184
Thermal Insulation Manufacturers	120	115	111	109
<i>Total HFTI Licenses</i>	22,316	22,729	23,378	23,565

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

**Bureau of Electronic and Appliance Repair,
Home Furnishings and Thermal Insulation**
4244 South Market Court, Suite D, Sacramento, CA 95834-1243
P (916) 999-2041 F (916) 921-7279 www.bearhfti.ca.gov

- There has been one (1) case forwarded to the Attorney General's Office in FY 2017/2018, and one (1) case 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	550	305	855

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	48	17	65

CONSUMER COMPLAINTS						
OPENED				CLOSED		
Year	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	1019	288	1307	1014	281	1295

INTERNAL CASES (Investigations)						
OPENED				CLOSED		
Year	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	624	355	979	705	388	1093

Agenda Item 2d: Laboratory Testing Overview

LAB STATISTICS

Workload Analysis: Data for FY 17/18

Type Test	Received 07/01/17 – 06/30/18	Completed Samples 07/01/17 – 06/30/18	
		Pass	Fail
TB117-2013	137	126 (95%)	7 (5%)
16 CFR 1633	69	47(84%)	9 (16%)
TB133	13	13 (100%)	0 (0%)
Thermal Insulation	39	15(79%)	4(21%)
Bedding (No flammability tests)	27	0	0
**Labeling	N/A	34 (18%)	155 (82%)
Total	285	---	---

**This category includes labeling results for all products except for TB133 and Thermal Insulation.

FR Chemical Labeling and Analysis: Data for FY 17/18

Samples Received with the Flame Retardant Chemical Statement (TB117-2013) 07/01/17 – 06/30/18				
“NO” Chemicals Checked	Contains Chemicals	No Box Checked	FR Doc Request Sent	DTSC Analysis Conducted
109	21	0	40	40
84%	16%	0%	37% of those marked “NO”	37% of those marked “NO”

Samples Analyzed with the “NO” Flame Retardant Chemical Statement 07/01/17 – 06/30/18				
Type Test	Pass		Fail	
	No.	%	No.	%
DTSC Analysis (40) *	34	85	3	9
FR Doc Review (40)	34	85	6	15

*Testing in progress for three components- quantitative analysis

Agenda Item 3d: Legislative Update

DEADLINES

- Jan. 1** Statutes take effect (Art. IV, Sec. 8(c)).
- Jan. 3** Legislature reconvenes (J.R. 51(a)(4)).
- Jan. 10** Budget must be submitted by Governor (Art. IV, Sec. 12(a)).
- Jan. 12** Last day for **policy committees** to hear and report to **fiscal committees** fiscal bills introduced in their house in the odd-numbered year (J.R. 61(b)(1)).
- Jan. 15** Martin Luther King, Jr. Day.
- Jan. 19** Last day for any committee to hear and report to the **Floor** bills introduced in that house in the odd-numbered year. (J.R. 61(b)(2)). Last day to submit **bill requests** to the Office of Legislative Counsel.
- Jan. 31** Last day for each house to pass bills introduced in that house in the odd-numbered year (J.R. 61(b)(3)) (Art. IV, Sec. 10(c)).

JANUARY							
	S	M	T	W	TH	F	S
Wk. 1		1	2	3	4	5	6
Wk. 2	7	8	9	10	11	12	13
Wk. 3	14	15	16	17	18	19	20
Wk. 4	21	22	23	24	25	26	27
Wk. 1	28	29	30	31			

FEBRUARY							
	S	M	T	W	TH	F	S
Wk. 1					1	2	3
Wk. 2	4	5	6	7	8	9	10
Wk. 3	11	12	13	14	15	16	17
Wk. 4	18	19	20	21	22	23	24
Wk. 1	25	26	27	28			

- Feb. 16** Last day for bills to be **introduced** (J.R. 61(b)(4), J.R. 54(a)).
- Feb. 19** Presidents' Day.

MARCH							
	S	M	T	W	TH	F	S
Wk. 1					1	2	3
Wk. 2	4	5	6	7	8	9	10
Wk. 3	11	12	13	14	15	16	17
Wk. 4	18	19	20	21	22	23	24
Spring Recess	25	26	27	28	29	30	31

- Mar. 22** **Spring Recess** begins upon adjournment (J.R. 51(b)(1)).
- Mar. 30** Cesar Chavez Day observed.

APRIL							
	S	M	T	W	TH	F	S
Wk. 1	1	2	3	4	5	6	7
Wk. 2	8	9	10	11	12	13	14
Wk. 3	15	16	17	18	19	20	21
Wk. 4	22	23	24	25	26	27	28
Wk. 1	29	30					

- Apr. 2** Legislature reconvenes from Spring Recess (J.R. 51 (b)(1)).
- Apr. 27** Last day for **policy committees** to hear and report to fiscal committees **fiscal bills** introduced in their house (J.R. 61(b)(5)).

MAY							
	S	M	T	W	TH	F	S
Wk. 1			1	2	3	4	5
Wk. 2	6	7	8	9	10	11	12
Wk. 3	13	14	15	16	17	18	19
Wk. 4	20	21	22	23	24	25	26
No Hrgs.	27	28	29	30	31		

- May 11** Last day for **policy committees** to hear and report to the Floor **nonfiscal** bills introduced in their house (J.R. 61(b)(6)).
- May 18** Last day for **policy committees** to meet prior to June 4 (J.R. 61(b)(7)).
- May 25** Last day for **fiscal committees** to hear and report to the **Floor** bills introduced in their house (J.R. 61 (b)(8)). Last day for **fiscal committees** to meet prior to June 4 (J.R. 61 (b)(9)).
- May 28** Memorial Day.
- May 29 – June 1** **Floor session only.** No committee may meet for any purpose except for Rules Committee, bills referred pursuant to Assembly Rule 77.2, and Conference Committees (J.R. 61(b)(10)).

*Holiday schedule subject to final approval by Rules Committee.

JUNE							
	S	M	T	W	TH	F	S
No Hrgs.						1	2
Wk. 1	3	4	5	6	7	8	9
Wk. 2	10	11	12	13	14	15	16
Wk. 3	17	18	19	20	21	22	23
Wk. 4	24	25	26	27	28	29	30

- June 1** Last day for each house to pass bills introduced in that house (J.R. 61(b)(11)).
- June 4** Committee meetings may resume (J.R. 61(b)(12)).
- June 15** Budget Bill must be passed by midnight (Art. IV, Sec. 12(c)).
- June 28** Last day for a legislative measure to qualify for the Nov. 6 General Election ballot. (Elec. Code Sec. 9040)
- June 29** Last day for **policy committees** to hear and report **fiscal bills** to fiscal committees (J.R. 61(b)(13)).

JULY							
	S	M	T	W	TH	F	S
Wk. 1	1	2	3	4	5	6	7
Summer Recess	8	9	10	11	12	13	14
Summer Recess	15	16	17	18	19	20	21
Summer Recess	22	23	24	25	26	27	28
Summer Recess	29	30	31				

- July 4** Independence Day.
- July 6** Last day for **policy committees** to meet and report bills (J.R. 61(b)(14)). **Summer Recess** begins on adjournment, provided Budget Bill has been passed (J.R. 51(b)(2)).

AUGUST							
	S	M	T	W	TH	F	S
Summer Recess				1	2	3	4
Wk. 2	5	6	7	8	9	10	11
Wk. 3	12	13	14	15	16	17	18
No Hrgs.	19	20	21	22	23	24	25
No Hrgs.	26	27	28	29	30	31	

- Aug. 6** Legislature reconvenes from Summer Recess (J.R. 51(b)(2)).
- Aug. 17** Last day for **fiscal committees** to meet and report bills (J.R. 61(b)(15)).
- Aug. 20 – 31 Floor session only.** No committee may meet for any purpose except Rules Committee, bills referred pursuant to Assembly Rule 77.2, and Conference Committees (J.R. 61(b)(16)).
- Aug. 24** Last day to **amend** on Floor (J.R. 61(b)(17)).
- Aug. 31** Last day for each house to pass bills (Art. IV, Sec 10(c), J.R. 61(b)(18)). **Final Recess** begins on adjournment (J.R. 51(b)(3)).

IMPORTANT DATES OCCURRING DURING FINAL RECESS

2018

- Sept. 30 Last day for Governor to sign or veto bills passed by the Legislature before Sept. 1 and in the Governor's possession on or after Sept. 1 (Art. IV, Sec.10(b)(2)).
- Oct. 1 Bills enacted on or before this date take effect January 1, 2019 (Art. IV, Sec. 8(c)).
- Nov. 6 General Election.
- Nov. 30 Adjournment *sine die* at midnight (Art. IV, Sec. 3(a)).
- Dec. 3 2019-20 Regular Session convenes for Organizational Session at 12 noon (Art. IV, Sec. 3(a)).

2019

- Jan. 1 Statutes take effect (Art. IV, Sec. 8(c)).

*Holiday schedule subject to final approval by Rules Committee.

AMENDED IN ASSEMBLY APRIL 2, 2018
AMENDED IN ASSEMBLY MARCH 15, 2018
california legislature—2017–18 regular session

ASSEMBLY BILL

No. 2110

Introduced by Assembly Member Eggman

February 8, 2018

An act to amend 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. 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~~ *would, except as provided*, 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.

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. (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
22 **Chapter 8.7. Cell Phone Recycling Act of 2004**
23
24 SEC. 3. Chapter 8.6 (commencing with Section 42488) is added
25 to Part 3 of Division 30 of the Public Resources Code, to read:

1 Chapter 8.6. The Right to Repair Act

2
3 42488. This act shall be known, and may be cited, as the Right
4 to Repair Act.

