



**BUREAU OF HOUSEHOLD GOODS AND SERVICES
 Advisory Council Meeting Materials Packet
 Thursday, August 26, 2021 | 10:00 a.m.**

TABLE OF CONTENTS

Agenda.....2-12

| <u>AGENDA ITEM</u> | <u>PAGE NO.</u> |
|--|------------------------|
| 3. March 25, 2021, Advisory Council Meeting Minutes | 13-24 |
| 4. Administrative Updates | 25-36 |
| a. Fiscal Updates: | |
| Electronic and Appliance Repair Budget Update | 26 |
| Home Furnishings and Thermal Insulation Budget Update | 27 |
| Household Movers Budget Update | 28 |
| b. Personnel Update..... | 30 |
| c. Information Technology Update..... | 30 |
| d. Strategic Plan Update..... | 31 |
| 5. Division Updates and Statistical Overviews..... | 32-37 |
| a. Laboratory Testing..... | 32 |
| b. Licensing..... | 34 |
| c. Consumer Complaints | 36 |
| d. Enforcement and Investigations | 36 |
| 6. 2022 Bureau Sunset Review Process and Overview | 38-68 |
| Sunset Review Process | 39 |
| Sunset Review Timeline..... | 40 |
| 2018 Background Paper for the Bureau of Electronic and Appliance Repair, Home Furnishings and Thermal Insulation..... | 41 |
| 7. Legislative Update..... | 69-161 |
| a. AB 224 (Daly) – Department of Consumer Affairs: Bureau of Household Goods and Services: household movers | 69 |
| b. AB 652 (Friedman) – Product safety: juvenile products: chemicals: perfluoroalkyl and polyfluoroalkyl substances | 74 |
| c. AB 646 (Low) – Department of Consumer Affairs: boards: expunged convictions | 78 |
| d. AB 885 (Quirk) – Bagley-Keene Open Meeting Act: teleconferencing | 82 |
| e. AB 1026 (Smith) – Business licenses: veterans..... | 89 |
| f. AB 1221 (Flora) – Consumer warranties: service contracts: cancellation: disclosures ... | 99 |
| g. AB 1386 (Cunningham) – License fees: military partners and spouses | 109 |
| h. SB 586 (Bradford) – Criminal fees | 112 |
| i. SB 772 (Ochoa Bogh) – Professions and vocations: citations: minor violations | 143 |
| j. SB 826 (Committee on Business, Professions and Economic Development) – Business and Professions | 147 |
| 8. Technical Bulletin 117-2013 and H.R. 133 ‘COVID–19 Regulatory Relief and Work From Home Safety Act’ – Combined Label Requirements | 162 |



**BUREAU OF HOUSEHOLD GOOD AND SERVICES
ADVISORY COUNCIL MEETING
NOTICE and AGENDA**

**Thursday, August 26, 2021, 10:00 am
Until the Completion of Business**

NOTE: Pursuant to the provisions of Governor Gavin Newsom’s Executive Order N-08-21, dated June 11, 2021, neither Advisory Council member locations nor a public meeting location are provided. Public participation may be through teleconferencing as provided below.

Important Notices to the Public: The Bureau of Household Goods and Services (Bureau) will hold a public meeting via a WebEx Events. To participate in the WebEx Events meeting, please log on to this website the day of the meeting:

<https://dca-meetings.webex.com/dca-meetings/j.php?MTID=m3d0d5d3da97808b35d15f8d10655f185>

Event number: 146 953 1323
Event password: BHGS08262021 (24470826 from phones)

INSTRUCTIONS FOR PARTICIPATION: Please see the instructions attached here to observe and participate in the meeting using WebEx from a Microsoft Windows-based PC.

Members of the public may but are not obligated to provide their names or personal information as a condition of observing or participating in the meeting. When signing into the WebEx platform, participants may be asked for their name and email address. Participants who choose not to provide their names will be required to provide a unique identifier such as their initials or another alternative, so that the meeting moderator can identify individuals who wish to make public comment; participants who choose not to provide their email address may utilize a fictitious email address in the following sample format: XXXXX@mailinator.com.

Public comments will be limited to two minutes unless, in the discretion of the Advisory Council, circumstances require a shorter period. Members of the public will not be permitted to “yield” their allotted time to other members of the public to make comments.

As an alternative, members of the public who wish to observe the meeting without making public comment can do so (provided no unforeseen technical difficulties) at <https://thedcapage.wordpress.com/webcasts/>.

Teleconference/Audio Conference Option:

US Toll +1-415-655-0001
Access code: 146 953 1323

Advisory Council Members:

Pascal Benyamini, Industry
Burt Grimes, Industry
Donald Lucas, Public
Dan Rhodes, Industry
Toby Taylor, Industry

James Garelli, Industry
Chris Higdon, Industry
Stephen McDaniel, Industry
Heidi Sanborn, Public
Steve Weitekamp, Industry

Agenda items may be taken out of order. Times stated are approximate and subject to change. Agenda order is tentative and subject to change at the discretion of the Advisory Council.

In accordance with the Bagley-Keene Open Meeting Act, all meetings are open to the public. Pursuant to Government Code section 11125.7, the Advisory Council provides the opportunity for the public to address each agenda item during discussion or consideration by the Advisory Council. Total time allocated for public comment on particular issues may be limited. Individuals may appear to discuss items not on the agenda; however, the Advisory Council may not discuss any matter not included in this agenda. (Government Code sections 11125, 11125.7(a)).

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.

The meeting is accessible to the disabled. A person who needs disability-related accommodations or modifications to participate in the meeting may make a request by contacting Melissa Del Duca via email at Melissa.Del-Duca@dca.ca.gov or for the hearing impaired at 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. Call to Order, Roll Call, and Introduction of Assistant Director/Deputy Bureau Chief
2. Public Comment on Items Not on the Agenda
Please note that the Advisory Council may not discuss any matter raised during this public comment section that is not included on this agenda. (Government Code sections 11125, 11125.7(a).)

3. Review and Approval of March 25, 2021, Advisory Council Meeting Minutes
4. Administrative Updates
 - a. Fiscal Update – DCA Budget Office
 - b. Personnel
 - c. Information Technology
 - d. Strategic Plan
5. Bureau Division Updates and Statistical Overview of Current Operations
 - a. Laboratory Testing
 - b. Licensing
 - c. Consumer Complaints
 - d. Enforcement and Investigations
6. 2022 Bureau's Sunset Review Process and Overview
7. Legislative Update
 - a. AB 224 (Daly) – Department of Consumer Affairs: Bureau of Household Goods and Services: household movers
 - b. AB 652 (Friedman) – Product safety: juvenile products: chemicals: perfluoroalkyl and polyfluoroalkyl substances
 - c. AB 646 (Low) – Department of Consumer Affairs: boards: expunged convictions
 - d. AB 885 (Quirk) – Bagley-Keene Open Meeting Act: teleconferencing
 - e. AB 1026 (Smith) – Business licenses: veterans
 - f. AB 1221 (Flora) – Consumer warranties: service contracts: cancellation: disclosures
 - g. AB 1386 (Cunningham) – License fees: military partners and spouses
 - h. SB 586 (Bradford) – Criminal fees
 - i. SB 772 (Ochoa Bogh) – Professions and vocations: citations: minor violations
 - j. SB 826 (Committee on Business, Professions and Economic Development) – Business and Professions
8. Technical Bulletin 117-2013 and H.R. 133 'COVID-19 Regulatory Relief and Work From Home Safety Act' – Combined Label Requirements
9. Review, Discuss, and Set Future Meeting Dates
10. Future Agenda Items
11. Adjournment

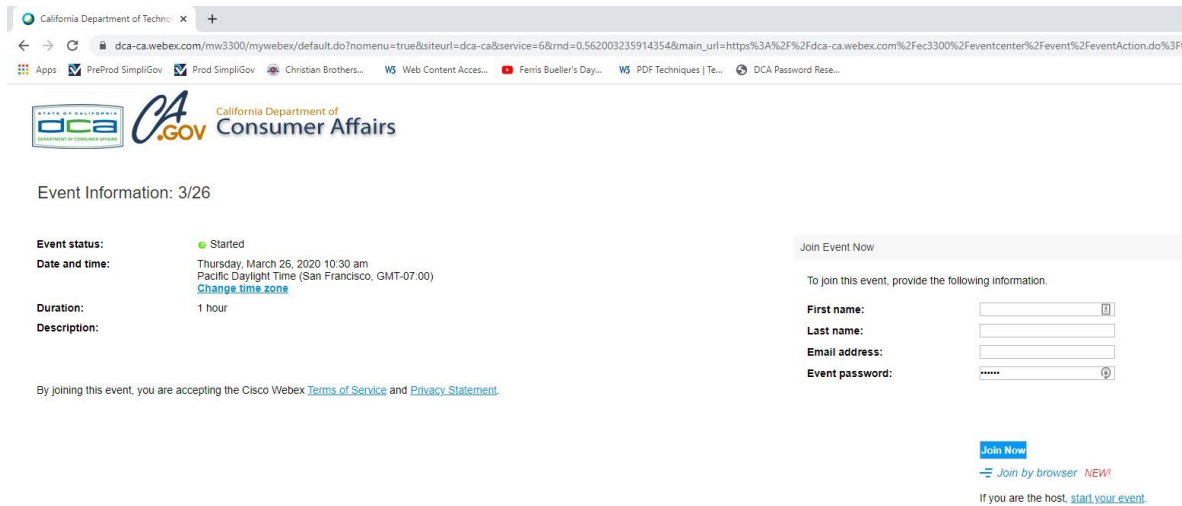
HOW TO – Join – DCA WebEx Event

The following contains instructions on how to join a WebEx event hosted by the Department of Consumer Affairs (DCA).

1. Navigate to the WebEx event link provided by the DCA entity (an example link is provided below for reference) via an internet browser.

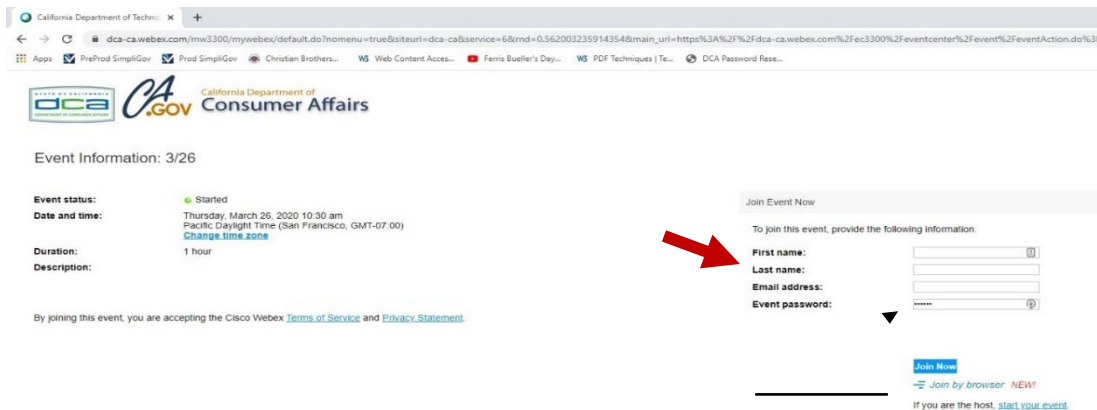
Example link:

<https://dca-ca.webex.com/dca-ca/onstage/g.php?MTID=eb0a73a251f0201d9d5ef3aaa9e978bb5>



2. The details of the event are presented on the left of the screen and the required information for you to complete is on the right.

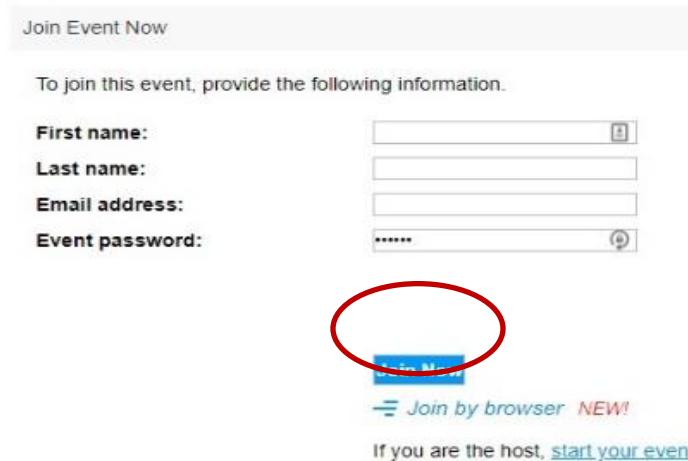
NOTE: If there is a potential that you will participate in this event during a Public Comment period, you must identify yourself in a manner that the event Host can then identify your line and unmute it so the event participants can hear your public comment. The 'First name', 'Last name' and 'Email address' fields do not need to reflect your identity. The department will use the name or moniker you provide here to identify your communication line should you participate during public comment.



HOW TO – Join – DCA WebEx Event

3. Click the 'Join Now' button.

NOTE: The event password will be entered automatically. If you alter the password by accident, close the browser and click the event link provided again.



Join Event Now

To join this event, provide the following information.

First name:

Last name:

Email address:

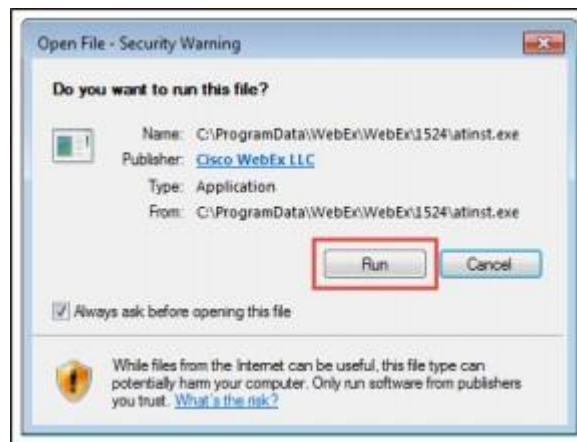
Event password:

Join Now

[Join by browser NEW!](#)

If you are the host, [start your event](#).

4. If you do not have the WebEx applet installed for your browser, a new window may open, so make sure your pop-up blocker is disabled. You may see a window asking you to open or run new software. Click 'Run'.



Depending on your computer's settings, you may be blocked from running the necessary software. If this is the case, click 'Cancel' and return to the browser tab that looks like the window below. You can bypass the above process.

HOW TO – Join – DCA WebEx Event

- To bypass step 4, click 'Run a temporary application'.

Starting Webex...



Still having trouble? [Run a temporary application](#) to join this meeting immediately.

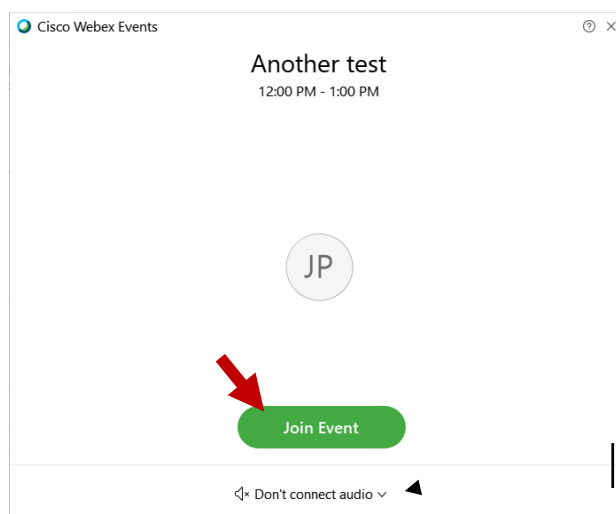
- A dialog box will appear at the bottom of the page, click 'Run'.



The temporary software will run, and the meeting window will open.

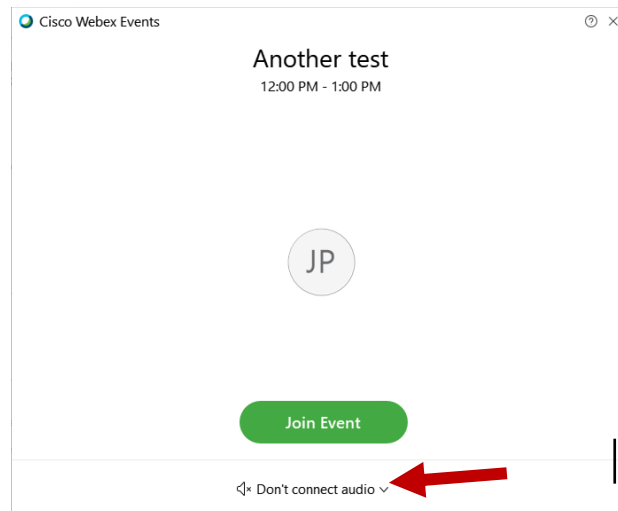
NOTE: The preferred audio connection to our event is via telephone conference or headset. Use of an open microphone and speakers through your computer could result in issue with audio clarity and potential feedback/echo.

- If using a headset plugged into your computer, click the 'Join Event' button.

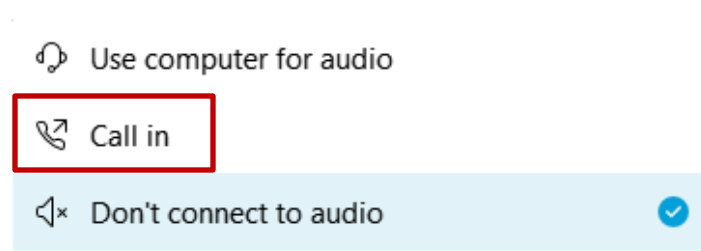


HOW TO – Join – DCA WebEx Event

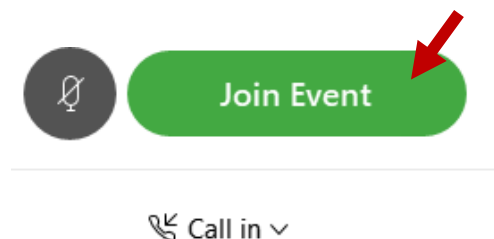
8. If using teleconference via your phone for audio, click the audio menu below the green 'Join Event' button.



9. When the audio menu appears click 'Call in'.

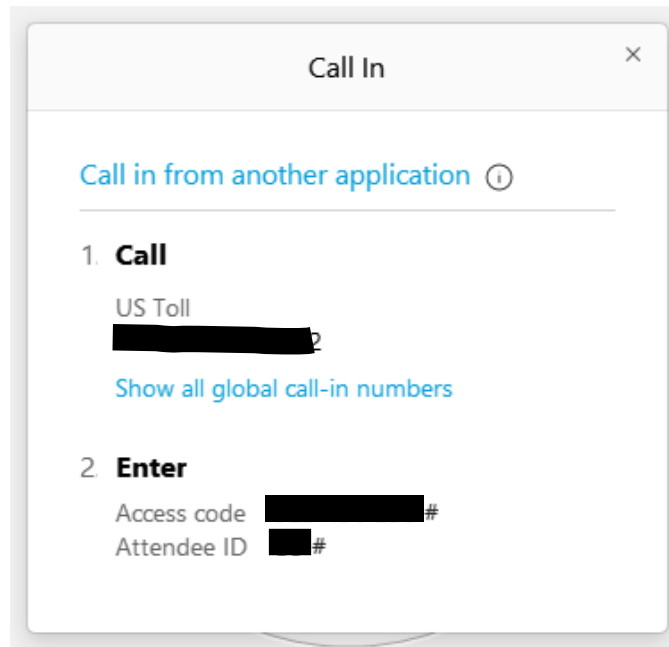


10. Click 'Join Event'. The audio conference call in information will be available after you join the Event.



HOW TO – Join – DCA WebEx Event

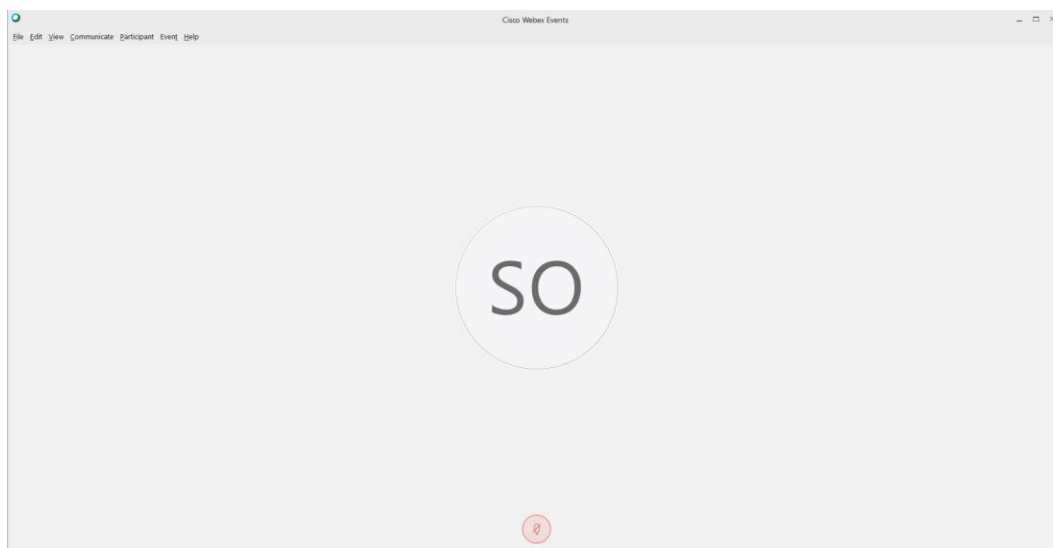
11. Call into the audio conference with the details provided.



NOTE: The audio conference is the preferred method. Using your computer's microphone and speakers is not recommended.

Once you successfully call into the audio conference with the information provided, your screen will look like the screen below and you have joined the event.

Congratulations!

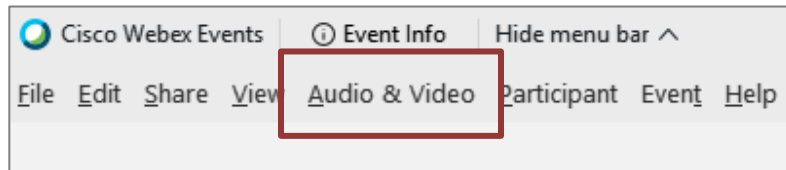


NOTE: Your audio line is muted and can only be unmuted by the event host.

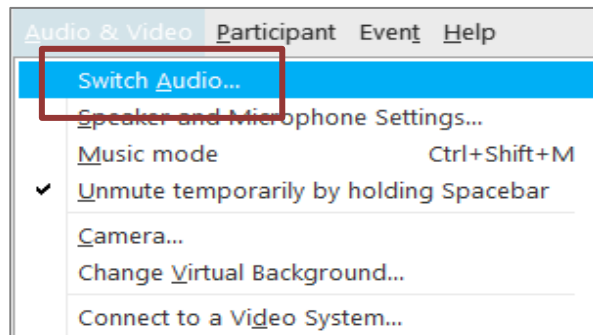
Selecting Audio Connection After Joining

If you join the meeting using your computer's microphone and audio, or you didn't connect audio at all, you can still set that up while you are in the meeting.

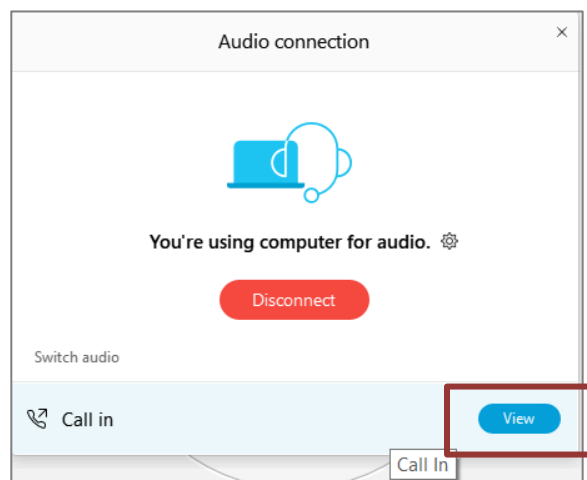
1. Select 'Audio & Video' from the menu bar at the top of your screen.



2. Select "Switch Audio" from the drop-down menu.



3. The 'Call In' information can be displayed by selecting 'View'



You will then be presented the dial in information for you to call in from any phone.

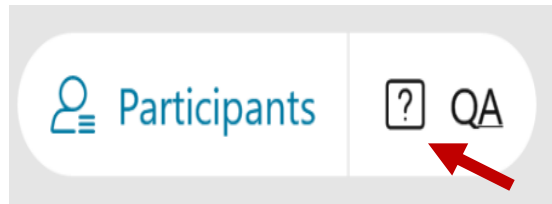
HOW TO – Join – DCA WebEx Event

Participating During a Public Comment Period

At certain times during the event, the facilitator may call for public comment.

Using the Question & Answer feature (Q&A):

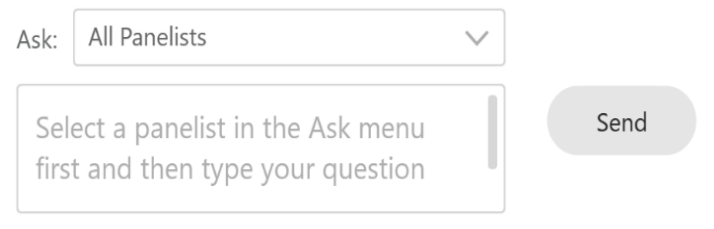
If you would like to make a public comment, click on the 'Q and A' button near the bottom, center of your WebEx session.



This will bring up the 'Q and A' chat box.

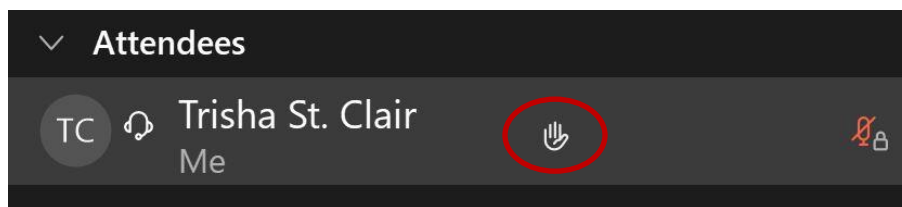
NOTE: The 'Q and A' button will only be available when the event host opens it during a public comment period.

Make sure the 'Ask' menu is set to 'All panelists' and type 'I would like to make a public comment'.



Using the hand raise feature:

If the program elects to allow use of the hand raise feature and you would like to make a public comment, click on the hand icon next to your name.

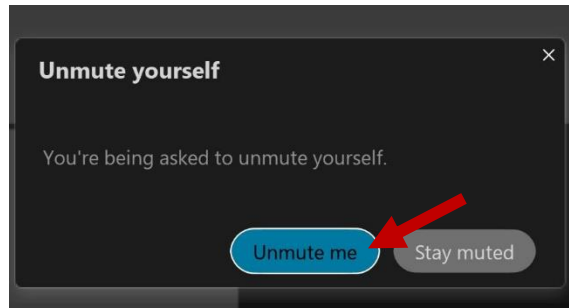


Please click on the hand icon again once your comment has been presented to lower your hand.

HOW TO – Join – DCA WebEx Event

Attendee lines will be unmuted in the order the requests were received, and you will be allowed to present public comment.

When you are identified as the next commenter, the moderator will unmute your line, sending you a request to unmute yourself. Clicking “unmute me” on the pop-up window will open your microphone. You may then begin providing your public comment.



NOTE: Your line will be muted at the end of the allotted public comment duration. You will be given a warning that your time is about to expire.



Agenda Item 3: Review March 25, 2021 Advisory Council Meeting Minutes



**Bureau of Household Goods and Services (Bureau or BHGS)
Advisory Council Meeting Minutes**

WebEx

4244 South Market Court, Suite D

Sacramento, CA 95834

March 25, 2021

9:30 am -11:30 am

Attendees:

Advisory Council Members: Pascal Benyamini, Industry
Burt Grimes, Industry
Donald Lucas, Public
Dan Rhodes, Industry
Heidi Sanborn, Public
Toby Taylor, Industry
Steve Weitekamp, Industry

Bureau Staff: Yeaphana La Marr, Acting Chief
Alda Aguirre, Supervising Special Investigator
Jacqueline Castro, Licensing Manager
Diana Godines, Policy Manager
Rosemarie Pecota, Laboratory Manager
Kelli Williams, Compliance Unit Manager
Winson Luong, Compliance Unit Analyst
Sue Xu, Flammability Research Test Engineer
Avra Wallace-Schoell, Licensing Analyst

Other Individuals Present: Carrie Holmes, DCA Deputy Director,
Board and Bureau Relations
Megan Allred, DCA Assistant Deputy Director,
Legislative Affairs
Karen Munoz, DCA Budget Manager
Heather Robinson, DCA Budget Analyst

1. Welcome, Introductions, and Roll Call

Acting Chief Yeaphana LaMarr started the meeting at 9:30 am with roll call of Advisory Council Members. All members were in attendance except for James Garelli, Chris Higdon, and Stephen McDaniel.

2. Public Comment on Items Not on the Agenda

Please note that the Advisory Council may not discuss any matter raised during this public comment section that is not included on this agenda. (Government Code sections 11125, 11125.7(a).)

The WebEx moderator opened the floor for public attendees to make comments or ask questions. There were no comments.

3. Update from Carrie Holmes, Deputy Director of Board and Bureau Relations, Department of Consumer Affairs (Department or DCA)

Deputy Director Holmes provided an update from the Department. Ms. Holmes was appointed by Governor Newsom in June of 2020. Governor Newsom also appointed Monica Vargas as Deputy Director of Communications in January 2021 and Sarah Murillo in February 2021 as Deputy Director of Administrative Services for the Department.

Ms. Holmes shared that Director Kirchmeyer is placing a priority on improving the regulation approval process timeline and transparency. The Director also places a priority on effective and efficient investigations.

For Board and Bureau Relations, the goal is to support the executive team and all board, committee, and council members. Board and Bureau Relations is the point of contact between the board, Director, Business, Consumer Services, Housing Agency, and the Governor's Office. Board and Bureau Relations also provides training and support, attends council meetings, and assists with appointments. Ms. Holmes reminded the Council that 2021 is a mandatory sexual harassment training year for all employees and council members. She also shared that COVID 19 still is impacting DCA work. To find out the latest information about COVID 19, individuals can go to the Department's COVID 19 website.

4. Operations Update

a. Bureau Operations Response to COVID Restrictions

There was request by an Advisory Council Member to talk about how COVID 19 has impacted the field. Acting Chief La Marr explained that impact to the field will be covered later in the meeting and discussed the Bureau-wide impact. BHGS operated with limited staff to reduce potential exposure and to comply with Governor Newsom's mandates. BHGS has about 75% of employees teleworking so a limited number of

employees are in the office. BHGS has followed CDC guidelines, for example wearing masks, observing social distancing, implementing a routine cleaning schedule (several times a day), and limits the number of in-person meetings.

To allow in-office work, staff are rotated between teleworking and working in the office. Management has also assigned equipment to staff to facilitate the increased telework. Because staff need to answer phones and there is confidential work that cannot be taken home, some employees must be in the office. Acting Chief La Marr shared that these steps help to ensure all operational needs are being met.

b. Budget Update

Heather Robinson, DCA Budget Analyst, reviewed BHGS fund conditions. A fund condition is a document that provides an overview of the status of a board or bureau's special fund, including the revenues and expenditures on an annual basis. Ms. Robinson discussed the fund reserves – the EAR fund is currently at 16.1 months of reserve, the HFTI fund is currently at 12.5 months in reserve (there was a correction in accounting leaving this fund at 11.1 in reserve), and the HHM fund is at 24.8 months in reserve. All three funds are healthy there are no issues currently.

Advisory Council Member Don Lucas asked if the pandemic has caused any issues for revenue or expenses. Ms. Robinson shared that the state implemented a 2020 personal leave program that would reduce each employee's salary by approximately 9.23 % in exchange for two PLP days a month. The savings from this were reduced from each program's current budget to transfer amounts from each special fund to the general fund as a loan in an amount equal to the budget reduction. These loans would be repaid at any point in which the originating fund required the money.

Advisory Council Member Steve Weitekamp asked at what point, with a healthy reserve of 24 months in the HHM Fund, the reserve would be determined to be unreasonably large. Karen Munoz, DCA Budget Manager, responded that if the reserve goes above 24 months, the DCA budget office will look at it and would then consider reducing fees to stay within 24 months or less. The amount of reserve is continually monitored. Acting Chief La Marr mentioned the requirement by the Household Movers Act to perform a fee evaluation to make sure fees are appropriate. Council Member Wietekamp clarified that he was not asking regarding a fee reduction and that he was happy with the performance of Bureau staff.

Advisory Council Member Heidi Sanborn mentioned her father was a hold hostage victim in the past and that if there was more that BHGS could do to address these situations and there was extra money to do it, that would be good. Council Member Weitekamp concurred and said that doing more would help consumers and legitimate movers.

c. Personnel Update

Jacqueline Castro, BHGS Licensing Manager, provided an update on personnel, including new staff recently hired. The Bureau is recruiting for four positions, including one Environmental Scientist for the Laboratory Unit, a Special Investigator for Southern California, one Associate Governmental Program Analyst (AGPA) for the Administrative Unit, and one AGPA for the Compliance Unit. There is currently a 23% vacancy rate within the Bureau.

Advisory Council Member Burt Grimes asked about cross-training of the investigators across the multiple practice acts. Acting Chief La Marr confirmed this has occurred.

Acting Chief La Marr announced Supervising Special Investigator II, Rick Villucci, was attending the Council meeting. Acting Chief La Marr shared that Mr. Villucci has an impressive resume and will enhance Bureau enforcement activities. Advisory Council Members were encouraged to reach out and set up a meeting with him so that he can talk to them about how to better serve their industries.

5. Legislative Update

Megan Allred, DCA's Assistant Deputy Director for Legislative Affairs, presented updates on pending legislative bills.

a. **AB 224 (Daly)** – Department of Consumer Affairs: Bureau of Household Goods and Services: household movers

Ms. Allred shared that this is a repeat of last year's bill, AB 2460, that died. The main concern with this bill is weakening of oversight of industry. She also shared that the author was amending the bill to add an urgency clause, which would enact the bill immediately if it passes, and she was not sure why that change was being made.

Council Member Weitekamp commented that the California Moving Association opposes the bill. This bill creates opportunity for bad actors to take advantage of the exemption. He also added that the LSE (limited service exclusion) is disingenuous.

Council Member Sanborn asked if DCA was taking a position on the bill and whether the Advisory Council advises on positions to understand the Advisory Council role in this. Acting Chief La Marr shared her understanding that the Bureau may provide information to DCA but does not take a position. She provided a brief overview of the legislative analysis process at DCA. Ms. Sanborn asked if the Council should get together and vote for positions on bills. Acting Chief La Marr informed her that there is no voting as they serve in an advisory capacity, but they can share their opinion on bills with the Bureau and DCA. Council Member Weitekamp shared that he would welcome Heidi Sanborn's opposition to the bill.

b. AB 652 (Friedman) – Product safety: juvenile products: chemicals: perfluoroalkyl and polyfluoroalkyl substances

Ms. Allred explained this bill would prohibit the sale and distribution of new juvenile products and sleeping products that contain perfluoroalkyl and polyfluoroalkyl substances (“PFAS Chemicals”) at levels above an unspecified amount.

Council Member Sanborn said she strongly supports this bill; chemicals should not be in children’s toys.

Acting Chief La Marr clarified that said she asked Ms. Allred to present this bill because although it would not be enforced by the Bureau, the bill would apply to the same juvenile products are subject to AB 2998, which the Bureau does enforce. Because it would impact Bureau stakeholders, Acting Chief La Marr wanted to bring this to industry’s attention. In addition, the bill would apply to bedding products that are within the Bureau’s jurisdiction.

