

August 27, 2020  
Advisory Council Meeting Materials Packet

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**BUREAU OF HOUSEHOLD GOODS AND SERVICES  
ADVISORY COUNCIL MEETING  
NOTICE & AGENDA  
August 27, 2020 | Thursday | 9:00 am  
Until the Completion of Business**

**Meeting Location:**

Webex Meeting Link

<https://dca-ca.webex.com/dca-ca/onstage/g.php?MTID=e70537663c177cfd21fb6bfee6db012c9>

**Teleconference Participation Option:**

Phone Number: (866) 842-2981

Participant Passcode #: 4598662

**Advisory Council Members:**

Pascal Benyamini, Industry

Burt Grimes, Industry

Donald Lucas, Public

Dan Rhodes, Industry

Steve Weitekamp, Industry

James Garelli, Industry

Chris Higdon, Industry

Stephen McDaniel, Industry

Toby Taylor, Industry

Heidi Sanborn, Public

*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 Melissa Del Duca via email [Melissa.Del-Duca@dca.ca.gov](mailto:Melissa.Del-Duca@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.*

## AGENDA

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
2. Operations Update
  - a. Budget Update
  - b. Personnel Update
3. Statistical Overview
  - a. Laboratory Testing
  - b. Licensing
  - c. Consumer Complaints
  - d. Enforcement and Investigations
4. Division of Household Movers Exam Update
5. Regulations Update
  - a. Section 100 Amendments – Outdated Regulations
  - b. Home Furnishings and Thermal Insulation Substantial Relationship Criteria and Rehabilitation Criteria – Amendments to Title 4, California Code of Regulations (CCR) §§1380 and 1381
  - c. Electronic and Appliance Repair Substantial Relationship Criteria and Rehabilitation Criteria – Amendments to Title 16, CCR §§2767 and 2768
  - d. Household Mover Regulations – Initial Rulemaking Proposal: Definitions, Enforcement, Substantial Relationship and Rehabilitation Criteria, and Advertising
6. Legislative Update
  - a. AB 2138 (Chiu, Chapter 995, Statutes of 2018) Implementation
  - b. AB 1616 (Low) – Department of Consumer Affairs: boards: expunged convictions
  - c. AB 1850 (Gonzalez) – Worker classification: employees and independent contractors
  - d. AB 2185 (Patterson) – Professions and vocations: applicants licensed in other states: reciprocity
  - e. AB 2460 (Daly) – Department of Consumer Affairs: Bureau of Household Goods and Services: household movers
  - f. SB 878 (Jones) – Department of Consumer Affairs: license: application: processing timeframes
7. Public Comment on Items Not on the Agenda
8. Adjournment

## **Agenda Item 2a: Budget Update**

# 0325 - Electronic and Appliance Repair Analysis of Fund Condition

Prepared 7.21.2020

(Dollars in Thousands)

## 2020-21 Budget Act w/ 19-20 FM 11 Projections

	PY 2019-20	Budget Act CY 2020-21	BY 2021-22
<b>BEGINNING BALANCE</b>	\$ 4,072	\$ 4,611	\$ 4,684
Prior Year Adjustment	\$ -	\$ -	\$ -
Adjusted Beginning Balance	<u>\$ 4,072</u>	<u>\$ 4,611</u>	<u>\$ 4,684</u>
<b>REVENUES, TRANSFERS, AND OTHER ADJUSTMENTS</b>			
Revenues:			
4121200 Delinquent fees	\$ 79	\$ 113	\$ 113
4127400 Renewal fees	\$ 2,503	\$ 2,739	\$ 2,739
4129200 Other regulatory fees	\$ 8	\$ 27	\$ 27
4129400 Other regulatory licenses and permits	\$ 210	\$ 275	\$ 275
4163000 Income from surplus money investments	\$ 99	\$ 63	\$ 69
4171400 Escheat of unclaimed checks and warrants	\$ 5	\$ 10	\$ 10
4172500 Miscellaneous revenues	\$ 1	\$ -	\$ -
Total Revenues, Transfers, and Other Adjustments	<u>\$ 2,905</u>	<u>\$ 3,227</u>	<u>\$ 3,233</u>
Total Resources	<u>\$ 6,977</u>	<u>\$ 7,838</u>	<u>\$ 7,917</u>
<b>EXPENDITURE AND EXPENDITURE ADJUSTMENTS</b>			
Expenditures:			
1111 Department of Consumer Affairs Regulatory Boards, Bureaus, Divisions (State Operations)	\$ 2,171	\$ 2,978	\$ 3,067
9892 Supplemental Pension Payments (State Operations)	\$ 46	\$ 46	\$ 46
9900 Statewide General Administrative Expenditures (Pro Rata) (State Operations)	\$ 149	\$ 130	\$ 130
Total Expenditures and Expenditure Adjustments	<u>\$ 2,366</u>	<u>\$ 3,154</u>	<u>\$ 3,243</u>
<b>FUND BALANCE</b>			
Reserve for economic uncertainties	\$ 4,611	\$ 4,684	\$ 4,674
<b>Months in Reserve</b>	17.5	17.3	16.8

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

Prepared 7.21.2020

(Dollars in Thousands)