5 42488.1. It is the intent of the Legislature to provide a fair
6 marketplace for the repair of electronic equipment and to prohibit
7 intentional barriers and limitations to third-party repair.

8 42488.2. For purposes of this chapter, the following definitions
9 apply:

10 (a) "Authorized repair provider" means either of the following:

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

16 (2) A person or business retained by the OEM to provide
17 refurbishing services for the OEM's product or products.

18 (b) "Documentation" means a manual, schematic diagram,
19 reporting output, or service code description provided to the
20 authorized repair provider for purposes of effecting repair.

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

27 (d) "Equipment" means electronic equipment, or a part of
28 electronic equipment, originally manufactured for distribution and
29 sale in the United States.

30 (e) "Fair and reasonable terms" means an equitable price in light
31 of relevant factors. "Fair and reasonable terms," with regard to
32 diagnostic and repair information, includes, but is not limited to,
33 all of the following:

34 (1) The net cost to the authorized repair provider for similar
35 information obtained from the OEM, excluding any discounts,
36 rebates, or other incentive programs.

37 (2) The cost to the OEM for preparing and distributing the
38 information, excluding any research and development costs
39 incurred in designing and implementing, upgrading, or altering

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

1 (m) “Part” or “service part” means a replacement part, either
2 new or used, made available by the OEM to the authorized repair
3 provider for purposes of effecting repair.
4 (n) “Remote diagnostics” means a remote data transfer function
5 between equipment and the provider of repair services, including
6 settings controls and location identification.
7 42488.3. (a) The original equipment manufacturer of
8 equipment or parts sold and used in the state shall do both of the
9 following:
10 (1) Make available, in a timely manner, to independent repair
11 providers or owners of equipment manufactured by the OEM the
12 same diagnostic and repair information that the OEM provides to
13 authorized repair providers, including to refurbishment facilities
14 for subcontract repairs. The information shall be provided at no
15 charge or for the same charge that the OEM charges to, and in the
16 same format that the OEM makes the information available to,
17 authorized repair providers and refurbishment facilities for
18 subcontract repair. The information shall include repair technical
19 updates, schematic diagrams, updates, corrections to embedded
20 software, and safety and security patches.
21 (2) (A) Except as provided in subparagraph (B), make available
22 for purchase by the owner, the owner’s authorized agent, or an
23 independent repair provider, equipment or service parts, including
24 any updates to the embedded software of the equipment or parts,
25 subject to fair and reasonable terms.
26 (B) Nothing in this chapter requires an OEM to sell equipment
27 or service parts if the parts are no longer available to the OEM or
28 the authorized repair provider of the OEM.
29 (b) An OEM that sells diagnostic, service, or repair
30 documentation to an independent repair provider or to an owner
31 in a format that is standardized with other OEMs, and on terms
32 and conditions more favorable than the manner, terms, and
33 conditions that an authorized repair provider receives for the same
34 diagnostic, service, or repair documentation, shall be prohibited
35 from requiring an authorized repair provider to continue purchasing
36 diagnostic, service, or repair documentation in a proprietary format,
37 unless the proprietary format includes diagnostic, service, or repair
38 documentation or functionality that is not available in the
39 standardized format.

1 (c) (1) An OEM of equipment sold or used in this state shall
2 make available for purchase by owners and independent repair
3 providers, subject to fair and reasonable terms, all diagnostic repair
4 tools incorporating the same diagnostic, repair, and remote
5 communications capabilities that the OEM makes available to its
6 own repair or engineering staff or an authorized repair provider.
7 (2) An OEM that provides diagnostic repair documentation to
8 aftermarket diagnostic tool manufacturers, diagnostics providers,
9 and third-party service information publications and systems shall
10 have fully satisfied its obligations under this chapter and shall not
11 be responsible for the content and functionality of those aftermarket
12 diagnostic tools, diagnostics, or service information publications
13 or systems.
14 (d) OEM equipment or parts sold or used in this state for the
15 purpose of providing security-related functions shall include
16 diagnostic, service, and repair information necessary to reset a
17 security-related electronic function from information provided to
18 owners and independent repair facilities. If not required to be
19 included under this subdivision, the information necessary to reset
20 an immobilizer system or security-related electronic module shall
21 be obtained by owners and independent repair facilities through
22 the appropriate secure data release systems.
23 42488.4. (a) Notwithstanding any other law, nothing in this
24 chapter shall be construed to affect the terms of any agreement
25 executed and in force between an authorized repair provider and
26 an original equipment manufacturer, including, but not limited to,
27 the performance or provision of warranty or recall repair work by
28 an authorized repair provider on behalf of an OEM pursuant to an
29 authorized repair agreement, except that a provision in an
30 agreement that purports to waive, avoid, restrict, or limit an OEM's
31 compliance with this chapter shall be void and unenforceable.
32 (b) Nothing in this chapter shall be construed to require an OEM
33 or authorized repair provider to provide an owner or independent
34 repair provider access to information that is not diagnostic and
35 repair information that an OEM provides to an authorized repair
36 provider pursuant to the terms of the agreement between the OEM
37 and authorized repair provider.
38 (c) Nothing in this chapter applies to a motor vehicle
39 manufacturer, a product or service of a motor vehicle manufacturer,
40 or a motor vehicle dealer.

1 (d) (1) Nothing in this chapter ~~requires a manufacturer of~~
2 *applies to a medical device to implement a provision of this chapter*
3 ~~that is prohibited pursuant to the federal Food, Drug, and Cosmetic~~
4 ~~Act (21 U.S.C. Sec. 301 et seq.) or any other federal law to the~~
5 ~~extent that law preempts this chapter.~~ *device, a digital electronic*
6 *product or embedded software manufactured exclusively for use*
7 *in a health care setting, or a product or service offered in*
8 *connection with the use of a digital electronic product*
9 *manufactured exclusively for use in a health care setting.*

10 (2) *For purposes of this subdivision, "health care setting"*
11 *includes, but is not limited to, acute care hospitals, long-term care*
12 *facilities, such as nursing homes or skilled nursing facilities,*
13 *physicians' offices, urgent care centers, outpatient clinics, home*
14 *settings where health care is provided at home by professional*
15 *health care providers, emergency medical services, and specific*
16 *sites within nonhealth care settings where health care is routinely*
17 *delivered, such as a medical clinic embedded within a workplace*
18 *or school.*

19 42488.5. (a) A city, county, city and county, or the state may
20 impose civil liability on a person or entity that knowingly violated
21 this chapter, or reasonably should have known that it violated this
22 chapter, in the amount of one thousand dollars (\$1,000) per day
23 for the first violation, two thousand dollars (\$2,000) per day for
24 the second violation, and five thousand dollars (\$5,000) per day
25 for the third and subsequent violations.

26 (b) A civil penalty collected pursuant to subdivision (a) shall
27 be paid to the city attorney, city prosecutor, or district attorney, or
28 Attorney General that brought the action, or to the state if the
29 Attorney General brought the action. The penalties collected
30 pursuant to this section by the Attorney General may be expended
31 by the Attorney General, upon appropriation by the Legislature,
32 to enforce this chapter.

33 42488.6. This chapter shall apply for equipment or parts that
34 are no longer manufactured for five years after the date the OEM
35 ceased to manufacture the equipment or parts. An OEM may
36 continue to comply with this chapter beyond five years for
37 equipment or parts the OEM no longer manufactures, at the
38 discretion of the OEM.

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AMENDED IN SENATE JULY 2, 2018
AMENDED IN ASSEMBLY MAY 25, 2018
AMENDED IN ASSEMBLY APRIL 3, 2018
california legislature—2017–18 regular session

ASSEMBLY BILL

No. 2998

**Introduced by Assembly Member Bloom
(Principal coauthor: Assembly Member Kalra) (Coauthors:
Assembly Members Friedman, Gonzalez Fletcher, and Mark
Stone)**

February 16, 2018

An act to add Article 5.5 (commencing with Section 19100) to Chapter 3 of Division 8 of the Business and Professions Code, relating to business.

legislative counsel's digest

AB 2998, as amended, Bloom. Consumer products: flame retardant materials.

Existing law, the Home Furnishings and Thermal Insulation Act, a violation of which is a misdemeanor, provides for the regulation of persons engaged in businesses relating to upholstered furniture, bedding and filling materials, and insulation, and provides for the enforcement and administration of those provisions by a chief under the Director of Consumer Affairs. Existing law authorizes the Bureau of Electronic and Appliance Repair, Home Furnishings, and Thermal Insulation to establish grades, specifications, and tolerances for materials used in upholstered furniture and bedding or filling materials and requires a manufacturer of upholstered furniture to indicate whether a product contains flame retardant chemicals.

This bill, on and after January 1, 2020, would prohibit a person, including a manufacturer, from selling or distributing in commerce in this state new, not previously owned juvenile products, mattresses, or upholstered furniture that contains, or a constituent component of which contains, flame retardant chemicals at levels above 1,000 parts per million, except as specified, and would prohibit a custom upholsterer from, among other things, repairing upholstered furniture or reupholstered furniture using replacement components that contain flame retardant chemicals at levels above 1,000 parts per million, except as specified. The bill would authorize the director to adopt regulations and rules to implement and enforce the act's provisions. The bill would require the bureau to (1) enforce and ensure compliance with these requirements, (2) reimburse the Department of Toxic Substances Control for certain testing costs, and (3) provide the Department of Toxic Substances Control with a selection of samples from products regulated by the act's provisions. The bill would also authorize the bureau to assess fines against manufacturers for a violation of the act's provisions, as specified. The bill would require the bureau to receive complaints from consumers concerning these regulated products that are sold in this state. The bill would define various terms for these purposes. The bill would also make various findings and declarations in this regard.