Council Member Lucas asked who would enforce this bill. Acting Chief La Marr clarified the Department of Toxic Substances Control would be the enforcement entity.

c. AB 646 (Low) – Department of Consumer Affairs: boards: expunged convictions

Ms. Allred explained this bill would require any program within DCA that posts to its website when a license was revoked because the person was convicted of a crime to also post a notification of expungement on its website (if the person is still licensed) or remove the revocation posting if the person is no longer licensed. This bill would authorize the Bureau to charge a fee of \$50 to post the record of expungement.

d. AB 885 (Quirk) – Bagley-Keene Open Meeting Act: teleconferencing

Ms. Allred explained this bill would require any meeting that is required to be open to the public to be both audibly and visually observable.

Acting Chief La Marr informed the Council that this bill would impact the Council when the Governor’s emergency order is lifted. In-person meetings will once again be in place and this bill would require members to be on camera if they are not able to attend in person, rather than calling in as had been the previous practice.

e. AB 1026 (Smith) – Business licenses: veterans

Ms. Allred explained this bill would require DCA programs to reduce initial license fees by 50 percent to an applicant who can show evidence of honorable discharge from the United States Armed Forces or the California National Guard. The bill does not indicate which fees are eligible for discount, such as live scan, application, and examination fees

so clarification is needed. There is also a question about whether boards and bureaus can survive the reduction in funds if there are many new applicants from that population.

f. AB 1221 (Flora) – Consumer warranties: service contracts: cancellation: disclosures

Ms. Allred explained this bill would allow service contractors to offer continuous until canceled (or other periodic basis) so long as the continuous nature of the contract and information about how to cancel the contract is disclosed in a clear and conspicuous manner.

g. AB 1386 (Cunningham) – License fees: military partners and spouses

Ms. Allred explained this bill would require any program within DCA to waive initial license fees to an applicant who provides evidence of being married to, or in a domestic partnership with, an active duty member of the military stationed in California and who holds a current license in another state. Ms. Allred states that there needs to be more clarification on what the initial licensing fee is and if this includes other fees like fingerprinting, etc.

h. SB 586 (Bradford) – Criminal fees

Ms. Allred explained this bill would require Ignition Interlock Device (IID) providers to report to the Bureau of Automotive Repair (BAR) the provider's fee schedule, total number of people where verification was conducted, number of people who had a reduction of installation charges was made, total dollar amount of reductions based on income, total dollar amount collected for charges related to the charges of installed devices, and total dollar amount of unpaid charges.

Acting Chief La Marr added this bill would allow an individual who is ordered to have an IID installed to seek civil damages for an ignition interlock device installer who fails to comply with the income-based pricing as prescribed by Vehicle Code § 23575.3(k). This bill would also entitle the individual to recover attorney's fees and costs.

Council Member Toby Taylor introduced himself as the Vice President of Regulatory Compliance for Smart Start Ignition Interlock and shared that there is a single trade association that serves as a coalition of ignition interlock manufacturers. Mr. Taylor was grateful to the Bureau for tracking and advising the coalition on legislation that affects the industry.

i. SB 772 (Ochoa Bogh) – Professions and vocations: citations: minor violations

Ms. Allred explained this bill would require all boards and bureaus within DCA to adopt a program to allow licensees to correct minor violations before being subject to monetary penalties. This bill would define "minor" violations as those: 1) that do not

pose a serious health or safety threat, 2) are not “willful”, 3) are not committed by a licensee on probationary status, 4) are committed by a licensee who has a history of committing the violation, and 5) the licensee becomes compliant within 30 days. Ms. Allred stated that boards and bureaus have said the ability to cite provides a key deterrent and incentivizes compliance and there is a concern that if this bill passes there will be less compliance. Some programs have abatement that would be eliminated and replaced with this bill. There is additional concern that the bill is overly broad.

Council Member Grimes asked how this bill would affect the Bureau and how the Bureau determines a minor violation. Acting Chief La Marr responded there are criteria in the Bureau’s regulations that inform citations. There are nine criteria that include harm to the consumer, whether they are cooperative with the Bureau, if they become compliant, if they make the consumer whole, and any history of violations. She said the criteria contained in this bill would make those determinations versus what we have in our regulations. This bill would require a history or pattern of behavior and it would require a licensee to be on probationary status, which is a lengthy process that involves the Attorney General’s Office, in order to issue a citation for violations that are considered minor. She shared it would be a substantial change to Bureau enforcement.

Council Member Grimes asked if this would weaken the Bureau’s enforcement and Acting Chief La Marr responded it appears that it would.

Ms. Allred stated the other problem is the bill is not clear about what constitutes a minor violation. The problem is the Bureau would not be able to define what the minor violation is and it would be broadly interpreted and subject to litigation. Ms. Allred said there is a lot of work to be done and assistance technically that DCA will try to provide.

Council Member Weitekamp asked if it would only apply to licensees and Ms. Allred responds yes that is how she interpreted it. This bill would be applicable to current licensees committing minor violations.

Acting Chief La Marr asked if there were any further questions for Ms. Allred and there were not.

6. Statistical Overview

- a. **Laboratory Testing** – Sue Xu, BHGS Flammability Research Engineer, presented statistical information included in the Advisory Council meeting materials.

Council Member Lucas mentioned that failure rates on labeling continues to be a problem with pass rates of 12% and 15%. Council Member Lucas asked whether we should wait until agenda item seven to ask about implications of agenda item seven on compliance. Acting Chief La Marr confirmed that Diana Godines, Policy Manager, would address labeling requirements later in the agenda.

Council Member Pascal Benyamini asked whether the Bureau could include a breakdown of the location from where products were received in its TB 117-2013 pass/fail statistics, specifically California, other states, or overseas. Ms. Xu said she could. Council Member Benyamini said it would be helpful in the future, as would the same information for label pass/fail statistics.

Council Member Grimes asked what most of our moderate violations are and if they can be explained more on the BHGS website. Ms. Xu explained that the Bureau sends a courtesy letter to manufacturers to tell them where their violation was and how to change it. Council Member Grimes asked if it could be made obvious on the website that manufacturers can send a sample to be approved to the Bureau. Ms. Xu said there are examples on the website that can be downloaded from the website.

There was a public comment by Tom Dykstra who asked if the manufacturer is notified by the Bureau on major and minor violations. Ms. Xu said yes, they are informed.

- b. Licensing** – Avra Wallace-Schoell presented licensing statistics included in the Advisory Council meeting materials. Ms. Wallace-Schoell noted a reporting error on the quarterly revenue table, which should reflect 1,063 permits in the quarter April through June 2020 and the net administration fee should read as \$665,502.56.

As of September 21, 2020, the Bureau began using a vendor, PSI, to utilize 100% computer-based testing. Advantages include applicants have access to all of PSI's testing facilities, including 20 locations in California and 21 out of state locations. Applicants receive pass/fail results immediately after completing the exam and the HHM team has immediate access to multiple PSI reports, which include applicant exam scores, scheduled exams, no shows, and exam statistics. Having access so quickly allows the Bureau to manage the status of each applicant's exam in a timely manner.

Council Member Weitekamp asked whether corrected tables could be sent and thanked the Bureau on the improved testing process. Acting Chief La Marr confirmed a revised table would be sent to all Advisory Council members after the meeting.

- c. Consumer Complaints** Kelli Williams, BHGS Compliance Manager, presented compliance statistics included in the Advisory Council meeting materials.

Ms. Williams shared there has been an increase in complaints about online purchases and furniture and major appliance purchases that have not been fulfilled due to supply chain issues during to the pandemic.

Ms. Williams explained that in January 2020, jurisdiction over service contracts expanded to include virtually anything covered by a service contract (nearly all consumer goods). This fiscal year, service contract complaints are over 30% of the jurisdictional complaints. Ms. Williams explained the Bureau's name changing from the

Bureau of Electronic and Appliance Repair, Home Furnishings and Thermal Insulation to the Bureau of Household Goods and Services has led some consumers to believe that the Bureau's jurisdiction includes all consumer goods and services. There is an active push to update the BHGS website to better describe the Bureau's jurisdiction.

- d. **Enforcement and Investigations** – Winson Luong, BHGS Compliance Analyst, presented enforcement statistics included in the Advisory Council meeting materials. There were no questions.

Ms. Williams also presented household mover applicant and subsequent arrest investigation statistics included in the Advisory Council meeting materials.

Council Member Weitekamp asked for clarity regarding subsequent arrest records. Ms. Williams explained that subsequent arrest records occur when a permitholder is arrested after becoming permitted.

Alda Aguirre, Supervising Special Investigator for Southern California, reported on field investigation activity. Ms. Aguirre first spoke about how COVID 19 has impacted operations. Field operations were suspended on March 16, 2020, to protect staff and the public. In May 2020, the Bureau proposed a plan that would allow essential enforcement functions to resume in safe manner and in June 2020, the plan was implemented with staff going back into the field with personal protection equipment. Staff were to contact unlicensed businesses, issue citations, conduct storefront visits to investigate complaints, conduct surveillance, and perform sample pickups. Additionally, a COVID 19 task force brought together county and state agencies and BHGS was one of four state agencies to take part. In addition to normal responsibilities, the enforcement operation was required to determine compliance with state safety requirements, including documenting whether face coverings were used by employees and the public, social distancing guidance was being observed, barriers were used to distance people (e.g. plexiglass), and visual guides were used to outline restrictions.

Ms. Aguirre reviewed field investigation statistics that are included in the Advisory Council meeting materials.

Council Member Weitekamp thanked staff for their work on hold hostage cases. He also asked why citations issued to unlicensed household movers are so dramatically below the averages of other BHGS units (EAR/HFTI). Ms. Aguirre responded that a difference between Household Movers and the other programs is that the other programs have regulations in place. Acting Chief La Marr confirmed that the rulemaking proposal is still under review until the proposal is adopted, staff must utilize the enforcement tools they currently have. Council Member Weitekamp commented that his reading of the code is that the violation is presenting oneself as a household mover not even providing the service, so he was unclear why the regulations are needed. Ms. Aguirre responded that in the process of gathering evidence in an investigation, it assists staff to have a

consumer or victim when handing it over to local law enforcement and or a district attorney regardless if BHGS can write a citation. Mr. Weitekamp thanked Ms. Aguirre.

The moderator opened the meeting to the public to ask questions regarding all previously presented agenda items. There were no questions.

7. Technical Bulletin 117-2013 Adopted as the New National Flammability Standard For Upholstered Furniture under H.R. 133 – “COVID–19 Regulatory Relief and Work from Home Safety Act”

Diana Godines, BHGS Policy Manager, shared that the COVID–19 Regulatory Relief and Work From Home Safety Act (Act) was signed into law on December 27, 2020 and will become effective within 100 days from enactment. The Act adopts the Bureau’s flammability standard, Technical Bulletin (TB) 117-2013, as a national flammability standard to be administered by the US Consumer Product Safety Commission (CPSC). The Act establishes a new labeling requirement for which all products sold or offered for sale in California, and subject to TB 117-2013, must have the label required by California Code of Regulations section 1374.3 and the federal label attached. Ms. Godines stated the Bureau will accept placement of the federal statement beneath the Bureau’s flammability label, however, industry will need to confirm whether CPSC agrees or whether a standalone label will be required.

Ms. Godines shared that the Bureau will consider accepting the federal label in place of the Bureau’s label after the federal regulatory language has been adopted. Existing regulations would need to be amended should the Bureau move forward with this implementation; however, the rulemaking process could take two years. Ms. Godines shared in response to an earlier question that she is reviewing all label violations and will add clarifying language and examples in the proposed regulations. Most failures are addressed in the FAQ’s, which are on the Bureau’s website. The Bureau will bring more attention to the FAQ and provide more education in these areas.

The moderator opened the floor for public comment. A public comment was received from Seth Hernandez who questioned when CPSC will publish guidance on the technical bulletin. Acting Chief La Marr responded that the CPSC issued a notice of proposed language, however, staff are unable to answer questions about the content of the guidance.

8. Division of Household Movers Memorandum of Agreement with the Federal Motor Carrier Safety Administration

Acting Chief La Marr shared that the Bureau executed a memorandum of agreement (MOA) with the Federal Motor Carrier Safety Administration (FMCSA) in October of 2020. The MOA allows the Bureau access to the FMCSA databases and this access will help investigators research any case, whether intrastate or interstate. The MOA also authorizes the Bureau to enforce federal law regarding household movers performing interstate moves



coming to or leaving California and allows the Bureau to retain any fines collected resulting from that enforcement. To implement the MOA, the FMCSA has worked with the Bureau to train investigators on the laws they will be enforcing, set up access to the databases, and further train investigators and managers on how to use the databases. Half of the Bureau's investigators have already completed the training and the other half will complete training in April or May.

Acting Chief La Marr shared that Rick Villucci and she will meet with counterparts in Texas and the FMCSA California Division, Texas Division, and headquarters in Washington, DC to discuss how all parties can work together to create overall stronger enforcement programs for household movers. Partnering with the FMCSA and access to their databases and enforcement of federal laws gives BHGS more tools for its enforcement program, which already includes enforcing state law and pursuing criminal action, all with the goal of reducing fraud and consumer harm that is a result of unscrupulous movers.

Council Member Weitekamp commented that he thinks the MOA is a good step and meeting with the Texas DMV is a promising idea. Council Member Weitekamp stated he hopes this meeting and the MOA will be a positive impact on the FMCSA.

Public comment was opened. No questions were asked.

9. Review and Discuss Future Meeting Dates

The Advisory Council agreed to tentatively schedule the next meeting for August 26, 2021.

10. Adjournment



Agenda Item 4a: Fiscal Update – DCA Budget Office

0325 - Electronic and Appliance Repair Analysis of Fund Condition

Prepared 7.20.2021

(Dollars in Thousands)

2021-22 Governor's Budget

w FM 11 Projections

| | PY 2019-20 | CY 2020-21 | Governor's Budget BY 2021-22 | BY+1 2022-23 |
|--|---------------|---------------|---------------------------------------|-----------------|
| BEGINNING BALANCE | \$ 4,072 | \$ 3,939 | \$ 4,273 | \$ 2,683 |
| Prior Year Adjustment | \$ -26 | \$ - | \$ - | \$ - |
| Adjusted Beginning Balance | \$ 4,046 | \$ 3,939 | \$ 4,273 | \$ 2,683 |
| REVENUES, TRANSFERS, AND OTHER ADJUSTMENTS | | | | |
| Revenues: | | | | |
| 4121200 Delinquent fees | \$ 78 | \$ 106 | \$ 93 | \$ 93 |
| 4127400 Renewal fees | \$ 2,384 | \$ 2,835 | \$ 2,506 | \$ 2,506 |
| 4129200 Other regulatory fees | \$ 8 | \$ 3 | \$ 21 | \$ 21 |
| 4129400 Other regulatory licenses and permits | \$ 191 | \$ 263 | \$ 226 | \$ 226 |
| 4163000 Income from surplus money investments | \$ 80 | \$ 18 | \$ 82 | \$ 82 |
| 4171400 Escheat of unclaimed checks and warrants | \$ 5 | \$ 7 | \$ 5 | \$ 5 |
| 4172500 Miscellaneous revenues | \$ 1 | \$ - | \$ - | \$ - |
| 4172500 Settlements and Judgements - Anti-Trust | \$ - | \$ 2 | \$ - | \$ - |
| Total Revenues, Transfers, and Other Adjustments | \$ 2,747 | \$ 3,234 | \$ 2,933 | \$ 2,933 |
| Transfers to Other Funds | | | | |
| Loan from the Electronic and Appliance Repair Fund (0325) to the General Fund (0001) per CS 3.92, Budget Act of 2020 | \$ - | \$ -208 | \$ - | \$ - |
| Totals, Revenues and Transfers | \$ 2,747 | \$ 3,026 | \$ 2,933 | \$ 2,933 |
| Total Resources | \$ 6,793 | \$ 6,965 | \$ 7,206 | \$ 5,616 |
| EXPENDITURE AND EXPENDITURE ADJUSTMENTS | | | | |
| Expenditures: | | | | |
| 1111 | | | | |
| Department of Consumer Affairs Regulatory Boards, Bureaus, Divisions (State Operations) | \$ 2,659 | \$ 2,516 | \$ 4,180 | \$ 3,049 |
| GSI 4.55 Percent Increase | \$ - | \$ - | \$ 110 | \$ 110 |
| 9892 Supplemental Pension Payments (State Operations) | \$ 46 | \$ 46 | \$ 46 | \$ 46 |
| 9900 | | | | |
| Statewide General Administrative Expenditures (Pro Rata) (State Operations) | \$ 149 | \$ 130 | \$ 187 | \$ 179 |
| Total Expenditures and Expenditure Adjustments | \$ 2,854 | \$ 2,692 | \$ 4,523 | \$ 3,384 |
| FUND BALANCE | | | | |
| Reserve for economic uncertainties | \$ 3,939 | \$ 4,273 | \$ 2,683 | \$ 2,232 |
| Months in Reserve | 17.6 | 11.3 | 9.5 | 7.7 |

0752 - Home Furnishings and Thermal Insulation Analysis of Fund Condition

Prepared 7.20.2021

(Dollars in Thousands)

2021-22 Governor's Budget

w FM 11 Projections

| | PY 2019-20 | CY 2020-21 | Governor's Budget BY 2021-22 | BY+1 2022-23 |
|--|---------------|---------------|---------------------------------------|-----------------|
| BEGINNING BALANCE | \$ 4,331 | \$ 5,213 | \$ 5,567 | \$ 4,007 |
| Prior Year Adjustment | \$ 93 | \$ - | \$ - | \$ - |
| Adjusted Beginning Balance | \$ 4,424 | \$ 5,213 | \$ 5,567 | \$ 4,007 |
| REVENUES, TRANSFERS, AND OTHER ADJUSTMENTS | | | | |
| Revenues: | | | | |
| 4121200 Delinquent fees | \$ 121 | \$ 151 | \$ 121 | \$ 121 |
| 4127400 Renewal fees | \$ 3,973 | \$ 3,674 | \$ 3,939 | \$ 3,939 |
| 4129200 Other regulatory fees | \$ 110 | \$ 86 | \$ 113 | \$ 113 |
| 4129400 Other regulatory licenses and permits | \$ 884 | \$ 978 | \$ 919 | \$ 919 |
| 4163000 Investment Income - Surplus Money Investments | \$ 89 | \$ 25 | \$ 84 | \$ 84 |
| 4171100 Cost Recoveries - Other | \$ 23 | \$ - | \$ - | \$ - |
| 4171400 Escheat - Unclaimed Checks, Warrants, Bonds, and Coupons | \$ 17 | \$ 14 | \$ 17 | \$ 17 |
| 4171500 Escheat - Unclaimed Property | \$ - | \$ - | \$ 7 | \$ 7 |
| 4172500 Miscellaneous revenues | \$ - | \$ - | \$ 1 | \$ 1 |
| 4173500 Settlements and Judgements Anti-trust | \$ - | \$ 2 | \$ - | \$ - |
| Total Revenues, Transfers, and Other Adjustments | \$ 5,217 | \$ 4,930 | \$ 5,201 | \$ 5,201 |
| Transfers to Other Funds | | | | |
| Loan from the Home Furnishings and Thermal Insulation Fund (0752) to the (| \$ - | \$ -321 | \$ - | \$ - |
| Totals, Revenues and Transfers | \$ 5,217 | \$ 4,609 | \$ 5,201 | \$ 5,201 |
| Total Resources | \$ 9,641 | \$ 9,822 | \$ 10,768 | \$ 9,208 |
| EXPENDITURE AND EXPENDITURE ADJUSTMENTS | | | | |
| Expenditures: | | | | |
| 1111 Department of Consumer Affairs Regulatory Boards, Bureaus, Divisions (State Operations) | \$ 4,027 | \$ 3,885 | \$ 6,126 | \$ 5,732 |
| GSI 4.55 Percent Increase | \$ - | \$ - | \$ 175 | \$ 175 |
| 8880 Financial Information System for California (State Operations) | \$ -1 | \$ - | \$ - | \$ - |
| 9892 Supplemental Pension Payments (State Operations) | \$ 111 | \$ 111 | \$ 111 | \$ 111 |
| 9900 Statewide General Administrative Expenditures (Pro Rata) (State Operations) | \$ 291 | \$ 259 | \$ 349 | \$ 349 |
| Total Expenditures and Expenditure Adjustments | \$ 4,428 | \$ 4,255 | \$ 6,761 | \$ 6,367 |
| FUND BALANCE | | | | |
| Reserve for economic uncertainties | \$ 5,213 | \$ 5,567 | \$ 4,007 | \$ 2,841 |
| Months in Reserve | 14.7 | 9.9 | 7.6 | 5.2 |

NOTES:

- A. ASSUMES WORKLOAD AND REVENUE PROJECTIONS ARE REALIZED IN BY+1 AND ONGOING.
- B. ASSUMES APPROPRIATION GROWTH OF 3% PER YEAR BEGINNING IN BY+1.
- C. ASSUMES INTEREST AT .3%

3315 - Household Movers Fund

Analysis of Fund Condition

Prepared 7.20.2021

(Dollars in Thousands)

2021-22 Governor's Budget
w FM 11 Projections

| | PY 2019-20 | CY 2020-21 | Governor's Budget BY 2021-22 | BY+1 2022-23 |
|---|---------------|---------------|---------------------------------------|-----------------|
| BEGINNING BALANCE | | | | |
| Prior Year Adjustment | \$ 2,414 | \$ 3,316 | \$ 4,898 | \$ 5,485 |
| Adjusted Beginning Balance | \$ -79 | \$ - | \$ - | \$ - |
| | \$ 2,335 | \$ 3,316 | \$ 4,898 | \$ 5,485 |
| REVENUES, TRANSFERS, AND OTHER ADJUSTMENTS | | | | |
| Revenues: | | | | |
| 4121200 Delinquency Fees | \$ 90 | \$ 115 | \$ 91 | \$ 91 |
| 4127400 Renewal fees | \$ 2,719 | \$ 3,466 | \$ 2,774 | \$ 2,774 |
| 4129200 Other Regulatory Fees | \$ 65 | \$ 78 | \$ 67 | \$ 67 |
| 4129400 Other Regulatory Licenses and Permits | \$ 108 | \$ 97 | \$ 111 | \$ 111 |
| 4163000 Investment Income - Surplus Money Investments | \$ - | \$ - | \$ 40 | \$ 40 |
| 4171400 Canceled Warrants Revenue | \$ - | \$ 1 | \$ - | \$ - |
| 1425000 Miscellaneous services to the public | \$ - | \$ - | \$ - | \$ - |
| 4173000 Penalty Assessments - Other | \$ - | \$ - | \$ 2 | \$ 2 |
| 4173500 Settlements and Judgments - Other | \$ - | \$ 1 | \$ - | \$ - |
| Totals, Revenues | \$ 2,982 | \$ 3,758 | \$ 3,085 | \$ 3,085 |
| 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 | \$ -30 | \$ -21 | \$ -21 | \$ -21 |
| Loan from the Household Movers Fund (3315) to the General Fund (0001) per CS 3.92, Budget Act of 2020 | \$ - | \$ -129 | \$ - | \$ - |
| Total Revenues, Transfers, and Other Adjustments | \$ 2,952 | \$ 3,608 | \$ 3,064 | \$ 3,064 |
| Total Resources | \$ 5,287 | \$ 6,924 | \$ 7,962 | \$ 8,549 |
| EXPENDITURE AND EXPENDITURE ADJUSTMENTS | | | | |
| Expenditures: | | | | |
| 1111 Department of Consumer Affairs Regulatory Boards, Bureaus, Divisions (State Operations) | \$ 1,971 | \$ 1,744 | \$ 2,125 | \$ 1,921 |
| GSI 4.55 Percent Increase | \$ - | \$ - | \$ 72 | \$ 72 |
| 9900 Statewide General Administrative Expenditures (Pro Rata) (State Operations) | \$ - | \$ 282 | \$ 280 | \$ 280 |
| Total Expenditures and Expenditure Adjustments | \$ 1,971 | \$ 2,026 | \$ 2,477 | \$ 2,273 |
| FUND BALANCE | | | | |
| Reserve for economic uncertainties | \$ 3,316 | \$ 4,898 | \$ 5,485 | \$ 6,276 |
| MONTHS IN RESERVE | 19.6 | 23.7 | 29.0 | 32.3 |

NOTES:

- A. ASSUMES WORKLOAD AND REVENUE PROJECTIONS ARE REALIZED IN BY+1 AND ONGOING
- B. EXPENDITURE GROWTH PROJECTED AT 3% BEGINNING IN BY+1



Agenda Item 4b: Personnel Update

Agenda Item 4c: Information Technology Update

Agenda Item 4d: Strategic Plan

Administrative Update

Personnel Update

The Bureau has 61.9 authorized positions (Electronic and Appliance Repair: 20, Home Furnishings and Thermal Insulation: 30.9, Household Movers: 11). The Bureau is at an approximately 25% vacancy rate with 17 vacancies. At the request of the Governor's Office, the Bureau also temporarily redirected three staff to perform contact tracing duties.

The Bureau welcomes Tonya Corcoran, Assistant Director/Deputy Bureau Chief. She has served the Department since 1989 in various roles, including Deputy Director of Administrative Services, Chief for the Bureau of Electronic and Appliance Repair, Home Furnishings and Thermal Insulation, and most recently as Chief Deputy Registrar at the Contractors State License Board. Additionally, she has served as Chief of numerous Department bureaus and as the Department's Labor Relations Officer. She officially began at the Bureau on July 29, 2021.

Information Technology Update

Business Modernization

The Bureau is working with the Department to move forward with planning the automation of business needs and modernization of their legacy systems.

In collaboration with the Department, the Bureau will develop a modernization project plan, the first step of which is to assess organizational readiness regarding the availability of staff and the impact on other work of redirecting staff to work on this project. Management will utilize workload statistics and current staffing levels to determine benchmarks for the project.

As part of the modernization project, the Bureau will be analyzing business requirements and mapping out business processes. The business requirements will be used to determine the best and most cost-effective solution. The priority for the Bureau is to transition household movers from the California Public Utilities Commission information technology platform to a Department hosted platform that includes an enforcement component.

Americans with Disabilities Act (ADA) Compliance

Annually, the Department must certify its website is in compliance with California Government Code sections 7405 and 11135, which require that all electronic and information technology developed or purchased by the State of California government is accessible to people with disabilities. All pages and documents on the Bureau's website were tested for compliance with the current ADA requirements and determined to meet those requirements.

COVID-19 Update

The Bureau continues to follow departmental and statewide mandated directives for managing its workforce to keep employees safe while continuing to provide vital statewide services. Management has implemented office safety protocols and provided personal protective equipment to staff (e.g., hand sanitizer, disinfecting wipes, gloves, and disposable masks).

On July 29, 2021, Sacramento County implemented an indoor mask requirement for all individuals. Bureau staff will continue to comply with all local mandates while in the office. Additionally, field staff follow the local requirements of the county in which they are working.

Strategic Plan

The Bureau will be utilizing the Department's SOLID Training and Planning Solutions office to provide strategic planning services to develop the Bureau's 2022-2025 Strategic Plan.

Representatives from SOLID will meet with Bureau management to discuss the planning method. Following this meeting, an electronic survey will be conducted to gather input from Advisory Council members, staff, and stakeholders.

At a future Advisory Council meeting, SOLID will lead a strategic planning session where Advisory Council members and management staff will review the electronic survey results and develop strategic objectives in the areas of: Licensing, Consumer Protection and Enforcement, Communication and Education, Legislation and Regulations, and Organizational Effectiveness. The Bureau's vision, mission and values will also be reviewed.



Agenda Item 5a: Laboratory Update and Statistical Overview

LABORATORY STATISTICS July 1, 2020 – June 30, 2021

| Test Type | Received | Completed Samples | |
|--------------------|----------|---|----------|
| | | Pass | Fail |
| TB117-2013 | 56 | 80 (99%) | 1 (1%) |
| 16 CFR 1633 | 16 | 13 (65%) | 7 (35%) |
| Thermal Insulation | 15 | 28 (74%) | 10 (26%) |
| *Bedding | 13 | 24 (100%) | 0 (0%) |
| **Labeling | N/A | Pass 22 (15%), Minor Violation 49 (33%), Moderate Violation 66 (45%), Failure 11 (7%) | |
| Total | 100 | ---- | ---- |

*Analysis of label formats, fiber components, finished size, and/or net weight of filling materials.

**Labeling results exclude thermal insulation products.

| Test Type | Completed | Manufacturing Locations | | |
|-------------|-----------|-------------------------|------------------|----------|
| | | USA-CA | USA-other states | Overseas |
| TB117-2013 | 83 | 20 (24%) | 3 (4%) | 60 (72%) |
| 16 CFR 1633 | 21 | 11 (52%) | 5 (24%) | 5 (24%) |

| Flame Retardant Chemical Statement Analysis | | | | |
|---|----------------------------|----------------|--------------------------|-------------------------|
| No Added FR Chemicals Checked | Added FR Chemicals Checked | No Box Checked | FR Document Request Sent | DTSC Analysis Requested |
| 51 (91%) | 3 (5%) | 2 (4%) | 0 | 5 |

| Samples Analyzed with the “NO” Flame Retardant Chemical Statement | | |
|---|-----------|---------|
| Test Type | Pass | Fail |
| DTSC Analysis | 11* (92%) | 1* (8%) |
| FR Doc Review | 3 (60%) | 2 (40%) |

* Quantitation results pending for one sample.



Agenda Item 5b: Licensing Update and Statistical Overview

LICENSING STATISTICS

July 1, 2020 – June 30, 2021

| Electronic and Appliance Repair Registrations | |
|--|---------------|
| Appliance Service Dealers | 2,530 |
| Electronic Service Dealers | 3,767 |
| Combination Electronic/Appliance Service Dealers | 413 |
| Service Contract Administrators | 61 |
| Service Contract Sellers | 11,000 |
| Total Active EAR Registrations | 17,771 |

| Home Furnishings and Thermal Insulation Licenses | |
|--|---------------|
| Furniture Retailers | 2,039 |
| Bedding Retailers | 2,171 |
| Furniture and Bedding Retailers | 10,907 |
| Custom Upholsterers | 446 |
| Supply Dealers | 86 |
| Importers (includes overseas Manufacturers) | 5,670 |
| Manufacturers | 1,342 |
| Sanitizers | 25 |
| Wholesalers | 166 |
| Thermal Insulation Manufacturers | 98 |
| Total Active HFTI Licenses | 22,950 |

| Household Movers Permits | |
|---------------------------------|--------------|
| Permits Issued | 165 |
| Exams Administered | 205 |
| Exam Pass Rate | 90% |
| Total Active HHM Permits | 1,076 |

| Quarterly Revenue Report | | | | | | |
|--------------------------|----------------|---------------|-------------|------------|--------------|--------------------------|
| Reporting Period | No. of Permits | Gross Revenue | Admin Fees | CHP Fees | Net Revenue | Net Including Admin Fees |
| July – September 2020 | 1068 | \$961,152.23 | \$10,680.00 | \$5,340.00 | \$945,132.23 | \$955,812.23 |
| October – December 2020 | 1085 | \$926,104.75 | \$10,850.00 | \$5,425.00 | \$909,829.75 | \$920,679.75 |
| January – March 2021 | 1059 | \$795,909.50 | \$10,590.00 | \$5,295.00 | \$780,024.50 | \$790,614.50 |
| April – June 2021 | 284 | \$226,124.37 | \$2,840.00 | \$1,420.00 | \$221,864.37 | \$224,704.37 |
| Subtotal: | | | | | | \$2,891,810.85 |



Agenda Item 5c: Consumer Complaints Update
and Statistical Overview

Agenda Item 5d: Enforcement and Investigations Update
and Statistical Overview

COMPLIANCE UNIT AND INVESTIGATIVE UNIT STATISTICAL OVERVIEW July 1, 2020 – June 30, 2021

| Complaints Received | | | |
|----------------------------|-----------------|-----------------------------------|-----------------------------------|
| | Received | Closed w/out Investigation | Referred for Investigation |
| EAR | 1,278 | 798 | 513 |
| HFTI | 759 | 292 | 480 |
| HHM | 536 | 21 | 515 |
| Total | 2,573 | 1,111 | 1,508 |

| Compliance Unit Investigations | | | | |
|---------------------------------------|------------|-------------|------------|--------------|
| | EAR | HFTI | HHM | Total |
| Received | 416 | 249 | 122 | 787 |
| Closed | 399 | 242 | 108 | 749 |

| Field Investigations | | | | |
|-----------------------------|------------|-------------|------------|--------------|
| | EAR | HFTI | HHM | Total |
| Received | 108 | 239 | 396 | 743 |
| Closed | 95 | 168 | 136 | 399 |

| Citations Assessed | | | | |
|---------------------------|------------|-------------|------------|--------------|
| | EAR | HFTI | HHM | Total |
| Number Issued | 109 | 274 | 55 | 438 |
| Amount Issued | \$8,150 | \$38,801 | \$173,000 | \$219,951 |



Agenda Item 6: 2022 Bureau Sunset Review Process and Overview

Sunset Review Process

Each year, the Assembly Business and Professions Committee and the Senate Business, Professions and Economic Development Committee jointly hold Sunset Review Oversight Hearings to review the boards and bureaus under the Department of Consumer Affairs (DCA).

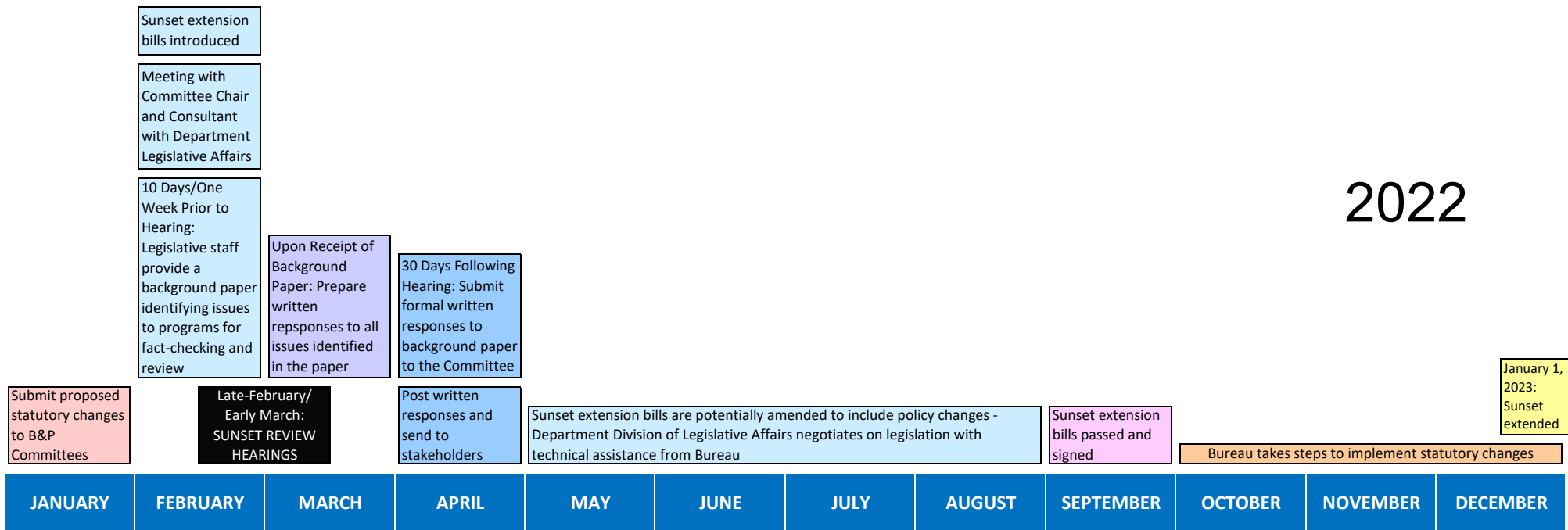
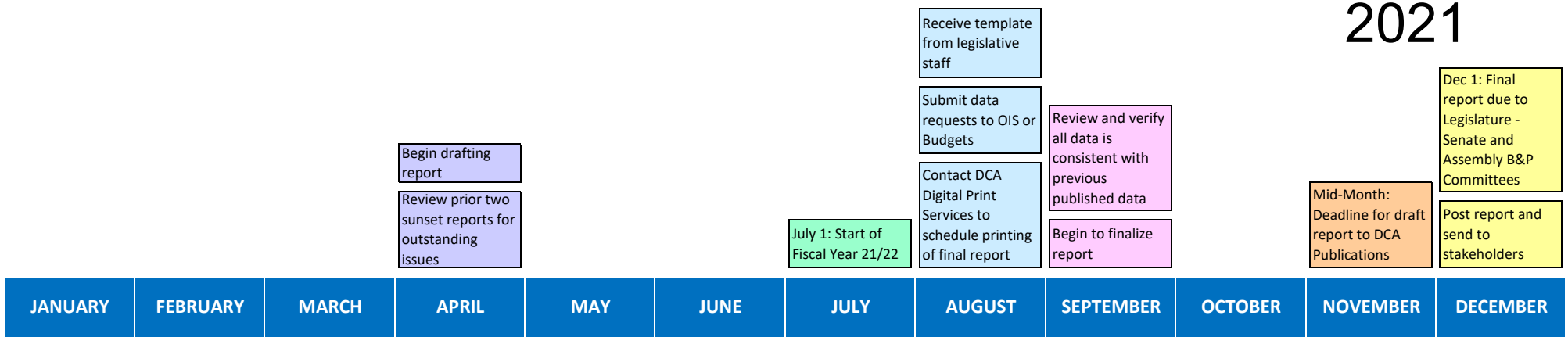
The sunset review process provides an opportunity for DCA, the Legislature, boards and bureaus, interested parties, and other stakeholders to discuss the performance of the boards and bureaus and make recommendations for improvements.