## 2020-21 Budget Act w/ 19-20 FM 11 Projections

	PY 2019-20	Budget Act CY 2020-21	BY 2021-22
<b>BEGINNING BALANCE</b>	\$ 4,331	\$ 4,959	\$ 4,234
Prior Year Adjustment	\$ -	\$ -	\$ -
Adjusted Beginning Balance	<u>\$ 4,331</u>	<u>\$ 4,959</u>	<u>\$ 4,234</u>
<b>REVENUES, TRANSFERS, AND OTHER ADJUSTMENTS</b>			
Revenues:			
4121200 Delinquent fees	\$ 114	\$ 111	\$ 111
4127400 Renewal fees	\$ 4,132	\$ 3,910	\$ 3,910
4129200 Other regulatory fees	\$ 108	\$ 112	\$ 112
4129400 Other regulatory licenses and permits	\$ 811	\$ 956	\$ 975
4163000 Investment Income - Surplus Money Investments	\$ 109	\$ 40	\$ 28
4171400 Escheat - Unclaimed Checks, Warrants, Bonds, and Coupons	\$ 14	\$ 10	\$ 10
4171500 Escheat - Unclaimed Property	\$ -	\$ 7	\$ 7
4172500 Miscellaneous revenues	\$ 2	\$ -	\$ -
Total Revenues, Transfers, and Other Adjustments	<u>\$ 5,290</u>	<u>\$ 5,146</u>	<u>\$ 5,153</u>
Total Resources	<u>\$ 9,621</u>	<u>\$ 10,105</u>	<u>\$ 9,387</u>
<b>EXPENDITURE AND EXPENDITURE ADJUSTMENTS</b>			
Expenditures:			
1111 Department of Consumer Affairs Regulatory Boards, Bureaus, Divisions (State Operations)	\$ 4,261	\$ 5,501	\$ 5,666
8880 Financial Information System for California (State Operations)	\$ -1	\$ -	\$ -
9892 Supplemental Pension Payments (State Operations)	\$ 111	\$ 111	\$ 111
9900 Statewide General Administrative Expenditures (Pro Rata) (State Operations)	\$ 291	\$ 259	\$ 259
Total Expenditures and Expenditure Adjustments	<u>\$ 4,662</u>	<u>\$ 5,871</u>	<u>\$ 6,036</u>
<b>FUND BALANCE</b>			
Reserve for economic uncertainties	\$ 4,959	\$ 4,234	\$ 3,351
<b>Months in Reserve</b>	10.1	8.4	6.5

# 3315 - Household Movers Fund

## Analysis of Fund Condition

Prepared 7.21.2020

(Dollars in Thousands)

### 2020-21 Budget Act w/ 19-20 FM 11 Projections

	PY 2019-20	Budget Act CY 2020-21	BY 2021-22
<b>BEGINNING BALANCE</b>	\$ 2,414	\$ 3,460	\$ 2,459
Prior Year Adjustment	\$ -	\$ -	\$ -
Adjusted Beginning Balance	<u>\$ 2,414</u>	<u>\$ 3,460</u>	<u>\$ 2,459</u>
<b>REV #</b>			
Revenues:			
4121200 Delinquency Fees	\$ 96	\$ 41	\$ 41
4127400 Renewal fees	\$ 2,678	\$ 2,052	\$ 2,052
4129200 Other Regulatory Fees	\$ 65	\$ 53	\$ 53
4129400 Other Regulatory Licenses and Permits	\$ 110	\$ 90	\$ 90
4163000 Investment Income - Surplus Money Investments	\$ 28	\$ 26	\$ 26
4173000 Penalty Assessments - Other	\$ 2	\$ 2	\$ 2
Totals, Revenues	<u>\$ 2,979</u>	<u>\$ 2,264</u>	<u>\$ 2,264</u>
Transfers and Other Adjustments			
Revenue Transfer from Household Mover's Fund (3315) to Motor Carriers Safety Improvement Fund (0293) per Public Utilities Code Section 5003.1	\$ -21	\$ -21	\$ -21
Revenue Transfer from the Transportation Rate Fund (0412) to the Household Mover's Fund (3315) per 8660-011-0412 and 8660-401, Budget Act of 2018	\$ -	\$ -	\$ -
Revenue Transfer from the Transportation Rate Fund (0412) to Household Movers Fund (3315) per 8660-401, Budget Act of 2018	\$ -	\$ -	\$ -
Total Revenues, Transfers, and Other Adjustments	<u>\$ 2,958</u>	<u>\$ 2,243</u>	<u>\$ 2,243</u>
Total Resources	<u>\$ 5,372</u>	<u>\$ 5,703</u>	<u>\$ 4,702</u>
<b>EXPENDITURE AND EXPENDITURE ADJUSTMENTS</b>			
Expenditures:			
Department of Consumer Affairs Regulatory Boards, Bureaus, Divisions (State Operations)	\$ 1,912	\$ 2,962	\$ 2,962
8800 Financial Information System for California (State Operations)	\$ -	\$ -	\$ -
9892 Supplemental Pension Payments (State Operations)	\$ -	\$ -	\$ -
Statewide General Administrative Expenditures (Pro Rata) (State Operations)	\$ -	\$ 282	\$ 282
Total Expenditures and Expenditure Adjustments	<u>\$ 1,912</u>	<u>\$ 3,244</u>	<u>\$ 3,244</u>
<b>FUND BALANCE</b>			
Reserve for economic uncertainties	\$ 3,460	\$ 2,459	\$ 1,458
<b>MONTHS IN RESERVE</b>	12.8	9.1	5.2

## **Agenda Item 3a: Laboratory Statistical Overview**

## LAB STATISTICS

### Data for FYTD 02/21/2020 – 8/14/2020

Type Test	Received 02/21/2020 – 8/14/2020	Completed Samples 02/21/2020 – 8/14/2020	
		Pass	Fail
TB117-2013	9	59 (95%)	3 (5%)
16 CFR 1633	1	9 (90%)	1 (10%)
Thermal Insulation	0	7 (70%)	3 (30%)
Bedding (No flammability tests)	0	19 (100%)	0
**Labeling	N/A	Pass 15 (14%), Minor Violation 40 (38%), Moderate Violation 48 (48%), Failure 3 (3%)	

\*\*This category includes labeling results for all products except for Thermal Insulation. From 02/21/2020 – 8/14/2020.