Because a violation of the bill's provisions would be a misdemeanor, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

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

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) The State of California has found that flame retardant
- 4 chemicals are not needed to provide fire safety. The Bureau of
- 5 Electronic and Appliance Repair, Home Furnishings, and Thermal
- 6 Insulation (hereafter bureau) is charged with developing state
- 7 flammability standards for adoption via regulation. From 1975 to

1 2013, flame retardant chemicals were commonly used in
2 upholstered furniture to meet flammability standard, Technical
3 Bulletin 117 (TB-117). In 2013, California updated its flammability
4 standard with the adoption of Technical Bulletin 117-2013 (TB
5 117-2 but it is 520 013). Compliance with TB 117-2013 is widely
6 being achieved without the use of flame retardant chemicals.
7 However, some product manufacturers still use flame retardant
8 chemicals in upholstered furniture and juvenile products, even
9 though these chemicals are not necessary for fire safety or
10 compliance with TB 117-2013.

11 (b) In 2013, the bureau exempted 18 juvenile products from
12 having to meet any flammability standard because the bureau
13 determined that these products “are not prone to cause or sustain
14 a serious fire if ignited.” The following types of juvenile products
15 that are exempted from state flammability standards include
16 bassinets, highchair pads, nursing pads, booster seats, infant
17 bouncers, nursing pillows, car seats, infant carriers, playpen side
18 pads, changing pads, infant seats, playards, floor play mats, infant
19 swings, portable hook-on chairs, highchairs, infant walkers, and
20 strollers.

21 (c) In 2017, the United States Consumer Product Safety
22 Commission issued a guidance document based on the
23 overwhelming scientific evidence presented to the commission to
24 alert the public to serious concerns about the toxicity of
25 organohalogen flame retardants added to children’s products,
26 furniture, mattresses, and plastic casings surrounding electronics.
27 The commission requested that manufacturers eliminate the use
28 of these chemicals in their products. It also recommended that
29 retailers obtain assurance from manufacturers that their products
30 do not contain these chemicals and that consumers, especially
31 those who are pregnant or with young children, avoid products
32 containing these chemicals.

33 (d) Scientists have found that many of the flame retardant
34 chemicals commonly used in furniture exhibit one or more of the
35 key characteristics of a class of synthetic chemicals commonly
36 referred to as Persistent Organic Pollutants (POPs). These
37 chemicals accumulate in our bodies and in the ~~environment;~~
38 *environment*, persist in the environment for long periods of ~~time;~~
39 *time*, are capable of long-range transport, and are toxic to humans
40 and animals. Flame retardant chemicals have been found in remote

1 regions such as the Arctic and in deep sea life. Flame retardant
2 chemicals have been detected in the atmosphere, seawater,
3 freshwater, sediments, and a variety of wildlife.

4 (e) Firefighters are at particular risk from flame retardant
5 chemicals. Numerous studies document increased cancer rates and
6 deaths amongst firefighters due to occupational exposures. The
7 cancers that are elevated in firefighters include four types (multiple
8 myeloma, non-Hodgkin's lymphoma, prostate, and testicular) that
9 are potentially related to exposure to cancer-causing chemicals
10 called dioxins. Dioxins are formed when products burn in a fire
11 and the presence of flame retardant chemicals can result in more
12 toxic smoke containing dioxins and furans to which firefighters
13 are exposed. Studies have found firefighters' blood levels of certain
14 flame retardants to be three times higher than levels in other
15 Americans, and twice as high as levels among California residents.

16 (f) Children living in California have some of the highest
17 documented blood concentrations of certain flame retardant
18 chemicals compared to other children in the United States.
19 Scientists recognize the urgency of reducing the exposure of
20 vulnerable populations, particularly young children, to flame
21 retardant chemicals. A consensus statement issued by the Project
22 Targeting Environmental Neuro-Developmental Risks (Project
23 TENDR) found that certain flame retardant chemicals are
24 associated with loss of IQ, attention problems, and other
25 developmental problems in children, and called for action to reduce
26 exposures to toxic chemicals, such as flame retardants, that
27 contribute to the prevalence of neurodevelopmental disabilities in
28 children.

29 (g) Flame retardant chemicals migrate out of products over their
30 lifetime and end up in household dust. Inhalation and ingestion of
31 indoor dust, often from hand to mouth behaviors, is a common
32 route of human exposure to flame retardant chemicals. Studies
33 have shown that indoor dust contains anywhere from 1.5 to 50
34 times greater concentration of flame retardant chemicals than the
35 outdoor environment. Given that humans spend 90 percent of their
36 time indoors, human exposure to flame retardant chemicals can
37 be significant. Children have been found to have three to five times
38 higher levels of certain flame retardant chemicals than their
39 mothers.

1 (h) The federal government has failed to adequately regulate
2 the use of flame retardant chemicals. In 2016, Congress passed
3 the Frank R. Lautenberg Chemical Safety for the 21st Century Act
4 (Public Law 114-182), which adds to the responsibilities of the
5 United States Environmental Protection Agency (EPA) under the
6 federal Toxic Substances Control Act (15 U.S.C. Sec. 2601 et seq.)
7 to assess and regulate chemicals. The EPA has yet to restrict use
8 of any flame retardant chemicals under this enactment.

9 (i) In the absence of federal action, California and other states
10 have taken steps to limit or ban the use of certain flame retardant
11 chemicals. In 2017, the State of Maine passed legislation that
12 prohibits the sale of residential upholstered furniture containing
13 flame retardants. In fall of 2017, the City and County of San
14 Francisco passed an ordinance that prohibits the sale of upholstered
15 and reupholstered furniture as well as children’s products
16 containing flame retardant chemicals. The State of Rhode Island
17 also passed legislation that will ban the sale of furniture or
18 residential upholstered bedding with any added organohalogen
19 flame retardants.

20 (j) Studies demonstrate that mattresses also contribute
21 significantly to the flame retardant levels in indoor air and dust.
22 Studies also find that removing flame-retarded products from
23 indoor environments reduces air and dust contamination. Therefore,
24 decreasing the amount of flame-retarded products in buildings
25 would result in decreased human exposures.

26 (k) While many categories of products and materials that are
27 not covered by this act contain flame retardant chemicals, which
28 pose health risks—as the United States Consumer Product Safety
29 Commission has recognized, for example—this act takes an
30 incremental approach to addressing these health risks and focuses
31 on those categories of products and materials with which the bureau
32 has prior experience in addressing the presence of flame retardant
33 chemicals.

34 SEC. 2. Article 5.5 (commencing with Section 19100) is added
35 to Chapter 3 of Division 8 of the Business and Professions Code,
36 to read:

1 Article 5.5. Juvenile Products, Upholstered Furniture, and
2 Mattresses

3
4 19100. For the purposes of this article, the following definitions
5 apply:

6 *(a) "Chemical" has the same meaning as in subdivision (a) of*
7 *Section 19094.*

8 ~~(a)~~

9 *(b) "Consumer price index" has the same meaning as in*
10 *subdivision (a) of Section 19094.*

11 ~~*(b) "Flame retardant chemical" has the same meaning as in*~~
12 ~~*subdivision (a) of Section 19094.*~~

13 *(c) (1) "Flame retardant chemical" means any chemical that*
14 *is both of the following:*

15 *(A) For which a functional use is to resist or inhibit the spread*
16 *of fire, including, but not limited to, any chemical for which the*
17 *term "flame retardant" appears on the Occupational Safety and*
18 *Health Administration substance safety data sheet pursuant to*
19 *subdivision (g) of Section 19100.1200 of Title 29 of the Code of*
20 *Federal Regulations as it read on January 1, 2019.*

21 *(B) Is one of the following:*

22 *(i) A halogenated, organophosphorus, organonitrogen, or*
23 *nanoscale chemical.*

24 *(ii) A chemical defined as a "designated chemical" in Section*
25 *105440 of the Health and Safety Code.*

26 *(iii) A chemical identified as a flame retardant on the*
27 *Washington State Department of Ecology's list of Chemicals of*
28 *High Concern to Children in Section 173-334-130 of Title 173 of*
29 *the Washington Administrative Code as of January 1, 2019.*

30 *(2) As used in this subdivision:*

31 *(A) "Halogenated chemical" means any chemical that contains*
32 *one or more halogen elements, including fluorine, chlorine,*
33 *bromine, or iodine.*

34 *(B) "Organophosphorus chemical" is any chemical that*
35 *contains one or more carbon elements and one or more phosphorus*
36 *elements.*

37 *(C) "Organonitrogen chemical" is any chemical that contains*
38 *one or more carbon elements and one or more nitrogen elements.*

39 ~~(e)~~

1 (d) “Juvenile product” means a product subject to this chapter
2 and designed for residential use by infants and children under 12
3 years of age, including, but not limited to, a bassinet, booster seat,
4 changing pad, floor ~~play mat~~, *playmat*, highchair, highchair pad,
5 infant bouncer, infant carrier, infant seat, infant swing, infant
6 walker, nursing pad, nursing pillow, playpen side pad, playard,
7 portable hook-on chair, stroller, and children’s nap mat.

8 ~~(d)~~

9 (e) Juvenile products do not include any of the following:

10 (1) Products that are not primarily intended for use in the home,
11 such as products or components for motor vehicles, watercraft,
12 aircraft, or other vehicles.