In 2022, BHGS is one of 12 DCA boards and bureaus scheduled for Sunset Review. To prepare for its hearing, the Bureau is developing a comprehensive report detailing its work since the last sunset review in 2018 and identifying new issues. The report is due to the Legislature on or about December 1, 2021. After the report is submitted to the Legislature, the Bureau can publicly release the report.

The Bureau is seeking the Advisory Council's input on identifying new issues for inclusion in the Bureau's report.

Following are a timeline of the Sunset Review Oversight Process as well as the *Background Paper for the Bureau of Electronic and Appliance Repair, Home Furnishings, and Thermal Insulation (BEARHFTI) Identified Issues, Background and Recommendations Regarding the BEARHFTI* as written by the Senate Committee on Business, Professions and Economic Development and Assembly Committee on Business and Professions in 2018.

dca SUNSET REVIEW PROCESS



BACKGROUND PAPER FOR THE Bureau of Electronic and Appliance Repair, Home Furnishings, and Thermal Insulation (BEARHFTI)

**(Joint Oversight Hearing, March 5, 2018, Senate Committee on
Business, Professions and Economic Development and the Assembly
Committee on Business and Professions)**

IDENTIFIED ISSUES, BACKGROUND AND RECOMMENDATIONS REGARDING THE BEARHFTI

BRIEF OVERVIEW OF THE “BEARHFTI”

History and Function of BEARHFTI

The Bureau of Electronic and Appliance Repair, Home Furnishings, and Thermal Insulation – BEARHFTI—was established in 2009 with the enactment of ABX4 20 (Strickland, Chapter 18, Statutes of 2009). That bill merged the separate Bureau of Home Furnishings and Thermal Insulation (HFTI) and the Bureau of Electronic and Appliance Repair (EAR) into one regulatory entity. The BEARHFTI was last reviewed by the Senate Committee on Business, Professions and Economic Development and the Assembly Committee on Business, Professions and Consumer Protection [now the Assembly Committee on Business and Professions] (Committees) in 2014.

The original HFTI program was established in early 1911 to deal with flammability issues in the mattress manufacturers industry. Flammability issues were widely recognized during the 1906 San Francisco earthquake and the subsequent fires across the city.

The original EAR program was established in 1963 to address fraudulent and negligent issues in the television repair industry. Prior to the merger of HFTI and EAR, the jurisdiction of both regulatory entities had greatly expanded over time to keep pace with changing technology and industry products.

Today, BEARHFTI (although merged) continues to operate two separate regulatory programs: 1) the HFTI program which is responsible for the oversight and regulation of furniture and bedding manufacturers, importers, wholesalers, retailers, supply dealers, custom upholsterers, thermal insulation manufacturers, bedding sanitizers; and, 2) the EAR program which includes the repair of televisions, microwave ovens, audio and video playback equipment, video cameras, video games, copiers, computer systems, smart phones, tablets/ the repair and installation of auto stereo and alarm equipment, interlock ignition devices and residential satellite/antenna equipment, major home appliances, such as refrigerators, freezers, stoves/ovens, washer, dryers, dishwashers and trash

compactors, and the sale and administration of service contracts for various consumer items sold or used for personal, family or household use.

As a result of SB 19 (Hill, Chapter 421, Statutes of 2017), BEARHFTI is scheduled to assume the licensing and enforcement duties for household movers, which are currently regulated by the Public Utilities Commission (PUC) beginning July 1, 2018.

With the addition of the Household Movers Program, BEARHFTI will oversee three separate regulatory programs under its jurisdictional umbrella. Currently, BEARHFTI licenses/registers businesses, it does not license individuals. The applicable laws for electronic and appliance repair dealers are specified in Business and Professions Code (BPC) § 9800 *et seq.*, home furnishings are specified in BPC § 19000 *et seq.*, and household movers are specified in BPC § 19235 *et seq.* BEARHFTI currently regulates approximately 15 licensure categories throughout both programs. The following list represents BEARHFTI's licensure categories as of December 1, 2017:

- *Appliance Service Dealer*: Repairs, services or maintains major appliances. (2,595 licensees)
- *Combination Service Dealer*: Repairs, services, or maintain electronics and major appliances. (586 licensees)
- *Electronic Service Dealer*: Installs, repairs, services, or maintains electronics. (5,005 licensees)
- *Service Contract Administrator*: Facilitates the compensation of parties for claims or repairs under service contracts and other activities on behalf of service contract sellers. (48 licensees)
- *Service Contract Seller*: Sells service contracts. (12,105 licensees)
- *Bedding Retailer*: Sells bedding products including pillows, mattresses, quilts, comforters, and sleeping bags. (1,960 licensees)
- *Custom Upholsterer*: Repairs, reupholsters, re-covers, renews upholstered furniture, or who makes to order and specification of the user any article of upholstered furniture, using either new materials or the owner's materials. (495 licensees)
- *Furniture/Bedding Retailer*: Sells both upholstered furniture and bedding products. (11,879 licensees)
- *Furniture Retailer*: Sells upholstered furniture. (2,055 licensees)
- *Importer*: Manufactures or wholesales, through employees or agents, any article of upholstered furniture, bedding, or filling material manufactured outside of the United States for purpose of resale in California. (5,006 licensees)
- *Furniture/Bedding Manufacturer*: Manufactures upholstered furniture or bedding in whole, or in part, or who uses new or secondhand materials to upholster any product. (1,540 licensees)

- *Sanitizer*: Sanitizes bedding or filling materials for resale purposes. A licensee, who holds a Manufacturer, Importer, Bedding Retailer, Furniture/Bedding Retailer, or Custom Upholsterer license, does not need a separate Sanitizer license. (12 licensees)
- *Supply Dealer*: Manufactures, processes or sells any felt, batting, pads, woven, or plastic fabrics, or loose material in bags or containers, concealed or not concealed, to be used or that could be used in articles of upholstered furniture or bedding. (122 licensees)
- *Thermal Insulation Manufacturer*: Produces insulation materials or a combination of materials that retards the transfer of heat or cold. (111 licensees)
- *Wholesaler*: Sells any article of upholstered furniture or bedding or filling materials to another for the purpose of resale, but does not include an affiliate or subsidiary where the ownership and name are identical, and that is the exclusive sales outlet of a manufacturer. (198 Licensees)

BEARHFTI's current mission statement, as stated in its 2013-2017 Strategic Plan, is as follows:

To protect and serve the consumers while ensuring a fair and competitive marketplace.

BEARHFTI reported in its *2017 Sunset Review Report* that an updated Strategic Plan would be in place by January 2018; however, BEARHFTI is still in the process of finalizing an updated strategic plan.

BEARHFTI's mandate includes making protection of the public its highest priority in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public is paramount. (BPC § 9810.1, 19004.1)

Advisory Council Membership

The BEARHFTI Consumer Advisory Council (Council) is a voluntary body which provides information and guidance related to the industries BEARHFTI oversees. Members of the Council serve in an advisory capacity only and make policy and other related recommendations to the Bureau Chief. According to the BEARHFTI, the purpose of the Council is to:

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

The Council is currently comprised of 12 members, seven professional and five public, and all are appointed by the Director of the DCA. The Council was expanded in October of 2015 from nine to 11,

then again in December of 2017 to 12 members. The Council aims to meet twice a year, at a minimum. Since the Council is not statutorily mandated, there are no quorum requirements. There are currently no vacancies on the Council. The most recent appointments include two representatives of the household movers industry. The following is a listing of the Council members and their backgrounds:

| Name and Short Bio | Appointment Date | Term Expiration Date | Appointing Authority |
|---|------------------|----------------------|----------------------|
| <p>Pascal Benyamini, Public Member Mr. Benyamini is an attorney and partner at Drinker Biddle & Reath LLP. Since October 2009, Mr. Benyamini has served on the Board of Directors for the California Furniture Manufacturers Association, and since July 2015, he has served on the Board of Directors for the Los Angeles Chapter of the National Tooling and Machining Association. Mr. Benyamini received his Juris Doctorate from the University of California, Davis School of Law, and his Bachelor Degrees, summa cum laude, in Economics and French Studies, from the University of California, Los Angeles.</p> | 10/1/2017 | 10/01/2019 | Director of DCA |
| <p>Sharon Bradley, Professional Member For 13 years, Ms. Bradley has served as the CEO of the North American Home Furnishings Association and the Executive Vice President of the North American Retail Service Corporation, providing leadership, advocacy, and education to owners and managers of home furnishing companies. Ms. Bradley holds a Master of Science in Human Resource Management.</p> | 02/1/2006 | 10/01/2019 | Director of DCA |
| <p>Burt Grimes, Professional Member Mr. Grimes started his company, Pacific West Furniture Manufacturing, in 1979 and continues to successfully grow his business, including acquisition of Royal Mattress Manufacturing in 2010. Mr. Grimes currently serves on the Board of Directors of the California Furniture Manufacturers Association, and has also served as president. Mr. Grimes holds a Bachelor of Science degree in Business Administration from the University of Northern Colorado.</p> | 10/1/2005 | 10/01/2019 | Director of DCA |
| <p>Christopher Higdon, Professional Member Mr. Higdon is President and CEO of California Moving Systems and has served his company and the industry for over 40 years. He is active in the community serving on the boards of the Sacramento State Alumni Association, Northeastern California Better Business Bureau, California Moving and Storage Association, and the American Moving and Storage Association.</p> | 12/01/2017 | 12/01/2019 | Director of DCA |
| <p>Judy Levin, Public Member Ms. Levin has worked in the non-profit arena for 25 years and for the last 7 years has led the Center for Environmental Health, working for corporations, and governmental, health care, and higher educational organizations to move the market towards safer products. Ms. Levin has recently been awarded the 2015 International Interior Design Association Leadership Award of Excellence. Ms. Levin holds a Master of Arts Degree in Social Work from the University of Michigan.</p> | 10/01/2015 | 10/01/2019 | Director of DCA |
| <p>Michael Lipsett, Public Member Dr. Lipsett worked in California state government for nearly 30 years, most recently as Chief of the Environmental Health Investigations Branch in the California Department of Public Health. He played a central role in establishing the state's biomonitoring program, which evaluates toxic chemical exposures in California residents. He received his M.D. degree from the University of California, San Diego.</p> | 10/01/2017 | 10/01/2019 | Director of DCA |

| | | | |
|---|------------|------------|-----------------|
| <p>Dr. Donald Lucas, Public Member Dr. Lucas currently works as a Combustion Scientist at the Lawrence Berkeley National Laboratory and the University of California, Berkeley. His research focuses on combustion byproducts and has led to the development of diagnostic methods for the measuring of toxic combustion. Dr. Lucas holds a Ph.D. in Physical Chemistry from the University of California, Berkeley.</p> | 10/01/2015 | 10/01/2019 | Director of DCA |
| <p>Antoinette Stein, Public Member Dr. Stein currently works with for the non-profit Environmental Health Trust. Dr. Stein brings 7 years' work experience at General Electric Company (GE) where she worked in research and development of materials and processes including radiant barrier and low emissivity coating technology for GE Medical Systems and GE Aircraft Engines. She also brings 8 years work experience for the State of California working in the Department of Public Health in the Environmental Health Laboratory Branch and the Department of General Services Procurement Division in the Environmentally Preferable Purchasing Unit. Dr. Stein holds a Ph.D. in Environmental Engineering from University of Cincinnati.</p> | 10/01/2017 | 10/01/2019 | Director of DCA |
| <p>Stephen McDaniel, Professional Member Mr. McDaniel serves as the Assistant Executive Director and Assistant General Counsel to the Service Contract Industry Council ("SCIC"), a national trade association representing the interests of the service contract industry. Mr. McDaniel oversees SCIC's efforts to enact and monitor legislative, regulatory and administrative activity throughout the United States. Mr. McDaniel focuses his practice on the areas of service contract, warranty, motor vehicle ancillary product, health care, and insurance industries.</p> | 10/01/2017 | 10/01/2019 | Director of DCA |
| <p>Brandon Wilson, Professional Member Mr. Wilson currently serves as the Chief Compliance Officer for MALOUF®, and has served in various compliance, training, product development, enforcement, and safety roles since 1993. Mr. Wilson holds Bachelors of Science in English from Utah State University.</p> | 10/01/2017 | 10/01/2019 | Director of DCA |
| <p>Stephen Weitekamp, Professional Member Mr. Weitekamp has been involved with the moving and storage industry since 1980. He has held several leadership positions and has served as President of the California Moving and Storage Association (CMSA) since 2006. He is also engaged with national and international moving and storage issues and serves as a member of the board of directors for the American Moving and Storage Association (AMSA).</p> | 12/01/2017 | 12/01/2019 | Director of DCA |
| <p>Dr. David Yarbrough, Professional Member Dr. Yarbrough has been active in the field of thermal insulation for over 35 years and is the author of over 150 technical documents on the subject. Dr. Yarbrough is the founder of R&D, Inc. Dr. Yarbrough holds a Ph.D. in Chemical Engineering from the Georgia Institute of Technology, and is a registered engineer in two states.</p> | 10/01/2015 | 10/01/2019 | Director of DCA |

Fiscal, Fund and Fee Analysis

BEARHFTI is a special fund agency whose activities are funded through regulatory and license fees. BEARHFTI does not receive support from the General Fund. As a result of the merger of the HFTI and the EAR programs, BEARHFTI currently oversees two separate funds: HFTI Fund and EAR Fund. With the addition of the Household Movers Program, BEARHFTI will separately administer the Household Movers Fund as well. These funds are discussed further in Issue #3 below.

All licenses under the EAR program are renewed annually, and all licenses under the HFTI program are renewed biennially, with the exception of the Thermal Insulation Manufacturer's license which is renewed annually. All licenses expire on the last day of the month of expiration.

| FEE SCHEDULE AND REVENUE - HFTI Program | | | | | | | | (List revenue in thousands) |
|--|-------------|-----------------|--------------------|--------------------|--------------------|--------------------|--------------------|-----------------------------|
| Initial License Fees | Current Fee | Statutory Limit | FY 2013/14 Revenue | FY 2014/15 Revenue | FY 2015/16 Revenue | FY 2016/17 Revenue | % of Total Revenue | |
| Retail Bedding Dealer | \$140 | \$150 | \$46 | \$17 | \$23 | \$12 | <1% | |
| Retail Furniture Dealer | \$140 | \$150 | \$13 | \$20 | \$16 | \$57 | 1% | |
| Retail Furniture/ Bedding Dealer | \$280 | \$300 | \$242 | \$284 | \$122 | \$247 | 5% | |
| Custom Upholsterer | \$420 | \$450 | \$10 | \$10 | \$18 | \$11 | <1% | |
| Sanitizer's License | \$420 | \$450 | \$1 | \$1 | \$1 | \$1 | <1% | |
| Supply Dealer's License | \$625 | \$675 | \$2 | \$3 | \$5 | \$3 | <1% | |
| Wholesale Furniture/Bedding Dealer | \$625 | \$675 | \$10 | \$10 | \$18 | \$31 | 1% | |
| Furniture/Bedding Manufacturer | \$750 | \$940 | \$78 | \$90 | \$108 | \$197 | 4% | |
| Importer's License | \$750 | \$940 | \$477 | \$514 | \$567 | \$546 | 11% | |
| Thermal Insulation Manufacturer | \$2,000 | \$2,500 | \$14 | \$14 | \$6 | \$14 | <1% | |

Note: This table was taken from the Bureau of Electronic and Appliance Repair, Home Furnishings and Thermal Insulation's 2017 Sunset Review Report

| FEE SCHEDULE AND REVENUE - EAR Program | | | | | | | | (List revenue in thousands) |
|---|-------------|-----------------|--------------------|--------------------|--------------------|--------------------|--------------------|-----------------------------|
| Initial Registration Fees | Current Fee | Statutory Limit | FY 2013/14 Revenue | FY 2014/15 Revenue | FY 2015/16 Revenue | FY 2016/17 Revenue | % of Total Revenue | |
| Service Contract Seller | \$95 | \$95 | \$125 | \$146 | \$166 | \$148 | 5% | |
| Service Contract Administrator | \$95 | \$95 | \$16 | \$1 | \$1 | \$1 | <1% | |
| Electronic Service Dealer | \$190 | \$205 | \$154 | \$132 | \$129 | \$136 | 5% | |
| Appliance Service Dealer | \$190 | \$205 | \$41 | \$52 | \$57 | \$51 | 2% | |
| Combination Electronic/Appliance Service Dealer | \$375 | \$405 | \$10 | \$4 | \$38 | \$18 | 1% | |

Note: This table was taken from the Bureau of Electronic and Appliance Repair, Home Furnishings and Thermal Insulation's 2017 Sunset Review Report

BEARHFTI reports that at the conclusion of Fiscal Year (FY) 2016/17, the HFTI's reserve was approximately \$3.1 million (7.0 months) and the EAR's reserve was approximately \$2.8 million (11.9 months). While neither fund under BEARHFTI is required to maintain a specified reserve level, the DCA typically recommends that entities maintain a 3-6 month reserve in order to provide for a reasonable contingency fund to absorb any unforeseen costs, such as costly enforcement actions or other unexpected client service costs. BEARHFTI is subject to BPC §128.5 which specifies that at the end of any FY, any agency within the DCA that has unencumbered funds in amount that is more than the agency's operating budget for the next two FYs is required to reduce fees.

As reported by BEARHFTI the total revenues anticipated for the HFTI fund for FY 2017/18 is \$8.095 million and for the EAR fund is \$5.828 million. The total estimated expenditures for FY 2017/18 are \$4.984 million for the HFTI program and \$2.701 million for the EAR program.

BEARHFTI raised fees for all of its licensees (except the Thermal Insulation Manufacturer's license) - HFTI licenses in September 2016 and EAR licenses in January 2017. Licensing fees are capped in statute and additionally specified in regulations. Licenses under the EAR program are renewed annually and licenses under the HFTI program are renewed biennially.

Through the HFTI fund, BEARHFTI provided a loan to the GF in FY 2011/12. The loan was repaid in FY 2013/14 with interest.

| FUND CONDITION - HFTI | | | | | | |
|---|---------------|---------------|---------------|---------------|---------------|----------------|
| (Dollars in Thousands) | FY 2012/13 | FY 2013/14 | FY 2014/15 | FY 2015/16 | FY 2016/17 | CY 2017/18* |
| Beginning Balance | \$2,271 | \$1,847 | \$3,287 | \$2,606 | \$3,022 | \$3,054 |
| Revenues and Transfers | \$3,879 | \$4,390 | \$4,103 | \$4,711 | \$4,768 | \$5,041 |
| Total Revenue | \$6,150 | \$7,737 | \$7,390 | \$7,317 | \$7,790 | \$8,095 |
| Budget Authority | \$4,648 | \$4,858 | \$5,024 | \$5,014 | \$4,866 | \$4,828 |
| Expenditures | \$4,340 | \$4,454 | \$4,855 | \$4,433 | \$4,354 | \$4,984 |
| Loans to General Fund | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 |
| Accrued Interest, Loans to General Fund | \$0 | \$16 | \$0 | \$0 | \$0 | \$0 |
| Loans Repaid from General Fund | \$0 | \$1,500 | \$0 | \$0 | \$0 | \$0 |
| Fund Balance | \$1,781 | \$3,261 | \$2,530 | \$2,876 | \$3,054 | \$2,837 |
| Months in Reserve | 4.8 | 8.1 | 6.8 | 7.3 | 7.0 | 6.6 |

* Projected

Note: This table was taken from the Bureau of Electronic and Appliance Repair, Home Furnishings and Thermal Insulation's 2017 Sunset Review Report and subsequently updated on February 26, 2018.

| FUND CONDITION - EAR | | | | | | |
|---|---------------|------------|------------|---------------|---------------|----------------|
| (Dollars in Thousands) | FY 2012/13 | FY 2013/14 | FY 2014/15 | FY 2015/16 | FY 2016/17 | CY 2017/18* |
| Beginning Balance | \$1,935 | \$2,182 | \$2,378 | \$2,056 | \$2,447 | \$2,848 |
| Revenues and Transfers | \$2,373 | \$2,564 | \$2,199 | \$2,554 | \$2,736 | \$2,980 |
| Total Revenue | \$4,308 | \$4,746 | \$4,577 | \$4,610 | \$5,183 | \$5,828 |
| Budget Authority | \$2,412 | \$2,677 | \$2,841 | \$2,875 | \$2,945 | \$2,613 |
| Expenditures | \$2,141 | \$2,370 | \$2,541 | \$2,170 | \$2,104 | \$2,701 |
| Loans to General Fund | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 |
| Accrued Interest, Loans to General Fund | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 |
| Loans Repaid from General Fund | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 |
| Fund Balance | \$2,151 | \$2,365 | \$2,034 | \$2,436 | \$2,848 | \$2,962 |
| Months in Reserve | 10.8 | 11.2 | 11.2 | 12.5 | 11.9 | 12.4 |

* Projected

Note: This table was taken from the Bureau of Electronic and Appliance Repair, Home Furnishings and Thermal Insulation's 2017 Sunset Review Report and subsequently updated on February 26, 2018.

For the last four FYs, the HFTI program has expended approximately 28% on enforcement, 8% on licensing, 43% on administration, and 21% on DCA pro rata. The EAR program has expended approximately 34% on enforcement, 16% on licensing, 11% on administration, and 39% on DCA pro rata.

Cost Recovery

According to BEARHFTI, cost recovery is rarely ordered in administrative cases, as the disposition of a case is typically a revocation. However for those cases where cost recovery is ordered (such as a stayed revocation with a suspension); cost recovery is often a term of probation. BEARHFTI utilizes the Franchise Tax Board's (FTB) intercept program for licensees if the business is a sole proprietor or a partnership model (those typically have social security number or other tax payer identification numbers associated with them). As noted, because many citations are issued for unlicensed activity-where no identifying number exists-cost recovery through the FTB is not always successful. BEARHFTI does not have the authority to seek cost recovery through statement of issue filings.

BEARHFTI does not have the authority to order restitution for the consumer, and instead recommends settlements of refunds, reworks, and adjustments to transactions. BEARHFTI notes that since FY 2013/14, approximately \$1 million has been returned to consumers via refund, rework, or adjustment as a result of filed consumer complaints.

Staffing

BEARHFTI has approximately 48 authorized staff positions (19 under the EAR program and 28.9 under the HFTI program) with multiple vacancies in the licensing, investigations and administrative units. BEARHFTI has requested a staff increase through the Budget Change Proposal process as a result of the addition of the Household Movers Program effective July 1, 2018. Bureau staffing is discussed further in Issue #4 below.

Licensing

Current licensees are not required to meet education or examination standards, but applicants for licensure are requested to provide information about past criminal history. Licensees under the Household Movers Program will be required to pass an examination and as a result, the BEARHFTI will administer examinations for that division beginning July 1, 2018. For all other programs, applicants sign under penalty of perjury that the information provided in the application is true and correct. Applicants who report past disciplinary information are required to provide additional documentation to BEARHFTI in order to determine if the past criminal activity is substantially related to the functions of the license being applied for. Additionally, BEARHFTI searches internal records for any criminal or administrative cases, citations, consumer complaints, or other actions previously related to an applicant.

BEARHFTI does not have statutory authority to request current or prospective licensees to comply with fingerprint requirements. However, beginning July 1, 2018, it will have the authority to require fingerprints only for those current and prospective licensees within the Household Movers Program.

BEARHFTI has established an internal timeframe to process all applications within 30 days. BEARHFTI reports that it has met its internal timeframes by processing applications within 5-16 days during the last FY.

Enforcement

BEARHFTI's established performance target for its investigation process is 180 days or less. According to BEARHFTI, cases are prioritized based on the level of consumer harm and business practices. Average completion times range between 90 to 100 days, with most cases being completed within a 60-day period. BEARHFTI notes that out-of-country cases may take longer to settle.

BEARHFTI reports that it has changed its enforcement process since the prior sunset review. Prior to 2016/17, BEARHFTI utilized field staff to conduct onsite inspections throughout the state. Now, in addition to field staff, in-house staff reviews business websites and advertisements to identify potential violations. BEARHFTI reports that this shift has helped to improve daily operations, efficiency, and response times. Cases identified as a high priority are referred to field staff, while routine complaints are handled in-house. Field inspectors continue to conduct routine inspections for unlicensed activity and address issues that cannot be handled through the in-house Compliance Unit. Currently, BEARHFTI does not have a standard number of businesses that it investigates to determine whether they are in compliance with the law. BEARHFTI noted that many of its complaints are related to invoicing or estimate documentation issues, service contract issues, and manufacturer's warranties and can often be addressed without field investigative work. Although BEARHFTI receives many complaints regarding manufacturer's warranty issues, it does not have jurisdiction over such warranties.

BEARHFTI reports that the overall number of complaints received has increased since the prior sunset review, but complaints referred to field investigation have decreased because many issues are now addressed through its in-house complaint process. In addition, BEARHFTI reports that in FY 2014/15 it implemented the \$0 citation program, which provides violators with 30 days to correct a violation before a monetary citation or fine is issued. BEARHFTI reports that this process is working well because it allows BEARHFTI to provide outreach and education to businesses in an effort to achieve compliance; however, any subsequent violations result in monetary penalties as permitted under existing law.

| ENFORCEMENT STATISTICS | | | |
|-------------------------------|-------------------|-------------------|-------------------|
| | <u>FY 2014/15</u> | <u>FY 2015/16</u> | <u>FY 2016/17</u> |
| Complaints Received | 2725 | 2665 | 2054 |
| Closed | 1035 | 1523 | 1062 |
| Referred to Investigation | 1656 | 1171 | 976 |
| Average Time to Close | 5 | 6 | 2 |
| Pending (close of FY) | 45 | 13 | 29 |
| Source of Complaint | | | |
| Public | 1049 | 989 | 821 |
| Licensee/Professional Groups | 2 | 1 | 1 |
| Governmental Agencies | 11 | 20 | 6 |
| Other | 1676 | 1676 | 1233 |
| Conviction / Arrest | | | |
| CONV Received | 2 | 0 | 0 |
| CONV Closed | 2 | 0 | 0 |

| | | | |
|--------------------------------------|-----------------|-----------------|------------------|
| Average Time to Close | 1 | 0 | 0 |
| CONV Pending (close of FY) | 0 | 0 | 0 |
| LICENSE DENIAL | | | |
| License Applications Denied | 7 | 8 | 5 |
| SOIs Filed | 4 | 2 | 4 |
| SOIs Withdrawn | 3 | 0 | 0 |
| SOIs Dismissed | 0 | 0 | 0 |
| SOIs Declined | 1 | 0 | 1 |
| Average Days SOI | 451 | 0 | 449 |
| ACCUSATION | | | |
| Accusations Filed | 1 | 0 | 0 |
| Accusations Withdrawn | 0 | 0 | 1 |
| Accusations Dismissed | 0 | 0 | 0 |
| Accusations Declined | 0 | 0 | 0 |
| Average Days Accusations | 330 | 0 | 540 |
| Pending (close of FY) | 0 | 1 | 0 |
| CITATION AND FINE | | | |
| <u>Citations Issued</u> | <u>1495</u> | <u>1523</u> | <u>1134</u> |
| <u>Average Days to Complete</u> | <u>5</u> | <u>5</u> | <u>4</u> |
| <u>Amount of Fines Assessed</u> | <u>\$78,500</u> | <u>\$87,500</u> | <u>\$380,415</u> |
| <u>Reduced, Withdrawn, Dismissed</u> | <u>\$34,250</u> | <u>\$28,150</u> | <u>\$98,700</u> |
| <u>Amount Collected</u> | <u>\$26,000</u> | <u>\$22,850</u> | <u>\$165,165</u> |
| CRIMINAL ACTION | | | |
| Referred for Criminal Prosecution | <u>0</u> | <u>0</u> | <u>0</u> |
| Inspections conducted | <u>4,681</u> | <u>5,202</u> | <u>4,185</u> |

Note: This table was taken from the Bureau of Electronic and Appliance Repair, Home Furnishings and Thermal Insulation's 2017 Sunset Review Report, with clarifying information provided by BEARHFTI.

The table below shows the timeframes for the last three years for investigations and formal discipline.

| Enforcement Timeframes | FY 2014/15 | FY 2015/16 | FY 2016/17 |
|---------------------------------------|------------|------------|------------|
| Investigations: Average days to close | 57 | 119 | 67 |
| Discipline: Average Days to Complete | 607 | 739 | 219 |

Note: This information was taken from the Bureau of Electronic and Appliance Repair, Home Furnishings and Thermal Insulation's 2017 Sunset Review Report

The table below identifies the actual formal disciplinary actions for the past three years.

| Formal Disciplinary Actions | FY 2014/15 | FY 2015/16 | FY 2016/17 |
|------------------------------------|------------|------------|------------|
| Accusations Filed | 1 | 0 | 0 |
| Revocation | 1 | 1 | 1 |
| Voluntary Surrender | 0 | 0 | 0 |
| Suspension | 0 | 0 | 0 |
| Probation with Suspension | 0 | 0 | 0 |
| Probation | 1 | 2 | 1 |
| Probationary License Issued | 0 | 0 | 0 |

Note: This information was taken from the Bureau of Electronic Appliance Repair, Home Furnishings and Thermal Insulation's 2017 Sunset Review Report

The fine schedule for violations of EAR laws are specified under Title 16, California Code of Regulations (CCR) § 2771, and the fines for service contract violations are specified in BPC §9855.8. Fines are levied depending on the severity of the violation, repeat violations, and can range anywhere between \$100 and \$2000.

The fine schedule for violations of the HFTI laws are specified under 4 CCR § 1383.2 and BPC §19094. Fines are levied depending on the violation of each licensure category. For example, a violation of labeling requirements can result in a fine between \$100 and \$1000. The highest fines levied under HFTI can be up to \$2500 and are predominately assessed for violations of the flammability regulations. BEARHFTI has not increased its fine amounts since the previous sunset review and reports that it deems the current fine schedule is appropriate for the types of violations that occur. The average fine under the EAR program is \$250 and \$500 under the HFTI program. As reported by BEARHFTI, the five most common reasons for issuing citations are:

- Unlicensed activity;
- Failure to meet flammability standards;
- Chemical statement notification violations;
- Labeling violations; and,
- Invoice and estimate violations

In the DCA's annual report to the Legislature, it was reported that BEARHFTI assessed \$383,916 in fines, reduced \$75,050, and collected \$173,865.

Unlicensed activity continues to be an issue for a number of industries regulated by BEARHFTI. It is unknown which licensing group has highest numbers of unlicensed activity; however, BEARHFTI reports that it receives the most complaints about, and issues the most citations to those engaged in unlicensed electronic and appliance repair practices.

BEARHFTI notes that about 20 percent of businesses do not meet current licensure requirements. To address the unlicensed industry, BEARHFTI utilizes both field inspectors and internal investigations. Internal staffs use the internet to check for businesses offering licensed services and field inspectors conduct routine inspections of businesses providing licensed services. Additionally, BEARHFTI works with industry associations and relies on tips from licensees to combat unlicensed activity. Enforcement efforts and unlicensed activity are discussed further in Issue #9 below.

Laboratory/Product Testing

California is one of two states in the nation that conducts laboratory testing and establishes classifications for filling materials contained in furniture and bedding products. Laboratory testing is conducted for products under the HFTI program. The rest of the country has looked to California for technical expertise in determining the industry standards. California's licensees in these industries typically produce products that meet California's high standards and distribute those products to the rest of the nation. BEARHFTI has access to, and may inspect and test, any article of upholstered furniture, bedding, or insulation, and may condemn, seize, or destroy any of those products that are in violation of the law. While companies do not need to have their products tested to receive a license, staff may randomly select items for testing to determine if products are in compliance. BPC § 19200.5 authorizes BEARHFTI to open and inspect any article of upholstered furniture or bedding, including pillows or cushions for inspection purposes to ensure the materials comply with California's product

standards. Under current law, the BEARHFTI is required to reimburse the manufacturer, distributor, or retailer for the actual cost of any article or sample of filling material or insulation taken for testing. However, if the product fails the test, then BEARHFTI is not required to provide reimbursement. BEARHFTI has averaged approximately \$10,000 in reimbursement costs for product sampling annually during the last four FYs.

Between 2013 and 2017, BEARHFTI tested an annual average of approximately 350 samples of upholstered furniture products (adult and juvenile), mattresses (crib and twin, etc.), bedding products (pillows, mattress pads, plumage products, among others), and thermal insulation products (i.e. boards, battings, reflective barriers, etc.). Upholstered furniture and mattresses make up the largest share of those samples.

In 2018, BEARHFTI is projected to sample approximately 390 samples, including 330 upholstered furniture samples and approximately 60 insulation samples. These samples do not include those products which are tested by the Department of Toxics and Substance Control (DTSC), as part of SB 1019 (Leno, Chapter 862, Statutes of 2014) labeling compliance for flame retardant chemicals.

Flammability Standards and the Implementation of SB 1019

At the time of the BEARHFTI's last sunset review, SB 1019 was simultaneously being considered by the Legislature. That bill required the manufacturers of upholstered furniture to include a label indicating whether or not the product has added flame retardant chemicals, and provided BEARHFTI with enforcement authority to ensure compliance. As a result of this law, BEARHFTI in conjunction with the DTSC coordinate those products to be tested for compliance with California's flame retardant labeling standards. BPC § 19094 requires BEARHFTI to provide the DTSC with a sampling of products to be tested to determine if the label accurately states whether or not there are flame retardant chemicals in a particular product. BEARHFTI is responsible for annually determining the number of products to be tested based on the financial resources available. BEARHFTI is responsible for paying the costs for product testing and since 2015 it has reimbursed DTSC between \$10,000 and \$15,000 annually for compliance testing costs.

(For more detailed information regarding the responsibilities, operation and functions of BEARHFTI, please refer to its 2017 Sunset Review Report. This report is available on its website: https://bhgs.dca.ca.gov/forms_pubs/sunset_2017.pdf)

PRIOR SUNSET REVIEW: CHANGES AND IMPROVEMENTS

BEARHFTI was last reviewed by the Legislature through sunset review in 2013-14. During the previous sunset review, 13 issues were raised. In December 2017, BEARHFTI submitted its required sunset report to the Committees. In this report, BEARHFTI described actions it has taken since its prior review to address the recommendations made. The following are some of the more important programmatic and operational changes, enhancements and other important policy decisions or regulatory changes made. For those which were not addressed and which may still be of concern to the Committees, they are addressed and more fully discussed under "Current Sunset Review Issues."