Type Test	Completed 02/21/2020 – 8/14/2020	Manufacturing Locations 02/21/2020 – 8/14/2020		
		USA-CA	USA-other states	Overseas
TB117-2013	65	17 (26%)	2 (3%)	46 (71%)
16 CFR 1633	10	5 (50%)	3 (30%)	2 (20%)

### FR Chemical Labeling and Analysis

Samples Received with the Flame Retardant Chemical Statement (TB117-2013) 02/21/2020 – 8/14/2020				
"NO" Chemicals Checked	Contains Chemicals	No Box Checked	FR Doc Request Sent	DTSC Analysis Requested
9	0	0	0	7
100%	0%	0%		

Samples Analyzed with the "NO" Flame Retardant Chemical Statement 02/21/2020 – 8/14/2020				
Type Test	Pass		Fail	
	No.	%	No.	%
DTSC Analysis	9	90	1	10

- Review in progress for one sample.

## **Agenda Item 3b: Licensing Statistical Overview**

## LICENSING STATISTICS AUGUST 2020

<b>Electronic and Appliance Repair Registrations</b>				
	2017-18	2018-19	2019-20	2020-21
Appliance Service Dealers	2,632	2,634	2,538	33
Electronic Service Dealer	4,914	4,849	4,089	20
Combination Electronic/Appliance Service Dealer	583	557	406	5
Service Contract Administrator	47	50	57	0
Service Contract Seller	12,633	12,026	11,847	18
<b>Total Active EAR Registrations</b>	<b>20,809</b>	<b>20,152</b>	<b>18,937</b>	<b>76</b>

<b>Home Furnishings and Thermal Insulation Licenses</b>				
	2017-18	2018-19	2019-20	2020-21
Furniture Retailers	2,057	2,121	2,079	3
Bedding Retailers	2,033	2,172	2,245	2
Furniture & Bedding Retailers	11,872	11,554	11,260	12
Custom Upholsterers	497	483	476	0
Supply Dealers	110	100	96	0
Importers (includes overseas Manufacturers)	5,096	5,339	5,559	57
Manufacturers	1,530	1,522	1,467	5
Sanitizers	12	14	24	0
Wholesalers	196	188	183	1
Thermal Insulation Manufacturers	109	107	114	0
<b>Total Active HFTI Licenses</b>	<b>23,512</b>	<b>23,600</b>	<b>23,503</b>	<b>80</b>

<b>Geographic Breakdown of Importers/Manufacturers/Wholesalers as 8/14/20</b>	
Importer – California	621
Importer – Other States	928
Importer/Manufacturer – Overseas	6,960
Manufacturer – California	793
Manufacturer – Other States	951
Wholesalers - California	156
Wholesalers – Other States	57
Wholesalers – Overseas	2

<b>Household Movers Permits</b>				
	2017-18	2018-19	2019-20	2020-21
Permits Issued		36	140	7
Exams Administered		36	139	11
Exam Pass Rate		64%	89%	82%
<b>Total Active HHM Permits</b>		<b>936</b>	<b>1,051</b>	<b>1,062</b>

**LICENSING STATISTICS (Continued)**  
**AUGUST 2020**

FY 2019/2020 Total Quarter Revenue						
Quarterly Report	No. of Permits	Gross Revenue	Admin Fees	CHP Fees	Net Revenue	Net Including Admin Fees
2019 3rd Quarter	1,034	\$896,702.23	\$10,340.00	\$5,170.00	\$881,192.23	\$891,532.23
2019 4th Quarter	1,041	\$717,706.95	\$10,410.00	\$5,205.00	\$702,091.95	\$712,501.95
2020 1st Quarter	1,030	\$658,674.00	\$10,300.00	\$5,150.00	\$643,224.00	\$653,524.00
2020 2nd Quarter	488	\$267,079.97	\$4,880.00	\$2,440.00	\$259,759.97	\$264,639.97

## **Agenda Item 3c: Consumer Complaints Statistical Overview**

## CONSUMER COMPLAINT STATISTICS

\*(7/1/2020 – 7/31/2020)

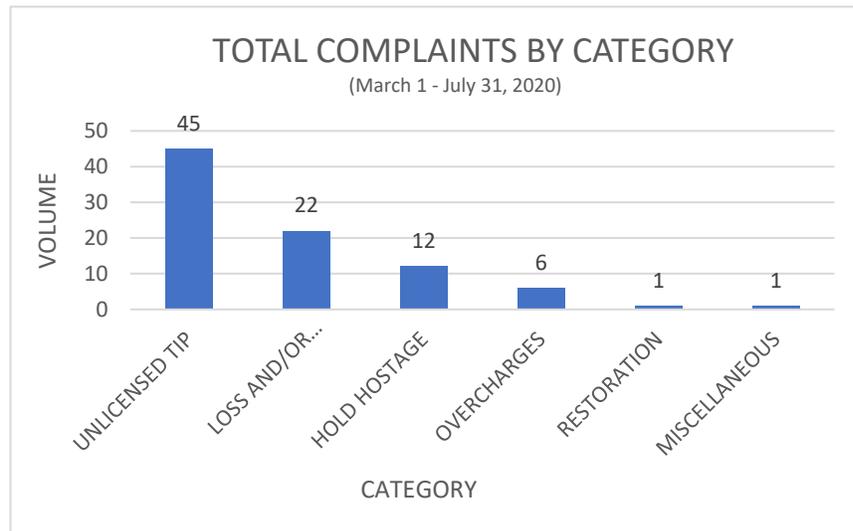
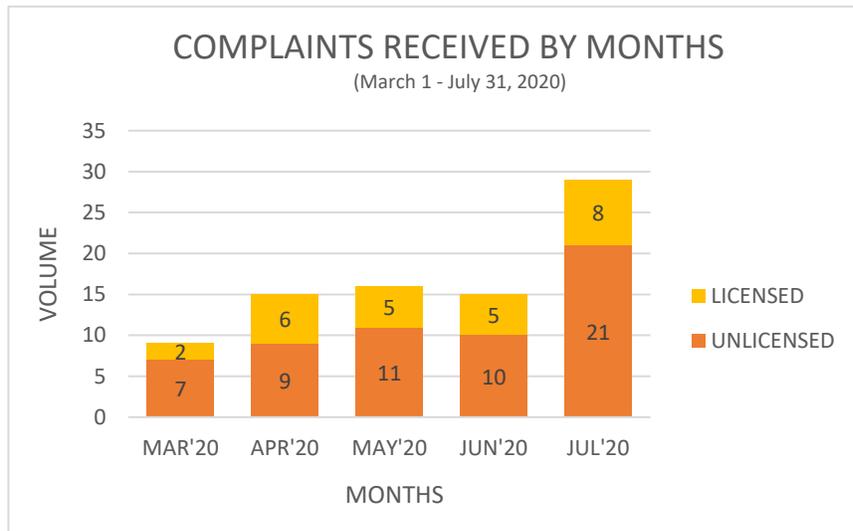
Electronic and Appliance Repair Consumer Complaints		
Year	OPENED	CLOSED
2017-18	1019	1014
2018-19	528	500
2019-20	531	419
2020-21*	61	60