13 (2) Products subject to Part 571 of Title 49 of the Code of
14 Federal Regulations regarding parts and products used in vehicles
15 and aircraft.

16 (3) Products required to meet state flammability standards in
17 Technical Bulletin 133, entitled “Flammability Test Procedure for
18 Seating Furniture for Use in Public Occupancies.”

19 (4) Consumer electronic products that do not fall under the
20 bureau’s jurisdiction for flammability standards.

21 ~~(e)~~

22 (f) “Mattress” has the same definition as that term is defined in
23 Section 1632.1 of Title 16 of the Code of Federal Regulations.

24 ~~(f)~~

25 (g) “Reupholstered furniture” means furniture whose original
26 fabric, padding, decking, barrier material, foam, or other resilient
27 filling has been replaced by a custom upholsterer, that has not been
28 sold since the time of the replacement, and that is required to meet
29 the flammability standards set forth in Technical Bulletin 117-2013
30 entitled “Requirements, Test Procedure and Apparatus for Testing
31 the Smolder Resistance of Materials Used in Upholstered
32 Furniture.” Reupholstered ~~Furniture~~ *furniture* shall not include
33 products required to meet Technical Bulletin 133.

34 ~~(g)~~

35 (h) “Upholstered furniture” has the same meaning as “covered
36 products” does in subdivision (a) of Section 19094.

37 19101. (a) On or after January 1, 2020, a person, including a
38 manufacturer, shall not sell or distribute in commerce in this state
39 any new, not previously owned juvenile products, mattresses, or
40 upholstered furniture that contains, or a constituent component of

1 which contains, flame retardant chemicals at levels above 1,000
2 parts per million.

3 (b) On or after January 1, 2020, a custom upholsterer shall not
4 repair, reupholster, recover, restore, or renew upholstered furniture
5 or reupholstered furniture using replacement components that
6 contain flame retardant chemicals at levels above 1,000 parts per
7 million.

8 (c) The prohibitions in subdivisions (a) and (b) do not apply to
9 ~~either of~~ the following:

10 (1) Electronic components of juvenile products, mattresses,
11 reupholstered furniture, upholstered furniture, or any associated
12 casing for those electronic components.

13 (2) Upholstered or reupholstered furniture components other
14 than those identified in paragraph (1) of subdivision (a) of Section
15 19094.

16 *(3) Thread or fiber when used for stitching mattress components*
17 *together.*

18 19102. The director may adopt regulations and rules necessary
19 or appropriate for the implementation and enforcement of this
20 article.

21 19103. (a) The bureau shall enforce and ensure compliance
22 with Section 19101.

23 (b) (1) The bureau shall provide the Department of Toxic
24 Substances Control with a selection of samples from products
25 regulated under this article to test for compliance with Section
26 19101. The bureau shall select samples based on consultation with
27 the Department of Toxic Substances Control, taking into account
28 a range of manufacturers and types of products regulated under
29 this article. The bureau shall integrate these testing requirements
30 into the existing testing program described in subdivision (c) of
31 Section 19094.

32 (2) (A) If the Department of Toxic Substances Control's testing
33 shows that any reupholstered furniture or new, not previously
34 owned juvenile products, mattresses, or upholstered furniture is
35 in violation of Section 19101, the bureau may assess fines for
36 violations against manufacturers of the product for the violation.
37 The bureau shall reimburse the Department of Toxic Substances
38 Control for the cost of testing for the presence of flame retardant
39 chemicals pursuant to this article.

1 (B) If a person continues to sell or distribute products in
2 commerce in this state belonging to the same stock keeping unit
3 (SKU) as products that do not comply with Section 19101, after
4 notice of the violation is posted on the bureau's Internet Web site,
5 the bureau may assess fines against the person for the continued
6 sale or distribution of those products. The bureau shall make
7 information about any citation issued pursuant to this section
8 available to the public on its Internet Web site, and shall develop
9 a process for keeping interested persons informed about updates
10 to notices of violation posted on the bureau's Internet Web site.

11 (c) A fine for a violation of this section shall be assessed in
12 accordance with the following schedule:

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

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

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

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

25 (d) In determining the amount of the fine for a violation of this
26 section, the bureau shall consider the following factors:

27 (1) The nature and severity of the violation.
28 (2) The good or bad faith of the cited person.
29 (3) The history of previous violations.
30 (4) Evidence that the violation was willful.
31 (5) The extent to which the cited person or entity has cooperated
32 with the bureau.

33 (e) (1) The bureau shall adjust all minimum and maximum
34 fines imposed by this section for inflation every five years.
35 (2) The adjustment shall be equivalent to the percentage, if any,
36 that the Consumer Price Index at the time of adjustment exceeds
37 the Consumer Price Index at the time this section goes into effect.
38 Any increase determined under this paragraph shall be rounded as
39 follows:

1 (A) In multiples of ten dollars (\$10) in the case of penalties less
2 than or equal to one hundred dollars (\$100).
3 (B) In multiples of one hundred dollars (\$100) in the case of
4 penalties greater than one hundred dollars (\$100), but less than or
5 equal to one thousand dollars (\$1,000).
6 (C) In multiples of one thousand dollars (\$1,000) in the case of
7 penalties greater than one thousand dollars (\$1,000).
8 (f) The bureau shall receive complaints from consumers
9 concerning products regulated by this article sold in this state.
10 SEC. 3. No reimbursement is required by this act pursuant to
11 Section 6 of Article XIII B of the California Constitution because
12 the only costs that may be incurred by a local agency or school
13 district will be incurred because this act creates a new crime or
14 infraction, eliminates a crime or infraction, or changes the penalty
15 for a crime or infraction, within the meaning of Section 17556 of
16 the Government Code, or changes the definition of a crime within
17 the meaning of Section 6 of Article XIII B of the California
18 Constitution.

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AMENDED IN ASSEMBLY JUNE 12, 2018

AMENDED IN SENATE APRIL 30, 2018

AMENDED IN SENATE APRIL 17, 2018

SENATE BILL

No. 1483

Introduced by Senator Hill

February 16, 2018

An act to amend Sections 9810, 9812.5, 9830.5, 9832.5, 9842, 9844, 9847.5, 9849, 9851, 9853, 9855.3, 9855.9, 9860, 9862.5, 9863, 19032, 19162, and 19163 of, and to amend, repeal, and add Section 9855 ~~to~~, *of*, the Business and Professions Code, relating to professions and vocations.

legislative counsel's digest

SB 1483, as amended, Hill. Department of Consumer Affairs: electronic and appliance repair, home furnishings, and thermal insulation.

(1) 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 specifies that the powers and duties of the bureau shall be subject to review by the appropriate policy committees of the Legislature as if the provisions were scheduled to be repealed on January 1, 2019.

This bill would extend that date to January 1, 2023.

(2) Existing law 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 to carry out the Home Furnishings and Thermal Insulation Act, and would require such personnel to perform their respective duties under the supervision and the direction of the chief.

(3) The Home Furnishings and Thermal Insulation Act provides for the licensure and regulation by the Bureau of Electronic and Appliance Repair, Home Furnishings, and Thermal Insulation of persons engaged in various businesses associated with home furnishings, including custom upholsterers. The act requires a custom upholsterer to give a customer a written estimate of the price of the labor and materials necessary for a specific job. The act also requires all work to be performed by a custom upholsterer to be recorded on a work order containing specified information and requires one copy of the work order to be given to the customer before any work is performed and one copy to be retained by the custom upholsterer for at least one year.

This bill would specify that the provisions pertaining to a written estimate shall not prohibit the use of a written estimate in electronic format. The bill would require a custom upholsterer who provides a copy of a work order to a customer in electronic format to retain an electronic copy of the order for at least one year, as specified.

(4) The Electronic and Appliance Repair Dealer Registration Law provides for the licensure and regulation of service dealers, as defined, by the Bureau of Electronic and Appliance Repair, Home Furnishings, and Thermal Insulation within the Department of Consumer Affairs and makes a violation of its provisions a misdemeanor. That law requires all work done by a service dealer to be recorded on an invoice and requires one copy to be given to the customer and one copy to be retained by the service dealer for at least 3 years. That law also requires a service dealer to provide an initial written estimate for the cost of repair, as specified.

This bill would require a service dealer who provides a copy of the invoice to a customer in electronic format to retain an electronic copy for at least 3 years, as provided. The bill would specify that the

provisions pertaining to a written estimate shall not prohibit the use of a written estimate in electronic format.

(5) Until January 1, 2019, the Electronic and Appliance Repair Dealer Registration Law also specifically regulates service contracts and service contractors and defines the term “service contract” to mean a written contract to perform services relating to the maintenance, replacement, or repair of certain consumer goods. That law requires a service contractor to file a copy of the contract form it issues with the director of the department prior to its use.

This bill, on and after January 1, 2020, would define the term “service contract” to apply more generally to all consumer goods, as defined, used for personal, family, or household purposes. The bill would require a service contractor to file a copy of the contract form it uses with the director no later than 30 days before use and to also file all documents incorporated by reference into a service contract per the contract form. The bill would require each service contract form filed with the director to have a unique number and last revised date. The bill would prohibit any changes to the text of a contract form unless the revised language has been submitted to the director for ~~review~~. *review, except as specified.* The bill would also extend the operation of the service contractor provisions to January 1, 2023. Because the bill would expand the scope of a crime, it would impose a state-mandated local program.

(6) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

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

1 SECTION 1. Section 9810 of the Business and Professions
2 Code is amended to read:
3 9810. (a) (1) There is in the Department of Consumer Affairs
4 a Bureau of Electronic and Appliance Repair, Home Furnishings,
5 and Thermal Insulation, under the supervision and control of the
6 director. The director shall administer and enforce the provisions
7 of this chapter and Chapter 3 (commencing with Section 19000)
8 and Chapter 3.1 (commencing with Section 19225) of Division 8.