- **Revenues were increased with the passage of AB 1175 (Ridley-Thomas, Chapter 187, Statutes of 2015).**
- **Standards were adjusted.** The Committees directed BEARHFTI to reexamine its standards, especially its feather and down and labeling standards, to determine if 1) some of those standards should be relaxed so that manufacturers can meet them more easily, presuming there is no appreciable impact on consumer safety; 2) standards should be clarified or better advertised; or 3) its penalties for home furnishings and thermal insulation violations, which average \$500, are too low to act as a proper deterrent.

In January 2015, the TB 117-2013 standard was implemented replacing TB 117. The Bureau anticipated that the failure rate, based on the new standard, would range between 5-10 percent. The current failure rate for TB 117-2013 samples is 6.8%; therefore actual compliance rate is within the previously estimated parameters.

The Bureau reports that it is currently evaluating adopting the sliding scale maximums for damaged feathers for blended waterfowl feather and down products which will provide more realistic and obtainable results for the plumage industry and which BEARHFTI does not believe will cause economic or health and safety hazards to the consumer.

The Bureau reports that it is also evaluating amending regulations to reflect a more stringent oxygen number not exceeding 10 grams of oxygen per 100,000 grams of sample. The update will reflect what is accepted internationally and considering the upmost cleanliness for the consumer as 10 grams of oxygen per 100,000 grams per sample is a cleaner plumage product.

BEARHFTI held a workshop in February 2017 regarding proposed regulatory amendments to product labeling requirements. Some of the items discussed during the workshop were antiquated requirements; propose new law label examples, adding definitions, and clean-up of obsolete passages. The Bureau plans to submit a regulatory proposal to amend current labeling requirements in the summer of 2018.

- **BEARHFTI complied with the requirement to provide a report to the Legislature.** During BEARHFTI's last sunset review, the Committees identified a number of questions related to the current regulatory oversight and structure of BEARHFTI including whether BEARHFTI should switch to biennial license renewals for all licenses; whether BEARHFTI should deregulate or streamline market segments, whether BEARHFTI should continue to offer certain home furnishings licenses; whether the BEARHFTI should consolidate license types that are highly similar or are infrequently used; whether BEARHFTI should deregulate, consolidate, or issue stand-alone licenses to sanitizers and custom upholsterers with another license type.

AB 2740 (Bonilla, Chapter 428, Statutes of 2014) required the above mentioned issues to be addressed in a report submitted to the Legislature by July 1, 2015. In order to answer the questions raised by the Committees, BEARHFTI contracted with CPS HR Consulting to perform a market condition assessment on the specific issues identified. CPS HR Consulting conducted interviews and/or surveys with BEARHFTI management, Advisory Council members, industry officials, and a representative sample of California consumers to gather information for the assessment. This report examined all of the above questions. BEARHFTI

submitted its findings in the supplemental report, *Response to Issues and Recommendations Pursuant to the Bureau of Electronic and Appliance Repair, Home Furnishings and Thermal Insulation 2014 Sunset Review*. As a result of the findings from the report, BEARHFTI has raised two new issues in its *2017 Sunset Review Report* including licensure renewal and combining licensure categories which are discussed in more detail below.

- **BEARHFTI has a new Bureau Chief.**

BEARHFTI's current Bureau Chief, Nicholas Oliver, was appointed by the Governor in October of 2017.

- **BEARHFTI updated its website in April 2016.**

BEARHFTI updated its website as part of its *2016 Outreach Plan* which was developed in response to the issues identified in the *2015 Market Condition Assessment Final Report*. As part of the outreach plan, BEARHFTI updated its website to remove duplicative pages and content, bring increased visibility for accessing important consumer information and publications including enforcement related data, and create a more user-friendly site.

CURRENT SUNSET REVIEW ISSUES FOR THE BUREAU OF ELECTRONIC AND APPLIANCE REPAIR, HOME FURNISHINGS AND THERMAL INSULATION

The following are unresolved issues pertaining to BEARHFTI or areas of concern that should be considered, along with background information for each issue. There are also recommendations Committee staff have made regarding particular issues or problem areas BEARHFTI needs to address. BEARHFTI and other interested parties have been provided with this Background Paper and BEARHFTI will respond to the issues presented and the recommendations of staff.

BEARHFTI ADMINISTRATION ISSUES

ISSUE #1: (BreEZe) BEARHFTI continues to use outdated information technology systems and other standalone programs in lieu of BreEZe. What is BEARHFTI's technology future? Have information technology needs changed with the addition of the Household Movers Program?

Background: DCA has been working since 2009 on replacing multiple antiquated standalone IT systems with one fully integrated system. In September 2011, DCA awarded Accenture LLC with a contract to develop and implement a commercial off-the-shelf IT system, commonly referred to as BreEZe. BreEZe was intended to provide applicant tracking, licensing, renewals, enforcement, monitoring, cashiering, and data management capabilities. In addition, BreEZe is web-enabled and designed to allow licensees to complete and submit applications, apply for renewals, and pay the necessary fees through the Internet. The public can also file complaints, access complaint status, and check licensee information.

The project plan called for BreEZe to be implemented in three releases. The first release was scheduled for July 2012. BEARHFTI was originally scheduled for inclusion in Release 3 of the project. Under Special Project Report 3.1, which outlined the changing scope and cost of the BreEZe project, Release 3 was removed from the project entirely in 2015.

DCA currently has no formal plan to expand BreEZe to the 19 boards originally included in Release 3. Instead, DCA first intends to conduct a cost-benefit analysis for Release 3 boards and then make a decision about whether programs previously slated for Release 3 of the project will come onto BreEZe and, if so, how that will be implemented. It is not clear whether the system has been evaluated to meet the needs of Release 3 entities like BEARHFTI, many of which are facing significant operational challenges due to their lack of dynamic IT capacity.

According to BEARHFTI, in August 2017, staff met with DCA's Chief Information Officer and Executive Office and agreed on a phased-in approach beginning with an inventory and documentation of existing licensing and enforcement business processes. Outputs from this analysis will serve as key inputs to the Project Approval Lifecycle process. BEARHFTI advises that it will work with DCA and the California Department of Technology to evaluate all alternatives prior to selecting the best technology response, a strategy the BEARHFTI states is consistent with DCA's Strategic Plan for all Release 3 boards and bureaus. Although no "bridge system" is being utilized, several workarounds are currently being used to satisfy program requirements or needs that cannot be met by current legacy systems.

BEARHFTI reports in the two tables below (Table 1 and Table 2) the amount that it has expended on the BreEZe program.

| BreEZe Costs (Table 1) | | | | |
|-------------------------------|-----------------|------------|------------|-----------------------|
| FY 2013/14 | FY 2014/15 | FY 2015/16 | FY 2016/17 | FY 2017/18* |
| \$147,434 | \$75,378 | \$72,778 | \$179,692 | \$147,000 (projected) |

Note: This table was taken from page 19 of the Bureau of Electronic Appliance Repair, Home Furnishings and Thermal Insulation's 2017 Sunset Review Report

During the 2014 sunset review, Committee staff raised the issue of BreEZe. At that time, Committee Staff recommended BEARHFTI update the Committees about the current status of its implementation of BreEZe including expecting start dates, new functionalities, additional costs, and any existing or expected declines in serve levels and licensing and enforcement backlogs. AB 2740 required BEARHFTI to report back to the Committees on the status of its implementation of BreEZe, including whether the system will accommodate its current and future needs. In BEARHFTI's 2015 Report to the Legislature, it provided the following concerning BreEZe.

“At present, the Department continues to support the Bureau’s legacy systems as the Bureau’s transition to BreEZe in Release 3 is not currently scheduled. The Department will conduct a formal cost-benefit analysis of BreEZe, in conformance with the State Auditor’s Report, prior to moving forward with Release 3. Unless the cost-benefit analysis indicates otherwise, the goal remains to have a single integrated licensing and enforcement system. The Department and Bureau are awaiting the outcome of that analysis prior to planning the Bureau’s transition to BreEZe. The Bureau has paid a share of the initial hardware and software investment costs, and will continue to contribute to the remaining non-Accenture project costs, but will not pay Accenture project costs for Release 1 and 2. BreEZe project costs are allocated among the boards and bureaus based upon their respective share of the Department’s overall annual initial licensing application and license renewal transactions.”

BEARHFTI included Table2 in its 2015 Report to the Legislature which specified the BreEZe cost breakdown for each of the programs (EAR) and (HFTI).

| BreEZe Costs (Table 2) | | | | | | |
|-------------------------------|--------------------|--------------------------|------------------|-------------------------------|-------------------|-------------------------------|
| | Total Costs | % of Total Budget | EAR Costs | % of Total Fund Budget | HFTI Costs | % of Total Fund Budget |
| FY 2013-14 | \$147,434 | 2.15% | \$60,955 | 2.56% | \$86,479 | 1.93% |
| FY 2014-15 | \$75,378 | 0.94% | \$29,305 | 1.02% | \$46,073 | 0.90% |
| FY 2015-16 | \$208,307 | 2.69% | \$82,397 | 2.92% | \$125,910 | 2.55% |
| FY 2016-17 | \$183,677 | 2.33% | \$72,560 | 2.54% | \$111,117 | 2.22% |

Note: The information for this table was taken from page 25 of the Response to Issues and Recommendations Pursuant to the BEARHFTI's 2014 Sunset Review [Section 12, Attachment C.1]

With the exception of FYs 2013/14 and 2014/15, the reported BreEZe costs provided by BEARHFTI are inconsistent, making it difficult to determine the actual costs associated with the IT project and any continued support for the program.

Staff Recommendation: *BEARHFTI should update the Committee about the current status of its IT program. How will the addition of the Household Movers Program impact BEARHFTI's current technology needs? Also, BEARHFTI should explain why its projected 2017/18 costs for BreZE are expected to be higher than 2014/15 and 2015/16 and why BEARHFTI paid a higher cost in FY 2016/17 given that it will never utilize the system and to date, does not have a new IT plan in place? Also, BEARHFTI should try to provide the accurate costs for FYs 2015/16 and 2016/17.*

ISSUE #2: (DCA PRO RATA). What services does the EAR program receive from the DCA that would lead to a 50% higher Pro Rata expenditure than the HFTI program?

Background: DCA's utilization of pro rata continues to be an ongoing issue for the Legislature and the Committees. BPC § 201 authorizes the Director of the DCA, with the approval of the Department of Finance, to charge boards and bureaus for estimated administrative expenses, commonly referred to as Pro Rata. Currently, all DCA entities are subject to pay "pro rata" in order for the DCA to provide centralized administrative services to all of its boards, committees, commission and bureaus, including BEARHFTI. Pro rata shares fund numerous DCA-wide services including call center services, complaint resolution, and correspondence units. Since all boards, bureaus, commissions and committees under the jurisdiction of the DCA are self-funded programs, meaning funds are paid solely by the fees collected from licensees, the issue of pro rata and the administrative charges to DCA programs has long been a subject of scrutiny to ensure that each entity is charged the fair and reasonable amount for services rendered by the DCA. As such, pro rata expenditures are often examined as a part of the sunset review process.

In 2014, BEARHFTI reported that the EAR program spent approximately 37% of its budget on pro rata and the HFTI program spent approximately 19% of its budget on pro rata expenses. The issue of pro rata was raised during BEARHFTI's 2014 sunset review. During the prior sunset review, the Committees recommended that BEARHFTI discuss whether "it could achieve cost savings by dealing with more of its consumer complaints in-house through its cite and fine authority". At that time, the Committee staff background paper recommended that BEARHFTI advise the Committees on how pro rata calculations were determined, including an analysis of services received from the DCA. This information request was ultimately included in AB 2740 (Bonilla, Chapter 428, Statutes of 2014) which required the BEARHFTI to report to the Legislature on a number of issues in 2015.

In response to the Committee's request, BEARHFTI noted that in July of 2016, an interagency agreement was entered into with the DCA, which transferred three Consumer Service Representative positions from the Department's Complaint Resolution Program (which is no longer operational) to BEARHFTI. In July 2017, BEARHFTI's authorized positions were increased through a budget change proposal, which added one Consumer Service Representative position to HFTI's budget and two Consumer Service Representative positions to EAR's budget. Those positions provided BEARHFTI with in-house complaint service capabilities and are reported to reduce the pro rata costs paid to the [DCA]. The Consumer Service Representative positions have since been reclassified to the Staff Services Analyst classification and redirected to BEARHFTI's Enforcement Unit to combine duties and maximize resources. The Bureau reported a cost savings of \$291,000 in FY 2016-17 resulting from the interagency agreement.

However, BEARHFTI reported in its *2017 Sunset Review Report* that the HFTI program was charged 21% of its budget for pro rata and the EAR program was charged 41% (both increases from the

previous year reported by BEARHFTI). BEARHFTI stated that it anticipated a reduction in pro rata of \$277,000 in FY 2017/18 and on-going.

The FY 2017/18 projected costs for both EAR and HFTI’s pro rata costs were not included in BEARHFTI’s 2017 Sunset Review Report, but in the DCA’s annual pro rata report to the Legislature, it is projected that the EAR program will spend 22% (a decrease) of its budget on pro rata, while the HFTI program will spend 20% (an increase) of its budget on pro rata costs.

The pro rata expenditures reported by BEARHFTI and in the DCA’s annual pro rata report to the Legislature are inconsistent. As a result, it is difficult to identify the true expenditure figures for BEARHFTI’s pro rata shares are. In addition, it is unclear how the addition of the household movers will impact pro rata expenses.

| <u>DCA Reported Figures</u> | | <u>BEARHFTI Reported Figures</u> | |
|-----------------------------|-----------|----------------------------------|-----------|
| 2015/16 | 2016/17 | 2015/16 | 2016/17 |
| EAR: 37% | EAR: 34% | EAR: 35% | EAR: 41% |
| HFTI: 20% | HFTI: 18% | HFTI: 19% | HFTI: 21% |

Staff Recommendation: *BEARHFTI should advise the Committees on the process for calculating pro rata expenditures for both the EAR and the HFTI programs. In addition, BEARHFTI should advise the Committees on the services it anticipates utilizing from the DCA for the home movers program and what the anticipated pro rata costs are expected to be given that the transition will include assistance from the CPUC. Further, BEARHFTI should explain to the Committees whether or not the projected reductions for FY 2016/17 were ever realized and if the same expenditures are expected for 2018.*

ISSUE #3: (FUND ADMINISTRATION) BEARHFTI administers two separate funds (EAR and HFTI). How does the Bureau effectively manage this effort? What steps is BEARHFTI taking to prepare for the administration of a third practice act and fund?

Background: Similar to a multitude of other boards and bureaus within the DCA, the BEARHFTI is comprised of two, once separate, regulatory entities. As a result, when the EAR and the HFTI collapsed their separate structures into one, BEARHFTI was tasked with overseeing two separate funds and two regulatory programs (the EAR program and the HFTI program). Currently, BEARHFTI treats both programs separately with respect to funding and program administration. Clearly, there are areas where services may overlap including enforcement, licensing, and administration such as rent, supplies, and executive staff, among others. With this addition of household movers, BEARHFTI will be responsible for three separate regulatory programs and three separate funds.

Merging the funds and or practice acts of numerous DCA regulated entities has been trending during past sunset oversight. In 2011, SB 933 (Runner, Chapter 449, Statutes of 2011) combined the acts applicable to speech -language pathologists, audiologists, and hearing aid dispensers and combined the funds from each of the previous regulatory entities to reflect regulation by one board. AB 180 (Bonilla, Chapter 395, Statutes of 2015), combined the acts applicable to the cemetery and funeral acts and merged the funds from each of the previous regulated entities under the Cemetery and Funeral Bureau's jurisdiction. AB 179 (Bonilla, Chapter 510, Statutes of 2015) combined the funds of the

vocational nurses and the psychiatric technicians under the Board of Vocational Nursing and Psychiatric Technicians. AB 177, (Bonilla Chapter 428, Statutes of 2015), consolidated the separate funds of the Board of Professional Land Surveyors, Engineers, and Geologists.

Given the BEARHFTI's licensee landscape, merging practice acts or funds may or may not be beneficial, however, BEARHFTI should advise the Committees and stakeholders on its administrative efforts to ensure appropriate accounting figures for so many different funds.

Staff Recommendation: *The BEARHFTI should advise the Committees on its processes and procedures to ensure administrative and other charges are correctly attributed to the correct fund. In addition, the BEARHFTI should advise the Committees on its accounting methods for separate administrative services between the two programs, including its plans to for the administration of the Household Movers Fund.*

ISSUE #4: (STAFFING). How is BEARHFTI addressing staffing shortages, especially in the field representative classification?

Background: BEARHFTI reported in its *2017 Sunset Review Report*, that the “overall vacancy rate has now risen to 15 percent compared to nine percent in FY 2013-14 primarily due to field staff transferring to other positions and the retirement of senior field staff”.

Further, BEARHFTI reports challenges with field staff recruitment because those positions are specialized and require candidates to meet minimal educational or experience requirements related to BEARHFTI's specific industries. Even with administering a continuous examination to broaden its candidate pool for the Field Representative and Inspector classifications, BEARHFTI reported that it has seen minimal interest from qualified applicants. Further exacerbating this issue is that candidates must come from specific regions or territory of which the inspector is needed. As of December 2017, BEARHFTI noted that it was actively recruiting for positions and is working with the DCA to help address the personnel shortage. Currently, BEARHFTI considered a 24-month pilot program to use an alternate classification to provide a wider range of eligible candidates, centralize core functions and allow for cross over between the EAR and HFTI programs, rather than limiting the duties to one program or the other.

Staff Recommendation: *BEARHFTI should advise the Committees on any additional recruitment or staffing issues and, further should advise the Committees on any success it has had in increasing field inspector staff and what, if any, other changes are necessary.*

ISSUE #5: (OUTREACH). How is the public made aware of BEARHFTI's consumer protection efforts? What improvements should be made to ensure consumers, the public and regulated entities know about BEARHFTI's actions?

Background: BEARHFTI helps to maintain consumer protection by ensuring that consumers receive the appropriate repair services for which they are paying for, set industry standards for the safety of manufactured upholstered products, and ensures that the public is protected from unscrupulous sales, service contracts, and repair practices. According to BEARHFTI's *2013-2017 Strategic Plan*, BEARHFTI licenses and regulates almost 40,000 companies across the globe from small single-person

businesses to major corporations. The staff license/register companies, inspect businesses, ensure compliance with laws and regulations, conduct investigations, test products to ascertain if they meet the required standards, conduct research and development, educate applicants and registrants, and initiate disciplinary action against companies who commit egregious violations- and beginning July 1, 2018, BEARHFTI will expand to include the regulation of the household moving industry.

In the *Market Condition Assessment Final Report*, it was widely reported that BEARHFTI needed to provide stronger outreach to enhance visibility, communication, and information regarding its regulatory programs. Consumer feedback presented in that same report also noted that BEARHFTI had to cancel advisory committee meetings, thereby losing important industry stakeholder participation. Further, industry feedback noted that BEARHFTI needed to improve outreach and industry/consumer education. As the licensure program for household movers transitions to BEARHFTI, outreach and consumer awareness efforts will be critical.

To address concerns of low consumer awareness, BEARHFTI created a *2016 Outreach Plan* in February of 2016, and stated that it was prepared to do things such as increase the number of advisory committee meetings to three annual meetings to ensure licensees and stakeholders are apprised of its activities; update its website to be more user-friendly and provide relevant information; create outreach materials, including content on a YouTube site; make materials available in additional languages; and, conduct outreach at community events. BEARHFTI has made updates to its website and has posted pertinent information about the EAR and the HFTI programs, as well as posting disciplinary actions. BEARHFTI also reports that it has revised its inspection procedures to increase compliance.

Although BEARHFTI updated its website in 2016 which made it more user-friendly and provided enhanced information and resources for consumers about both the HFTI and EAR programs, there is currently no information provided about the Household Movers Program. In addition, BEARHFTI does not currently webcast its Council meetings. Given the important issues that the Council advises on, and the extensive knowledge of industry and industry-related issues provided by Council members, providing better consumer access to these important meetings could benefit both consumers and industry.

Webcasting is a commonly used and helpful tool for licensees, consumers, and other stakeholders to monitor boards or bureaus in real-time and better participate when unable to physically attend meetings. Webcasting provides greater access for consumers and licensees alike and also improves transparency and provides a level of detail that cannot be captured in the meeting summaries or posted information on a website. Currently, BEARHFTI does not provide for the webcasting of Council meetings.

Staff Recommendation: *BEARHFTI should advise the Committees on its progress to enhance public outreach and consumer and industry awareness. BEARHFTI should advise the Committees on when it will add information to its website regarding household movers and if there are any plans to webcast future Council meetings. In addition, it should advise the Committees on its commitment to conducting three advisory committee meetings per year.*

ISSUE #6: (HOUSEHOLD MOVERS PROGRAM) Is BEARHFTI prepared for its new oversight role of the household movers program?

Background: SB 19 (Hill, Chapter 421, Statutes of 2017), removed oversight of the Household Movers Program from the jurisdiction of the PUC and transferred it to the Division of Household Movers under the jurisdiction of BEARHFTI. Under BPC § 19225.5(h), a household mover is defined as including “every corporation or person, their lessees, trustee, receivers or trustees appointed by any court whatsoever, engaged in the 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”.

In order to obtain a license as a household goods carrier, an individual will be required to submit an application, pay a fee, pass an examination which will be established by BEARHFTI, provide a copy of workers compensation insurance (if employing persons), submit to a fingerprint background check through the Department of Justice and provide evidence of the appropriate insurance or bond coverage. Application processing for household movers will be more comprehensive than the application processing of BEARHFTI’s current licensing population. For example, in order to obtain a Thermal Insulation Manufacturer License, an applicant must fill out a two-page application (sign under penalty of perjury that the information on the application is correct) and pay a fee. Also, current licensees under BEARHFTI’s jurisdiction are not required to comply with fingerprinting requirements as part of a background check.

BEARHFTI currently utilizes field inspectors and in-house inspectors for its current enforcement programs. BEARHFTI reported in its *2017 Sunset Review Report*, that the “overall vacancy rate has now risen to 15 percent compared to nine percent in FY 2013-14 primarily due to field staff transferring to other positions and the retirement of senior field staff”. Under the new Household Movers Act, BPC § 19260.2 permits BEARHFTI to have access to records for investigative and inspection purposes; and, BPC § 19260.3 permits BEARHFTI employees to inspect and examine any lands, buildings, equipment, accounts, books, records and other documents for household movers.

An inspection program is important for consumer protection as it helps to ensure compliance with licensing laws. In the conclusion of BEARHFTI’s July 1, 2015 report to the Legislature, BEARHFTI acknowledged it needed to “increase the number of Wholesaler, Importer, and Manufacturer Compliance inspections”. In addition, the *Market Condition Assessment Fine Report 2015* conducted by CPS HR Consulting at the request of BEARHFTI noted that “the Bureau’s limited number of inspectors and lower visibility to consumers has resulted in less efficient consumer protection.” With a current shortage of inspectors for its current licensing program, it is important for BEARHFTI to provide its administrative plans for the household movers program to ensure proper oversight.

As noted previously, BEARHFTI already oversees two funds, HFTI and EAR. With the addition of the Household Movers Program, BEARHFTI will have to administer three separate funds for multiple licensure categories, enforcement, pro rata, and other administrative expenses.

BPC § 19229.1 places new requirements on BEARHFTI related only to the Household Movers Program including: 1) holding application workshops for potential applicants around the state; 2) implementing electronic case tracking of complaints; 3) implementing a process for timely enforcement against illegally operating household movers; 4) maintaining relationships and implement outreach and education programs with local law enforcement, district attorneys and airports; and, 5)

meeting with household trade associations annually, among other requirements. Although BEARHFTI has an advisory council with industry and public member composition, it is not required to meet a designated number of times per year, and in the past, BEARHFTI has acknowledged challenges with holding meetings. The addition of the Household Movers Program will require BEARHFTI to meet with industry trade associations at a minimum once a year, a requirement BEARHFTI does not have to meet for its other licensing groups.

Staff Recommendation: *BEARHFTI should advise the Committees on its current preparation efforts for adding the household movers program under its jurisdiction and any anticipated challenges associated with meeting the requirements of BPC § 19229.1.*

BEARHFTI LICENSING ISSUES

ISSUE #7: (LICENSE TYPE CONSOLIDATION) Should BEARHFTI consolidate or eliminate license types to improve efficiency?

Background: The regulatory landscape of BEARHFTI evolved in order to stay current with technological advances. Particularly within the appliance repair industry, where at one time, people would repair a broken toaster or a television, today's market allows consumers to easily purchase new, lower cost appliances, rather than have to seek repairs.

The issue of license types and consolidating licenses to avoid confusion for licensees and administrative efforts was raised during BEARHFTI's previous sunset review. At that time, Committee staff noted that the larger the number of licensure categories and overlap of license activity, the more confusing for licensees and the administration of regulatory programs. BEARHFTI currently issues a Retail Furniture Dealers License, (2,055 licensees), a Retail Bedding Dealers License (1,960 licensees) and a combination Retail Furniture and Bedding License (11,879 licensees). The fees for independent furniture and bedding retailer licenses are currently \$150 while the combined furniture/bedding retailer license is \$300. It is unclear why the combination retailer license is twice the amount of the independent retailer licenses. For example, are there additional inspections or other administrative costs associated with the combination license?

AB 2740 required BEARHFTI to conduct market condition assessments to study both the EAR and the HFTI markets to determine if the current statutes and regulations reflect the needs of the markets, where risk to consumers is the greatest, and whether continued regulation is clearly necessary against all segments of the market. With respect to the furniture/bedding, furniture, and bedding retailer license categories, the report noted that "according to Bureau management, there are more advantages than disadvantages to instituting a single furniture and bedding license than keeping the current three licenses." Those advantages included: 1) the BEARHFTI would not have to make adjustments if a licensee decides to diversify their product line; 2) there would be fewer license types and a reduced workload for licensing and enforcement staff; and 3), consolidation would be consistent with other license types in the past. The single disadvantage was the cost differential between the combined and independent retailer license.

Under current law, EAR and thermal insulation manufacturer licensees are renewed annually and HFTI licenses are renewed biennially. *The Market Condition Assessment Final Report 2015* raised the issue of the different renewal cycles for both programs. The report stated "the bureau licenses/registers

approximately 39,500 licenses. About 45% of the licenses are renewed on an annual basis and 55% on a biennial basis. If all the licenses were renewed on an annual basis this would result in larger and more predictable annual revenue stream to pay for operations.” The report further stated that the BEARHFTI reported an additional benefit as it would help to increase enforcement effectiveness by catching unlicensed businesses. In the conclusion of BEARHFTI’s *2015 Report to the California State Legislature*, it was stated that this is an issue that the Legislature may wish to examine during BEARHFTI’s 2018 sunset review. While the discussions have focused on EAR and HFTI programs falling under an annual renewal cycle, the issue has not been raised for the household mover licenses, which are currently biannual renewals.

Staff Recommendation: *BEARHFTI should advise the Committees on any consideration for consolidating license types, including merging the Wholesaler, Importer, and Manufacturer License into two license types and combining the Furniture/Bedding Retailer, Furniture Retailer and the Bedding Retailer license into one license. Additionally, BEARHFTI should advise the Committees on any challenges associated with merging or consolidating licenses. BEARHFTI should advise the Committees on establishing an annual renewal cycle for all licensees, and if there is consideration for moving the household movers’ licensees to an annual renewal cycle.*

BEARHFTI ENFORCEMENT ISSUES

ISSUE #8: (DISCIPLINARY GUIDELINES) Disciplinary Guidelines allow regulatory entities within DCA to establish consistency in disciplinary penalties for similar offenses on a statewide basis and create uniform guidelines for violations of a particular practice act. Guidelines are used by Administrative Law Judges, attorneys, licensees and others involved in a regulatory program’s disciplinary process. BEARHFTI’s Disciplinary Guidelines have not been updated since 1997. What is the status of updating these?

Background: The disciplinary guidelines for both the EAR and HFTI programs were last updated in 1997. BEARHFTI noted in its *2017 Sunset Report* that it is working to update its guidelines. It would be helpful for the Committees to understand what efforts the BEARHFTI is undertaking to update these guidelines, particularly efforts to ensure that all license categories are reflected in these guidelines, given the many changes to BEARHFTI’s regulatory landscape since 1997.

Staff Recommendation: *BEARHFTI should advise the Committees on its efforts to update Disciplinary Guidelines.*

ISSUE #9: (UNLICENSED ACTIVITY AND THE TELEPHONE DISCONNECT PROGRAM). BPC § 149 authorizes BEARHFTI to request for the disconnection of telephone services when the telephone service is associated with the advertising of unlicensed activity in any form of advertisement. Is this a useful tool for BEARHFTI to address unlicensed activity?

Background: Unlicensed activity continues to be an issue for BEARHFTI and is one of the top reasons BEARHFTI issues citations. While BEARHFTI reports that it cannot definitively identify the

licensure category with the greatest amount of unlicensed activity, it reports the most complaints received and citations issued are for those engaged in unlicensed electronic and appliance repair.

Under BPC §149, if a specified entity, including BEARHFTI, has probable cause to believe that a person is advertising and offering services that he or she is not licensed or registered to perform, the entity may issue a citation to the violator to stop the unlawful advertising and notify the telephone company to disconnect the number in that unlawful advertising. If he or she fails to comply with the order of correction, the entity is required to notify PUC of the violation, and the PUC is mandated to require the telephone provider for the violator to disconnect the telephone number listed in the unlawful advertisement. Once the business comes into compliance, e.g. citation is paid and license or registration is issued or renewed, staff will send a memorandum to the telephone service provider that the business is now compliant and needs to have the phone number turned back on.

Historically, BEARHFTI reports it successfully utilizes the telephone disconnect to address unlicensed activity, but with technology changes, advertising had expanded outside of telephone directories which was limited in law. As a result, SB 1243 (Lieu, Chapter 395, Statutes of 2014), among numerous other provisions, expanded the use of BPC § 149, by providing all DCA entities with the authority to request the disconnection of telephone services when the telephone service is associated with the advertising of unlicensed activity in any form of advertisement, not just in a telephone directory as was previously permitted. As BEARHFTI acknowledged, unlicensed activity continues to be an issue. BEARHFTI reports that it has an in-house investigative staff which inspects businesses' websites and advertisements to identify violations for unlicensed activity and others. While the BEARHFTI has reported success in the past with the telephone disconnect program, it is unclear what the current enforcement-related statistics are for this program.

Staff Recommendation: *BEARHFTI should advise the Committees on its success for addressing unlicensed activity through the use of the telephone disconnect program and whether or not additional program changes are warranted? In addition, BEARHFTI should advise the Committees on the number of business that come-into compliance with licensing requirements as a result of the utilization of the program.*

ISSUE #10: (FLAMMABILITY STANDARDS). Update on Technical Bulletin (TB) 117-2013. Are there compliance issues or product testing challenges?

Background: In 1972, the California Legislature passed AB 2165 (Burton, Chapter 1183, Statutes of 1972) which required establishing flammability standards for upholstered products in California. BEARHFTI was ultimately tasked with determining those standards along with enforcing for compliance.

Flammability standards in California were developed through regulations in the form of a technical bulletin—TB 117. TB 117 required that the concealed filling materials of upholstered furniture undergo individual and component testing to ensure they pass an open-flame and cigarette smolder test. The cover fabric of upholstery was required to withstand a one-second small flame test and the interior filling material was required to withstand exposure to open-flame and smolder testing. While this performance-based standard did not prescribe how manufacturers should have met the standard, manufacturers typically complied with TB 117 by using foam treated with flame retardant chemicals. This applied to all upholstered furniture including juvenile products. Many other products were

voluntary designed to comply with the standards in an effort to meet fire safety standards. California was the only state to have flammability standards and as a result, industry widely adopted California's standards for all of their products, making those standards a national trend.

In response to mounting concerns that the chemicals used in flame retardants were carcinogenic and hazardous to human health and the environment in 2012, BEARHFTI was directed by Governor Brown to revise the flammability standards for upholstered furniture. In addition to the health concerns from the chemicals, BEARHFTI noted that the existing standard did not adequately address the flammability performance of upholstered furniture in an actual fire.

The revised regulations, TB 117-2013, became effective on January 1, 2014 and manufacturers had one year to comply with updated standards. The new testing standards are based, in part, on the American Society for Testing Material (ASTM standard) and received input from industry, stakeholders, and experts.

Current law (BPC § 19161) specifically requires all mattresses and mattress sets manufactured for sale in California to be fire retardant—meaning those items must meet the open-flame test adopted by the United States Consumer Product Safety Commission. Additionally, all other bedding products that BEARHFTI determines to contribute to mattress bedding fires must also be resistant to open-flame ignition. In order to ensure compliance with California law, BEARHFTI must conduct product testing. According to BEARHFTI, with the recent adoption of TB 117-2013, there has been a decrease in upholstered furniture failure rates. Since TB 117-2013 took effect, BEARHFTI reports that failure rates have decreased to approximately 2 percent.

Staff Recommendation: *BEARHFTI should update the Committees on inspections and compliance testing. Are all manufactures currently in compliance with the new standards? Are there any outstanding issues that BEARHFTI has been made aware of?*

ISSUE #11: (LABELING REQUIREMENTS). SB 1019 took effect in 2014, requiring labeling on certain products about the use of flame retardants. What is the status of SB 1019 implementation?

Background: In response to health and environmental concerns associated with the use of certain flame retardant chemicals in upholstered furniture, in 2014, SB 1019 (Leno, Chapter 862, Statutes of 2014), was signed into law. That bill required manufacturers of upholstered furniture to include a label on all of their products denoting whether or not that item has added flame retardant chemicals in the product.

As a result of BEARHFTI's updated California's flammability standards, TB 117-2013, manufacturers are able to meet flammability standards without using flame retardant chemicals which were commonly used prior to 2014 in order to meet California's prior flammability standards. Although the TB117-2013 allows manufacturers to meet the new standards without the use of flame retardant chemicals, it does not prohibit their use in California products.

To achieve compliance with the labeling requirements, SB 1019 established a mandatory testing process administered by BEARHFTI and in conjunction with the Department of Toxics and Substance Control (DTSC). BPC § 19094(D) specifically requires BEARHFTI to provide the DTSC with a

selection of samples from certain upholstered products that state that “NO” flame retardant chemicals on the label for compliance testing purposes. BEARHFTI must reimburse the DTSC for the cost of testing and no later than August 1 of each FY, BEARHFTI is required to assess its available resources to determine the number of tests to be completed in that FY. Enforcement for the labeling requirements is under the jurisdiction of BEARHFTI and fines are specified in statute (BPC § 19094(E)). Fines start at a minimum of \$1000 for the first violation and can reach \$10,000 for four or more violations. Furthermore BEARHFTI is required to provide enforcement information for violations of BPC § 19094 on its website. While BEARHFTI does have enforcement related data available on its website, no citations for violations of BPC § 19094 are easily identifiable.

Staff Recommendation: *BEARHFTI should advise the Committees on any compliance or enforcement issues related to SB 1019 (BPC § 19094). Additionally, BEARHFTI should advise the Committees on how it determines the appropriate number of tests for DTSC to conduct annually and what, if any, factors cause the testing numbers to vary. BEARHFTI should advise the Committees on how it provides outreach and education to manufacturers and whether or not it provides easily identifiable information on its website regarding citations or enforcement outcomes.*

PRACTICE ACT ISSUES

ISSUE #12: (SERVICE CONTRACT WORKING GROUP) BEARHFTI established a Service Contract Working Group comprised of stakeholders and industry members to help determine which areas of law need updates, clarifications, or revisions, if any. What is the status of the workgroup’s efforts?