Home Furnishings and Thermal Insulation Consumer Complaints		
Year	OPENED	CLOSED
2017-18	288	281
2018-19	158	157
2019-20	319	267
2020-21*	39	18

## CONSUMER COMPLAINT STATISTICS (Continued)

\*(7/1/2020 – 7/31/2020)

Household Movers Consumer Complaints		
Year	OPENED	CLOSED
2018-19	203	181
2019-20	199	169
2020-21*	29	27



## **Agenda Item 3d: Enforcement and Investigations Statistical Overview**

## ENFORCEMENT STATISTICS

### BEAR / HFTI

\*7/1/20 - 7/31/20

TELEPHONE DISCONNECTS ORDERED			
Year	BEAR	HFTI	Total
2017-18	48	17	65
2018-19	15	9	24
2019-20	7	0	7
2020-21*	0	0	0

INTERNAL CASES (Investigations)						
OPENED				CLOSED		
Year	BEAR	HFTI	Total	BEAR	HFTI	Total
2017-18	624	355	979	705	388	1093
2018-19	400	215	615	434	216	650
2019-20	257	136	393	235	118	353
2020-21*	24	32	56	27	33	60

CITATIONS ISSUED			
Year	BEAR	HFTI	Total
2017-18	550	305	855
2018-19	384	230	614
2019-20	227	116	343
2020-21*	27	37	64

**ENFORCEMENT AND INVESTIGATIONS (Continued)**  
**\*(7/1/2020 – 7/31/2020)**

**ENFORCEMENT ACTIVITY**

<b>Home Movers</b>	<b>Unlicensed Contact</b>	<b>Unlicensed Citation</b>	<b>Investigative Visits</b>	<b>Cases Assigned</b>	<b>Hold Hostage Assigned</b>	<b>Hold Hostage Resolved / Goods Returned</b>	<b>C&amp;D Ltrs Sent Out</b>	<b>Outreach Events</b>	<b>Monthly Enforcement Activity</b>
April	52	1	3	17	1	1	44	0	119
May	61	0	0	22	2	3	13	1	102
June	30	0	7	12	1	0	9	0	59
*July	94	1	29	29	12	5	10	0	180
<b>TOTAL</b>	<b>143</b>	<b>2</b>	<b>39</b>	<b>80</b>	<b>16</b>	<b>9</b>	<b>76</b>	<b>1</b>	<b>460</b>

<b>EAR</b>	<b>Unlicensed Contact</b>	<b>Unlicensed Citation</b>	<b>Investigative Visits</b>	<b>Licensed First Visit</b>	<b>Cases Assigned</b>	<b>C&amp;D Ltrs Sent Out</b>	<b>Monthly Enforcement Activity</b>
April	9	1	1	0	8	0	19
May	23	1	0	0	30	11	65
June	11	2	7	1	3	0	24
*July	54	29	18	1	47	0	149
<b>TOTAL</b>	<b>97</b>	<b>33</b>	<b>26</b>	<b>2</b>	<b>88</b>	<b>11</b>	<b>257</b>

<b>HFTI</b>	<b>Unlicensed Contact</b>	<b>Unlicensed Citation</b>	<b>Investigative Visits</b>	<b>Licensed First Visit</b>	<b>Cases Assigned</b>	<b>Lab Samples Obtained</b>	<b>C&amp;D Ltrs Sent Out</b>	<b>Monthly Enforcement Activity</b>
April	29	0	0	0	2	0	0	31
May	39	0	0	0	10	0	1	50
June	34	1	4	0	6	0	7	52
*July	53	30	18	2	45	12	0	160
<b>TOTAL</b>	<b>155</b>	<b>31</b>	<b>22</b>	<b>2</b>	<b>63</b>	<b>12</b>	<b>8</b>	<b>293</b>

# ENFORCEMENT AND INVESTIGATIONS (Continued)

(7/1/2020 – 7/31/2020)

## SWEEP STATISTICS

### San Jose: 7/29/20

Program: HHM  
Contacts made: 1  
Citations issued: 0  
Cease letters delivered: 0  
Investigative visits without contact: 2

Program: EAR  
Contacts made: 3  
Citations issued: 2  
Cease letters delivered: 0  
Investigative visits without contact: 2

Program: HFTI  
Contacts made: 1  
Citations issued: 1  
Cease letters delivered: 0  
Investigative visits without contact: 0

### San Bernardino: 7/15/20 – 7/16/20

Program: EAR  
Contacts made: 12  
Citations issued: 10  
Cease letters delivered: 0  
Investigative visits without contact: 3  
Applications received: 8

### San Diego: 7/15/20 – 7/16/20

Program: HHM  
Contacts made: 11  
Citations issued: 2  
Cease letters delivered: 4  
Investigative visits without contact: 5

## **Agenda Item 6b: AB 1616**

AMENDED IN SENATE JULY 7, 2020  
AMENDED IN ASSEMBLY JANUARY 6, 2020  
AMENDED IN ASSEMBLY APRIL 1, 2019  
california legislature—2019–20 regular session

**ASSEMBLY BILL**

**No. 1616**

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**Introduced by Assembly Member Low  
(Coauthor: Assembly Member Eduardo Garcia)**

February 22, 2019

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An act to add Section 493.5 to the Business and Professions Code, relating to professions and vocations.