1 (2) There is a Division of Household Movers within the bureau
2 for purposes of administering Chapter 3.1 (commencing with
3 Section 19225) of Division 8. The Division of Household Movers
4 shall be overseen by the chief of the bureau.

5 (b) The Governor shall appoint, subject to confirmation by the
6 Senate, a chief of the bureau at a salary to be fixed and determined
7 by the director with the approval of the Director of Finance. The
8 chief shall serve under the direction and supervision of the director
9 and at the pleasure of the Governor.

10 (c) Every power granted to or duty imposed upon the director
11 under this chapter and Chapter 3 (commencing with Section 19000)
12 and Chapter 3.1 (commencing with Section 19225) of Division 8
13 may be exercised or performed in the name of the director by a
14 deputy or assistant director or by the chief, subject to conditions
15 and limitations that the director may prescribe.

16 (d) Whenever the laws of this state refer to the Bureau of
17 Electronic Repair Dealer Registration or the Bureau of Electronic
18 and Appliance Repair, the reference shall be construed to be to the
19 Bureau of Electronic and Appliance Repair, Home Furnishings,
20 and Thermal Insulation.

21 (e) Notwithstanding any other law, the powers and duties of the
22 Bureau of Electronic and Appliance Repair, Home Furnishings,
23 and Thermal Insulation, as set forth in this chapter and Chapter 3
24 (commencing with Section 19000) and Chapter 3.1 (commencing
25 with Section 19225) of Division 8, shall be subject to review by
26 the appropriate policy committees of the Legislature. The review
27 shall be performed as if this chapter and Chapter 3 (commencing
28 with Section 19000) and Chapter 3.1 (commencing with Section
29 19225) of Division 8 were scheduled to be repealed on January 1,
30 2023.

31 SEC. 2. Section 9812.5 of the Business and Professions Code
32 is amended to read:

33 9812.5. The director shall gather evidence of violations of this
34 chapter and of any regulation established hereunder by any service
35 contractor, whether registered or not, and by any employee, partner,
36 officer, or member of any service contractor. The director shall,
37 on his or her own initiative, conduct spot check investigations of
38 service contractors throughout the state on a continuous basis.

39 This section shall remain in effect only until January 1, 2023,
40 and as of that date is repealed.

1 SEC. 3. Section 9830.5 of the Business and Professions Code
2 is amended to read:
3 9830.5. (a) Each service contractor shall pay the fee required
4 by this chapter for each place of business operated by him or her
5 in this state and shall register with the bureau upon forms
6 prescribed by the director. The forms shall contain sufficient
7 information to identify the service contractor, including name,
8 address, retail seller's permit number, if a permit is required under
9 the Sales and Use Tax Law (Part 1 (commencing with Section
10 6001) of Division 2 of the Revenue and Taxation Code), a copy
11 of the certificate of qualification as filed with the Secretary of State
12 if the service contractor is a foreign corporation, and other
13 identifying data to be prescribed by the bureau. If the business is
14 to be carried on under a fictitious name, that fictitious name shall
15 be stated. If the service contractor is a partnership, identifying data
16 shall be stated for each partner. If the service contractor is a private
17 company that does not file an annual report on Form 10-K with
18 the Securities and Exchange Commission, data shall be included
19 for each of the officers and directors of the company as well as for
20 the individual in charge of each place of the service contractor's
21 business in the State of California, subject to any regulations the
22 director may adopt. If the service contractor is a publicly held
23 corporation or a private company that files an annual report on
24 Form 10-K with the Securities and Exchange Commission, it shall
25 be sufficient for purposes of providing data for each of the officers
26 and directors of the corporation or company to file with the director
27 the most recent annual report on Form 10-K that is filed with the
28 Securities and Exchange Commission.
29 (b) A service contractor who does not operate a place of business
30 in this state but who sells, issues, or administers service contracts
31 in this state, shall hold a valid registration issued by the bureau
32 and shall pay the registration fee required by this chapter as if he
33 or she had a place of business in this state.
34 (c) This section shall remain in effect only until January 1, 2023,
35 and as of that date is repealed.
36 SEC. 4. Section 9832.5 of the Business and Professions Code
37 is amended to read:
38 9832.5. (a) Registrations issued under this chapter shall expire
39 no more than 12 months after the issue date. The expiration date

1 of registrations shall be set by the director in a manner to best
2 distribute renewal procedures throughout the year.

3 (b) To renew an unexpired registration, the service contractor
4 shall, on or before the expiration date of the registration, apply for
5 renewal on a form prescribed by the director, and pay the renewal
6 fee prescribed by this chapter.

7 (c) To renew an expired registration, the service contractor shall
8 apply for renewal on a form prescribed by the director, pay the
9 renewal fee in effect on the last regular renewal date, and pay all
10 accrued and unpaid delinquency and renewal fees.

11 (d) Renewal is effective on the date that the application is filed,
12 the renewal fee is paid, and all delinquency fees are paid.

13 (e) For purposes of implementing the distribution of the renewal
14 of registrations throughout the year, the director may extend, by
15 not more than six months, the date fixed by law for renewal of a
16 registration, except that, in that event, any renewal fee that may
17 be involved shall be prorated in such a manner that no person shall
18 be required to pay a greater or lesser fee than would have been
19 required had the change in renewal dates not occurred.

20 (f) This section shall remain in effect only until January 1, 2023,
21 and as of that date is repealed.

22 SEC. 5. Section 9842 of the Business and Professions Code is
23 amended to read:

24 9842. All work done by a service dealer shall be recorded on
25 an invoice in such detail as is required by regulations issued by
26 the director and shall describe all service work done and all parts
27 supplied. If any used parts are supplied, the invoice shall clearly
28 state that fact. One copy shall be given to the customer and one
29 copy shall be retained by the service dealer for a period of at least
30 three years. If a copy of the invoice is provided to the customer in
31 an electronic format, an electronic copy of the invoice shall be
32 retained by the service dealer for the same retention period.

33 SEC. 6. Section 9844 of the Business and Professions Code is
34 amended to read:

35 9844. An initial written estimate for the cost of repair shall be
36 given to the customer before performing any repairs. The written
37 estimate shall include all costs for parts and labor, and the service
38 dealer may not charge for work done or parts supplied in excess
39 of the estimate without the previous consent of the customer. The
40 service dealer may charge a reasonable fee for services provided

1 in determining the nature of the malfunction in preparation of a
2 written estimate for repair. The service dealer shall advise the
3 customer in writing of the amount of the fee prior to a repair made
4 in the residence, before removal of the consumer goods from the
5 customer's residence, or upon acceptance of the goods at the repair
6 facility or registered location. This section shall not prohibit the
7 use of a written estimate in an electronic format.

8 SEC. 7. Section 9847.5 of the Business and Professions Code
9 is amended to read:

10 9847.5. (a) Each service contractor shall maintain those records
11 as are required by the regulations adopted to carry out the
12 provisions of this chapter for a period of at least three years. These
13 records shall be open for reasonable inspection by the director or
14 other law enforcement officials.

15 (b) This section shall remain in effect only until January 1, 2023,
16 and as of that date is repealed.

17 SEC. 8. Section 9849 of the Business and Professions Code,
18 as amended by Section 7 of Chapter 428 of the Statutes of 2014,
19 is amended to read:

20 9849. (a) The expiration of a valid registration shall not deprive
21 the director of jurisdiction to proceed with any investigation or
22 hearing on a cease and desist order against a service dealer or
23 service contractor or to render a decision to suspend, revoke, or
24 place on probation a registration.

25 (b) This section shall remain in effect only until January 1, 2023,
26 and as of that date is repealed.

27 SEC. 9. Section 9849 of the Business and Professions Code,
28 as amended by Section 8 of Chapter 428 of the Statutes of 2014,
29 is amended to read:

30 9849. (a) The expiration of a valid registration shall not deprive
31 the director of jurisdiction to proceed with any investigation or
32 hearing on a cease and desist order against a service dealer or to
33 render a decision to suspend, revoke, or place on probation a
34 registration.

35 (b) This section shall become operative on January 1, 2023.

36 SEC. 10. Section 9851 of the Business and Professions Code,
37 as amended by Section 9 of Chapter 428 of the Statutes of 2014,
38 is amended to read:

39 9851. (a) The superior court in and for the county wherein any
40 person carries on, or attempts to carry on, business as a service

1 dealer or service contractor in violation of the provisions of this
2 chapter, or any regulation thereunder, shall, on application of the
3 director, issue an injunction or other appropriate order restraining
4 that conduct.

5 (b) The proceedings under this section shall be governed by
6 Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of
7 the Code of Civil Procedure, except that the director shall not be
8 required to allege facts necessary to show or tending to show lack
9 of an adequate remedy at law or irreparable injury.

10 (c) This section shall remain in effect only until January 1, 2023,
11 and as of that date is repealed.

12 SEC. 11. Section 9851 of the Business and Professions Code,
13 as amended by Section 10 of Chapter 428 of the Statutes of 2014,
14 is amended to read:

15 9851. (a) The superior court in and for the county wherein any
16 person carries on, or attempts to carry on, business as a service
17 dealer in violation of the provisions of this chapter, or any
18 regulation thereunder, shall, on application of the director, issue
19 an injunction or other appropriate order restraining that conduct.

20 (b) The proceedings under this section shall be governed by
21 Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of
22 the Code of Civil Procedure, except that the director shall not be
23 required to allege facts necessary to show or tending to show lack
24 of an adequate remedy at law or irreparable injury.