Background: As part of the EAR program, BEARHFTI regulates registered service contractors who sell service contracts for the repair of a variety of consumer products in California. Retailers are required to hold a valid registration in order to act as a service contract seller and those retailers with multiple locations are required to have a separate registration for each location that sells service contracts. Further, companies offering a contract via the internet must also have a registration for contracts sold to California residents. Service contracts generally provide for the pre-paid repair or replacement of specified consumer products.

The regulation of service contracts under BEARHFTI’s jurisdiction began in 1993 in response to service contract administrators selling service contracts without the appropriate financial backing. At the onset of regulation in California, service contracts were specific to consumer electronic equipment and home appliances. Since the early 1990’s, the regulation of service contracts has evolved to keep pace with new technology. Today, there are a variety of consumer products for which service contracts are available, including furniture, electronics, appliances, home healthcare products, jewelry, fitness equipment, and most recently, eye wear, among many others. In California, the products that are included in the definition of service contracts have expanded overtime on a case-by-case basis. In order to authorize a service contract to be sold with a product, legislative approval is necessary. The most recent product authorized for a service contract was the result of AB 480 (Calderon, Chapter 421, Statutes of 2013) which included optical products in the current definition of a retail service contract.

Laws pertaining to service contracts and warranties also fall under the jurisdiction of the Song-Beverly Act (Civil Code § 1790 *et seq.*) which was originally established to regulate warranty products which are separate from service contracts. A warranty is typically included in the price of the item, whereas a service contract comes at an additional cost. Service contracts are separate and apart from a manufacturer's warranty in that it is an additional item purchased separately from the product. Additionally, warranty products are regulated through the insurance code, while service contracts are regulated in BPC § 9855 *et seq.*

Upon completion of the market condition assessment required by AB 2740, BEARHFTI determined that it needed to conduct an additional assessment of the service contract industry. In order to provide an appropriate review of the industry, BEARHFTI established a "Service Contract Working Group" (SCWG) comprised of stakeholders and industry members to help determine which areas of law need updates, clarifications, or revisions, if any. The SCWG was comprised of 8 members including representatives from: Macy's; Best Buy; Professional Servicers Association of California; Cozen O'Connor; Meenan Law Firm/Service Contract Industry Council; the California Department of Insurance; BEARHFTI's Advisory Council; and, the California Retailers Association.

The SCWG recently released a report titled *Recommendations of the Service Contract Working Group*. That report provided a number of recommendations for changes or revisions within the service contract regulatory program. Some of those recommendations include, but are not limited to, ensuring product cancellation of coverage consistency (making a 30-day cancellation period consistent across products); 2) reviewing the jurisdiction of products which service contracts can be offered, 3) creating a better definition between service contracts and insurance; and 4), updating insurer's notification requirements to BEARHFTI. There have not yet been changes or statutory updates stemming from the SCWG's recommendations. It would be helpful for the Committees to better understand the impacts of proposed changes and determine what updates, if any, should be made.

Staff Recommendation: *BEARHFTI should advise the Committees on the SCWG's efforts, including any potential impacts to consumers, the public or licensees that BEARHFTI anticipates from implementing any of the recommendations of the SCWG's report.*

ISSUE #13: (TECHNICAL CHANGES MAY IMPROVE EFFECTIVENESS OF THE ACTS ADMINISTERED BY BEARHFTI AND BEARHFTI OPERATIONS.) There are amendments to the Acts BEARHFTI administers that are technical in nature but may improve BEARHFTI operations and the enforcement of the various practice acts.

Background: There are instances in the various acts administered by BEARHFTI where technical clarifications may improve BEARHFTI operations and application of the statutes governing the BEARHFTI's work.

Staff Recommendation: *The Committees may wish to amend the various practice acts to include technical clarifications.*

CONTINUED REGULATION OF THE ELECTRONIC AND APPLIANCE REPAIR, HOME FURNISHINGS AND HOUSEHOLD MOVERS INDUSTRIES BY THE BUREAU OF ELECTRONIC AND APPLIANCE REPAIR,

HOME FURNISHINGS AND THERMAL INSULATION

ISSUE #14: (CONTINUED REGULATION BY BEARHFTI). Should the licensing and regulation of electronic and appliance repair, home furnishings and thermal insulation, and household goods carriers be continued and be regulated by the BEARHFTI?

Background: Although the BEARHFTI reports a decrease in enforcement-related actions, there are still a substantial number of complaints being received and investigated by BEARHFTI and a number of enforcement activities with respect to out-of-country, out-of-state, and unlicensed activity that warrants BEARHFTI's continued regulation. BEARHFTI's role in ensuring flammability labeling standards, ensuring safe furniture and other consumer products, administering and enforcing contract service providers, along with its new role overseeing the household movers industry helps to maintain the health, safety and welfare of consumers. As noted above, BEARHFTI needs to continue to monitor its licensee population to ensure that only products which necessitate continued regulation are regulated; BEARHFTI needs to focus on consumer outreach, maintaining product safety and updating regulations as necessary.

The current regulation of electronic and appliance repair, thermal insulation, home furnishings, and household movers industries should be subject to a four-year sunset date as is consistent with other regulated professions under the jurisdiction of the DCA. A sunset date provides the legislature, the professions, and stakeholders with an opportunity to determine whether or not continued regulation of the profession is necessary, along with the opportunity to review the effectiveness and efficiency of the agency in protecting consumers, and identify whether changes in the law or operations are necessary. To that end, BEARHFTI along with its licensing and registration programs should be subject to repeal and reviewed again in four years so that the Legislature may once again determine whether the issues and recommendations in this Background Paper have been addressed, and whether or not the licensed and registered entities within the BEARHFTI should be reduced, expanded or remain the same.

Staff Recommendation: *Recommend that the licensing and regulation of the electronic and appliance repair industry, the home furnishings industry, service contract industry, thermal insulation industry and soon-to-be household movers industry, continue to be regulated by BEARHFTI in order to protect the interests of the public and the regulated professions and BEARHFTI be reviewed once again in four years.*



Agenda Item 7a: AB 224 (Daly) – Department of
Consumer Affairs: Bureau of Household
Goods and Services: household movers

AMENDED IN ASSEMBLY APRIL 8, 2021

AMENDED IN ASSEMBLY MARCH 26, 2021

CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

ASSEMBLY BILL

No. 224

Introduced by Assembly Member Daly

January 11, 2021

An act to amend Section 19225.5 of the Business and Professions Code, relating to professions and vocations, and declaring the urgency thereof, to take effect immediately.

legislative counsel's digest

AB 224, 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.

This bill would exclude from the definition of “household mover” a motor carrier, as defined, that *only* provides transportation of household goods in containers or trailers ~~where~~ *when* the household goods are entirely loaded and unloaded by an individual ~~other than~~ *who is not* an

97

employee or agent of the motor carrier and *does not otherwise advertise as a permitted household mover, as specified. The bill would also exclude from the definition of “household mover” a broker that broker, as defined, that, pursuant to a broker registration issued by the United States Department of Transportation, only 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. advertise as a permitted household mover, as specified.*

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. 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.

5 (2) “Household mover” does not include either of the following:

6 (A) A motor carrier, as ~~that term is~~ defined in Section ~~13102~~
7 ~~34601~~ of ~~Title 49 of the United States~~ *the Vehicle Code, including*
8 *a motor carrier registered under the federal Unified Carrier*
9 *Registration Act, pursuant to Section 14504a of Title 49 of the*
10 *United States Code, that ~~provides~~ meets both of the following:*

11 (i) *The motor carrier only provides* transportation of household
12 goods in containers or trailers ~~where~~ *when* the household goods
13 are entirely loaded and unloaded by an individual ~~other than who~~
14 *is not* an employee or agent of the motor carrier.

15 (ii) *The motor carrier does not otherwise advertise as a*
16 *permitted household mover in compliance with Section 19279.3.*
17 *This clause shall not be construed to prohibit the advertisement*
18 *or offer of the services described under clause (i).*

19 (B) A broker, as defined under Section 13102(2) of Title 49 of
20 the United States Code, that meets both of the following:

21 ~~(B) A broker that~~

22 (i) *The broker, pursuant to a broker registration issued by the*
23 *United States Department of Transportation, only utilizes the*
24 *services of a motor carrier ~~described in that meets the requirements~~*
25 *of subparagraph (A) and does not otherwise advertise, solicit, offer,*
26 *or arrange for the full service moving of used household goods by*
27 *motor carrier for compensation. (A).*

28 (ii) *The broker does not otherwise advertise as a permitted*
29 *household mover in compliance with Section 19279.3. This clause*
30 *shall not be construed to prohibit the advertisement or offer of the*
31 *services described under clause (i) of subparagraph (A).*

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

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

38 (k) “Owner,” with respect to a motor vehicle used in the
39 transportation of property for compensation by a household mover,
40 means the corporation or person who is registered with the

1 Department of Motor Vehicles as the owner of the vehicle, or who
2 has a legal right to possession of the vehicle pursuant to a lease or
3 rental agreement.

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

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

7 SEC. 2. This act is an urgency statute necessary for the
8 immediate preservation of the public peace, health, or safety within
9 the meaning of Article IV of the California Constitution and shall
10 go into immediate effect. The facts constituting the necessity are:

11 In order to protect more Californians from losing their jobs
12 during a pandemic and preserve an industry that promotes social
13 distancing options for California consumers, it is necessary that
14 this measure take effect immediately.

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Agenda Item 7b: AB 652 (Friedman) – Product safety:
juvenile products: chemicals:
perfluoroalkyl and polyfluoroalkyl
substances

AMENDED IN SENATE JULY 13, 2021

AMENDED IN SENATE JUNE 23, 2021

AMENDED IN ASSEMBLY MAY 13, 2021

AMENDED IN ASSEMBLY MARCH 29, 2021

CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

ASSEMBLY BILL

No. 652

Introduced by Assembly Member Friedman
(Principal coauthor: Assembly Member Ting)
(Coauthor: Assembly Member Muratsuchi)
(Coauthor: Senator Stern)

February 12, 2021

An act to add Chapter 12.5 (commencing with Section 108945) to Part 3 of Division 104 of the Health and Safety Code, relating to product safety.

legislative counsel's digest

AB 652, as amended, Friedman. Product safety: juvenile products: chemicals: perfluoroalkyl and polyfluoroalkyl substances.

Existing law prohibits a person from manufacturing, selling, or distributing in commerce any bottle or cup that contains bisphenol A, at a detectable level above 0.1 parts per billion, if the bottle or cup is designed or intended to be filled with any liquid, food, or beverage intended primarily for consumption from that bottle or cup by children three years of age or younger. Existing law prohibits a person or entity from manufacturing, selling, or distributing in commerce any toy or child care article that contains di-(2-ethylhexyl) phthalate, dibutyl phthalate, or benzyl butyl phthalate, in concentrations exceeding 0.1%.

95

Existing law prohibits a person from manufacturing, selling, or exchanging, having in their possession with intent to sell or exchange, or exposing or offering for sale or exchange to any retailer, any toy that is contaminated with a specified toxic substance.

This bill would, on and after July 1, 2023, prohibit a person, including a manufacturer, from selling or distributing in commerce in this state any new, not previously owned, juvenile product, as defined, that contains ~~intentionally added~~ *prohibited* perfluoroalkyl and polyfluoroalkyl substances (PFAS), as defined. The bill would require a manufacturer to use the least toxic alternative when replacing PFAS chemicals in a juvenile product.

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

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

1 SECTION 1. Chapter 12.5 (commencing with Section 108945)
 2 is added to Part 3 of Division 104 of the Health and Safety Code,
 3 to read:

4
 5 Chapter 12.5. Juvenile Products

6
 7 108945. For purposes of this chapter, the following definitions
 8 apply:

9 (a) “Adult mattress” means a mattress other than a crib mattress
 10 or toddler mattress.

11 (b) ~~“Intentionally added”~~ *“Prohibited* perfluoroalkyl and
 12 polyfluoroalkyl substances” or ~~“intentionally added”~~ *“prohibited*
 13 PFAS” means either of the following:

14 ~~(1) The presence or use of PFAS in a product or product~~
 15 ~~component that has a functional or technical effect in the product~~
 16 ~~or product component.~~

17 *(1) PFAS that a manufacturer has intentionally added to a*
 18 *product and that have a functional or technical effect in the*
 19 *product, including, but not limited to, the PFAS components of*
 20 *intentionally added chemicals and PFAS that are intentional*
 21 *breakdown products of an added chemical that also have a*
 22 *functional or technical effect in the product.*

1 (2) The presence of PFAS in a product or product component
2 at or above 100 parts per million, as measured in total organic
3 fluorine.

4 (c) (1) “Juvenile product” means a product designed for use by
5 infants and children under 12 years of age, including, but not
6 limited to, a baby or toddler foam pillow, bassinet, bedside sleeper,
7 booster seat, changing pad, child restraint system for use in motor
8 vehicles and aircraft, co-sleeper, crib mattress, floor playmat,
9 highchair, highchair pad, infant bouncer, infant carrier, infant seat,
10 infant sleep positioner, infant swing, infant travel bed, infant
11 walker, nap cot, nursing pad, nursing pillow, playmat, playpen,
12 play yard, polyurethane foam mat, pad, or pillow, portable foam
13 nap mat, portable infant sleeper, portable hook-on chair, soft-sided
14 portable crib, stroller, and toddler mattress.

15 (2) “Juvenile product” does not include any of the following:

16 (A) A children’s electronic product, including, but not limited
17 to, a personal computer, audio and video equipment, calculator,
18 wireless phone, game console, handheld device incorporating a
19 video screen, or any associated peripheral such as a mouse,
20 keyboard, power supply unit, or power cord.

21 (B) A medical device.

22 (C) An internal component of a juvenile product that would not
23 come into direct contact with a child’s skin or mouth during
24 reasonably foreseeable use and abuse of the product.

25 (D) An adult mattress.

26 (d) “Medical device” means “device” as defined in subsection
27 (h) of Section 321 of Title 21 of the United States Code.

28 (e) “Perfluoroalkyl and polyfluoroalkyl substances” or “PFAS”
29 means a class of fluorinated organic chemicals containing at least
30 one fully fluorinated carbon atom.

31 108946. On and after July 1, 2023, a person, including, but not
32 limited to, a manufacturer, shall not sell or distribute in commerce
33 in this state any new, not previously owned, juvenile product that
34 contains ~~intentionally added~~ *prohibited* PFAS chemicals.

35 108947. A manufacturer shall use the least toxic alternative
36 when replacing PFAS chemicals in a juvenile product in
37 accordance with this chapter.

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Agenda Item 7c: AB 646 (Low) – Department of
Consumer Affairs: boards: expunged
convictions

AMENDED IN ASSEMBLY APRIL 14, 2021

AMENDED IN ASSEMBLY APRIL 12, 2021

CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

ASSEMBLY BILL

No. 646

Introduced by Assembly Members Low, Cunningham, and Gipson
(Coauthor: Senator Roth)

February 12, 2021

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

legislative counsel's digest

AB 646, 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, within 90 days of receiving 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. The bill would require the board, on receiving an expungement order, if the person is not currently licensed and does not reapply for licensure, 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 authorize the board to charge a fee to the ~~person in an amount up to \$50,~~ *person*, not to exceed the cost of administering the bill’s provisions. The bill would require the fee to be deposited by the board into the appropriate fund and would make the fee available only upon appropriation by the Legislature.

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 90 days of receiving the expungement order, unless
- 9 it is otherwise prohibited by law, or by other terms or conditions,
- 10 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 and information previously posted
- 17 regarding arrests, charges, and convictions.
- 18 (b) A board within the department may charge a fee to a person
- 19 described in subdivision ~~(a) in an amount up to fifty dollars (\$50);~~
- 20 *(a)*, not to exceed the reasonable cost of administering this section.

- 1 The fee shall be deposited by the board into the appropriate fund
- 2 and shall be available only upon appropriation by the Legislature.
- 3 (c) For purposes of this section, “board” means an entity listed
- 4 in Section 101.
- 5 (d) If any provision in this section conflicts with Section 2027,
- 6 Section 2027 shall prevail.

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Agenda Item 7d: AB 885 (Quirk) – Bagley-Keene Open Meeting Act: teleconferencing

AMENDED IN ASSEMBLY MARCH 24, 2021

CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

ASSEMBLY BILL

No. 885

Introduced by Assembly Member Quirk

February 17, 2021

An act to amend Sections 11123 and 11123.5 of the Government Code, relating to state government.

legislative counsel's digest

AB 885, as amended, Quirk. Bagley-Keene Open Meeting Act: teleconferencing.

The Bagley-Keene Open Meeting Act (Bagley-Keene Act), requires, with specified exceptions, that all meetings of a state body, as defined, be open and public, and all persons be permitted to attend any meeting of a state body, except as provided. The Bagley-Keene Act, among other things, requires a state body that elects to conduct a meeting or proceeding by teleconference to make the portion of the meeting that is required to be open to the public audible to the public at the location specified in the notice of the meeting. *The Bagley-Keene Act requires a state body that elects to conduct a meeting or proceeding by teleconference to post agendas at all teleconference locations, identify each teleconference location in the notice and agenda of the meeting or proceeding, and requires each teleconference location to be accessible to the public.* That law authorizes any meeting of a state body that is an advisory board, advisory commission, advisory committee, advisory subcommittee, or similar multimember advisory body to hold an open meeting by teleconference if the meeting complies with the requirements of the act, except as provided. Existing law requires that when a member of a multimember state advisory body

98

participates remotely the body provide a means by which the public may remotely hear audio of the meeting or remotely observe the meeting. Existing law requires a multimember state advisory body to end or adjourn a meeting if it discovers that a required means of remote access has failed during the meeting, and, if the meeting is to adjourn and reconvene on the same day, that law requires the body to communicate, among other things, how a member of the public may hear audio of the meeting or observe the meeting.

This bill would require a state body that elects to conduct a meeting or proceeding by teleconference to make the portion that is required to be open to the public both audibly and visually observable. *The bill would require a state body that elects to conduct a meeting or proceeding by teleconference to post an agenda at the designated primary physical meeting location in the notice of the meeting where members of the public may physically attend the meeting and participate.* The bill would extend the above requirements of meetings of multimember advisory bodies that are held by teleconference to meetings of all multimember state bodies. The bill would require a multimember state body to provide a means by which the public may both audibly and visually remotely observe a meeting if a member of that body participates remotely. The bill would further require any body that is to adjourn and reconvene a meeting on the same day to communicate how a member of the public may both audibly and visually observe the meeting. The bill would also make nonsubstantive changes to those provisions.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

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

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

- 1 SECTION 1. Section 11123 of the Government Code is
- 2 amended to read:

1 11123. (a) All meetings of a state body shall be open and
2 public and all persons shall be permitted to attend any meeting of
3 a state body except as otherwise provided in this article.

4 (b) (1) This article does not prohibit a state body from holding
5 an open or closed meeting by teleconference for the benefit of the
6 public and state body. The meeting or proceeding held by
7 teleconference shall otherwise comply with all applicable
8 requirements or laws relating to a specific type of meeting or
9 proceeding, including the following:

10 (A) The teleconferencing meeting shall comply with all
11 requirements of this article applicable to other meetings.

12 (B) The portion of the teleconferenced meeting that is required
13 to be open to the public shall be both audibly and visually
14 observable to the public at the location specified in the notice of
15 the meeting.

16 (C) If the state body elects to conduct a meeting or proceeding
17 by teleconference, it shall post ~~agendas~~ *an agenda* at ~~all~~
18 ~~teleconference locations~~ *the designated primary physical meeting*
19 *location in the notice of the meeting where members of the public*
20 *may physically attend the meeting and participate*, and conduct
21 teleconference meetings in a manner that protects the rights of any
22 party or member of the public appearing before the state body.
23 ~~Each teleconference location shall be identified in the notice and~~
24 ~~agenda of the meeting or proceeding, and each teleconference~~
25 ~~location shall be accessible to the public.~~ The agenda shall provide
26 an opportunity for members of the public to address the state body
27 *via teleconference* directly pursuant to Section 11125.7 at each
28 teleconference location.

29 (D) All votes taken during a teleconferenced meeting shall be
30 by rollcall.

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

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

36 (2) For the purposes of this subdivision, “teleconference” means
37 a meeting of a state body, the members of which are at different
38 locations, connected by electronic means, through both audio and
39 video. This section does not prohibit a state body from providing
40 members of the public with additional locations in which the public

1 may observe or address the state body by electronic means, through
2 either audio or both audio and video.

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

6 SEC. 2. Section 11123.5 of the Government Code is amended
7 to read:

8 11123.5. (a) In addition to the authorization to hold a meeting
9 by teleconference pursuant to subdivision (b) of Section 11123,
10 any state body that is a board, commission, committee,
11 subcommittee, or similar multimember body may hold an open
12 meeting by teleconference as described in this section, provided
13 the meeting complies with all of the section's requirements and,
14 except as set forth in this section, it also complies with all other
15 applicable requirements of this article.

16 (b) A member of a state body as described in subdivision (a)
17 who participates in a teleconference meeting from a remote location
18 subject to this section's requirements shall be listed in the minutes
19 of the meeting.

20 (c) The state body shall provide notice to the public at least 24
21 hours before the meeting that identifies any member who will
22 participate remotely by posting the notice on its internet website
23 and by emailing notice to any person who has requested notice of
24 meetings of the state body under this article. The location of a
25 member of a state body who will participate remotely is not
26 required to be disclosed in the public notice or email and need not
27 be accessible to the public. The notice of the meeting shall also
28 identify the primary physical meeting location designated pursuant
29 to subdivision (e).

30 (d) This section does not affect the requirement prescribed by
31 this article that the state body post an agenda of a meeting at least
32 10 days in advance of the meeting. The agenda shall include
33 information regarding the physical meeting location designated
34 pursuant to subdivision (e), but is not required to disclose
35 information regarding any remote location.

36 (e) A state body described in subdivision (a) shall designate the
37 primary physical meeting location in the notice of the meeting
38 where members of the public may physically attend the meeting
39 and participate. A quorum of the members of the state body shall
40 be in attendance *via teleconference or in person physically* at the

1 primary physical meeting location, and members of the state body
2 participating remotely shall ~~not~~ count towards establishing a
3 quorum. All decisions taken during a meeting by teleconference
4 shall be by rollcall vote. The state body shall post the agenda at
5 the primary physical meeting location, but need not post the agenda
6 at a remote location.

7 (f) When a member of a state body described in subdivision (a)
8 participates remotely in a meeting subject to this section's
9 requirements, the state body shall provide a means by which the
10 public may remotely observe the meeting's proceedings, both
11 audibly and visually, including the members of the state body
12 participating remotely. The applicable teleconference phone
13 number or internet website, or other information indicating how
14 the public can access the meeting remotely, shall be in the 24-hour
15 notice described in subdivision (a) that is available to the public.

16 (g) Upon discovering that a means of remote access required
17 by subdivision (f) has failed during a meeting, the state body
18 described in subdivision (a) shall end or adjourn the meeting in
19 accordance with Section 11128.5. In addition to any other
20 requirements that may apply, the state body shall provide notice
21 of the meeting's end or adjournment on its internet website and
22 by email to any person who has requested notice of meetings of
23 the state body under this article. If the meeting will be adjourned
24 and reconvened on the same day, further notice shall be provided
25 by an automated message on a telephone line posted on the state
26 body's agenda, or by a similar means, that will communicate when
27 the state body intends to reconvene the meeting and how a member
28 of the public may observe the meeting, both audibly and visually.

29 (h) For purposes of this section:

30 (1) "Participate remotely" means participation in a meeting at
31 a location other than the physical location designated in the agenda
32 of the meeting.

33 (2) "Remote location" means a location other than the primary
34 physical location designated in the agenda of a meeting.

35 (3) "Teleconference" has the same meaning as in Section 11123.

36 (i) This section does not limit or affect the ability of a state body
37 to hold a teleconference meeting under another provision of this
38 article.

39 *SEC. 3. The Legislature finds and declares that Section 1 of*
40 *this act, which amends Section 11123 of the Government Code,*

1 *imposes a limitation on the public's right of access to the meetings*
2 *of public bodies or the writings of public officials and agencies*
3 *within the meaning of Section 3 of Article I of the California*
4 *Constitution. Pursuant to that constitutional provision, the*
5 *Legislature makes the following findings to demonstrate the interest*
6 *protected by this limitation and the need for protecting that*
7 *interest:*

8 *By removing the requirement for agendas to be placed at the*
9 *location of each public official participating in a public meeting*
10 *remotely, including from the member's private home or hotel room,*
11 *this act protects the personal, private information of public officials*
12 *and their families while preserving the public's right to access*
13 *information concerning the conduct of the people's business.*

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Agenda Item 7e: AB 1026 (Smith) – Business licenses: veterans

AMENDED IN SENATE JULY 15, 2021

AMENDED IN ASSEMBLY MAY 5, 2021

AMENDED IN ASSEMBLY APRIL 5, 2021

CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

ASSEMBLY BILL

No. 1221

Introduced by Assembly Member Flora

February 19, 2021

An act to amend Sections 1791 and 1794.4 of the Civil Code, relating to consumer warranties.

legislative counsel's digest

AB 1221, as amended, Flora. Consumer warranties: service contracts: cancellation: disclosures.

Existing law, the Song-Beverly Consumer Warranty Act, provides consumer warranty protection to buyers of consumer goods, including motor vehicles, home appliances, and home electronic products. The act requires a service contract, as defined, to include certain elements, including a clear description and identification of the covered product. Existing law, the Electronic and Appliance Repair Dealer Registration Law, provides for the registration and regulation of service contractors and, among other things, requires a service contractor to comply with the provisions of the Song-Beverly Consumer Warranty Act described above relating to service contracts. The law makes a violation of its provisions a misdemeanor.

This bill would require a service contract that continues until canceled by the buyer or service contractor to, among other things, disclose to the buyer in a clear and conspicuous manner that the service contract shall continue until canceled by the buyer or service contractor and

provide a toll-free number, email address, postal address, and, if one exists, internet website the buyer can use to cancel the service contract. The bill would also define the terms “clear and conspicuous” and “clearly and conspicuously” for purposes of the act. By expanding the scope of the crime of violating the Electronic and Appliance Repair Dealer Registration Law, this 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. Section 1791 of the Civil Code is amended to
2 read:

3 1791. As used in this chapter:

4 (a) “Consumer goods” means any new product or part thereof
5 that is used, bought, or leased for use primarily for personal, family,
6 or household purposes, except for clothing and consumables.
7 “Consumer goods” shall include new and used assistive devices
8 sold at retail.

9 (b) “Buyer” or “retail buyer” means any individual who buys
10 consumer goods from a person engaged in the business of
11 manufacturing, distributing, or selling consumer goods at retail.
12 As used in this subdivision, “person” means any individual,
13 partnership, corporation, limited liability company, association,
14 or other legal entity that engages in any of these businesses.

15 (c) “Clothing” means any wearing apparel, worn for any
16 purpose, including under and outer garments, shoes, and
17 accessories composed primarily of woven material, natural or
18 synthetic yarn, fiber, or leather or similar fabric.

19 (d) “Consumables” means any product that is intended for
20 consumption by individuals, or use by individuals for purposes of
21 personal care or in the performance of services ordinarily rendered
22 within the household, and that usually is consumed or expended
23 in the course of consumption or use.

- 1 (e) “Distributor” means any individual, partnership, corporation,
2 association, or other legal relationship that stands between the
3 manufacturer and the retail seller in purchases, consignments, or
4 contracts for sale of consumer goods.
- 5 (f) “Independent repair or service facility” or “independent
6 service dealer” means any individual, partnership, corporation,
7 association, or other legal entity, not an employee or subsidiary
8 of a manufacturer or distributor, that engages in the business of
9 servicing and repairing consumer goods.
- 10 (g) “Lease” means any contract for the lease or bailment for the
11 use of consumer goods by an individual, for a term exceeding four
12 months, primarily for personal, family, or household purposes,
13 whether or not it is agreed that the lessee bears the risk of the
14 consumer goods’ depreciation.
- 15 (h) “Lessee” means an individual who leases consumer goods
16 under a lease.
- 17 (i) “Lessor” means a person who regularly leases consumer
18 goods under a lease.
- 19 (j) “Manufacturer” means any individual, partnership,
20 corporation, association, or other legal relationship that
21 manufactures, assembles, or produces consumer goods.
- 22 (k) “Place of business” means, for the purposes of any retail
23 seller that sells consumer goods by catalog or mail order, the
24 distribution point for consumer goods.
- 25 (l) “Retail seller,” “seller,” or “retailer” means any individual,
26 partnership, corporation, association, or other legal relationship
27 that engages in the business of selling or leasing consumer goods
28 to retail buyers.
- 29 (m) “Return to the retail seller” means, for the purposes of any
30 retail seller that sells consumer goods by catalog or mail order, the
31 retail seller’s place of business, as defined in subdivision (k).
- 32 (n) “Sale” means either of the following:
33 (1) The passing of title from the seller to the buyer for a price.
34 (2) A consignment for sale.
- 35 (o) “Service contract” means a contract in writing to perform,
36 over a fixed period of time or for a specified duration, services
37 relating to the maintenance or repair of a consumer product, except
38 that this term does not include a policy of automobile insurance,
39 as defined in Section 116 of the Insurance Code.

1 (p) “Assistive device” means any instrument, apparatus, or
2 contrivance, including any component or part thereof or accessory
3 thereto, that is used or intended to be used, to assist an individual
4 with a disability in the mitigation or treatment of an injury or
5 disease or to assist or affect or replace the structure or any function
6 of the body of an individual with a disability, except that this term
7 does not include prescriptive lenses and other ophthalmic goods
8 unless they are sold or dispensed to a blind person, as defined in
9 Section 19153 of the Welfare and Institutions Code and unless
10 they are intended to assist the limited vision of the person so
11 disabled.

12 (q) “Catalog or similar sale” means a sale in which neither the
13 seller nor any employee or agent of the seller nor any person related
14 to the seller nor any person with a financial interest in the sale
15 participates in the diagnosis of the buyer’s condition or in the
16 selection or fitting of the device.

17 (r) “Home appliance” means any refrigerator, freezer, range,
18 microwave oven, washer, dryer, dishwasher, garbage disposal,
19 trash compactor, or room air-conditioner normally used or sold
20 for personal, family, or household purposes.

21 (s) “Home electronic product” means any television, radio,
22 antenna rotator, audio or video recorder or playback equipment,
23 video camera, video game, video monitor, computer equipment,
24 telephone, telecommunications equipment, electronic alarm system,
25 electronic appliance control system, or other kind of electronic
26 product, if it is normally used or sold for personal, family, or
27 household purposes. The term includes any electronic accessory
28 that is normally used or sold with a home electronic product for
29 one of those purposes. The term excludes any single product with
30 a wholesale price to the retail seller of less than fifty dollars (\$50).

31 (t) “Member of the Armed Forces” means a person on full-time
32 active duty in the Army, Navy, Marine Corps, Air Force, National
33 Guard, or Coast Guard. Full-time active duty shall also include
34 active military service at a military service school designated by
35 law or the Adjutant General of the Military Department concerned.

36 (u) “Clear and conspicuous” and “clearly and conspicuously”
37 means a larger type than the surrounding text, or in a contrasting
38 type, font, or color to the surrounding text of the same size, or set
39 off from the surrounding text of the same size by symbols or other
40 marks, in a manner that clearly calls attention to the language. For

1 an audio disclosure, “clear and conspicuous” and “clearly and
2 conspicuously” means in a volume and cadence sufficient to be
3 readily audible and understandable.

4 SEC. 2. Section 1794.4 of the Civil Code is amended to read:

5 1794.4. (a) Nothing in this chapter shall be construed to
6 prevent the sale of a service contract to the buyer in addition to or
7 in lieu of an express warranty if that contract fully and
8 conspicuously discloses in simple and readily understood language
9 the terms, conditions, and exclusions of that contract, provided
10 that nothing in this section shall apply to a home protection contract
11 issued by a home protection company that is subject to Part 7
12 (commencing with Section 12740) of Division 2 of the Insurance
13 Code.

14 (b) Except as otherwise expressly provided in the service
15 contract, every service contract shall obligate the service contractor
16 to provide to the buyer of the product all of the services and
17 functional parts that may be necessary to maintain proper operation
18 of the entire product under normal operation and service for the
19 duration of the service contract and without additional charge.

20 (c) The service contract shall contain all of the following items
21 of information:

22 (1) If the service contract covers a single product, a clear
23 description and identification of the covered product. If the service
24 contract covers a class of products, a description of the class of
25 products covered by the service contract that is sufficiently clear
26 so the buyer is able to discern the products covered.

27 (2) The point in time or event when the term of the service
28 contract commences, and its duration measured by elapsed time
29 or an objective measure of use. A service contract may be offered
30 on a month-to-month or other periodic basis and continue until
31 canceled by the buyer or the service contractor in accordance with
32 Section 1794.41 and, for electronic and appliance repair dealers,
33 Section 9855.6 of the Business and Professions Code. If the service
34 contract continues until canceled by the buyer or service contractor,
35 the service contract shall do all of the following:

36 (A) Disclose to the buyer in a clear and conspicuous manner
37 that the service contract shall continue until canceled by the buyer
38 or service contractor and require the buyer’s affirmative consent
39 to this provision.

1 (B) Disclose to the buyer all alternatives that the seller offering
2 the service contract offers, including any fixed-term service
3 contracts or other service contract basis that does not continue
4 until it is canceled.

5 (C) Provide, at a minimum, a toll-free number, email address,
6 postal address, and, if one exists, internet website the buyer can
7 use to cancel the service contract. Cancellation shall not require
8 the use of more than one of these methods to be completed and
9 shall be effective immediately upon receipt of the request for
10 cancellation.

11 (D) If the service contract was entered into online, allow the
12 buyer the option to cancel the service contract exclusively online,
13 without engaging in any unnecessary steps that obstruct or delay
14 the buyer's ability to cancel the continuation of the service contract.

15 (E) (i) Provide for a refund to the buyer of any unearned
16 amounts in accordance with Section 1794.41 and, for electronic
17 and appliance repair dealers, Section 9855.6 of the Business and
18 Professions Code.

19 (ii) The amount of any refund, as well as any cancellation or
20 administrative fees, under this paragraph shall be calculated based
21 on the period, whether month to month or otherwise, for which
22 payment is made and the amount of the payment for the period.

23 (iii) A written notice of cancellation other than notice required
24 by subparagraphs (C) and (D) shall not be required to obtain a
25 refund.

26 (3) If the enforceability of the service contract is limited to the
27 original buyer or is limited to persons other than every consumer
28 owner of the covered product during the term of the service
29 contract, a description of the limits on transfer or assignment of
30 the service contract.

31 (4) A statement of the general obligation of the service
32 contractor in the same language set forth in subdivision (b), with
33 equally clear and conspicuous statements of the following:

34 (A) Any services, parts, characteristics, components, properties,
35 defects, malfunctions, causes, conditions, repairs, or remedies that
36 are excluded from the scope of the service contract.

37 (B) Any other limits on the application of the language in
38 subdivision (b) such as a limit on the total number of service calls.

39 (C) Any additional services that the service contractor will
40 provide.