**legislative counsel's digest**

AB 1616, as amended, Low. Department of Consumer Affairs: boards: expunged convictions.

Existing law establishes the Department of Consumer Affairs, which is composed of various boards, and authorizes a board to suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued. Existing law, the Medical Practice Act, provides for the licensure and regulation of the practice of medicine by the Medical Board of California and requires the board to post certain historical information on current and former licensees, including felony and certain misdemeanor convictions. Existing law also requires the Medical Board of California, upon receipt of a certified copy of an expungement order from a current or former licensee, to post notification of the expungement order and the date thereof on its internet website.

This bill would require a board within the department that has posted on its internet website that a person’s license was revoked because the person was convicted of a ~~crime to, crime~~, within ~~6 months~~ *90 days* of receiving ~~the an~~ expungement order for the underlying offense from the person, *if the person reapplies for licensure or is relicensed*, to post notification of the expungement order and the date thereof on the board’s internet ~~website if the person applies for licensure or is relicensed, or remove the initial posting on its internet website that the person’s license was revoked~~ *website*. *The bill would require the board, on receiving an expungement order*, if the person is not currently licensed and does not reapply for licensure, ~~as specified: to remove within the same period the initial posting on its internet website that the person’s license was revoked and information previously posted regarding arrests, charges, and convictions~~. The bill would require a person *in either case* to pay a ~~fee, to be \$50 fee to the board, unless another amount is~~ determined by the ~~department, to the board for~~ *board to be necessary to cover* the cost of administering the bill’s provisions.

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

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

1 SECTION 1. Section 493.5 is added to the Business and  
 2 Professions Code, to read:  
 3 493.5. (a) A board within the department that has posted on  
 4 its internet website that a person’s license was revoked because  
 5 the person was convicted of a crime, upon receiving from the  
 6 person a certified copy of an expungement order granted pursuant  
 7 to Section 1203.4 of the Penal Code for the underlying offense,  
 8 shall, within ~~six months~~ *90 days* of receiving the expungement  
 9 order, unless it is otherwise prohibited by law, or by other terms  
 10 or conditions, do either of the following:  
 11 (1) If the person reapplies for licensure or has been relicensed,  
 12 post notification of the expungement order and the date thereof on  
 13 its internet website.  
 14 (2) If the person is not currently licensed and does not reapply  
 15 for licensure, remove the initial posting on its internet website that  
 16 the person’s license was ~~revoked~~. *revoked and information*  
 17 *previously posted regarding arrests, charges, and convictions.*

- 1 (b) A person described in subdivision (a) shall pay to the board  
2 a fee in ~~an~~ *the* amount ~~to be~~ *of fifty dollars (\$50), unless another*  
3 *amount is* determined by the ~~department~~ *board to be necessary to*  
4 *cover the administrative cost, ensuring that the amount* does not  
5 exceed the reasonable cost of administering this section. The fee  
6 shall be deposited by the board into the appropriate fund and shall  
7 be available only upon appropriation by the Legislature.
- 8 (c) For purposes of this section “board” means an entity listed  
9 in Section 101.
- 10 (d) If any provision in this section conflicts with Section 2027,  
11 Section 2027 shall prevail.

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## **Agenda Item 6c: AB 1850**

AMENDED IN ASSEMBLY MAY 12, 2020  
AMENDED IN ASSEMBLY FEBRUARY 27, 2020  
AMENDED IN ASSEMBLY FEBRUARY 14, 2020  
california legislature—2019–20 regular session

**ASSEMBLY BILL**

**No. 1850**

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**Introduced by Assembly Member Gonzalez**

January 6, 2020

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An act to repeal and add Section 2750.3 of the Labor Code, relating to employment.

**legislative counsel's digest**

AB 1850, as amended, Gonzalez. ~~Employee classification: still photographers, photojournalists: freelancers.~~ *Worker classification: employees and independent contractors.*

*Existing law requires a 3-part test, commonly known as the "ABC" test, to determine if workers are employees or independent contractors for purposes of the Labor Code, the Unemployment Insurance Code, and the wage orders of the Industrial Welfare Commission. Under the ABC test, a person providing labor or services for remuneration is considered an employee rather than an independent contractor unless the hiring entity demonstrates that the person is free from the control and direction of the hiring entity in connection with the performance of the work, the person performs work that is outside the usual course of the hiring entity's business, and the person is customarily engaged in an independently established trade, occupation, or business. Existing law charges the Labor Commissioner with the enforcement of labor laws, including worker classification.*

*Existing law exempts specified occupations and business relationships from the application of the ABC test described above. Existing law, instead, provides that these exempt relationships are governed by the multifactor test previously adopted in the case of S. G. Borello & Sons, Inc. v. Department of Industrial Relations (1989) 48 Cal.3d 341.*

*Existing exemptions include a bona fide business-to-business contracting relationship, as defined, under the specified conditions. Under existing law, the business-to-business exemption does not apply to an individual worker, as opposed to a business entity, who performs labor or services for a contracting business.*