25 (c) This section shall become operative on January 1, 2023.

26 SEC. 12. Section 9853 of the Business and Professions Code,
27 as amended by Section 11 of Chapter 428 of the Statutes of 2014,
28 is amended to read:

29 9853. (a) A plea or verdict of guilty or a conviction following
30 a plea of nolo contendere made to a charge substantially related
31 to the qualifications, functions, and duties of a service dealer or
32 service contractor is deemed to be a conviction within the meaning
33 of this article. The director may suspend, revoke, or place on
34 probation a registration, or may deny registration, when the time
35 for appeal has elapsed, or the judgment of conviction has been
36 affirmed on appeal or when an order granting probation is made
37 suspending the imposition of sentence, irrespective of a subsequent
38 order under Section 1203.4 of the Penal Code, allowing that person
39 to withdraw his or her plea of guilty and to enter a plea of not

1 guilty, or setting aside the verdict of guilty, or dismissing the
2 accusation, information, or indictment.

3 (b) This section shall remain in effect only until January 1, 2023,
4 and as of that date is repealed.

5 SEC. 13. Section 9853 of the Business and Professions Code,
6 as amended by Section 12 of Chapter 428 of the Statutes of 2014,
7 is amended to read:

8 9853. (a) A plea or verdict of guilty or a conviction following
9 a plea of nolo contendere made to a charge substantially related
10 to the qualifications, functions, and duties of a service dealer is
11 deemed to be a conviction within the meaning of this article. The
12 director may suspend, revoke, or place on probation a registration,
13 or may deny registration, when the time for appeal has elapsed, or
14 the judgment of conviction has been affirmed on appeal or when
15 an order granting probation is made suspending the imposition of
16 sentence, irrespective of a subsequent order under Section 1203.4
17 of the Penal Code allowing that person to withdraw his or her plea
18 of guilty and to enter a plea of not guilty, or setting aside the verdict
19 of guilty, or dismissing the accusation, information, or indictment.

20 (b) This section shall become operative on January 1, 2023.

21 SEC. 14. Section 9855 of the Business and Professions Code
22 is amended to read:

23 9855. The definitions used in this section shall govern the
24 construction and terms as used in this chapter:

25 (a) "Service contract" means a contract in writing to perform,
26 over a fixed period of time or for a specified duration, services
27 relating to the maintenance, replacement, or repair of an electronic
28 set or appliance, as defined by this chapter, and their accessories
29 or of furniture, jewelry, lawn and garden equipment, power tools,
30 fitness equipment, telephone equipment, small kitchen appliances
31 and tools, optical products, or home health care products, and may
32 include provisions for incidental payment of indemnity under
33 limited circumstances, including, but not limited to, power surges,
34 food spoilage, or accidental damage from handling. "Service
35 contract" shall not include a contract in writing to maintain
36 structural wiring associated with the delivery of cable, telephone,
37 or other broadband communications services. "Service contract"
38 shall not include a contract in which a consumer agrees to pay a
39 provider of vision care services for a discount on optical products
40 or contact lenses for a specified duration.

1 (b) “Service contract administrator” or “administrator” means
2 a person who performs or arranges the collection, maintenance,
3 or disbursement of moneys to compensate any party for claims or
4 repairs pursuant to a service contract, and who also performs or
5 arranges any of the following activities on behalf of service contract
6 sellers:

7 (1) Providing service contract sellers with service contract forms.

8 (2) Participating in the adjustment of claims arising from service
9 contracts.

10 (3) Arranging on behalf of service contract sellers the insurance
11 required by Section 9855.2.

12 A service contract administrator shall not be an obligor on a
13 service contract unless all service contracts under which the service
14 contract administrator is obligated to perform are insured under a
15 service contract reimbursement insurance policy.

16 (c) (1) “Service contract seller” or “seller” means a person who
17 sells or offers to sell a service contract to a service contractholder,
18 including a person who is the obligor under a service contract sold
19 by the seller, manufacturer, or repairer of the product covered by
20 the service contract.

21 (2) “Service contract seller” or “seller” also means a third party,
22 including an obligor, who is not the seller, manufacturer, or repairer
23 of the product. However, a third party shall not be an obligor on
24 a service contract unless the obligor obtains a service contract
25 reimbursement insurance policy for all service contracts under
26 which the third party is obligated under the terms of a service
27 contract.

28 (3) “Service contract seller” or “seller” shall not include the
29 following:

30 (A) A bank or bank holding company, or the subsidiary or
31 affiliate of either, or a financial institution, licensed under state or
32 federal law, selling or offering to sell a service contract unless that
33 entity is financially and legally obligated under the terms of a
34 service contract.

35 (B) An electrical device manufacturer or electrical contractor
36 who constructs, installs, or services electrical devices, which
37 include any unit of an electrical system intended to carry electrical
38 energy as part of a building’s electrical system, including raceways,
39 conductors, invertors, conduit, wires, switches, or other similar
40 devices.

- 1 (d) “Service contractholder” means a person who purchases or
2 receives a service contract from a service contract seller.
- 3 (e) “Service contractor” means a service contract administrator
4 or a service contract seller.
- 5 (f) “Service contract reimbursement insurance policy” means
6 a policy of insurance issued by an insurer admitted to do business
7 in this state providing coverage for all obligations and liabilities
8 incurred by a service contract seller under the terms of the service
9 contracts sold in this state by the service contract seller to a service
10 contractholder. The service contract reimbursement insurance
11 policy shall either cover all service contracts sold or specifically
12 cover those contracts sold to residents of the State of California.
- 13 (g) “Obligor” is the entity financially and legally obligated under
14 the terms of a service contract.
- 15 (h) “Optical products” means prescription and nonprescription
16 eyewear. “Optical products” shall not include contact lenses of
17 any kind.
- 18 (i) The terms “consumer goods,” “manufacturer,” “retail seller,”
19 “retailer,” and “sale” shall have the same meanings ascribed to
20 them in Section 1791 of the Civil Code.
- 21 (j) This section shall remain in effect only until January 1, 2020,
22 and as of that date is repealed.
- 23 SEC. 15. Section 9855 is added to the Business and Professions
24 Code, to read:
- 25 9855. The definitions used in this section shall govern the
26 construction and terms as used in this chapter:
- 27 (a) “Service contract” means a contract in writing to perform,
28 over a fixed period of time or for a specified duration, services
29 relating to the maintenance, replacement, or repair of consumer
30 goods and may include provisions for incidental payment of
31 indemnity under limited circumstances, including, but not limited
32 to, power surges, food spoilage, or accidental damage from
33 handling. “Service contract” shall not include a contract in writing
34 to maintain structural wiring associated with the delivery of cable,
35 telephone, or other broadband communications services. “Service
36 contract” shall not include a contract in which a consumer agrees
37 to pay a provider of vision care services for a discount on optical
38 products or contact lenses for a specified duration.
- 39 (b) “Service contract administrator” or “administrator” means
40 a person who performs or arranges the collection, maintenance,

1 or disbursement of moneys to compensate any party for claims or
2 repairs pursuant to a service contract, and who also performs or
3 arranges any of the following activities on behalf of service contract
4 sellers:

5 (1) Providing service contract sellers with service contract forms.

6 (2) Participating in the adjustment of claims arising from service
7 contracts.

8 (3) Arranging on behalf of service contract sellers the insurance
9 required by Section 9855.2.

10 A service contract administrator shall not be an obligor on a
11 service contract unless all service contracts under which the service
12 contract administrator is obligated to perform are insured under a
13 service contract reimbursement insurance policy.

14 (c) (1) "Service contract seller" or "seller" means a person who
15 sells or offers to sell a service contract to a service contractholder,
16 including a person who is the obligor under a service contract sold
17 by the seller, manufacturer, or repairer of the product covered by
18 the service contract.

19 (2) "Service contract seller" or "seller" also means a third party,
20 including an obligor, who is not the seller, manufacturer, or repairer
21 of the product. However, a third party shall not be an obligor on
22 a service contract unless the obligor obtains a service contract
23 reimbursement insurance policy for all service contracts under
24 which the third party is obligated under the terms of a service
25 contract.

26 (3) "Service contract seller" or "seller" shall not include the
27 following:

28 (A) A bank or bank holding company, or the subsidiary or
29 affiliate of either, or a financial institution, licensed under state or
30 federal law, selling or offering to sell a service contract unless that
31 entity is financially and legally obligated under the terms of a
32 service contract.

33 (B) An electrical device manufacturer or electrical contractor
34 who constructs, installs, or services electrical devices, which
35 include any unit of an electrical system intended to carry electrical
36 energy as part of a building's electrical system, including raceways,
37 conductors, invertors, conduit, wires, switches, or other similar
38 devices.

39 (d) "Service contractholder" means a person who purchases or
40 receives a service contract from a service contract seller.