- 1 (D) Whether the obligation of the service contractor includes
2 preventive maintenance and, if so, the nature and frequency of the
3 preventive maintenance that the service contractor will provide.
- 4 (E) Whether the buyer has an obligation to provide preventive
5 maintenance or perform any other obligations and, if so, the nature
6 and frequency of the preventive maintenance and of any other
7 obligations, and the consequences of any noncompliance.
- 8 (5) A step-by-step explanation of the procedure that the buyer
9 should follow in order to obtain performance of any obligation
10 under the service contract including the following:
- 11 (A) The full legal and business name of the service contractor.
12 (B) The mailing address of the service contractor.
13 (C) The persons or class of persons that are authorized to
14 perform service.
15 (D) The name or title and address of any agent, employee, or
16 department of the service contractor that is responsible for the
17 performance of any obligations.
18 (E) The method of giving notice to the service contractor of the
19 need for service.
20 (F) Whether in-home service is provided or, if not, whether the
21 costs of transporting the product for service or repairs will be paid
22 by the service contractor.
23 (G) If the product must be transported to the service contractor,
24 either the place where the product may be delivered for service or
25 repairs or a toll-free telephone number that the buyer may call to
26 obtain that information.
27 (H) All other steps that the buyer must take to obtain service.
28 (I) All fees, charges, and other costs that the buyer must pay to
29 obtain service.
- 30 (6) An explanation of the steps that the service contractor will
31 take to carry out its obligations under the service contract.
- 32 (7) A description of any right to cancel the contract if the buyer
33 returns the product or the product is sold, lost, stolen, or destroyed,
34 or, if there is no right to cancel or the right to cancel is limited, a
35 statement of the fact.
- 36 (8) Information respecting the availability of any informal
37 dispute settlement process.
- 38 (d) A service contractor may cancel a service contract offered
39 on a month-to-month or other periodic basis only if any of the
40 following occurs:

1 (1) The buyer fails to make timely payment.

2 (2) The buyer is otherwise in material breach of the service
3 contract.

4 (3) The buyer has committed fraud in connection with the
5 service contract.

6 (4) (A) The service contractor or its affiliate is the obligor under
7 the service contract, and the service contractor or its affiliate is
8 discontinuing this category of service contract no later than 30
9 days after the effective date of the cancellation.

10 (B) A cancellation or administrative fee shall not be charged to
11 the buyer for a cancellation pursuant to this ~~paragraph~~ *paragraph*.

12 (5) (A) Neither the seller offering the service contract nor any
13 of its affiliates is the obligor under the service contract, and the
14 seller is discontinuing its offering of the service contract no later
15 than 30 days after the effective date of the cancellation in favor of
16 a service contract with a different obligor.

17 (B) A cancellation or administrative fee shall not be charged to
18 the buyer for a cancellation pursuant to this ~~paragraph~~ *paragraph*.

19 *(e) As used in this section:*

20 *(1) "Affiliate" means an entity that directly, or indirectly*
21 *through one or more intermediaries, controls, is controlled by, or*
22 *is under common control with another specified entity.*

23 *(2) (A) "Affirmative consent" means any freely given, specific,*
24 *informed, and unambiguous indication of the consumer's wishes*
25 *by which the consumer, or the consumer's legal guardian, a person*
26 *who has power of attorney, or a person acting as a conservator*
27 *for the consumer, including by a statement or by a clear affirmative*
28 *action, signifies agreement to the continuous until canceled nature*
29 *of the service contract.*

30 *(B) "Affirmative consent" does not mean any of the following:*

31 *(i) Acceptance of a general or broad terms of use, or similar*
32 *document, that contains descriptions of the coverages under the*
33 *service contract along with other, unrelated information.*

34 *(ii) Hovering over, muting, pausing, or closing a given piece of*
35 *content.*

36 *(iii) Agreement obtained through the use of dark patterns.*

37 ~~(e)~~

38 *(f) Subdivisions (b) and (c) are applicable to service contracts*
39 *on new or used home appliances and home electronic products*
40 *entered into on or after July 1, 1989. They are applicable to service*

1 contracts on all other new or used products entered into on and
2 after July 1, 1991.

3 ~~(g)~~

4 (g) The amendments to this section made by the act adding this
5 subdivision are applicable only to a service contract entered into
6 on or after January 1, 2022.

7 SEC. 3. No reimbursement is required by this act pursuant to
8 Section 6 of Article XIII B of the California Constitution because
9 the only costs that may be incurred by a local agency or school
10 district will be incurred because this act creates a new crime or
11 infraction, eliminates a crime or infraction, or changes the penalty
12 for a crime or infraction, within the meaning of Section 17556 of
13 the Government Code, or changes the definition of a crime within
14 the meaning of Section 6 of Article XIII B of the California
15 Constitution.

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Agenda Item 7f: AB 1221 (Flora) – Consumer warranties:
service contracts: cancellation:
disclosures

AMENDED IN SENATE JULY 15, 2021

AMENDED IN ASSEMBLY MAY 5, 2021

AMENDED IN ASSEMBLY APRIL 5, 2021

CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

ASSEMBLY BILL

No. 1221

Introduced by Assembly Member Flora

February 19, 2021

An act to amend Sections 1791 and 1794.4 of the Civil Code, relating to consumer warranties.

legislative counsel's digest

AB 1221, as amended, Flora. Consumer warranties: service contracts: cancellation: disclosures.

Existing law, the Song-Beverly Consumer Warranty Act, provides consumer warranty protection to buyers of consumer goods, including motor vehicles, home appliances, and home electronic products. The act requires a service contract, as defined, to include certain elements, including a clear description and identification of the covered product. Existing law, the Electronic and Appliance Repair Dealer Registration Law, provides for the registration and regulation of service contractors and, among other things, requires a service contractor to comply with the provisions of the Song-Beverly Consumer Warranty Act described above relating to service contracts. The law makes a violation of its provisions a misdemeanor.

This bill would require a service contract that continues until canceled by the buyer or service contractor to, among other things, disclose to the buyer in a clear and conspicuous manner that the service contract shall continue until canceled by the buyer or service contractor and

96

provide a toll-free number, email address, postal address, and, if one exists, internet website the buyer can use to cancel the service contract. The bill would also define the terms “clear and conspicuous” and “clearly and conspicuously” for purposes of the act. By expanding the scope of the crime of violating the Electronic and Appliance Repair Dealer Registration Law, this 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. Section 1791 of the Civil Code is amended to
- 2 read:
- 3 1791. As used in this chapter:
- 4 (a) “Consumer goods” means any new product or part thereof
- 5 that is used, bought, or leased for use primarily for personal, family,
- 6 or household purposes, except for clothing and consumables.
- 7 “Consumer goods” shall include new and used assistive devices
- 8 sold at retail.
- 9 (b) “Buyer” or “retail buyer” means any individual who buys
- 10 consumer goods from a person engaged in the business of
- 11 manufacturing, distributing, or selling consumer goods at retail.
- 12 As used in this subdivision, “person” means any individual,
- 13 partnership, corporation, limited liability company, association,
- 14 or other legal entity that engages in any of these businesses.
- 15 (c) “Clothing” means any wearing apparel, worn for any
- 16 purpose, including under and outer garments, shoes, and
- 17 accessories composed primarily of woven material, natural or
- 18 synthetic yarn, fiber, or leather or similar fabric.
- 19 (d) “Consumables” means any product that is intended for
- 20 consumption by individuals, or use by individuals for purposes of
- 21 personal care or in the performance of services ordinarily rendered
- 22 within the household, and that usually is consumed or expended
- 23 in the course of consumption or use.

- 1 (e) “Distributor” means any individual, partnership, corporation,
2 association, or other legal relationship that stands between the
3 manufacturer and the retail seller in purchases, consignments, or
4 contracts for sale of consumer goods.
- 5 (f) “Independent repair or service facility” or “independent
6 service dealer” means any individual, partnership, corporation,
7 association, or other legal entity, not an employee or subsidiary
8 of a manufacturer or distributor, that engages in the business of
9 servicing and repairing consumer goods.
- 10 (g) “Lease” means any contract for the lease or bailment for the
11 use of consumer goods by an individual, for a term exceeding four
12 months, primarily for personal, family, or household purposes,
13 whether or not it is agreed that the lessee bears the risk of the
14 consumer goods’ depreciation.
- 15 (h) “Lessee” means an individual who leases consumer goods
16 under a lease.
- 17 (i) “Lessor” means a person who regularly leases consumer
18 goods under a lease.
- 19 (j) “Manufacturer” means any individual, partnership,
20 corporation, association, or other legal relationship that
21 manufactures, assembles, or produces consumer goods.
- 22 (k) “Place of business” means, for the purposes of any retail
23 seller that sells consumer goods by catalog or mail order, the
24 distribution point for consumer goods.
- 25 (l) “Retail seller,” “seller,” or “retailer” means any individual,
26 partnership, corporation, association, or other legal relationship
27 that engages in the business of selling or leasing consumer goods
28 to retail buyers.
- 29 (m) “Return to the retail seller” means, for the purposes of any
30 retail seller that sells consumer goods by catalog or mail order, the
31 retail seller’s place of business, as defined in subdivision (k).
- 32 (n) “Sale” means either of the following:
33 (1) The passing of title from the seller to the buyer for a price.
34 (2) A consignment for sale.
- 35 (o) “Service contract” means a contract in writing to perform,
36 over a fixed period of time or for a specified duration, services
37 relating to the maintenance or repair of a consumer product, except
38 that this term does not include a policy of automobile insurance,
39 as defined in Section 116 of the Insurance Code.

1 (p) “Assistive device” means any instrument, apparatus, or
2 contrivance, including any component or part thereof or accessory
3 thereto, that is used or intended to be used, to assist an individual
4 with a disability in the mitigation or treatment of an injury or
5 disease or to assist or affect or replace the structure or any function
6 of the body of an individual with a disability, except that this term
7 does not include prescriptive lenses and other ophthalmic goods
8 unless they are sold or dispensed to a blind person, as defined in
9 Section 19153 of the Welfare and Institutions Code and unless
10 they are intended to assist the limited vision of the person so
11 disabled.

12 (q) “Catalog or similar sale” means a sale in which neither the
13 seller nor any employee or agent of the seller nor any person related
14 to the seller nor any person with a financial interest in the sale
15 participates in the diagnosis of the buyer’s condition or in the
16 selection or fitting of the device.

17 (r) “Home appliance” means any refrigerator, freezer, range,
18 microwave oven, washer, dryer, dishwasher, garbage disposal,
19 trash compactor, or room air-conditioner normally used or sold
20 for personal, family, or household purposes.

21 (s) “Home electronic product” means any television, radio,
22 antenna rotator, audio or video recorder or playback equipment,
23 video camera, video game, video monitor, computer equipment,
24 telephone, telecommunications equipment, electronic alarm system,
25 electronic appliance control system, or other kind of electronic
26 product, if it is normally used or sold for personal, family, or
27 household purposes. The term includes any electronic accessory
28 that is normally used or sold with a home electronic product for
29 one of those purposes. The term excludes any single product with
30 a wholesale price to the retail seller of less than fifty dollars (\$50).

31 (t) “Member of the Armed Forces” means a person on full-time
32 active duty in the Army, Navy, Marine Corps, Air Force, National
33 Guard, or Coast Guard. Full-time active duty shall also include
34 active military service at a military service school designated by
35 law or the Adjutant General of the Military Department concerned.

36 (u) “Clear and conspicuous” and “clearly and conspicuously”
37 means a larger type than the surrounding text, or in a contrasting
38 type, font, or color to the surrounding text of the same size, or set
39 off from the surrounding text of the same size by symbols or other
40 marks, in a manner that clearly calls attention to the language. For

1 an audio disclosure, “clear and conspicuous” and “clearly and
2 conspicuously” means in a volume and cadence sufficient to be
3 readily audible and understandable.

4 SEC. 2. Section 1794.4 of the Civil Code is amended to read:

5 1794.4. (a) Nothing in this chapter shall be construed to
6 prevent the sale of a service contract to the buyer in addition to or
7 in lieu of an express warranty if that contract fully and
8 conspicuously discloses in simple and readily understood language
9 the terms, conditions, and exclusions of that contract, provided
10 that nothing in this section shall apply to a home protection contract
11 issued by a home protection company that is subject to Part 7
12 (commencing with Section 12740) of Division 2 of the Insurance
13 Code.

14 (b) Except as otherwise expressly provided in the service
15 contract, every service contract shall obligate the service contractor
16 to provide to the buyer of the product all of the services and
17 functional parts that may be necessary to maintain proper operation
18 of the entire product under normal operation and service for the
19 duration of the service contract and without additional charge.

20 (c) The service contract shall contain all of the following items
21 of information:

22 (1) If the service contract covers a single product, a clear
23 description and identification of the covered product. If the service
24 contract covers a class of products, a description of the class of
25 products covered by the service contract that is sufficiently clear
26 so the buyer is able to discern the products covered.

27 (2) The point in time or event when the term of the service
28 contract commences, and its duration measured by elapsed time
29 or an objective measure of use. A service contract may be offered
30 on a month-to-month or other periodic basis and continue until
31 canceled by the buyer or the service contractor in accordance with
32 Section 1794.41 and, for electronic and appliance repair dealers,
33 Section 9855.6 of the Business and Professions Code. If the service
34 contract continues until canceled by the buyer or service contractor,
35 the service contract shall do all of the following:

36 (A) Disclose to the buyer in a clear and conspicuous manner
37 that the service contract shall continue until canceled by the buyer
38 or service contractor and require the buyer’s affirmative consent
39 to this provision.

1 (B) Disclose to the buyer all alternatives that the seller offering
2 the service contract offers, including any fixed-term service
3 contracts or other service contract basis that does not continue
4 until it is canceled.

5 (C) Provide, at a minimum, a toll-free number, email address,
6 postal address, and, if one exists, internet website the buyer can
7 use to cancel the service contract. Cancellation shall not require
8 the use of more than one of these methods to be completed and
9 shall be effective immediately upon receipt of the request for
10 cancellation.

11 (D) If the service contract was entered into online, allow the
12 buyer the option to cancel the service contract exclusively online,
13 without engaging in any unnecessary steps that obstruct or delay
14 the buyer’s ability to cancel the continuation of the service contract.

15 (E) (i) Provide for a refund to the buyer of any unearned
16 amounts in accordance with Section 1794.41 and, for electronic
17 and appliance repair dealers, Section 9855.6 of the Business and
18 Professions Code.

19 (ii) The amount of any refund, as well as any cancellation or
20 administrative fees, under this paragraph shall be calculated based
21 on the period, whether month to month or otherwise, for which
22 payment is made and the amount of the payment for the period.

23 (iii) A written notice of cancellation other than notice required
24 by subparagraphs (C) and (D) shall not be required to obtain a
25 refund.

26 (3) If the enforceability of the service contract is limited to the
27 original buyer or is limited to persons other than every consumer
28 owner of the covered product during the term of the service
29 contract, a description of the limits on transfer or assignment of
30 the service contract.

31 (4) A statement of the general obligation of the service
32 contractor in the same language set forth in subdivision (b), with
33 equally clear and conspicuous statements of the following:

34 (A) Any services, parts, characteristics, components, properties,
35 defects, malfunctions, causes, conditions, repairs, or remedies that
36 are excluded from the scope of the service contract.

37 (B) Any other limits on the application of the language in
38 subdivision (b) such as a limit on the total number of service calls.

39 (C) Any additional services that the service contractor will
40 provide.

1 (D) Whether the obligation of the service contractor includes
2 preventive maintenance and, if so, the nature and frequency of the
3 preventive maintenance that the service contractor will provide.

4 (E) Whether the buyer has an obligation to provide preventive
5 maintenance or perform any other obligations and, if so, the nature
6 and frequency of the preventive maintenance and of any other
7 obligations, and the consequences of any noncompliance.

8 (5) A step-by-step explanation of the procedure that the buyer
9 should follow in order to obtain performance of any obligation
10 under the service contract including the following:

11 (A) The full legal and business name of the service contractor.

12 (B) The mailing address of the service contractor.

13 (C) The persons or class of persons that are authorized to
14 perform service.

15 (D) The name or title and address of any agent, employee, or
16 department of the service contractor that is responsible for the
17 performance of any obligations.

18 (E) The method of giving notice to the service contractor of the
19 need for service.

20 (F) Whether in-home service is provided or, if not, whether the
21 costs of transporting the product for service or repairs will be paid
22 by the service contractor.

23 (G) If the product must be transported to the service contractor,
24 either the place where the product may be delivered for service or
25 repairs or a toll-free telephone number that the buyer may call to
26 obtain that information.

27 (H) All other steps that the buyer must take to obtain service.

28 (I) All fees, charges, and other costs that the buyer must pay to
29 obtain service.

30 (6) An explanation of the steps that the service contractor will
31 take to carry out its obligations under the service contract.

32 (7) A description of any right to cancel the contract if the buyer
33 returns the product or the product is sold, lost, stolen, or destroyed,
34 or, if there is no right to cancel or the right to cancel is limited, a
35 statement of the fact.

36 (8) Information respecting the availability of any informal
37 dispute settlement process.

38 (d) A service contractor may cancel a service contract offered
39 on a month-to-month or other periodic basis only if any of the
40 following occurs:

- 1 (1) The buyer fails to make timely payment.
- 2 (2) The buyer is otherwise in material breach of the service
- 3 contract.
- 4 (3) The buyer has committed fraud in connection with the
- 5 service contract.
- 6 (4) (A) The service contractor or its affiliate is the obligor under
- 7 the service contract, and the service contractor or its affiliate is
- 8 discontinuing this category of service contract no later than 30
- 9 days after the effective date of the cancellation.
- 10 (B) A cancellation or administrative fee shall not be charged to
- 11 the buyer for a cancellation pursuant to this ~~paragraph~~ *paragraph*.
- 12 (5) (A) Neither the seller offering the service contract nor any
- 13 of its affiliates is the obligor under the service contract, and the
- 14 seller is discontinuing its offering of the service contract no later
- 15 than 30 days after the effective date of the cancellation in favor of
- 16 a service contract with a different obligor.
- 17 (B) A cancellation or administrative fee shall not be charged to
- 18 the buyer for a cancellation pursuant to this ~~paragraph~~ *paragraph*.
- 19 *(e) As used in this section:*
- 20 *(1) "Affiliate" means an entity that directly, or indirectly*
- 21 *through one or more intermediaries, controls, is controlled by, or*
- 22 *is under common control with another specified entity.*
- 23 *(2) (A) "Affirmative consent" means any freely given, specific,*
- 24 *informed, and unambiguous indication of the consumer's wishes*
- 25 *by which the consumer, or the consumer's legal guardian, a person*
- 26 *who has power of attorney, or a person acting as a conservator*
- 27 *for the consumer, including by a statement or by a clear affirmative*
- 28 *action, signifies agreement to the continuous until canceled nature*
- 29 *of the service contract.*
- 30 *(B) "Affirmative consent" does not mean any of the following:*
- 31 *(i) Acceptance of a general or broad terms of use, or similar*
- 32 *document, that contains descriptions of the coverages under the*
- 33 *service contract along with other, unrelated information.*
- 34 *(ii) Hovering over, muting, pausing, or closing a given piece of*
- 35 *content.*
- 36 *(iii) Agreement obtained through the use of dark patterns.*
- 37 ~~(e)~~
- 38 *(f) Subdivisions (b) and (c) are applicable to service contracts*
- 39 *on new or used home appliances and home electronic products*
- 40 *entered into on or after July 1, 1989. They are applicable to service*

1 contracts on all other new or used products entered into on and
2 after July 1, 1991.

3 ~~(g)~~

4 (g) The amendments to this section made by the act adding this
5 subdivision are applicable only to a service contract entered into
6 on or after January 1, 2022.

7 SEC. 3. No reimbursement is required by this act pursuant to
8 Section 6 of Article XIII B of the California Constitution because
9 the only costs that may be incurred by a local agency or school
10 district will be incurred because this act creates a new crime or
11 infraction, eliminates a crime or infraction, or changes the penalty
12 for a crime or infraction, within the meaning of Section 17556 of
13 the Government Code, or changes the definition of a crime within
14 the meaning of Section 6 of Article XIII B of the California
15 Constitution.

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Agenda Item 7g: AB 1386 (Cunningham) – License fees:
military partners and spouses

AMENDED IN ASSEMBLY APRIL 28, 2021

CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

ASSEMBLY BILL

No. 1386

Introduced by Assembly Member Cunningham

February 19, 2021

An act to amend Section 115.5 of the Business and Professions Code, relating to professions and vocations.

legislative counsel's digest

AB 1386, as amended, Cunningham. License fees: military partners and spouses.

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs. Existing law requires a board to expedite the licensure process for an applicant who holds a current license in another jurisdiction in the same profession or vocation and provides evidence that they are married to or 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 under official active duty military orders.

This bill would prohibit a board from charging an initial ~~or original~~ **license application fee or an initial license issuance** fee to an applicant who meets these expedited licensing requirements. *The bill would also prohibit a board from charging an initial examination fee to an applicant who meets the expedited licensing requirements if the examination is administered by the board.*

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 115.5 of the Business and Professions
- 2 Code is amended to read:
- 3 115.5. (a) A board within the department shall expedite the
- 4 licensure process for an applicant who meets both of the following
- 5 requirements:
- 6 (1) Supplies evidence satisfactory to the board that the applicant
- 7 is married to, or in a domestic partnership or other legal union
- 8 with, an active duty member of the Armed Forces of the United
- 9 States who is assigned to a duty station in this state under official
- 10 active duty military orders.
- 11 (2) Holds a current license in another state, district, or territory
- 12 of the United States in the profession or vocation for which the
- 13 applicant seeks a license from the board.
- 14 (b) *(1) A board shall not charge an applicant who meets the*
- 15 *requirements in subdivision (a) an initial*~~*or original license fee.*~~
- 16 *application fee or an initial license issuance fee.*
- 17 *(2) The board shall not charge an applicant who meets the*
- 18 *requirements in subdivision (a) an initial examination fee if the*
- 19 *examination is administered by the board.*
- 20 (c) A board may adopt regulations necessary to administer this
- 21 section.

O



Agenda Item 7h: SB 586 (Bradford) – Criminal fees

AMENDED IN SENATE MAY 25, 2021

SENATE BILL

No. 586

**Introduced by Senator Bradford
(Coauthors: Senators Hertzberg and Skinner)**

February 18, 2021

An act to amend Sections 9807, 9848, and 9882.14 of the Business and Professions Code, to amend Sections ~~6111, 6157, 27756, 27757, 50050, 68085, 68085.1, 68085.5, 68085.7, 68085.8, 71380, 71386, 76223, 77009, 77203, and 77205~~ of, and to repeal and add Section ~~68635~~ of, of the Government Code, to amend Section ~~11374.5~~ of, to add Section ~~11470.5~~ to, and to repeal Section ~~11470.2~~ of, the Health and Safety Code, to amend Sections 273a, 273d, 273.1, ~~273.6, 290.06, 597.3, 670, 1001.90, 1202.4, 1202.42, 1203.066, 1203.067, 1203.097, 1203.1, 1203.1a, 1203.1ab, 1203.1i, 1203.4, 1203.4a, 1203.41, 1203.42, 1203.45, 1203.9, 1205, 1210.1, 1211, 1462.5, 1463, 1463.007, 1463.010, 1463.011, 1463.012, 1463.14, 1464.8, 1465.9, 2085.5, 2085.6, 2085.7, 3000.07, 4011.1, and 4018.6~~ and 2085.7 of, and to repeal Sections 1001.15, 1001.16, ~~1203.1bb, 1203.1c, 1203.1h, 1203.1m, 1209, 1214.1, 1214.5, and 1463.07~~ and 1214.5 of, the Penal Code, to amend Sections ~~11205.2, 11208, 13386, 21212, 23573, 23575.3, 40509, 40510.5, 40512, 42003, 42007, 42007.1, 42007.3, 42007.4, 42008.5, 42008.7, and 42008.8~~ and 42008.7 of, to add Section 44237 to, and to repeal Sections ~~40508.5, 40508.6, and 40611~~ Section 40508.5 of, the Vehicle Code, and to amend Sections 903.45 and 904 of the Welfare and Institutions Code, relating to criminal fees.

legislative counsel's digest

SB 586, as amended, Bradford. Criminal fees.

(1) Existing law imposes various fees contingent upon a criminal arrest, prosecution, or conviction for the cost of administering the criminal justice system, including lab fees, ~~programs for persons convicted of sex offenses, drug testing, incarceration and house arrest, and record expungement, drug testing, and incarceration,~~ among others.

This bill would repeal the authority to collect ~~most many~~ of these fees, among others. The bill would make the unpaid balance of ~~most many~~ court-imposed costs unenforceable and uncollectible and would require any portion of a judgment imposing those costs to be vacated. The bill would relieve a person who is sentenced to state prison or confined in a county jail from being required to pay any trial court filing fees or costs related to the person's underlying criminal conviction.

(2) ~~Existing law, as added by the Substance Abuse and Crime Prevention Act of 2000, adopted by voters as Proposition 36 at the November 7, 2000, statewide general election, requires that persons convicted of certain nonviolent drug possession offenses be granted probation and be placed in an appropriate drug treatment program. The act allows the trial judge to require a person convicted of a nonviolent drug possession offense to contribute to the cost of their placement in a drug treatment program. The act allows its amendment by a statute passed by $\frac{2}{3}$ of both houses of the Legislature and requires that all amendments further the act and be consistent with its purposes.~~

This bill would amend the act by deleting the authority of the court to require a person convicted of a nonviolent drug possession offense to contribute to the cost of their placement in a drug treatment program.

(3) ~~Existing law, the Sexual Predator Punishment and Control Act: Jessica's Law, adopted by voters as Proposition 83 at the November 7, 2006, statewide general election, requires every person paroled after being committed to prison for a registerable sex offense to be monitored by a global positioning system for the term of their parole. The act requires the inmate to pay for the costs associated with the monitoring by a global positioning system unless the Department of Corrections and Rehabilitation finds the inmate has an inability to pay. The act allows its amendment by a statute passed by $\frac{2}{3}$ of both houses of the Legislature.~~

This bill would amend the act by deleting the requirement that a parolee pay for the costs associated with being monitored by a global positioning system.

(4)

(2) Existing law allows the court to impose a civil assessment of up to \$300 against a defendant who fails, after notice and without good cause, to appear in court or who fails to pay all or any portion of a fine ordered by the court.

This bill would repeal the authority of the court to impose that assessment.

~~(5)~~

(3) Existing law requires a defendant granted probation for a crime of domestic violence to pay a minimum payment of \$500, unless the court finds that the defendant does not have the ability to pay, and requires the defendant to participate in a batterer’s program utilizing a sliding fee scale that recognizes the ~~defendants~~ *defendant’s* ability to pay.

This bill would require the court to make an affirmative finding that the defendant has the ability to pay. The bill would also make authority to collect the fees inoperative if permanent funding sufficient to replace the fee revenue is appropriated in the Budget Act.

~~(6)~~

(4) Existing law requires a person who has been convicted of driving a motor vehicle under the influence of an alcoholic beverage or drug to install an ignition interlock device on the vehicle that person operates. Existing law requires a manufacturer certified to provide ignition interlock devices to adopt a fee schedule for the payment of costs of the device in an amount commensurate with a defendant’s ability to pay. ~~Existing law requires that a person subject to this requirement pay a percentage of the cost of the ignition interlock device program, up to the full cost, based on the person’s income. If a person has an income at 100% of the federal poverty level or below, existing law requires the person to pay 10% of the cost of the manufacturer’s standard ignition interlock device program costs.~~ *Existing law requires service dealers and automotive repair dealers to inform a person receiving interlock ignition device services of the fee schedule and to provide the person the telephone number for the Bureau of Automotive Repair.* Existing law generally makes it a crime ~~to violate the Vehicle Code and~~ to violate the provisions regulating ~~ignition interlock installers.~~ *service dealers and automotive repair dealers.*

This bill would ~~make a person with income at 100% of the federal poverty level responsible for 5% of the costs. The bill would require the interlock ignition device installer to inform a person required to have an interlock ignition device installed of the fee schedule, and that~~

~~the law provides for the payment of the costs of the device and its installation, maintenance, and servicing commensurate with the person's income. The bill would~~ create a private cause of action and a civil penalty not to exceed \$1,000 against any ~~installer~~ *service dealer or automotive repair dealer* who fails to inform a person of ~~these requirements. this information.~~ Because a failure ~~of an ignition interlock installer~~ to meet these requirements would be punishable as a crime, this bill would impose a state-mandated local program.

The bill would require every ignition interlock provider to annually report to the Department of Consumer Affairs, Bureau of Automotive Repair, the provider's fee schedule, the total number of people for whom income verification was conducted, the number of people for whom a reduction of charges was made, and the amount of the reductions, among other information. Because a failure to meet this requirement would be punishable as a crime, this bill would impose a state-mandated local program.

(7)

(5) 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: $\frac{2}{3}$ *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) Approximately 80 percent of Californians in jail are indigent
4 and too many enter the criminal legal system due to the
5 criminalization of their poverty.
6 (b) Incarcerated people are disproportionately Black or Latinx
7 because these populations are overpoliced, have higher rates of
8 convictions following an arrest, and have the highest rates of
9 poverty. In fact, while Black Californians represent only 7 percent
10 of the state population, they make up 23 percent of the Californians
11 on probation and are also grossly overrepresented in felony and
12 misdemeanor arrests.

1 (c) People exiting jail or prison face higher rates of
2 unemployment and homelessness, due in part to racial
3 discrimination and the impact of their criminal conviction.

4 (d) The inability to meet basic needs has been found to
5 contribute to higher rates of recidivism and is a barrier to family
6 reunification.

7 (e) According to a report by the Ella Baker Center for Human
8 Rights, the average debt incurred for court-ordered fines and fees
9 was roughly equal to the annual income for respondents in the
10 survey.

11 (f) A national survey of formerly incarcerated people found that
12 families often bear the burden of fees, and that 83 percent of the
13 people responsible for paying these costs are women.

14 (g) Because these fees are often assigned to people who simply
15 cannot afford to pay them, they make poor people, their families,
16 and their communities poorer.

17 (h) Criminal administrative fees have no formal punitive or
18 public safety function. Instead, they undermine public safety
19 because the debt they cause can limit access to employment,
20 housing, education, and public benefits, which creates additional
21 barriers to successful reentry. Research also shows that criminal
22 administrative fees can push individuals into underground
23 economies and can result in individuals turning to criminal activity
24 or predatory lending to pay their debts.

25 (i) Research shows that criminal administrative fees are difficult
26 to collect and typically cost counties almost as much or more than
27 they end up collecting in revenue.

28 (j) The use of criminal administrative fees has been argued by
29 some to be unconstitutional. On February 20, 2019, the United
30 States Supreme Court ruled unanimously in *Timbs v. Indiana* that
31 the Eighth Amendment’s Excessive Fines Clause is an incorporated
32 protection applicable to the states and “protects people against
33 abuses of government’s punitive or criminal-law-enforcement
34 authority.” Justice Ginsburg wrote in her decision that the
35 constitutional protection against excessive fines is “fundamental
36 to our scheme of ordered liberty with deep roots in our history and
37 tradition.”

38 (k) The COVID-19 global pandemic and resulting explosion in
39 unemployment and economic downturn has further exposed the
40 racialized economic and health structures of our country. The same

1 Black and Latinx communities that face overpolicing and higher
2 rates of fees have been disproportionately impacted by the virus
3 and by the subsequent economic impacts. Incarcerated people,
4 mostly Black and Latinx, caged in unsafe conditions, face explosive
5 rates of viral infection. As communities face increased health costs
6 and dramatic unemployment caused by COVID-19, the pain of
7 these fees is higher than ever before.

8 (l) Recognizing the racial and economic harms of criminal
9 administrative fees, in September 2020, the Legislature passed AB
10 1869 through the budget, which eliminated 23 of California's most
11 harmful criminal administrative fees.

12 SEC. 2. It is the intent of the Legislature to eliminate the range
13 of administrative fees that agencies and courts are authorized to
14 impose to fund elements of the criminal legal system and to
15 eliminate all outstanding debt incurred as a result of the imposition
16 of administrative fees.

17 SEC. 3. Section 9807 of the Business and Professions Code is
18 amended to read:

19 9807. (a) Notwithstanding any other law, a service dealer
20 licensed under this chapter and authorized to engage in the
21 electronic repair industry, as defined in subdivision (p) of Section
22 9801, may install, calibrate, service, maintain, and monitor certified
23 ignition interlock devices.

24 (b) (1) The director may issue a citation to, or suspend, revoke,
25 or place on probation the registration of, a service dealer who
26 installs, calibrates, services, maintains, or monitors ignition
27 interlock devices if the service dealer is not in compliance with
28 subdivision (k) of Section 23575.3 of the Vehicle Code.

29 (2) A service dealer shall provide to an individual receiving
30 ignition interlock device services the information provided in
31 subdivision (k) of Section 23575.3 of the Vehicle Code along with
32 the contact telephone number of the bureau.

33 (3) An individual subject to Chapter 2 (commencing with
34 Section 23530) of Division 11.5 of the Vehicle Code may institute
35 a civil action to recover damages, injunctive or declaratory relief,
36 and a civil penalty not to exceed one thousand dollars (\$1,000)
37 per violation from a service dealer who fails to comply with either
38 paragraph (2) of this subdivision or subdivision (k) of Section
39 23575.3 of the Vehicle Code. A prevailing plaintiff in any action

1 commenced under this paragraph shall be entitled to recover their
2 reasonable attorney's fees and costs.

3 (c) The bureau shall adopt regulations to implement this section
4 consistent with the standards adopted by the Bureau of Automotive
5 Repair and the Office of Traffic Safety under Section 9882.14.

6 SEC. 4. Section 9848 of the Business and Professions Code is
7 amended to read:

8 9848. All proceedings to deny registration or suspend, revoke,
9 or place on probation a registration shall be conducted pursuant
10 to Chapter 5 (commencing with Section 11500) of Part 1 of
11 Division 3 of Title 2 of the Government Code.

12 SEC. 5. Section 9882.14 of the Business and Professions Code
13 is amended to read:

14 9882.14. (a) The bureau shall cooperate with the Office of
15 Traffic Safety and adopt standards for the installation, maintenance,
16 and servicing of certified ignition interlock devices by automotive
17 repair dealers.

18 (b) The manufacturers of certified ignition interlock devices
19 shall comply with standards established by the bureau for the
20 installation of those ignition interlock devices.

21 (c) The bureau may charge manufacturers of certified interlock
22 ignition devices a fee to recover the cost of monitoring installation
23 standards.

24 (d) (1) The director may issue a citation to, or suspend or revoke
25 the registration of, an automotive repair dealer who installs,
26 maintains, and services ignition interlock devices if the automotive
27 repair dealer is not in compliance with subdivision (k) of Section
28 23575.3 of the Vehicle Code.

29 (2) An automotive repair dealer shall provide to an individual
30 receiving ignition interlock device services the information
31 provided in subdivision (k) of Section 23575.3 of the Vehicle Code
32 along with the contact telephone number of the bureau.

33 (3) An individual subject to Chapter 2 (commencing with
34 Section 23530) of Division 11.5 of the Vehicle Code may institute
35 a civil action to recover damages, injunctive or declaratory relief,
36 and a civil penalty not to exceed one thousand dollars (\$1,000)
37 per violation from a service dealer who fails to comply with either
38 paragraph (2) of this subdivision or subdivision (k) of Section
39 23575.3 of the Vehicle Code. A prevailing plaintiff in any action

1 commenced under this paragraph shall be entitled to recover their
 2 reasonable attorney’s fees and costs.

3 (e) Every ignition interlock provider shall report to the
 4 Department of Consumer Affairs, Bureau of Automotive Repair,
 5 on an annual basis, all of the following information pertaining to
 6 participation in the program specified in subdivision (k) of Section
 7 23575.3 of the Vehicle Code:

8 (1) The total number of people for whom an income verification
 9 was conducted.

10 (2) The total number of people for whom a reduction of charges
 11 based on income was approved or denied, and the reason for denial
 12 or approval of the reduction.

13 (3) The total dollar amount of reductions based on income.

14 (4) The total dollar amount collected for charges related to the
 15 charges of installed devices.

16 (5) The total dollar amount that remains unpaid for charges
 17 related to the costs of installed devices.

18 (6) The provider’s standard ignition interlock device program
 19 charges upon which the fee schedule in subdivision (k) of Section
 20 23575.3 is based.