*This bill would delete that individual worker provision.*

*Existing exemptions include the relationship between a referral agency and a service provider, as defined, under the specified conditions. If a business entity formed as a sole proprietor, partnership, limited liability company, limited liability partnership, or corporation (“service provider”) provides services to clients through a referral agency, the referral agency is required to demonstrate that certain criteria are satisfied, including that, if the work for the client is performed in a jurisdiction that requires the service provider to have a business license or business tax registration, the service provider has the required business license or business tax registration. The exemption does not apply to an individual worker, as opposed to a business entity, who performs services for a client through a referral agency.*

*This bill would revise the criteria to be satisfied, including requiring the referral agency to check the validity of one license in a location where the service provider performs work a minimum of one time per calendar year. The bill would delete that individual worker provision.*

*The referral agency exemption defines “referral agency” as a business that connects clients with specific listed service providers, including tutors.*

*This bill would revise the definition of “referral agency” to include a business that connects clients with service providers such as those listed in the definition. The bill would revise the definition of tutor. The bill would add youth sports coaching as a listed service provider and define the term.*

*Existing exemptions include persons providing professional services under specified circumstances, including services provided by still photographers, photojournalists, freelance writers, editors, and newspaper cartoonists who do not license or provide, as applicable, content submissions more than 35 times annually to a putative employer.*

*This bill would additionally exempt professional services of a specialized performer hired by a performing arts company or organization to teach a master class, as defined, for no more than one week, and an appraiser.*

*This bill would delete the existing professional services exemptions for services provided by still photographers, photojournalists, freelance writers, editors, and newspaper cartoonists. The bill would, instead, establish an exemption for services provided by a still photographer, photojournalist, videographer, or photo editor, as defined, who works under a contract that specifies certain terms in advance, as long as the individual providing the services is not replacing an employee performing the same work at the same volume, the individual does not primarily perform the work at the hiring entity's business location, and the individual is not restricted from working for more than one hiring entity. The bill would establish an exemption for services provided to a digital content aggregator, as defined, by a still photographer, photojournalist, videographer, or photo editor. The bill would establish an exemption for services provided by a freelance writer, certified translator, editor, copyeditor, illustrator, or newspaper cartoonist who works under a contract that specifies certain terms in advance, as long as the individual providing the services is not replacing an employee performing the same work at the same volume, the individual does not primarily perform the work at the hiring entity's business location, and the individual is not restricted from working for more than one hiring entity.*

*Existing exemptions include listed occupations, including a person or organization who is licensed by the Department of Insurance.*

*The bill would additionally exempt professional services of a person who provides underwriting inspections, premium audits, risk management or loss control work for the insurance industry.*

*The bill would additionally exempt an individual who is engaged by an international exchange visitor program, as prescribed, and a competition judge with a specialized skillset or expertise providing services that require the exercise of discretion and independent judgment to an organization for the purposes of determining the outcome of a competition.*

*The bill would additionally exempt certain occupations in connection with creating, marketing, promoting, or distributing sound recordings or musical compositions.*

~~Existing law, as established in the case of *Dynamex Operations W. v. Superior Court* (2018) 4 Cal.5th 903 (*Dynamex*), creates a presumption that a worker who performs services for a hirer is an employee for purposes of claims for wages and benefits arising under wage orders issued by the Industrial Welfare Commission. Existing law requires a 3-part test, commonly known as the “ABC” test, to determine if workers are employees or independent contractors for purposes of specified wage orders.~~

~~Existing statutory law establishes that, for purposes of the Labor Code, the Unemployment Insurance Code, and the wage orders of the Industrial Welfare Commission, a person providing labor or services for remuneration is considered an employee rather than an independent contractor unless the hiring entity demonstrates that the “ABC” test is met. Existing law charges the Labor Commissioner with the enforcement of labor laws, including worker classification.~~

~~Existing law exempts specified occupations and business relationships, including persons providing professional services under specified circumstances, including services provided by still photographers, photojournalists, freelance writers, editors, and newspaper cartoonists who do not license or provide, as applicable, content submissions more than 35 times annually to a putative employer, from the application of *Dynamex* and these provisions. Existing law instead provides that these exempt relationships are governed by the multifactor test previously adopted in the case of *S. G. Borello & Sons, Inc. v. Department of Industrial Relations* (1989) 48 Cal.3d 341.~~

~~This bill would replace the submission limit and instead exempt still photographers, photojournalists, freelance writers, editors, and newspaper cartoonists from the application of *Dynamex* and these provisions based upon different specified criteria, including that these persons provide professional services pursuant to a contract that includes specified items, as provided.~~

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

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

- 1 SECTION 1. Section 2750.3 of the Labor Code is repealed.
- 2 SEC. 2. Section 2750.3 is added to the Labor Code, to read:
- 3 2750.3. (a) (1) For purposes of ~~the provisions of~~ this code
- 4 and the Unemployment Insurance Code, and for *the purposes of*

## **Agenda Item 6d: AB 2185**

AMENDED IN ASSEMBLY MAY 13, 2020  
AMENDED IN ASSEMBLY MARCH 16, 2020  
california legislature—2019–20 regular session

**ASSEMBLY BILL**

**No. 2185**

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**Introduced by Assembly Members Patterson and Gallagher**

February 11, 2020

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An act to add Section 117 to the Business and Professions Code, relating to professions and vocations.

**legislative counsel's digest**

AB 2185, as amended, Patterson. Professions and vocations: applicants licensed in other states: reciprocity.

Existing law establishes the Department of Consumer Affairs, which is composed of boards that license and regulate various professions and vocations to ensure that certain businesses and professions that have potential impact upon the public health, safety, and welfare are adequately regulated. Existing law makes a violation of some of those licensure provisions a crime.