1 (e) “Service contractor” means a service contract administrator
2 or a service contract seller.
3 (f) “Service contract reimbursement insurance policy” means
4 a policy of insurance issued by an insurer admitted to do business
5 in this state providing coverage for all obligations and liabilities
6 incurred by a service contract seller under the terms of the service
7 contracts sold in this state by the service contract seller to a service
8 contractholder. The service contract reimbursement insurance
9 policy shall either cover all service contracts sold or specifically
10 cover those contracts sold to residents of the State of California.
11 (g) “Obligor” is the entity financially and legally obligated under
12 the terms of a service contract.
13 (h) “Optical products” means prescription and nonprescription
14 eyewear. “Optical products” shall not include contact lenses of
15 any kind.
16 (i) The terms ~~“consumer goods,”~~ “manufacturer,” “retail seller,”
17 “retailer,” and “sale” shall have the same meanings ascribed to
18 them in Section 1791 of the Civil Code.
19 *(j) “Consumer goods” means any new or used product or part*
20 *thereof that is used, bought, or leased for use primarily for*
21 *personal, family, or household purposes, including assistive*
22 *devices.*
23 ⊕
24 (k) This section shall become operative on January 1, 2020.
25 SEC. 16. Section 9855.3 of the Business and Professions Code
26 is amended to read:
27 9855.3. (a) (1) The service contract form, along with all
28 documents incorporated by reference into a service contract per
29 the contract form, to be issued by the service contractor shall be
30 filed with the director by the service contractor no later than 30
31 days prior to its use.
32 (2) The term “documents incorporated by reference” shall mean
33 all documents ~~referred to in the contract~~ *that are expressly made*
34 *a part of the contract but* that are not a part of the body of the
35 contract. These documents may include, but are not limited to,
36 invoices, declaration pages, and sales receipts.
37 (3) Each service contract form shall be identified by a unique
38 form number and date of last revision.
39 (4) Once a service contract form is filed with the director under
40 paragraph (1), no further changes shall be made to the text of the

1 contract form without resubmission of the contract form to the
2 ~~director~~; *director, unless the text was indicated as variable text*
3 *when the contract is initially filed with the director.*

4 (b) Every service contract administrator shall file with its
5 application for registration, and thereafter, with its application for
6 registration renewal, a service contract reimbursement insurance
7 policy.

8 (c) Every service contract seller shall file with his or her
9 application for registration, and thereafter with his or her
10 application for registration renewal, one of the following:

11 (1) The most recent annual report on Form 10-K required by
12 the Securities and Exchange Commission, reflecting a net worth
13 greater than the sum of the deferred revenues from service contracts
14 in force. If the service contractor is a foreign corporation that files
15 a comparable audited financial statement with its home government
16 or with the United States government, the director may deem that
17 statement an acceptable substitute for Form 10-K.

18 (2) A service contract reimbursement insurance policy.

19 (3) Evidence that his or her service contracts are administered
20 by a service contract administrator who has obtained a service
21 contract reimbursement insurance policy covering the seller's
22 service contracts.

23 (4) Evidence of a funded account held in escrow equal to a
24 minimum of 25 percent of the deferred revenues from the service
25 contracts in force.

26 SEC. 17. Section 9855.9 of the Business and Professions Code
27 is amended to read:

28 9855.9. This article shall remain in effect only until January
29 1, 2023, and as of that date is repealed.

30 SEC. 18. Section 9860 of the Business and Professions Code,
31 as amended by Section 14 of Chapter 428 of the Statutes of 2014,
32 is amended to read:

33 9860. (a) The director shall establish procedures for accepting
34 complaints from the public against any service dealer or service
35 contractor.

36 (b) This section shall remain in effect only until January 1, 2023,
37 and as of that date is repealed.

38 SEC. 19. Section 9860 of the Business and Professions Code,
39 as amended by Section 15 of Chapter 428 of the Statutes of 2014,
40 is amended to read:

1 9860. (a) The director shall establish procedures for accepting
2 complaints from the public against any service dealer.
3 (b) This section shall become operative on January 1, 2023.
4 SEC. 20. Section 9862.5 of the Business and Professions Code
5 is amended to read:
6 9862.5. (a) If a complaint indicates a possible violation of this
7 chapter or of the regulations adopted pursuant to this chapter, the
8 director may advise the service contractor of the contents of the
9 complaint and, if the service contractor is so advised, the director
10 shall make a summary investigation of the facts after the service
11 contractor has had reasonable opportunity to reply thereto.
12 (b) This section shall remain in effect only until January 1, 2023,
13 and as of that date is repealed.
14 SEC. 21. Section 9863 of the Business and Professions Code,
15 as amended by Section 17 of Chapter 428 of the Statutes of 2014,
16 is amended to read:
17 9863. (a) If, upon summary investigation, it appears probable
18 to the director that a violation of this chapter, or the regulations
19 thereunder, has occurred, the director, in his or her discretion, may
20 suggest measures that in the director's judgment would compensate
21 the complainant for the damages he or she has suffered as a result
22 of the alleged violation. If the service dealer or service contractor
23 accepts the director's suggestions and performs accordingly, the
24 director shall give that fact due consideration in any subsequent
25 disciplinary proceeding. If the service dealer or service contractor
26 declines to abide by the suggestions of the director, the director
27 may investigate further and may institute disciplinary proceedings
28 in accordance with the provisions of this chapter.
29 (b) This section shall remain in effect only until January 1, 2023,
30 and as of that date is repealed.
31 SEC. 22. Section 9863 of the Business and Professions Code,
32 as amended by Section 18 of Chapter 428 of the Statutes of 2014,
33 is amended to read:
34 9863. (a) If, upon summary investigation, it appears probable
35 to the director that a violation of this chapter, or the regulations
36 thereunder, has occurred, the director, in his or her discretion, may
37 suggest measures that in the director's judgment would compensate
38 the complainant for the damages he or she has suffered as a result
39 of the alleged violation. If the service dealer accepts the director's
40 suggestions and performs accordingly, the director shall give that

1 fact due consideration in any subsequent disciplinary proceeding.
2 If the service dealer declines to abide by the suggestions of the
3 director, the director may investigate further and may institute
4 disciplinary proceedings in accordance with the provisions of this
5 chapter.

6 (b) This section shall become operative on January 1, 2023.

7 SEC. 23. Section 19032 of the Business and Professions Code
8 is amended to read:

9 19032. The director, in accordance with the State Civil Service
10 Act and Section 159.5, may appoint and fix the compensation of
11 such clerical, inspection, investigation, and auditing personnel as
12 well as a deputy chief, as may be necessary to carry out the
13 provisions of this chapter. All such personnel shall perform their
14 respective duties under the supervision and the direction of the
15 chief.

16 SEC. 24. Section 19162 of the Business and Professions Code
17 is amended to read:

18 19162. A custom upholsterer shall give to his or her customer
19 a written estimate of the price of the labor and materials necessary
20 for a specific job. No work shall be performed and no charges shall
21 accrue before authorization to proceed is obtained from the
22 customer, and no charge shall be made for work performed or
23 materials supplied in excess of the estimated price without the oral
24 or written consent of the customer obtained after it is determined
25 that the estimated price is insufficient and before the work not
26 estimated is performed or the materials not estimated are supplied.
27 Nothing in this section shall be construed as requiring a custom
28 upholsterer to give an estimate if he or she does not agree to
29 perform the requested work. As used in this section, "materials"
30 includes structural units, filling materials, containers, and
31 coverings. This section shall not prohibit the use of a written
32 estimate in an electronic format.

33 SEC. 25. Section 19163 of the Business and Professions Code
34 is amended to read:

35 19163. All work to be performed by a custom upholsterer shall
36 be recorded on a work order containing information required by
37 rules and regulations adopted by the bureau and shall describe all
38 work to be performed, all materials to be supplied, and the period
39 within which the estimate shall remain effective. If any secondhand
40 materials are to be supplied, the work order shall clearly identify

1 them as secondhand. No work shall be performed and no charges
2 shall accrue before authorization for the work and materials is
3 obtained from the customer, and no charge shall be made for work
4 performed or materials supplied different from those specified in
5 the work order without the oral or written consent of the customer.
6 One copy of the work order shall be given to the customer before
7 any work is performed and one copy shall be retained by the
8 custom upholsterer for at least one year. As used in this section,
9 “materials” includes structural units, filling materials, containers,
10 and coverings. If a copy of the work order is provided to the
11 customer in an electronic format, an electronic copy of the work
12 order shall be retained by the service dealer for the same retention
13 period.

14 SEC. 26. No reimbursement is required by this act pursuant to
15 Section 6 of Article XIII B of the California Constitution because
16 the only costs that may be incurred by a local agency or school
17 district will be incurred because this act creates a new crime or
18 infraction, eliminates a crime or infraction, or changes the penalty
19 for a crime or infraction, within the meaning of Section 17556 of
20 the Government Code, or changes the definition of a crime within
21 the meaning of Section 6 of Article XIII B of the California
22 Constitution.