21 ~~SEC. 6. Section 6111 of the Government Code is amended to~~
 22 ~~read:~~

23 ~~6111. (a) On and after July 1, 2021, the unpaid balance of any~~
 24 ~~court-imposed costs pursuant to Section 27712, subdivision (c) or~~
 25 ~~(f) of Section 29550, and Sections 29550.1, 29550.2, and 29550.3,~~
 26 ~~as those sections read on June 30, 2021, is unenforceable and~~
 27 ~~uncollectible and any portion of a judgment imposing those costs~~
 28 ~~shall be vacated.~~

29 ~~(b) On and after January 1, 2022, the unpaid balance of any~~
 30 ~~court-imposed costs pursuant to Section 6157, 68635, and 71386,~~
 31 ~~as those sections read on December 31, 2021, is unenforceable~~
 32 ~~and uncollectible and any portion of a judgment imposing those~~
 33 ~~costs shall be vacated.~~

34 ~~SEC. 7. Section 6157 of the Government Code is amended to~~
 35 ~~read:~~

36 ~~6157. (a) The state, and each city, whether general law or~~
 37 ~~chartered, county, and district, each subdivision, department, board,~~
 38 ~~commission, body, or agency of the foregoing, shall accept personal~~
 39 ~~checks, in addition to any other authorized form of payment, drawn~~
 40 ~~in its favor or in favor of a designated official thereof, in payment~~



SB 586 pages 9 – 120 intentionally omitted. To access a copy of the full bill text, please visit:

https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220SB586

1 ~~SEC. 80.~~

2 *SEC. 42.* Section 13386 of the Vehicle Code, as added by
3 Section 22 of Chapter 783 of the Statutes of 2016, is amended to
4 read:

5 13386. (a) (1) The department shall certify or cause to be
6 certified ignition interlock devices required by Article 5
7 (commencing with Section 23575) of Chapter 2 of Division 11.5
8 and publish a list of approved devices.

9 (2) (A) The department shall ensure that ignition interlock
10 devices that have been certified according to the requirements of
11 this section continue to meet certification requirements. The
12 department may periodically require manufacturers to indicate in
13 writing whether the devices continue to meet certification
14 requirements.

15 (B) The department may use denial of certification, suspension
16 or revocation of certification, or decertification of an ignition
17 interlock device in another state as an indication that the
18 certification requirements are not met, if either of the following
19 apply:

20 (i) The denial of certification, suspension or revocation of
21 certification, or decertification in another state constitutes a
22 violation by the manufacturer of Article 2.55 (commencing with
23 Section 125.00) of Chapter 1 of Division 1 of Title 13 of the
24 California Code of Regulations.

25 (ii) The denial of certification for an ignition interlock device
26 in another state was due to a failure of an ignition interlock device
27 to meet the standards adopted by the regulation set forth in clause
28 (i), specifically Sections 1 and 2 of the model specification for
29 breath alcohol ignition interlock devices, as published by notice
30 in the Federal Register, Vol. 57, No. 67, Tuesday, April 7, 1992,
31 on pages 11774 to 11787, inclusive, or the Model Specifications
32 for Breath Alcohol Ignition Interlock Devices, as published by
33 notice in the Federal Register, Vol. 78, No. 89, Wednesday, May
34 8, 2013, on pages 25489 to 26867, inclusive.

35 (C) Failure to continue to meet certification requirements shall
36 result in suspension or revocation of certification of ignition
37 interlock devices.

38 (b) (1) A manufacturer shall not furnish an installer, service
39 center, technician, or consumer with technology or information

1 that allows a device to be used in a manner that is contrary to the
2 purpose for which it is certified.

3 (2) Upon a violation of paragraph (1), the department shall
4 suspend or revoke the certification of the ignition interlock device
5 that is the subject of that violation.

6 (c) An installer, service center, or technician shall not tamper
7 with, change, or alter the functionality of the device from its
8 certified criteria.

9 (d) The department shall utilize information from an
10 independent, accredited (ISO/IEC 17025) laboratory to certify
11 ignition interlock devices of the manufacturer or manufacturer's
12 agent, in accordance with the guidelines. The cost of certification
13 shall be borne by the manufacturers of ignition interlock devices.
14 If the certification of a device is suspended or revoked, the
15 manufacturer of the device shall be responsible for, and shall bear
16 the cost of, the removal of the device and the replacement of a
17 certified device of the manufacturer or another manufacturer.

18 (e) A model of ignition interlock device shall not be certified
19 unless it meets the accuracy requirements and specifications
20 provided in the guidelines adopted by the National Highway Traffic
21 Safety Administration.

22 (f) All manufacturers of ignition interlock devices that meet the
23 requirements of subdivision (e) and are certified in a manner
24 approved by the department, who intend to sell the devices in this
25 state, first shall apply to the department on forms provided by that
26 department. The application shall be accompanied by a fee in an
27 amount not to exceed the amount necessary to cover the costs
28 incurred by the department in carrying out this section.

29 (g) The department shall ensure that standard forms and
30 procedures are developed for documenting decisions and
31 compliance and communicating results to relevant agencies. These
32 forms shall include all of the following:

33 (1) An "Option to Install," to be sent by the department to repeat
34 offenders along with the mandatory order of suspension or
35 revocation. This shall include the alternatives available for early
36 license reinstatement with the installation of an ignition interlock
37 device and shall be accompanied by a toll-free telephone number
38 for each manufacturer of a certified ignition interlock device.
39 Information regarding approved installation locations shall be

1 provided to drivers by manufacturers with ignition interlock devices
2 that have been certified in accordance with this section.

3 (2) A “Verification of Installation” to be returned to the
4 department by the reinstating offender upon application for
5 reinstatement. Copies shall be provided for the manufacturer or
6 the manufacturer’s agent.

7 (3) A “Notice of Noncompliance” and procedures to ensure
8 continued use of the ignition interlock device during the restriction
9 period and to ensure compliance with maintenance requirements.
10 The maintenance period shall be standardized at 60 days to
11 maximize monitoring checks for equipment tampering.

12 (h) Every manufacturer and manufacturer’s agent certified by
13 the department to provide ignition interlock devices shall adopt
14 fee schedules that provide for the payment of the costs of the device
15 by applicants in amounts commensurate with the applicant’s
16 income pursuant to subdivision (k) of Section 23575.3. Notice of
17 fee schedules shall be provided to applicants at the time of
18 installation.

19 (i) A person who manufactures, installs, services, or repairs, or
20 otherwise deals in ignition interlock devices shall not disclose,
21 sell, or transfer to a third party any individually identifiable
22 information pertaining to individuals who are required by law to
23 install an ignition interlock device on a vehicle that the individual
24 owns or operates, except to the extent necessary to confirm or deny
25 that an individual has complied with ignition interlock device
26 installation and maintenance requirements.

27 (j) This section shall become operative January 1, 2026.

28 ~~SEC. 81. Section 21212 of the Vehicle Code is amended to~~
29 ~~read:~~

30 ~~21212. (a) A person under 18 years of age shall not operate a~~
31 ~~bicycle, a nonmotorized scooter, or a skateboard, nor wear in-line~~
32 ~~or roller skates, nor ride upon a bicycle, a nonmotorized scooter,~~
33 ~~or a skateboard as a passenger, upon a street, bikeway, as defined~~
34 ~~in Section 890.4 of the Streets and Highways Code, or any other~~
35 ~~public bicycle path or trail unless that person is wearing a properly~~
36 ~~fitted and fastened bicycle helmet that meets the standards of either~~
37 ~~the American Society for Testing and Materials (ASTM) or the~~
38 ~~United States Consumer Product Safety Commission (CPSC), or~~
39 ~~standards subsequently established by those entities. This~~
40 ~~requirement also applies to a person who rides upon a bicycle~~

1 while in a restraining seat that is attached to the bicycle or in a
2 trailer towed by the bicycle.

3 (b) A helmet sold or offered for sale for use by operators and
4 passengers of bicycles, nonmotorized scooters, skateboards, or
5 in-line or roller skates shall be conspicuously labeled in accordance
6 with the standard described in subdivision (a), which shall
7 constitute the manufacturer's certification that the helmet conforms
8 to the applicable safety standards.

9 (c) A person shall not sell, or offer for sale, for use by an
10 operator or passenger of a bicycle, nonmotorized scooter,
11 skateboard, or in-line or roller skates any safety helmet that is not
12 of a type meeting requirements established by this section.

13 (d) A charge under this section shall be dismissed when the
14 person charged alleges in court, under oath, that the charge against
15 the person is the first charge against that person under this section,
16 unless it is otherwise established in court that the charge is not the
17 first charge against the person.

18 (e) (1) Except as provided in subdivision (d), a violation of this
19 section is an infraction punishable by a fine of not more than
20 twenty five dollars (\$25).

21 (2) The parent or legal guardian having control or custody of
22 an unemancipated minor whose conduct violates this section shall
23 be jointly and severally liable with the minor for the amount of
24 the fine imposed pursuant to this subdivision.

25 (f) A record of the action shall not be transmitted to the court
26 upon a citation for not wearing a properly fitted and fastened
27 bicycle helmet pursuant to subdivision (a) if the parent or legal
28 guardian of the person described in subdivision (a) delivers proof
29 to the issuing agency within 120 days after the citation was issued
30 that the person has a helmet meeting the requirements specified
31 in subdivision (a) and the person has completed a local bicycle
32 safety course or a related safety course, if one is available, as
33 prescribed by authorities in the local jurisdiction.

34 (g) Notwithstanding Section 1463 of the Penal Code or any
35 other law, the fines collected for a violation of this section shall
36 be allocated as follows:

37 (1) Seventy two and one half percent of the amount collected
38 shall be deposited in a special account of the county health
39 department, to be used for bicycle, nonmotorized scooter,
40 skateboard, and in-line and roller skate safety education and for

1 assisting low-income families in obtaining approved bicycle
 2 helmets for persons under 18 years of age, either on a loan or
 3 purchase basis. The county may contract for the implementation
 4 of this program, which, to the extent practicable, shall be operated
 5 in conjunction with the child passenger restraint program pursuant
 6 to Section 27360.

7 (2) Two and one-half percent of the amount collected shall be
 8 deposited in the county treasury to be used by the county to
 9 administer the program described in paragraph (1).

10 (3) If the violation occurred within a city, 25 percent of the
 11 amount collected shall be transferred to, and deposited in, the
 12 treasury of that city. If the violation occurred in an unincorporated
 13 area, this 25 percent shall be deposited and used pursuant to
 14 paragraph (1).

15 ~~SEC. 82. Section 23573 of the Vehicle Code, as amended by~~
 16 ~~Section 23 of Chapter 485 of the Statutes of 2017, is amended to~~
 17 ~~read:~~

18 ~~23573. (a) The Department of Motor Vehicles, upon receipt~~
 19 ~~of the court's abstract of conviction for a violation listed in~~
 20 ~~subdivision (j), shall inform the convicted person of the~~
 21 ~~requirements of this section and the term for which the person is~~
 22 ~~required to have a functioning, certified ignition interlock device~~
 23 ~~installed. At the time of installation, the installer shall inform the~~
 24 ~~convicted person of the requirements of subdivision (k) of Section~~
 25 ~~23573.5 and advise the person that the law provides for payment~~
 26 ~~of the costs of the ignition interlock device and its installation,~~
 27 ~~maintenance, and servicing commensurate with the person's~~
 28 ~~income. The records of the department shall reflect the mandatory~~
 29 ~~use of the device for the term required and the time when the device~~
 30 ~~is required to be installed pursuant to this code.~~

31 ~~(b) The department shall advise the person that installation of~~
 32 ~~a functioning, certified ignition interlock device on a vehicle does~~
 33 ~~not allow the person to drive without a valid driver's license.~~

34 ~~(c) A person who is notified by the department pursuant to~~
 35 ~~subdivision (a) shall, within 30 days of notification, complete all~~
 36 ~~of the following:~~

37 ~~(1) Arrange for each vehicle operated by the person to be fitted~~
 38 ~~with a functioning, certified ignition interlock device by a certified~~
 39 ~~ignition interlock device provider under Section 13386.~~

1 ~~(2) Notify the department and provide to the department proof~~
2 ~~of installation by submitting the “Verification of Installation” form~~
3 ~~described in paragraph (2) of subdivision (g) of Section 13386.~~

4 ~~(3) Pay to the department a fee sufficient to cover the costs of~~
5 ~~administration of this section, including startup costs, based on~~
6 ~~the person’s income as defined in subdivision (k) of Section~~
7 ~~25375.3.~~

8 ~~(d) The department shall place a restriction on the driver’s~~
9 ~~license record of the convicted person that states the driver is~~
10 ~~restricted to driving only vehicles equipped with a functioning,~~
11 ~~certified ignition interlock device.~~

12 ~~(e) (1) A person who is notified by the department pursuant to~~
13 ~~subdivision (a) shall arrange for each vehicle with an ignition~~
14 ~~interlock device to be serviced by the installer at least once every~~
15 ~~60 days in order for the installer to recalibrate and monitor the~~
16 ~~operation of the device.~~

17 ~~(2) The installer shall notify the department if the device is~~
18 ~~removed or indicates that the person has attempted to remove,~~
19 ~~bypass, or tamper with the device, or if the person fails three or~~
20 ~~more times to comply with any requirement for the maintenance~~
21 ~~or calibration of the ignition interlock device.~~

22 ~~(f) The department shall monitor the installation and~~
23 ~~maintenance of the functioning, certified ignition interlock device~~
24 ~~installed pursuant to subdivision (a).~~

25 ~~(g) (1) A person who is notified by the department, pursuant~~
26 ~~to subdivision (a), is exempt from the requirements of subdivision~~
27 ~~(e) if all of the following circumstances occur:~~

28 ~~(A) Within 30 days of the notification, the person certifies to~~
29 ~~the department all of the following:~~

30 ~~(i) The person does not own a vehicle.~~

31 ~~(ii) The person does not have access to a vehicle at their~~
32 ~~residence.~~

33 ~~(iii) The person no longer has access to the vehicle being driven~~
34 ~~by the person when they were arrested for a violation that~~
35 ~~subsequently resulted in a conviction for a violation listed in~~
36 ~~subdivision (j).~~

37 ~~(iv) The person acknowledges that they are only allowed to~~
38 ~~drive a vehicle that is fitted with a functioning, certified ignition~~
39 ~~interlock device and that they are required to have a valid driver’s~~
40 ~~license before they can drive.~~

1 ~~(v) The person is subject to the requirements of this section~~
2 ~~when they purchase or have access to a vehicle.~~

3 ~~(B) The person's driver's license record has been restricted~~
4 ~~pursuant to subdivision (d).~~

5 ~~(C) The person complies with this section immediately upon~~
6 ~~commencing operation of a vehicle subject to the required~~
7 ~~installation of a functioning, certified ignition interlock device.~~

8 ~~(2) A person who has been granted an exemption pursuant to~~
9 ~~this subdivision and who subsequently drives a vehicle in violation~~
10 ~~of the exemption is subject to the penalties of subdivision (i) in~~
11 ~~addition to any other applicable penalties in law.~~

12 ~~(h) This section does not permit a person to drive without a~~
13 ~~valid driver's license.~~

14 ~~(i) A person who is required under subdivision (e) to install a~~
15 ~~functioning, certified ignition interlock device who willfully fails~~
16 ~~to install the ignition interlock device within the time period~~
17 ~~required under subdivision (e) is guilty of a misdemeanor and shall~~
18 ~~be punished by imprisonment in a county jail for not more than~~
19 ~~six months or by a fine of not more than five thousand dollars~~
20 ~~(\$5,000), or by both that fine and imprisonment.~~

21 ~~(j) In addition to all other requirements of this code, a person~~
22 ~~convicted of any of the following violations shall be punished as~~
23 ~~follows:~~

24 ~~(1) Upon a conviction of a violation of Section 14601.2,~~
25 ~~14601.4, or 14601.5 subsequent to one prior conviction of a~~
26 ~~violation of Section 23103.5, 23152, or 23153, within a 10-year~~
27 ~~period, the person shall immediately install a functioning, certified~~
28 ~~ignition interlock device, pursuant to this section, in all vehicles~~
29 ~~operated by that person for a term of one year.~~

30 ~~(2) Upon a conviction of a violation of Section 14601.2,~~
31 ~~14601.4, or 14601.5 subsequent to two prior convictions of a~~
32 ~~violation of Section 23103.5, 23152, or 23153, within a 10-year~~
33 ~~period, or one prior conviction of Section 14601.2, 14601.4, or~~
34 ~~14601.5, within a 10-year period, the person shall immediately~~
35 ~~install a functioning, certified ignition interlock device, pursuant~~
36 ~~to this section, in all vehicles operated by that person for a term~~
37 ~~of two years.~~

38 ~~(3) Upon a conviction of a violation of Section 14601.2,~~
39 ~~14601.4, or 14601.5 subsequent to three or more prior convictions~~
40 ~~of a violation of Section 23103.5, 23152, or 23153, within a~~

~~1 10-year period, or two or more prior convictions of Section
2 14601.2, 14601.4, or 14601.5, within a 10-year period, the person
3 shall immediately install a functioning, certified ignition interlock
4 device, pursuant to this section, in all vehicles operated by that
5 person for a term of three years.~~

~~6 (k) The department shall notify the court if a person subject to
7 this section has failed to show proof of installation within 30 days
8 of the department informing the person they are required to install
9 a functioning, certified ignition interlock device.~~

~~10 (l) Subdivisions (g), (h), (j), (k), and (l) of Section 23575 apply
11 to this section.~~

~~12 (m) The requirements of this section are in addition to any other
13 requirements of law.~~

~~14 (n) This section shall become operative on January 1, 2019.~~

~~15 (o) This section shall remain in effect only until January 1, 2026,
16 and as of that date is repealed, unless a later enacted statute, that
17 is enacted before January 1, 2026, deletes or extends that date.~~

~~18 SEC. 83. Section 23573 of the Vehicle Code, as amended by
19 Section 24 of Chapter 485 of the Statutes of 2017, is amended to
20 read:~~

~~21 23573. (a) The Department of Motor Vehicles, upon receipt
22 of the court's abstract of conviction for a violation listed in
23 subdivision (j), shall inform the convicted person of the
24 requirements of this section and the term for which the person is
25 required to have a functioning, certified ignition interlock device
26 installed. At the time of installation, the installer shall inform the
27 convicted person of the requirements of subdivision (k) of Section
28 23575.3 and advise the person that the law provides for payment
29 of the costs of the ignition interlock device and its installation,
30 maintenance, and servicing commensurate with the person's
31 income. The records of the department shall reflect the mandatory
32 use of the device for the term required and the time when the device
33 is required to be installed pursuant to this code.~~

~~34 (b) The department shall advise the person that installation of
35 a functioning, certified ignition interlock device on a vehicle does
36 not allow the person to drive without a valid driver's license.~~

~~37 (c) A person who is notified by the department pursuant to
38 subdivision (a) shall, within 30 days of notification, complete all
39 of the following:~~

1 ~~(1) Arrange for each vehicle operated by the person to be fitted~~
2 ~~with a functioning, certified ignition interlock device by a certified~~
3 ~~ignition interlock device provider under Section 13386.~~

4 ~~(2) Notify the department and provide to the department proof~~
5 ~~of installation by submitting the “Verification of Installation” form~~
6 ~~described in paragraph (2) of subdivision (g) of Section 13386.~~

7 ~~(3) Pay to the department a fee sufficient to cover the costs of~~
8 ~~administration of this section, including startup costs, based on~~
9 ~~the person’s income as defined in subdivision (k) of Section—~~
10 ~~25375.3~~

11 ~~(d) The department shall place a restriction on the driver’s~~
12 ~~license record of the convicted person that states the driver is~~
13 ~~restricted to driving only vehicles equipped with a functioning,~~
14 ~~certified ignition interlock device.~~

15 ~~(e) (1) A person who is notified by the department pursuant to~~
16 ~~subdivision (a) shall arrange for each vehicle with an ignition~~
17 ~~interlock device to be serviced by the installer at least once every~~
18 ~~60 days in order for the installer to recalibrate and monitor the~~
19 ~~operation of the device.~~

20 ~~(2) The installer shall notify the department if the device is~~
21 ~~removed or indicates that the person has attempted to remove,~~
22 ~~bypass, or tamper with the device, or if the person fails three or~~
23 ~~more times to comply with any requirement for the maintenance~~
24 ~~or calibration of the ignition interlock device.~~

25 ~~(f) The department shall monitor the installation and~~
26 ~~maintenance of the ignition interlock device installed pursuant to~~
27 ~~subdivision (a).~~

28 ~~(g) (1) A person who is notified by the department, pursuant~~
29 ~~to subdivision (a), is exempt from the requirements of subdivision~~
30 ~~(e) if all of the following circumstances occur:~~

31 ~~(A) Within 30 days of the notification, the person certifies to~~
32 ~~the department all of the following:~~

33 ~~(i) The person does not own a vehicle.~~

34 ~~(ii) The person does not have access to a vehicle at their~~
35 ~~residence.~~

36 ~~(iii) The person no longer has access to the vehicle being driven~~
37 ~~by the person when they were arrested for a violation that~~
38 ~~subsequently resulted in a conviction for a violation listed in~~
39 ~~subdivision (j).~~

1 ~~(iv) The person acknowledges that they are only allowed to~~
2 ~~drive a vehicle that is fitted with a functioning, certified ignition~~
3 ~~interlock device and that they are required to have a valid driver's~~
4 ~~license before they can drive.~~
5 ~~(v) The person is subject to the requirements of this section~~
6 ~~when they purchase or have access to a vehicle.~~
7 ~~(B) The person's driver's license record has been restricted~~
8 ~~pursuant to subdivision (d).~~
9 ~~(C) The person complies with this section immediately upon~~
10 ~~commencing operation of a vehicle subject to the required~~
11 ~~installation of a functioning, certified ignition interlock device.~~
12 ~~(2) A person who has been granted an exemption pursuant to~~
13 ~~this subdivision and who subsequently drives a vehicle in violation~~
14 ~~of the exemption is subject to the penalties of subdivision (i) in~~
15 ~~addition to any other applicable penalties in law.~~
16 ~~(h) This section does not permit a person to drive without a~~
17 ~~valid driver's license.~~
18 ~~(i) A person who is required under subdivision (c) to install a~~
19 ~~functioning, certified ignition interlock device who willfully fails~~
20 ~~to install the ignition interlock device within the time period~~
21 ~~required under subdivision (c) is guilty of a misdemeanor and shall~~
22 ~~be punished by imprisonment in a county jail for not more than~~
23 ~~six months or by a fine of not more than five thousand dollars~~
24 ~~(\$5,000), or by both that fine and imprisonment.~~
25 ~~(j) In addition to all other requirements of this code, a person~~
26 ~~convicted of any of the following violations shall be punished as~~
27 ~~follows:~~
28 ~~(1) Upon a conviction of a violation of Section 14601.2,~~
29 ~~14601.4, or 14601.5 subsequent to one prior conviction of a~~
30 ~~violation of Section 23103.5, 23152, or 23153, within a 10-year~~
31 ~~period, the person shall immediately install a functioning, certified~~
32 ~~ignition interlock device, pursuant to this section, in all vehicles~~
33 ~~operated by that person for a term of one year.~~
34 ~~(2) Upon a conviction of a violation of Section 14601.2,~~
35 ~~14601.4, or 14601.5 subsequent to two prior convictions of a~~
36 ~~violation of Section 23103.5, 23152, or 23153, within a 10-year~~
37 ~~period, or one prior conviction of Section 14601.2, 14601.4, or~~
38 ~~14601.5, within a 10-year period, the person shall immediately~~
39 ~~install a functioning, certified ignition interlock device, pursuant~~

1 ~~to this section, in all vehicles operated by that person for a term~~
2 ~~of two years.~~

3 ~~(3) Upon a conviction of a violation of Section 14601.2,~~
4 ~~14601.4, or 14601.5 subsequent to three or more prior convictions~~
5 ~~of a violation of Section 23103.5, 23152, or 23153, within a~~
6 ~~10-year period, or two or more prior convictions of Section~~
7 ~~14601.2, 14601.4, or 14601.5, within a 10-year period, the person~~
8 ~~shall immediately install a functioning, certified ignition interlock~~
9 ~~device, pursuant to this section, in all vehicles operated by that~~
10 ~~person for a term of three years.~~

11 ~~(k) The department shall notify the court if a person subject to~~
12 ~~this section has failed to show proof of installation within 30 days~~
13 ~~of the department informing the person they are required to install~~
14 ~~a functioning, certified ignition interlock device.~~

15 ~~(l) Subdivisions (j), (k), (m), (n), and (o) of Section 23575 apply~~
16 ~~to this section.~~

17 ~~(m) The requirements of this section are in addition to any other~~
18 ~~requirements of law.~~

19 ~~(n) This section shall become operative January 1, 2026.~~

20 ~~SEC. 84. Section 23575.3 of the Vehicle Code is amended to~~
21 ~~read:~~

22 ~~23575.3. (a) In addition to any other requirement imposed by~~
23 ~~law, a court shall notify a person convicted of a violation listed in~~
24 ~~subdivision (h) that they are required to install a functioning,~~
25 ~~certified ignition interlock device on any vehicle that the person~~
26 ~~operates and that they are prohibited from operating a motor vehicle~~
27 ~~unless that vehicle is equipped with a functioning, certified ignition~~
28 ~~interlock device in accordance with this section. Upon ordering a~~
29 ~~person to install an ignition interlock device, the court shall inform~~
30 ~~the convicted person of the requirements of subdivision (k) of~~
31 ~~Section 23575.3 and advise the person that the law provides for~~
32 ~~payment of the costs of the ignition interlock device and its~~
33 ~~installation, maintenance, and servicing commensurate with the~~
34 ~~person's income.~~

35 ~~(b) The Department of Motor Vehicles, upon receipt of the~~
36 ~~court's abstract of conviction for a violation listed in subdivision~~
37 ~~(h), shall inform the convicted person of the requirements of this~~
38 ~~section, including the term for which the person is required to have~~
39 ~~a certified ignition interlock device installed. At the time of~~
40 ~~installation, the installer shall inform the convicted person of the~~

1 requirements of subdivision (k) and advise the person that the law
 2 provides for payment of the costs of the ignition interlock device
 3 and its installation, maintenance, and servicing commensurate with
 4 the person’s income. The records of the department shall reflect
 5 the mandatory use of the device for the term required and the time
 6 when the device is required to be installed by this code.

7 (e) The department shall advise the person that installation of
 8 a functioning, certified ignition interlock device on a vehicle does
 9 not allow the person to drive without a valid driver’s license.

10 (d) (1) A person who is notified by the department pursuant to
 11 subdivision (b) shall do all of the following:

12 (A) Arrange for each vehicle operated by the person to be
 13 equipped with a functioning, certified ignition interlock device by
 14 a certified ignition interlock device provider under Section 13386.

15 (B) Provide to the department proof of installation by submitting
 16 the “Verification of Installation” form described in paragraph (2)
 17 of subdivision (g) of Section 13386.

18 (C) Pay a fee, determined by the department, that is sufficient
 19 to cover the costs of administration of this section, based on the
 20 person’s income as specified in subdivision (k).

21 (2) A person who is notified by the department pursuant to
 22 subdivision (b), is exempt from the requirements of this subdivision
 23 until the time that person purchases or has access to a vehicle if,
 24 within 30 days of the notification, the person certifies to the
 25 department all of the following:

26 (A) The person does not own a vehicle.

27 (B) The person does not have access to a vehicle at their
 28 residence.

29 (C) The person no longer has access to the vehicle they were
 30 driving at the time they were arrested for a violation that
 31 subsequently resulted in a conviction for a violation listed in
 32 subdivision (h).

33 (D) The person acknowledges that they are only allowed to
 34 drive a vehicle that is equipped with a functioning, certified ignition
 35 interlock device.

36 (E) The person acknowledges that they are required to have a
 37 valid driver’s license before they can drive.

38 (F) The person acknowledges that they are subject to the
 39 requirements of this section when they purchase or have access to
 40 a vehicle.

1 ~~(e) In addition to any other restrictions the department places~~
2 ~~on the driver's license record of the convicted person when the~~
3 ~~person is issued a restricted driver's license pursuant to Section~~
4 ~~13352 or 13352.4, the department shall place a restriction on the~~
5 ~~driver's license record of the person that states the driver is~~
6 ~~restricted to driving only vehicles equipped with a functioning,~~
7 ~~certified ignition interlock device for the applicable term.~~

8 ~~(f) (1) A person who is notified by the department pursuant to~~
9 ~~subdivision (b) shall arrange for each vehicle with a functioning,~~
10 ~~certified ignition interlock device to be serviced by the installer at~~
11 ~~least once every 60 days in order for the installer to recalibrate and~~
12 ~~monitor the operation of the device.~~

13 ~~(2) The installer shall notify the department if the device is~~
14 ~~removed or indicates that the person has attempted to remove,~~
15 ~~bypass, or tamper with the device, or if the person fails three or~~
16 ~~more times to comply with any requirement for the maintenance~~
17 ~~or calibration of the ignition interlock device.~~

18 ~~(g) The department shall monitor the installation and~~
19 ~~maintenance of the ignition interlock device installed pursuant to~~
20 ~~subdivision (d).~~

21 ~~(h) A person is required to install a functioning, certified ignition~~
22 ~~interlock device pursuant to this section for the applicable term,~~
23 ~~as follows:~~

24 ~~(1) A person convicted of a violation of subdivision (a), (b),~~
25 ~~(d), (e), or (g) of Section 23152 shall be required to do the~~
26 ~~following, as applicable:~~

27 ~~(A) Upon a conviction with no priors, punishable under Section~~
28 ~~23536, only one of the following may occur:~~

29 ~~(i) The court may order installation of a functioning, certified~~
30 ~~ignition interlock device on any vehicle that the person operates~~
31 ~~and prohibit that person from operating a motor vehicle unless that~~
32 ~~vehicle is equipped with a functioning, certified ignition interlock~~
33 ~~device. If the court orders the ignition interlock device restriction,~~
34 ~~the term shall be determined by the court for a period not to exceed~~
35 ~~six months from the date of conviction. The court shall notify the~~
36 ~~department of the conviction as specified in subdivision (a) of~~
37 ~~Section 1803 or Section 1816, and shall specify the terms of the~~
38 ~~ignition interlock device restriction in accordance with subdivision~~
39 ~~(a) of Section 1804. The department shall place the restriction on~~
40 ~~the driver's license record of the person that states the driver is~~

1 ~~restricted to driving only vehicles equipped with a functioning,~~
2 ~~certified ignition interlock device for the applicable term.~~

3 ~~(ii) The person may apply to the department for a restriction of~~
4 ~~the driving privilege under Section 13352.4.~~

5 ~~(iii) The person may apply to the department for a restriction~~
6 ~~of the driving privilege under paragraph (1) of subdivision (a) of~~
7 ~~Section 13352 or subdivision (c) of Section 13352.1.~~

8 ~~(B) Upon a conviction with one prior, punishable under Section~~
9 ~~23540, the person shall install a functioning, certified ignition~~
10 ~~interlock device in the vehicle, as ordered by the court, that is~~
11 ~~operated by that person for a mandatory term of 12 months.~~

12 ~~(C) Upon a conviction with two priors, punishable under Section~~
13 ~~23546, the person shall install a functioning, certified ignition~~
14 ~~interlock device in the vehicle, as ordered by the court, that is~~
15 ~~operated by that person for a mandatory term of 24 months.~~

16 ~~(D) Upon a conviction with three or more priors punishable~~
17 ~~under Section 23550, or a conviction punishable under Section~~
18 ~~23550.5, the person shall install a functioning, certified ignition~~
19 ~~interlock device in the vehicle, as ordered by the court, that is~~
20 ~~operated by that person for a mandatory term of 36 months.~~

21 ~~(2) A person convicted of a violation of subdivision (a), (b),~~
22 ~~(d), (e), or (g) of Section 23153 shall install a functioning, certified~~
23 ~~ignition interlock device, as follows:~~

24 ~~(A) Upon a conviction with no priors, punishable under Section~~
25 ~~23554, the person shall install a functioning, certified ignition~~
26 ~~interlock device in the vehicle, as ordered by the court, that is~~
27 ~~operated by that person for a mandatory term of 12 months.~~

28 ~~(B) Upon a conviction with one prior, punishable under Section~~
29 ~~23560, the person shall install a functioning, certified ignition~~
30 ~~interlock device in the vehicle, as ordered by the court, that is~~
31 ~~operated by that person for a mandatory term of 24 months.~~

32 ~~(C) Upon a conviction with two priors, punishable under Section~~
33 ~~23550 or 23566, the person shall install a functioning, certified~~
34 ~~ignition interlock device in the vehicle, as ordered by the court,~~
35 ~~that is operated by that person for a mandatory term of 36 months.~~

36 ~~(D) Upon a conviction with one prior punishable under Section~~
37 ~~23550.5, the person shall install a functioning, certified ignition~~
38 ~~interlock device in the vehicle, as ordered by the court, that is~~
39 ~~operated by that person for a mandatory term of 48 months.~~

1 ~~(3) For the purposes of paragraphs (1) and (2), “prior” means~~
2 ~~a conviction for a separate violation of Section 23103, as specified~~
3 ~~in Section 23103.5, or Section 23152 or 23153, subdivision (a) or~~
4 ~~(b) of Section 191.5 of, or subdivision (a) of Section 192.5 of, the~~
5 ~~Penal Code, or subdivision (b), (c), (d), (e), or (f) of Section 655~~
6 ~~of the Harbors and Navigation Code, that occurred within 10 years~~
7 ~~of the current violation.~~

8 ~~(4) The terms prescribed in this subdivision shall begin once a~~
9 ~~person has complied with subparagraph (B) of paragraph (1) of~~
10 ~~subdivision (d) and either upon the reinstatement of the privilege~~
11 ~~to drive pursuant to Section 13352 or the issuance of a restricted~~
12 ~~driver’s license pursuant to Section 13352. A person shall receive~~
13 ~~credit for any period in which they had a restricted driver’s license~~
14 ~~issued pursuant to Section 13353.6 or 13353.75.~~

15 ~~(i) Subdivisions (g), (h), (j), and (k) of Section 23575 apply to~~
16 ~~this section.~~

17 ~~(j) If a person fails to comply with any of the requirements~~
18 ~~regarding ignition interlock devices, the period in which the person~~
19 ~~was not in compliance shall not be credited towards the mandatory~~
20 ~~term for which the ignition interlock device is required to be~~
21 ~~installed.~~

22 ~~(k) (1) Every manufacturer and manufacturer’s agent certified~~
23 ~~by the department to provide ignition interlock devices, under~~
24 ~~Section 13386, shall adopt the following fee schedule that provides~~
25 ~~for the payment of the costs of the certified ignition interlock~~
26 ~~device, the administration of the program, installation,~~
27 ~~maintenance, and any other costs associated with the device by~~
28 ~~persons subject to this chapter in amounts commensurate with that~~
29 ~~person’s income relative to the federal poverty level, as defined~~
30 ~~in Section 127400 of the Health and Safety Code:~~

31 ~~(A) A person with an income at 100 percent of the federal~~
32 ~~poverty level or below and who provides income verification~~
33 ~~pursuant to paragraph (2) is responsible for 5 percent of the cost~~
34 ~~of the manufacturer’s standard ignition interlock device program~~
35 ~~costs, and any additional costs accrued by the person for~~
36 ~~noncompliance with program requirements.~~

37 ~~(B) A person with an income at 101 to 200 percent of the federal~~
38 ~~poverty level and who provides income verification pursuant to~~
39 ~~paragraph (2) is responsible for 25 percent of the cost of the~~
40 ~~manufacturer’s standard ignition interlock device program costs,~~

1 and any additional costs accrued by the person for noncompliance
2 with program requirements.