Existing law authorizes certain boards, for purposes of reciprocity, to waive examination or other requirements and issue a license to an applicant who holds a valid license in another state and meets specified other requirements, including, among others, a license to practice veterinary medicine.

This bill, with exceptions, would require each board within the department to issue a license to an applicant in the discipline for which the applicant applies if the person meets certain requirements, including, but not limited to, that the person is married to, or is in a domestic partnership or other legal union with, an active duty member of the

Armed Forces of the United States, who is assigned to a duty station in this state, the person currently holds a license in good standing in another state in the discipline and practice level and with the same scope of practice for which the person applies, the person has held the license and has practiced in the licensed field in ~~the other~~ *another* state *or jurisdiction* for at least 3 of the last 5 years, and the person pays all applicable fees and complies with any applicable surety bond and insurance requirements. By expanding the applicants who are authorized to be licensed and who may be prosecuted for a violation of those licensure provisions constituting a crime, the bill would impose a state-mandated 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. Section 117 is added to the Business and
- 2 Professions Code, to read:
- 3 117. (a) Notwithstanding any law, each board within the
- 4 department shall issue a license in the discipline for which the
- 5 applicant applies if the applicant meets all of the following
- 6 requirements:
- 7 (1) The person is married to, or is in a domestic partnership or
- 8 other legal union with, an active duty member of the Armed Forces
- 9 of the United States who is assigned to a duty station in this state
- 10 under official active duty military orders.
- 11 (2) The person currently holds a license in good standing in
- 12 another state in the discipline and practice level and with the same
- 13 scope of practice for which the person is applying.
- 14 (3) The person has held the license and has practiced in the
- 15 licensed field in ~~the other~~ *another* state *or jurisdiction* for at least
- 16 three of the last five years.
- 17 (4) The person has not had any disciplinary actions imposed
- 18 against their license and has not had a license in the discipline for

1 which the person is applying revoked or suspended in any other  
2 state.

3 (5) The person submits verification that they have ~~satisfied all~~  
4 ~~education, work, examination, and other requirements for~~ *gained*  
5 licensure in the other state ~~in which the person holds a license in~~  
6 ~~good standing and those requirements are similar to the standards~~  
7 ~~required for licensure in this state.~~ *and holds that license in good*  
8 *standing, and those requirements are deemed similar to the*  
9 *standards required for licensure in this state by the appropriate*  
10 *licensing board.*

11 (6) The person would not be denied licensure under any other  
12 provision of this code, including, but not limited to, disqualification  
13 for criminal history relating to the license sought.

14 (7) The person pays all applicable fees for licensure and  
15 complies with any applicable surety bond and insurance  
16 requirements.

17 (8) If required by the board, the person has passed a California  
18 jurisprudence and ethics examination ~~or other examination~~  
19 otherwise required for applicants by the board on the statutes and  
20 regulations relating to the license.

21 (b) This section shall not supersede any other reciprocity  
22 agreement, compact membership, or statute that provides  
23 reciprocity for a person who holds a valid license in another state.

24 (c) This section shall not apply to the Board of Registered  
25 ~~Nursing,~~ *Nursing or any other board that currently authorizes*  
26 *license portability as a component of qualifying for licensure in*  
27 *this state, and the Board of Behavioral Sciences or any other* board  
28 that has a mandatory license portability requirement in ~~statute, and~~  
29 ~~any board that currently authorizes license portability as a~~  
30 ~~component of qualifying for licensure in this state.~~ *statute. License*  
31 *portability is defined as either providing a license by endorsement*  
32 *with verification of an out-of-state license in good standing, or*  
33 *exempting state-specific requirements to facilitate a practitioner's*  
34 *ability to obtain a license and practice in multiple jurisdictions.*

35 (d) Notwithstanding any law, the fees, fines, penalties, or other  
36 money received by a board pursuant to this section shall not be  
37 continuously appropriated and shall be available only upon  
38 appropriation by the legislature.

39 SEC. 2. No reimbursement is required by this act pursuant to  
40 Section 6 of Article XIII B of the California Constitution because

1 the only costs that may be incurred by a local agency or school  
2 district will be incurred because this act creates a new crime or  
3 infraction, eliminates a crime or infraction, or changes the penalty  
4 for a crime or infraction, within the meaning of Section 17556 of  
5 the Government Code, or changes the definition of a crime within  
6 the meaning of Section 6 of Article XIII B of the California  
7 Constitution.

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## **Agenda Item 6e: AB 2460**

AMENDED IN ASSEMBLY MAY 18, 2020  
AMENDED IN ASSEMBLY MAY 4, 2020  
california legislature—2019–20 regular session

**ASSEMBLY BILL**

**No. 2460**

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**Introduced by Assembly Member Daly**

February 19, 2020

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An act to amend Section 19225.5 of the Business and Professions Code, relating to professions and vocations.

**legislative counsel's digest**

AB 2460, as amended, Daly. Department of Consumer Affairs: Bureau of Household Goods and Services: household movers.

Existing law establishes the Bureau of Household Goods and Services within the Department of Consumer Affairs. Existing law establishes the Division of Household Movers within the bureau and makes it responsible for the licensure and regulation of household movers. Existing law, the Household Movers Act, defines terms for its purposes, including “household mover,” which includes every corporation or person, as specified, engaged in the permitted or unpermitted transportation for compensation or hire as a business by means of a motor vehicle or motor vehicles being used in the transportation of used household goods and personal effects over any public highway in this state.