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Agenda Item 4: Barrier Study Cost Benefit Analysis

A Cost-Benefit Analysis Worksheet on the Use of Fire Barriers in Upholstered Furniture

** Excel Model only Validitates 16 year Time Horizon and Product Life Cycle.**

(All Items in Light Gray Boxes Require Completion by User)

Period	Year	Total Cost to California	Total Benefits to California	Percent Households Purchasing Furniture	Present Value Costs to California	Present Value Benefits to California
0	2017	61,855,667	19,987	0.0625	61,855,667	0
1	2018	61,855,667	19,987	0.0625	57,809,034	18,680
2	2019	61,855,667	19,987	0.0625	54,027,135	36,137
3	2020	61,855,667	19,987	0.0625	50,492,649	52,452
4	2021	61,855,667	19,987	0.0625	47,189,392	67,700
5	2022	61,855,667	19,987	0.0625	44,102,236	81,951
6	2023	61,855,667	19,987	0.0625	41,217,043	95,269
7	2024	61,855,667	19,987	0.0625	38,520,601	107,716
8	2025	61,855,667	19,987	0.0625	36,000,561	119,349
9	2026	61,855,667	19,987	0.0625	33,645,384	130,221
10	2027	61,855,667	19,987	0.0625	31,444,284	140,381
11	2028	61,855,667	19,987	0.0625	29,387,182	149,877
12	2029	61,855,667	19,987	0.0625	27,464,656	158,751
13	2030	61,855,667	19,987	0.0625	25,667,903	167,045
14	2031	61,855,667	19,987	0.0625	23,988,694	174,796
15	2032	61,855,667	19,987	0.0625	22,419,340	182,041
16	2033	61,855,667	19,987	0.0625	20,952,654	188,811
					sum	646,184,415

Benefit Side of Upholstered Furniture Regulation	<i>Values Per Year and in 2017 \$s</i>
Civilian Deaths by Upholstered Furniture Fire	0
Value of a Statistical Life	4,373,404
Total Value of Civilian Deaths	0
Civilian Injuries by Upholstered Furniture Fire	2
Value of a Statistical Injury	266,778
Total Value of Civilian Injuries	533,556
Property Losses by Upholstered Furniture Fire	874,427
House Content Losses by Upholstered Furniture Fire	275,140
Total Cost of Upholstered Furniture Fire	1,683,123
Risk Reduction if Upholstered Furniture Fire Regulation	0.190
Benefit of Upholstered Furniture Regulation to CA	319,793

Cost Side of Upholstered Furniture Regulation	<i>Values Per Year and in 2017 \$s</i>
Per Chair Manufacturing Cost for Furniture Liner	19.57
Per Sofa Manufacturing Cost for Furniture Liner	38.98
Chairs Per Household	2
Sofas Per Household	1
Chair & Sofa Manuf Costs for Furniture Liner Per Household	78.12
Number of California Households	12,668,235
State Enforcement Estimated Costs	48,150
Cost of Upholstered Furniture Regulation to CA	989,690,668

Real Discount Rate	0.07
Number of Years that Chair/Sofa Used (Product Life Cycle)	16

Net Present Value	644,313,238
Fire Barrier Benefits Exceed Costs?	No

Please see http://www.bearhfti.ca.gov/bureau_activities/index.shtml,
for presentation and related materials.

Agenda Item 5: Regulatory Change Proposal

TITLE 4. Department of Consumer Affairs
Bureau of Electronic and Appliance Repair,
Home Furnishings and Thermal Insulation

NOTICE IS HEREBY GIVEN that the Bureau of Electronic and Appliance Repair, Home Furnishings and Thermal Insulation (Bureau) is proposing to take the action described in the Informative Digest. Any interested person may present statements or arguments relevant to the action proposed, orally or in writing, at a hearing to be held at 1747 N. Market Blvd, room # 186, Sacramento, CA 95834, at 9:00 A.M., on September 17, 2018. Webcasting is available at <https://thedcapage.blog/webcasts/>. Participants may also teleconference at (866) 842-2981 (passcode # 4598662).

Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Bureau at its office not later than 5:00 p.m. on September 17, 2018 or must be received by the Bureau at the hearing. The Bureau, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by sections 19031, 19034, and 19034.5 of the Business and Professions Code and to implement, interpret, or make specific section 19161 of the Business and Professions Code, the Bureau is considering revising sections 1374 and 1374.3 of Division 3 of Title 4 of the California Code of Regulations, as described in this Notice.

INFORMATIVE DIGEST

- A. Informative Digest/Policy Statement Overview
Pursuant to Business and Professions Code (B & PC) section 19161, the Bureau may adopt regulations that it deems necessary to implement the standards for "Fire Retardant" furniture.

Existing regulations require that filling materials in upholstered furniture used in public-occupied buildings must comply with the California upholstered furniture flammability standard, Technical Bulletin (TB) 117-2013. TB 133 is also a recognized fire-retardant flammability test standard for upholstered furniture used in publicly-occupied buildings. This proposal would eliminate the TB 133 test standard and accompanying label requirements because TB 133 is a redundant test standard that causes confusion within the industry and presents unnecessary health risks. Therefore, the Bureau is proposing the following amendments:

Amend section 1374:

The proposed amendment to this section removes the reference to TB 133 and its requirements that all upholstered seating furniture sold for use in publicly-occupied buildings shall meet the flammability test requirements set forth in TB 133.

Amend Section 1374.3:

The proposed amendment to this section removes the requirement to have labels on upholstered seating furniture that state the product meets TB 133 flammability requirements.

B. Anticipated Benefits of Proposal

This regulatory action is projected to lower costs of upholstered seating furniture used in public buildings and reduce the need for flame retardants in component materials. The flame retardants are commonly applied to foams, textiles, and polymers during or after production of upholstered furniture to meet the existing TB 133 standard.

In addition, by reducing the need for flame retardant chemicals, this action is anticipated to improve public health by reducing exposure to carcinogenic organohalogen flame retardants.

The primary purpose for amending section 1374.3 is to remove the necessity of the TB 133 label on furniture in publicly-occupied buildings. The removal of this requirement aligns this section with the proposed amendment to section 1374 and establishes TB 117-2013 as the standard for furniture in publicly-occupied buildings and decreases the exposure to hazardous chemical flame retardants. The proposed amendments also have the added benefit of simplifying the labeling requirements for the manufacturers.

C. Consistency and Compatibility with Existing State Regulations

During the process of developing these regulations and amendments, the Bureau conducted a search of any similar regulations on this topic and has concluded that there is no reasonable interpretation of any state regulation that is inconsistent or incompatible with the proposed action.

INCORPORATION BY REFERENCE

None

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Sections 17500 - 17630 Require Reimbursement: None

Business Impact:

The Bureau has made an initial determination that the proposed regulatory action will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. This initial determination is based on the following facts or evidence/documents/testimony:

Furniture manufacturers have often cited the added cost of manufacturing TB 133 compliant furniture associated with both labor and material costs, including flame retardants. Therefore, the proposed regulatory action is likely to have a positive impact on California businesses by reducing manufacturing costs.

Also, manufacturers often state that meeting the TB 133 standard results in loss of resiliency and comfort, as well as potential degradation of the highly fire-retardant components materials (such as foams that include flame retardants) in furniture. Elimination of TB 133 may, therefore, result in manufacturers producing longer-lasting furniture at a lower price, while also maintaining high safety standards.

Cost Impact on Representative Private Person or Business:

The Bureau is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. This proposal will have no cost impact affecting current registration fees, business practices, or registration trends. For these reasons, the Bureau anticipates no economic impact on businesses or private person.

Effect on Housing Costs: None

EFFECT ON SMALL BUSINESS

The Bureau has determined that the proposed regulation would not affect small businesses as most small businesses are not employed in the manufacture of TB 133 compliant products. If a small business was employed in the manufacture of TB 133 compliant products, the likely effect would be beneficial, resulting from a decrease in manufacturing costs due to lower labor and material costs.

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS:

Impact on Jobs/Businesses:

The Bureau has determined that this regulatory proposal will not have a significant impact on the creation or elimination of jobs, new or existing businesses, or the expansion of businesses in the State of California.

Benefits of Regulation:

The Bureau has determined that this regulatory proposal will have the following benefits to the health, safety, and welfare of California residents:

This regulatory action is projected to lower costs of upholstered seating furniture used in public buildings and reduce the need for flame retardants in component materials, which are commonly applied to foams, textiles, and polymers during or after production of upholstered furniture to meet the existing TB 133 standard. In addition, by reducing the need for flame retardant chemicals, this action is anticipated to improve public health by reducing exposure to carcinogenic organohalogen flame retardants.

By eliminating the outdated TB 133 standard, this regulatory action will provide clarity to the manufacturing industry by eliminating competing flammability standards.

CONSIDERATION OF ALTERNATIVES

The Bureau must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposal described in this Notice, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

INITIAL STATEMENT OF REASONS AND INFORMATION

The Bureau has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations, and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Bureau at 4244 South Market Court, Suite D, Sacramento, CA 95834.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or by accessing the website listed below.

CONTACT PERSON

Inquiries or comments concerning the proposed rulemaking action may be addressed to:

Name: Nicholas Oliver
Address: 4244 South Market Court, Suite D
Sacramento, CA 95834
Telephone No.: (916) 999-2041
E-Mail Address: reg_change@dca.ca.gov

The backup contact person is:

Name: Diana Godines
Address: 4244 South Market Court, Suite D
Sacramento, CA 95834
Telephone No.: (916) 999-2041
Fax No.: (916) 921-7279
E-Mail Address: reg_change@dca.ca.gov

Website Access: Materials regarding this proposal can be found at www.bearhfti.ca.gov.

**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.~~

(dc) Minimum size of the label for subsections (a), and (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.

Agenda Item 6: Update on First Month of Supporting Household Movers

CALIFORNIA DEPARTMENT OF CONSUMER AFFAIRS



INDUSTRY ADVISORY

Online Access to Max Rate Tariff 4 and Distance Table 8

In an effort to improve efficiency in the household movers licensing process and to reduce costs to both the State and California household movers, the Bureau of Electronic and Appliance Repair, Home Furnishings, and Thermal Insulation (Bureau) is providing access to an electronic copy of the Max Rate Tariff 4 and the Distance Table 8, free of charge. The Bureau has determined that household movers are no longer required to remit the printing fee for these documents. These documents, and other information related to the household movers program are available at the link provided below:

<http://www.bearhfti.ca.gov/licensee/index.shtml>

The Bureau will continue to explore new and innovative business practices as ongoing support for the program develops. To stay apprised of new changes to the household movers program, consider joining our Interested Parties list here:

<https://www.dca.ca.gov/webapps/bearhfti/subscribe.php>

For more information or for questions, please contact the Bureau at (916) 999-2041 or by email at homeproducts@dca.ca.gov.