~~Existing federal law regulating motor carrier transportation excludes from the definition of “household goods motor carrier” a motor carrier that provides transportation of household goods in containers or trailers that are entirely loaded and unloaded by an individual other than an~~

~~employee or agent of the motor carrier, known as a “limited service exclusion.”~~

This bill would exclude from the definition of “household mover” a motor carrier that ~~falls under the federal limited service exclusion or a broker utilizing motor carriers operating under the limited service exclusion.~~ *provides transportation of household goods in containers or trailers where the household goods are entirely loaded and unloaded by an individual other than an employee or agent of the motor carrier and a broker that utilizes the services of that motor carrier and does not otherwise advertise, solicit, offer, or arrange for the full service moving of used household goods by motor carrier for compensation.*

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

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

- 1 SECTION 1. Section 19225.5 of the Business and Professions
- 2 Code is amended to read:
- 3 19225.5. For purposes of this chapter, unless the context
- 4 otherwise requires, the following provisions shall apply:
- 5 (a) “Broker” means a person engaged by others in the act of
- 6 arranging, for compensation, the intrastate transportation of used
- 7 household goods by a motor vehicle over the highways of this state
- 8 for, or on behalf of, a shipper, a consignor, or a consignee.
- 9 (b) “Bureau” refers to the Bureau of Household Goods and
- 10 Services, as established in Section 9810.
- 11 (c) “Chief” refers to the chief of the bureau.
- 12 (d) “Corporation” includes a corporation, a company, an
- 13 association, and a joint stock association.
- 14 (e) “Department” refers to the Department of Consumer Affairs.
- 15 (f) “Director” refers to the Director of Consumer Affairs.
- 16 (g) “Fund” means the Household Movers Fund established
- 17 pursuant to Section 19229.
- 18 (h) *(1)* “Household mover” includes every corporation or
- 19 person, their lessees, trustee, receivers, or trustees appointed by
- 20 any court whatsoever, engaged in the permitted or unpermitted
- 21 transportation for compensation or hire as a business by means of
- 22 a motor vehicle or motor vehicles being used in the transportation
- 23 of used household goods and personal effects over any public
- 24 highway in this state. A broker, as defined in subdivision (a), shall

1 be considered a household mover. The Legislature intends  
2 “household mover” to have the same meaning as “household goods  
3 carrier” in former Section 5109 of the Public Utilities Code, as  
4 that section read on June 30, 2018. ~~“Household~~

5 (2) *“Household mover” does not include—~~a either of the~~*  
6 *following:*

7 (A) ~~A motor carrier that meets the requirements of the limited~~  
8 ~~service exclusion in Section 13102 of Title 49 of the United States~~  
9 ~~Code or a broker utilizing motor carriers operating under the~~  
10 ~~limited service exclusion.~~ *provides transportation of household*  
11 *goods in containers or trailers where the household goods are*  
12 *entirely loaded and unloaded by an individual other than an*  
13 *employee or agent of the motor carrier.*

14 (B) *A broker that utilizes the services of a motor carrier that*  
15 *meets subparagraph (A) and does not otherwise advertise, solicit,*  
16 *offer, or arrange for the full service moving of used household*  
17 *goods by motor carrier for compensation.*

18 (i) “Inspector” refers to an inspector either employed by, or  
19 under contract to, the bureau.

20 (j) “Motor vehicle” means every motor truck, tractor, or other  
21 self-propelled vehicle used for transportation of property over the  
22 public highways, other than upon fixed rails or tracks, and any  
23 trailer, semitrailer, dolly, or other vehicle drawn thereby.

24 (k) “Owner,” with respect to a motor vehicle used in the  
25 transportation of property for compensation by a household mover,  
26 means the corporation or person who is registered with the  
27 Department of Motor Vehicles as the owner of the vehicle, or who  
28 has a legal right to possession of the vehicle pursuant to a lease or  
29 rental agreement.

30 (l) “Person” includes an individual, a firm, or a copartnership.

31 (m) “Public highway” includes every public street, road, or  
32 highway in this state.

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## **Agenda Item 6f: SB 878**

AMENDED IN SENATE JUNE 18, 2020

SENATE BILL

No. 878

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Introduced by Senator Jones

January 22, 2020

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An act to add Section 139.5 to the Business and Professions Code, relating to professions and vocations.

legislative counsel's digest

SB 878, as amended, Jones. Department of ~~Consumer Affairs~~ ~~Licensing: applications: wait times.~~ *Affairs: license: application: processing timeframes.*

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs.

This ~~bill~~ *bill, beginning July 1, 2021*, would require each board within the department that issues ~~licenses~~ *licenses, on at least a quarterly basis*, to prominently display *on its internet website either* the current ~~timeframe~~ *average timeframes* for processing initial and renewal license applications ~~on its internet website, as provided.~~ *or the combined current average timeframe for processing both initial and renewal license applications. The bill would also require each board to prominently display on its internet website either the current average timeframes for processing each license type that the board administers or the combined current average timeframe for processing all license types that the board administers.*

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

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

- 1 SECTION 1. Section 139.5 is added to the Business and
- 2 Professions Code, to read:
- 3 139.5. ~~Each~~ *Beginning July 1, 2021, each* board, as defined in
- 4 ~~section~~ *Section* 22, within the department that issues a license shall
- 5 do both of the ~~following:~~ *following on at least a quarterly basis:*
- 6 (a) Prominently display ~~the~~ *on its internet website one of the*
- 7 *following:*
- 8 (1) *The* current ~~timeframe~~ *average timeframes* for processing
- 9 initial and renewal license ~~applications on its internet website.~~
- 10 *applications.*
- 11 (2) *The combined current average timeframe for processing*
- 12 *both initial and renewal license applications.*
- 13 (b) ~~With respect to the information displayed on the website,~~
- 14 ~~specify the~~ *Prominently display on its internet website one of the*
- 15 *following:*
- 16 (1) *The* current average ~~timeframe~~ *timeframes* for processing
- 17 each license ~~category.~~ *type that the board administers.*
- 18 (2) *The combined current average timeframe for processing all*
- 19 *license types that the board administers.*

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