3 ~~(C) A person with an income at 201 to 300 percent of the federal
4 poverty level and who provides income verification pursuant to
5 paragraph (2) is responsible for 50 percent of the cost of the
6 manufacturer's standard ignition interlock device program costs,
7 and any additional costs accrued by the person for noncompliance
8 with program requirements.~~

9 ~~(D) A person who is receiving CalFresh benefits and who
10 provides proof of those benefits to the manufacturer or
11 manufacturer's agent or authorized installer is responsible for 50
12 percent of the cost of the manufacturer's standard ignition interlock
13 device program costs, and any additional costs accrued by the
14 person for noncompliance with program requirements.~~

15 ~~(E) A person with an income at 301 to 400 percent of the federal
16 poverty level and who provides income verification pursuant to
17 paragraph (2) is responsible for 90 percent of the cost of the
18 manufacturer's standard ignition interlock device program costs,
19 and any additional costs accrued by the person for noncompliance
20 with program requirements.~~

21 ~~(F) All other persons are responsible for 100 percent of the cost
22 of the ignition interlock device.~~

23 ~~(G) The manufacturer is responsible for the percentage of costs
24 that the person ordered to install an ignition interlock device is
25 not responsible for pursuant to subparagraphs (A) to (E), inclusive.~~

26 ~~(2) The ignition interlock device provider shall verify the income
27 of the person ordered to install an ignition interlock device to
28 determine the cost of the ignition interlock device pursuant to this
29 subdivision by verifying any of the following documents from the
30 person:~~

31 ~~(A) The previous year's state or federal income tax return.~~

32 ~~(B) The previous three months of weekly or monthly income
33 statements.~~

34 ~~(C) A pending application for, or receipt of, Employment
35 Development Department verification of unemployment benefits.~~

36 ~~(D) Receipt of state-funded needs-tested public benefits such
37 as CalFresh, CalWORKS, Social Security Income, Medi-Cal, and
38 general assistance.~~

1 ~~(E) Third-party verification of homelessness from an agency or~~
2 ~~nonprofit organization providing services to homeless people or~~
3 ~~presence on a county coordinated entry system list.~~

4 ~~(3) At any point during which a device is installed and in use,~~
5 ~~an individual shall be permitted to apply for reduced costs by~~
6 ~~providing proof of a change of income.~~

7 ~~(4) The ignition interlock device provider shall post~~
8 ~~conspicuously on its internet website and contracts the information~~
9 ~~set forth in this subdivision. Installation service and repair providers~~
10 ~~shall post conspicuously in their place of business and inform a~~
11 ~~person of the information set forth in this subdivision prior to~~
12 ~~installation and servicing of the device.~~

13 ~~(l) The Department of Consumer Affairs may impose a civil~~
14 ~~assessment not to exceed one thousand dollars (\$1,000) upon a~~
15 ~~manufacturer or manufacturer's agent certified to provide ignition~~
16 ~~interlock devices who fails to inform a person ordered to install~~
17 ~~an ignition interlock device subject to this chapter of the provisions~~
18 ~~of subdivision (k), or who fails to comply with the provisions of~~
19 ~~subdivision (k).~~

20 ~~(m) A person subject to this chapter may institute a civil action~~
21 ~~to recover damages, injunctive or declaratory relief, and a civil~~
22 ~~penalty not to exceed one thousand dollars (\$1,000) per violation~~
23 ~~from a manufacturer or manufacturer's agent who fails to inform~~
24 ~~the individual of the provisions of subdivision (k), or who fails to~~
25 ~~comply with the provisions of subdivision (k) or subdivision (h)~~
26 ~~of Section 13386. A prevailing plaintiff in any action commenced~~
27 ~~pursuant to this subdivision shall be entitled to recover their~~
28 ~~reasonable attorney's fees and costs.~~

29 ~~(n) This section does not permit a person to drive without a~~
30 ~~valid driver's license.~~

31 ~~(o) The requirements of this section are in addition to any other~~
32 ~~requirements of law.~~

33 ~~(p) For the purposes of this section, the following definitions~~
34 ~~apply:~~

35 ~~(1) "Bypass" means either of the following:~~

36 ~~(A) Failure to take any random retest.~~

37 ~~(B) Failure to pass a random retest with a breath alcohol~~
38 ~~concentration not exceeding 0.03 percent, by weight of alcohol,~~
39 ~~in the person's blood.~~

1 ~~(2) “Operates” includes operating a vehicle that is not owned~~
2 ~~by the person subject to this section.~~

3 ~~(3) “Owned” means solely owned or owned in conjunction with~~
4 ~~another person or legal entity.~~

5 ~~(4) “Random retest” means a breath test performed by the driver~~
6 ~~upon a certified ignition interlock device at random intervals after~~
7 ~~the initial engine startup breath test and while the vehicle’s motor~~
8 ~~is running.~~

9 ~~(5) “Vehicle” does not include a motorcycle until the state~~
10 ~~certifies an ignition interlock device that can be installed on a~~
11 ~~motorcycle. A person subject to an ignition interlock device~~
12 ~~restriction shall not operate a motorcycle for the duration of the~~
13 ~~ignition interlock device restriction period.~~

14 ~~(q) The requirements of this section shall apply only to a person~~
15 ~~who is convicted for a violation of Section 23152 or 23153 that~~
16 ~~occurred on or after January 1, 2019.~~

17 ~~(r) This section shall become operative on January 1, 2019.~~

18 ~~(s) This section shall remain in effect only until January 1, 2026,~~
19 ~~and as of that date is repealed, unless a later enacted statute, that~~
20 ~~is enacted before January 1, 2026, deletes or extends that date.~~

21 ~~SEC. 85.~~

22 ~~SEC. 43.— Section 40508.5 of the Vehicle Code is repealed.~~

23 ~~SEC. 86.— Section 40508.6 of the Vehicle Code is repealed.~~

24 ~~SEC. 87. Section 40509 of the Vehicle Code is amended to~~
25 ~~read:~~

26 ~~40509. (a) Except as required under subdivision (b) of Section~~
27 ~~40509.5, if a person has violated a written promise to appear or a~~
28 ~~lawfully granted continuance of a promise to appear in court or~~
29 ~~before the person authorized to receive a deposit of bail, or violated~~
30 ~~an order to appear in court, including, but not limited to, a written~~
31 ~~notice to appear issued in accordance with Section 40518, the~~
32 ~~magistrate or clerk of the court may give notice of the failure to~~
33 ~~appear to the department for any violation of this code, or any~~
34 ~~violation that can be heard by a juvenile traffic hearing referee~~
35 ~~pursuant to Section 256 of the Welfare and Institutions Code, or~~
36 ~~any violation of any other statute relating to the safe operation of~~
37 ~~a vehicle, except violations not required to be reported pursuant~~
38 ~~to paragraphs (1), (2), (3), (6), and (7) of subdivision (b) of Section~~
39 ~~1803. If thereafter the case in which the promise was given is~~
40 ~~adjudicated or the person who has violated the court order appears~~

~~in court or otherwise satisfies the order of the court, the magistrate or clerk of the court hearing the case shall sign and file with the department a certificate to that effect.~~

~~(b) (1) Notwithstanding subdivision (a), the court may notify the department of the total amount of bail, fines, and assessments authorized or required by this code that are unpaid by a person.~~

~~(2) Once a court has established the amount of bail, fines, and assessments and notified the department, the court shall not further enhance or modify that amount.~~

~~(3) This subdivision applies only to violations of this code that do not require a mandatory court appearance, are not contested by the defendant, and do not require proof of correction certified by the court.~~

~~(c) Any violation subject to Section 40001 that is the responsibility of the owner of the vehicle shall not be reported under this section.~~

~~SEC. 88.~~

SEC. 44. Section 40510.5 of the Vehicle Code is amended to read:

40510.5. (a) The clerk of the court may accept a payment and forfeiture of at least 10 percent of the total bail amount for each infraction violation of this code prior to the date on which the defendant promised to appear, or prior to the expiration of any lawful continuance of that date, or upon receipt of information that an action has been filed and prior to the scheduled court date, if all of the following circumstances exist:

(1) The defendant is charged with an infraction violation of this code or an infraction violation of an ordinance adopted pursuant to this code.

(2) The defendant submits proof of correction, when proof of correction is mandatory for a correctable offense.

(3) The offense does not require an appearance in court.

(4) The defendant signs a written agreement to pay and forfeit the remainder of the required bail according to an installment schedule as agreed upon with the court. The Judicial Council shall prescribe the form of the agreement for payment and forfeiture of bail in installments for infraction violations.

(b) When a clerk accepts an agreement for payment and forfeiture of bail in installments, the clerk shall continue the



SB 586 pages 140 – 159 intentionally omitted. To access a copy of the full bill text, please visit:

https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220SB586

1 court under this section shall be valid only if either (1) made under
2 procedures adopted by the Judicial Council or (2) approved by the
3 Judicial Council.

4 (b) (1) This section does not apply to a minor who is adjudged
5 a ward of the juvenile court, who is placed on probation pursuant
6 to Section 725, who is the subject of a petition that has been filed
7 to adjudge the minor a ward of the juvenile court, or who is the
8 subject of a program of supervision undertaken pursuant to Section
9 654.

10 (2) Notwithstanding paragraph (1), this section applies to a
11 minor who is designated as a dual status child pursuant to Section
12 241.1, for purposes of the dependency jurisdiction only and not
13 for purposes of the delinquency jurisdiction.

14 ~~SEC. 102.~~

15 *SEC. 51.* No reimbursement is required by this act pursuant to
16 Section 6 of Article XIII B of the California Constitution because
17 the only costs that may be incurred by a local agency or school
18 district will be incurred because this act creates a new crime or
19 infraction, eliminates a crime or infraction, or changes the penalty
20 for a crime or infraction, within the meaning of Section 17556 of
21 the Government Code, or changes the definition of a crime within
22 the meaning of Section 6 of Article XIII B of the California
23 Constitution.

O



Agenda Item 7i: SB 772 (Ochoa Bogh) – Professions
and vocations: citations: minor violations

**Introduced by Senator Ochoa Bogh
(Coauthor: Senator Borgeas)**

February 19, 2021

An act to amend Section 125.9 of the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

SB 772, as introduced, Ochoa Bogh. Professions and vocations: citations: minor violations.

Existing law authorizes the State Board of Chiropractic Examiners, the Osteopathic Medical Board of California, and any board within the Department of Consumer Affairs to issue a citation to a licensee, which may contain an order of abatement or an order to pay an administrative fine assessed by the board.

This bill would prohibit the assessment of an administrative fine for a minor violation, and would specify that a violation shall be considered minor if it meets specified conditions, including that the violation did not pose a serious health or safety threat and there is no evidence that the violation was willful.

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 125.9 of the Business and Professions
- 2 Code is amended to read:
- 3 125.9. (a) Except with respect to persons regulated under
- 4 Chapter 11 (commencing with Section 7500), any board, bureau,
- 5 or commission within the department, the State Board of

1 Chiropractic Examiners, and the Osteopathic Medical Board of
2 California, may establish, by regulation, a system for the issuance
3 to a licensee of a citation which may contain an order of abatement
4 or an order to pay an administrative fine assessed by the board,
5 bureau, or commission where the licensee is in violation of the
6 applicable licensing act or any regulation adopted pursuant thereto.

7 (b) The system shall contain the following provisions:

8 (1) Citations shall be in writing and shall describe with
9 particularity the nature of the violation, including specific reference
10 to the provision of law determined to have been violated.

11 (2) Whenever appropriate, the citation shall contain an order of
12 abatement fixing a reasonable time for abatement of the violation.

13 (3) In no event shall the administrative fine assessed by the
14 board, bureau, or commission exceed five thousand dollars (\$5,000)
15 for each inspection or each investigation made with respect to the
16 violation, or five thousand dollars (\$5,000) for each violation or
17 count if the violation involves fraudulent billing submitted to an
18 insurance company, the Medi-Cal program, or Medicare. In
19 assessing a fine, the board, bureau, or commission shall give due
20 consideration to the appropriateness of the amount of the fine with
21 respect to factors such as the gravity of the violation, the good
22 faith of the licensee, and the history of previous violations.

23 (4) A citation or fine assessment issued pursuant to a citation
24 shall inform the licensee that if the licensee desires a hearing to
25 contest the finding of a violation, that hearing shall be requested
26 by written notice to the board, bureau, or commission within 30
27 days of the date of issuance of the citation or assessment. If a
28 hearing is not requested pursuant to this section, payment of any
29 fine shall not constitute an admission of the violation charged.
30 Hearings shall be held pursuant to Chapter 5 (commencing with
31 Section 11500) of Part 1 of Division 3 of Title 2 of the Government
32 Code.

33 (5) Failure of a licensee to pay a fine or comply with an order
34 of abatement, or both, within 30 days of the date of assessment or
35 order, unless the citation is being appealed, may result in
36 disciplinary action being taken by the board, bureau, or
37 commission. Where a citation is not contested and a fine is not
38 paid, the full amount of the assessed fine shall be added to the fee
39 for renewal of the license. A license shall not be renewed without
40 payment of the renewal fee and fine.

1 (c) The system may contain the following provisions:

2 (1) A citation may be issued without the assessment of an
3 administrative fine.

4 (2) Assessment of administrative fines may be limited to only
5 particular violations of the applicable licensing act.

6 (d) Notwithstanding any other provision of law, if a fine is paid
7 to satisfy an assessment based on the finding of a violation,
8 payment of the fine and compliance with the order of abatement,
9 if applicable, shall be represented as satisfactory resolution of the
10 matter for purposes of public disclosure.

11 (e) Administrative fines collected pursuant to this section shall
12 be deposited in the special fund of the particular board, bureau, or
13 commission.

14 *(f) A licensee shall not be assessed an administrative fine for a*
15 *violation of the applicable licensing act or any regulation adopted*
16 *pursuant to the act if the violation is a minor violation. A violation*
17 *shall be considered minor if all of the following conditions are*
18 *satisfied:*

19 *(1) The violation did not pose a serious health or safety threat.*

20 *(2) There is no evidence that the violation was willful.*

21 *(3) The licensee was not on probation at the time of the*
22 *violation.*

23 *(4) The licensee does not have a history of committing the*
24 *violation.*

25 *(5) The licensee corrects the violation within 30 days from the*
26 *date notice of the violation is sent to the licensee.*

O



Agenda Item 7j: SB 826 (Committee on Business, Professions and Economic Development) – Business and Professions

AMENDED IN SENATE MAY 4, 2021
AMENDED IN SENATE APRIL 13, 2021

SENATE BILL

No. 826

Introduced by Committee on Business, Professions and Economic Development (Senators Roth (Chair), Archuleta, Bates, Becker, Dodd, Eggman, Hurtado, Jones, Leyva, Melendez, Min, Newman, Ochoa Bogh, and Pan)

March 23, 2021

An act to amend Sections *27, 144, 5659, 7011.4, 7017.3, 7058.5, 7058.6, 7124.6, ~~7169~~ 7169, 9802, 19004, 19031, 19051, 19055, 19059.5, 19100, and 19161* of, and to repeal Section 13470.1 of, the Business and Professions Code, relating to business and professions.

legislative counsel's digest

SB 826, as amended, Committee on Business, Professions and Economic Development. Business and professions.

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

(1) Existing law establishes the Bureau of Household Goods and Services within the Department of Consumer Affairs under the supervision and control of the Director of Consumer Affairs. The bureau is responsible for the licensure and regulation of, among others, upholstered furniture retailers, household movers, and electronic and appliance repair dealers. Existing law requires the bureau to disclose prescribed information on the internet regarding its licensees and registrants and to comply with the department's guidelines for access to public records.

This bill would additionally require the bureau to disclose information on its permitholders.

(2) Under existing law, specified agencies must require an applicant to provide a full set of fingerprints for purposes of conducting criminal history record checks.

This bill would include in the list of agencies the Bureau of Household Goods and Services with respect to household movers.

~~(1)~~

(3) Existing law, the Contractors State License Law, provides for the licensure and regulation of contractors by the Contractors State License Board within the department. Existing law establishes an enforcement division within the board that is required to enforce prohibitions against all forms of unlicensed activity, as specified. Existing law authorizes the board's enforcement representatives, recently reclassified as special investigators, who are designated by the Director of Consumer Affairs to issue a written notice to appear in court, as specified.

This bill would make nonsubstantive changes to those provisions by instead referring to the above-described enforcement representatives as special investigators and would make additional conforming changes.

Existing law requires the Contractors State License Board to report annually to the Legislature specified statistical information for the prior fiscal year, including, for the board's Investigation Center closures, the total number of complaints closed after referral for a field investigation per enforcement representative.

This bill would revise the reporting requirement to instead include the total number of complaints closed after referral for a field investigation per investigator and special investigator.

Existing law prohibits a contractor from engaging in asbestos-related work, as specified, without passing an asbestos certification examination. Existing law prohibits the Contractors State License Board from issuing an asbestos certification to a contractor who is not registered with the Division of Occupational Safety and Health, as specified. Under existing law, a contractor who is not certified pursuant to these provisions may bid on and contract to perform a project involving asbestos-related work as long as the asbestos-related work is performed by a contractor who is certified and registered, as specified.

This bill would additionally permit a contractor who holds a C-22 Asbestos Abatement classification to engage in asbestos-related work,

as specified, and to perform the asbestos-related work in connection with the above-described project.

Existing law requires a solar energy system company, before completing a sale, financing, or lease of a solar energy system, to provide a consumer with a disclosure document, developed by the board, as specified, that provides a consumer with accurate, clear, and concise information regarding the installation of a solar energy system. Existing law requires the disclosure document to contain specified information, including the consumer’s right to a cooling off period of 3 days, pursuant to provisions outlining the contract requirements for projects requiring a home improvement contract. Under existing law, those provisions generally provide for a 3-, 5-, or 7-day right to cancel the contract, depending on the specific circumstances of the consumer.

This bill would revise the requirement that the disclosure document include information relating to the consumer’s right to a 3-day cooling off period to instead include information relating to the applicable cancellation period, pursuant to the above-described provisions outlining specified contract requirements.

~~(2)~~

(4) Existing law requires a person selling at retail motor vehicle fuel to the public to post and maintain the maximum lawful selling price, as defined under obsolete federal law, of each type and grade of gasoline.

This bill would repeal that provision.

~~(3)~~

(5) This bill would make other conforming and nonsubstantive changes, including replacing gendered terms with nongendered terms, updating cross-references, and deleting obsolete 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 27 of the Business and Professions Code*
2 *is amended to read:*

3 27. (a) Each entity specified in subdivisions (c), (d), and (e)
4 shall provide on the internet information regarding the status of
5 every license issued by that entity in accordance with the California
6 Public Records Act (Chapter 3.5 (commencing with Section 6250)
7 of Division 7 of Title 1 of the Government Code) and the
8 Information Practices Act of 1977 (Chapter 1 (commencing with

1 Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code).
2 The public information to be provided on the internet shall include
3 information on suspensions and revocations of licenses issued by
4 the entity and other related enforcement action, including
5 accusations filed pursuant to the Administrative Procedure Act
6 (Chapter 3.5 (commencing with Section 11340) of Part 1 of
7 Division 3 of Title 2 of the Government Code) taken by the entity
8 relative to persons, businesses, or facilities subject to licensure or
9 regulation by the entity. The information may not include personal
10 information, including home telephone number, date of birth, or
11 social security number. Each entity shall disclose a licensee's
12 address of record. However, each entity shall allow a licensee to
13 provide a post office box number or other alternate address, instead
14 of the licensee's home address, as the address of record. This
15 section shall not preclude an entity from also requiring a licensee,
16 who has provided a post office box number or other alternative
17 mailing address as the licensee's address of record, to provide a
18 physical business address or residence address only for the entity's
19 internal administrative use and not for disclosure as the licensee's
20 address of record or disclosure on the internet.

21 (b) In providing information on the internet, each entity specified
22 in subdivisions (c) and (d) shall comply with the Department of
23 Consumer Affairs' guidelines for access to public records.

24 (c) Each of the following entities within the Department of
25 Consumer Affairs shall comply with the requirements of this
26 section:

27 (1) The Board for Professional Engineers, Land Surveyors, and
28 Geologists shall disclose information on its registrants and
29 licensees.

30 (2) The Bureau of Automotive Repair shall disclose information
31 on its licensees, including auto repair dealers, smog stations, lamp
32 and brake stations, smog check technicians, and smog inspection
33 certification stations.

34 (3) The Bureau of Household Goods and Services shall disclose
35 information on its ~~licensees and registrants, including major~~
36 ~~appliance repair dealers, combination dealers (electronic and~~
37 ~~appliance), electronic repair dealers, service contract sellers, service~~
38 ~~contract administrators, and household movers.~~ *licensees,*
39 *registrants, and permitholders.*

1 (4) The Cemetery and Funeral Bureau shall disclose information
2 on its licensees, including cemetery brokers, cemetery salespersons,
3 cemetery managers, crematory managers, cemetery authorities,
4 crematories, cremated remains disposers, embalmers, funeral
5 establishments, and funeral directors.

6 (5) The Professional Fiduciaries Bureau shall disclose
7 information on its licensees.

8 (6) The Contractors State License Board shall disclose
9 information on its licensees and registrants in accordance with
10 Chapter 9 (commencing with Section 7000) of Division 3. In
11 addition to information related to licenses as specified in
12 subdivision (a), the board shall also disclose information provided
13 to the board by the Labor Commissioner pursuant to Section 98.9
14 of the Labor Code.

15 (7) The Bureau for Private Postsecondary Education shall
16 disclose information on private postsecondary institutions under
17 its jurisdiction, including disclosure of notices to comply issued
18 pursuant to Section 94935 of the Education Code.

19 (8) The California Board of Accountancy shall disclose
20 information on its licensees and registrants.

21 (9) The California Architects Board shall disclose information
22 on its licensees, including architects and landscape architects.

23 (10) The State Athletic Commission shall disclose information
24 on its licensees and registrants.

25 (11) The State Board of Barbering and Cosmetology shall
26 disclose information on its licensees.

27 (12) The Acupuncture Board shall disclose information on its
28 licensees.

29 (13) The Board of Behavioral Sciences shall disclose
30 information on its licensees and registrants.

31 (14) The Dental Board of California shall disclose information
32 on its licensees.

33 (15) The State Board of Optometry shall disclose information
34 on its licensees and registrants.

35 (16) The Board of Psychology shall disclose information on its
36 licensees, including psychologists, psychological assistants, and
37 registered psychologists.

38 (17) The Veterinary Medical Board shall disclose information
39 on its licensees, registrants, and permit holders.

1 (d) The State Board of Chiropractic Examiners shall disclose
 2 information on its licensees.

3 (e) The Structural Pest Control Board shall disclose information
 4 on its licensees, including applicators, field representatives, and
 5 operators in the areas of fumigation, general pest and wood
 6 destroying pests and organisms, and wood roof cleaning and
 7 treatment.

8 (f) The Bureau of Cannabis Control shall disclose information
 9 on its licensees.

10 (g) “Internet” for the purposes of this section has the meaning
 11 set forth in paragraph (6) of subdivision (f) of Section 17538.

12 *SEC. 2. Section 144 of the Business and Professions Code is*
 13 *amended to read:*

14 144. (a) Notwithstanding any other law, an agency designated
 15 in subdivision (b) shall require an applicant to furnish to the agency
 16 a full set of fingerprints for purposes of conducting criminal history
 17 record checks. Any agency designated in subdivision (b) may
 18 obtain and receive, at its discretion, criminal history information
 19 from the Department of Justice and the United States Federal
 20 Bureau of Investigation.

21 (b) Subdivision (a) applies to the following:

- 22 (1) California Board of Accountancy.
- 23 (2) State Athletic Commission.
- 24 (3) Board of Behavioral Sciences.
- 25 (4) Court Reporters Board of California.
- 26 (5) Dental Board of California.
- 27 (6) California State Board of Pharmacy.
- 28 (7) Board of Registered Nursing.
- 29 (8) Veterinary Medical Board.
- 30 (9) Board of Vocational Nursing and Psychiatric ~~Technicians.~~
 31 *Technicians of the State of California.*
- 32 (10) Respiratory Care Board of California.
- 33 (11) Physical Therapy Board of California.
- 34 (12) Physician Assistant ~~Committee.~~ *Board.*
- 35 (13) Speech-Language Pathology and Audiology and Hearing
 36 Aid Dispensers Board.
- 37 (14) Medical Board of California.
- 38 (15) State Board of Optometry.
- 39 (16) Acupuncture Board.
- 40 (17) Cemetery and Funeral Bureau.

- 1 (18) Bureau of Security and Investigative Services.
- 2 (19) Division of Investigation.
- 3 (20) Board of Psychology.
- 4 (21) California Board of Occupational Therapy.
- 5 (22) Structural Pest Control Board.
- 6 (23) Contractors State License Board.
- 7 (24) Naturopathic Medicine Committee.
- 8 (25) Professional Fiduciaries Bureau.
- 9 (26) Board for Professional Engineers, Land Surveyors, and
- 10 Geologists.
- 11 (27) Bureau of Cannabis Control.
- 12 (28) Podiatric Medical Board of California.
- 13 (29) Osteopathic Medical Board of California.
- 14 (30) California Architects Board, beginning January 1, 2021.
- 15 (31) Landscape Architects Technical Committee, beginning
- 16 January 1, 2022.

17 *(32) Bureau of Household Goods and Services with respect to*
 18 *household movers as described in Chapter 3.1 (commencing with*
 19 *Section 19225) of Division 8.*

20 (c) For purposes of paragraph (26) of subdivision (b), the term
 21 “applicant” shall be limited to an initial applicant who has never
 22 been registered or licensed by the board or to an applicant for a
 23 new licensure or registration category.

24 ~~SECTION 1.~~

25 *SEC. 3.* Section 5659 of the Business and Professions Code is
 26 amended to read:

27 5659. Each person licensed under this chapter shall sign, date,
 28 and seal or stamp using a seal or stamp described in this section,
 29 all plans, specifications, and other instruments of service therefor,
 30 prepared for others as evidence of the person’s responsibility for
 31 those documents. Failure to comply with this section constitutes
 32 a ground for disciplinary action. Each person licensed under this
 33 chapter shall use a seal or stamp of the design authorized by the
 34 board, bearing the person’s name, license number, the legend
 35 “licensed landscape architect,” the legend “State of California”
 36 and a means of providing a signature, the renewal date of the
 37 license, and date of signing and sealing or stamping.

38 ~~SEC. 2.~~

39 *SEC. 4.* Section 7011.4 of the Business and Professions Code
 40 is amended to read:



SB 826 pages 8 – 14 intentionally omitted. To access a copy of the full bill text, please visit:

https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220SB826

1 (11) The impacts that the financing options, lease agreement
2 terms, or contract terms will have on the sale of the consumer's
3 home, including any balloon payments or solar energy system
4 relocation that may be required if the contract is not assigned to
5 the new owner of the home.

6 (12) A calculator that calculates performance of solar projects
7 to provide solar customers the solar power system's projected
8 output, which may include an expected performance-based
9 buy-down calculator.

10 (d) A contract for sale, financing, or lease of a solar energy
11 system and the solar energy system disclosure document shall be
12 written in the same language as was principally used in the oral
13 sales presentation made to the consumer or the print or digital
14 marketing material given to the consumer.

15 (e) For solar energy systems utilizing Property Assessed Clean
16 Energy (PACE) financing, the Financing Estimate and Disclosure
17 form required by subdivision (b) of Section 5898.17 of the Streets
18 and Highways Code shall satisfy the requirements of this section
19 with respect to the financing contract only, but not, however, with
20 respect to the underlying contract for installation of the solar energy
21 system.

22 (f) The board shall post the PACE Financing Estimate and
23 Disclosure form required by subdivision (b) of Section 5898.17
24 of the Streets and Highways Code on its internet website.

25 (g) For purposes of this section, "solar energy system" means
26 a solar energy device to be installed on a residential building that
27 has the primary purpose of providing for the collection and
28 distribution of solar energy for the generation of electricity, that
29 produces at least one kW, and not more than five MW, alternating
30 current rated peak electricity, and that meets or exceeds the
31 eligibility criteria established pursuant to Section 25782 of the
32 Public Resources Code.

33 (h) This section does not apply to a solar energy system that is
34 installed as a standard feature on new construction.

35 *SEC. 10. Section 9802 of the Business and Professions Code*
36 *is amended to read:*

37 9802. This chapter does not apply to:

38 (a) Any employee of a service dealer while the employee is
39 engaged in activities within the normal scope of the employer's
40 business.

1 (b) The repair, service, or maintenance of equipment used in
 2 commercial, nonresidential, industrial, or governmental
 3 establishments.

4 (c) The repair, services, or maintenance of equipment the
 5 ordinary and usual use of which requires a license or permit issued
 6 by the Federal Communications Commission.

7 (d) Any person licensed under Chapter 9 (commencing with
 8 Section 7000) as an electrical contractor—~~(C10)~~ (C-10) or a
 9 low-voltage communications—~~master systems~~ contractor—~~(C61-D05)~~
 10 (C-7) and acting within the scope of ~~his or her~~ *their* license.

11 ~~SEC. 8.~~

12 *SEC. 11.* Section 13470.1 of the Business and Professions Code
 13 is repealed.

14 *SEC. 12. Section 19004 of the Business and Professions Code*
 15 *is amended to read:*

16 19004. (a) “Bureau” refers to the Bureau of Household Goods
 17 and Services, as established in Section 9810.

18 (b) “Chief” refers to the chief of the bureau.

19 (c) “Inspector” refers to an inspector *or investigator* either
 20 employed by, or under contract to, the bureau.

21 (d) “Director” refers to the Director of Consumer Affairs.

22 (e) “Department” refers to the Department of Consumer Affairs.

23 *SEC. 13. Section 19031 of the Business and Professions Code*
 24 *is amended to read:*

25 19031. The duty of enforcing and administering this—~~chapter~~
 26 ~~and chapter, Chapter 3.1 (commencing with Section 19225), and~~
 27 Chapter 20 (commencing with Section 9800) of Division 3 is vested
 28 in the chief ~~and he or she~~ *who* is responsible to the director therefor.

29 *SEC. 14. Section 19051 of the Business and Professions Code*
 30 *is amended to read:*

31 19051. Every upholstered-furniture retailer, unless ~~he or she~~
 32 ~~holds~~ *they hold* an importer’s license, a furniture and bedding
 33 manufacturer’s license, a wholesale furniture and bedding dealer’s
 34 license, a custom upholsterer’s license, or a retail furniture and
 35 bedding dealer’s license shall hold a retail furniture dealer’s license.

36 (a) This section does not apply to a person whose sole business
 37 is designing and specifying for interior spaces, and who purchases
 38 specific amenable upholstered furniture items on behalf of a client,
 39 provided that the furniture is purchased from an appropriately
 40 licensed importer, wholesaler, or retailer. This section does not

1 apply to a person who sells “used” and “antique” furniture as
2 defined in Sections 19008.1 and 19008.2.

3 (b) This section does not apply to a person who is licensed as
4 a home medical device retail facility by the State Department of
5 ~~Health Services~~, *Public Health*, provided that the furniture is
6 purchased from an appropriately licensed importer, wholesaler, or
7 retailer.

8 *SEC. 15. Section 19055 of the Business and Professions Code*
9 *is amended to read:*

10 19055. Every bedding retailer, unless ~~he or she holds~~ *they hold*
11 an importer’s license, an upholstered-furniture and bedding
12 manufacturer’s license, a wholesale upholstered-furniture and
13 bedding dealer’s license, or a retail furniture and bedding dealer’s
14 license, shall hold a retail bedding dealer’s license.

15 (a) This section does not apply to a person whose sole business
16 is designing and specifying for interior spaces, and who purchases
17 specific amenable bedding items on behalf of a client, provided
18 that the bedding is purchased from an appropriately licensed
19 importer, wholesaler, or retailer.

20 (b) This section does not apply to a person who is licensed as
21 a home medical device retail facility by the State Department of
22 ~~Health Services~~, *Public Health*, provided that the bedding is
23 purchased from an appropriately licensed importer, wholesaler, or
24 retailer.

25 *SEC. 16. Section 19059.5 of the Business and Professions Code*
26 *is amended to read:*

27 19059.5. Every sanitizer shall hold a sanitizer’s license unless
28 ~~he or she is~~ *they are* licensed as a home medical device retail
29 facility by the State Department of ~~Health Services~~ *Public Health*
30 or as an upholstered furniture and bedding manufacturer, retail
31 furniture and bedding dealer, retail bedding dealer, or custom
32 upholsterer.

33 *SEC. 17. Section 19100 of the Business and Professions Code*
34 *is amended to read:*

35 19100. For the purposes of this article, the following definitions
36 apply:

37 (a) “Chemical” has the same meaning as in subdivision (a) of
38 Section 19094.

39 (b) “Consumer price index” has the same meaning as in
40 subdivision (a) of Section 19094.

- 1 (c) (1) “Covered flame retardant chemical” means any chemical
2 that meets both of the following criteria:
- 3 (A) A functional use for the chemical is to resist or inhibit the
4 spread of fire or as a synergist to chemicals that resist or inhibit
5 the spread of fire, including, but not limited to, any chemical for
6 which the term “flame retardant” appears on the Occupational
7 Safety and Health Administration substance safety data sheet
8 pursuant to subdivision (g) of Section ~~19100.1200~~ *1910.1200* of
9 Title 29 of the Code of Federal Regulations as it read on January
10 1, 2019.
- 11 (B) The chemical is one of the following:
- 12 (i) A halogenated, organophosphorus, organonitrogen, or
13 nanoscale chemical.
- 14 (ii) A chemical defined as a “designated chemical” in Section
15 105440 of the Health and Safety Code.
- 16 (iii) A chemical listed on the Washington State Department of
17 Ecology’s list of Chemicals of High Concern to Children in Section
18 173-334-130 of Title 173 of the Washington Administrative Code
19 as of January 1, 2019, and identified as a flame retardant or as a
20 synergist to flame retardants in the rationale for inclusion in the
21 list.
- 22 (2) As used in this subdivision:
- 23 (A) “Halogenated chemical” means any chemical that contains
24 one or more halogen elements, including fluorine, chlorine,
25 bromine, or iodine.
- 26 (B) “Organophosphorus chemical” is any chemical that contains
27 one or more carbon elements and one or more phosphorus
28 elements.
- 29 (C) “Organonitrogen chemical” is any chemical that contains
30 one or more carbon elements and one or more nitrogen elements.
- 31 (d) “Juvenile product” means a product subject to this chapter
32 and designed for residential use by infants and children under 12
33 years of age, including, but not limited to, a bassinet, booster seat,
34 changing pad, floor playmat, highchair, highchair pad, infant
35 bouncer, infant carrier, infant seat, infant swing, infant walker,
36 nursing pad, nursing pillow, playpen side pad, playard, portable
37 hook-on chair, stroller, and children’s nap mat.
- 38 (e) Juvenile products do not include any of the following:

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

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

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

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

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

14 (g) “Reupholstered furniture” means furniture whose original
15 fabric, padding, decking, barrier material, foam, or other resilient
16 filling has been replaced by a custom upholsterer, that has not been
17 sold since the time of the replacement, and that is required to meet
18 the flammability standards set forth in Technical Bulletin 117-2013
19 entitled “Requirements, Test Procedure and Apparatus for Testing
20 the Smolder Resistance of Materials Used in Upholstered
21 Furniture.” Reupholstered furniture shall not include products
22 required to meet Technical Bulletin 133.

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

25 *SEC. 18. Section 19161 of the Business and Professions Code*
26 *is amended to read:*

27 19161. (a) All mattresses and mattress sets manufactured for
28 sale in this state shall be fire retardant. “Fire retardant,” as used in
29 this section, means a product that meets the standards for resistance
30 to open-flame test adopted by the United States Consumer Product
31 Safety Commission and set forth in Section 1633 and following
32 of Title 16 of the Code of Federal Regulations. The bureau may
33 adopt regulations it deems necessary to implement those standards.

34 (b) All other bedding products that the bureau determines
35 contribute to mattress bedding fires shall comply with regulations
36 adopted by the bureau specifying that those products be resistant
37 to open-flame ignition.

38 (c) All seating furniture sold or offered for sale by an importer,
39 manufacturer, or wholesaler for use in this state, including any
40 seating furniture sold to or offered for sale for use in a hotel, motel,

1 or other place of public accommodation in this state, and
2 reupholstered furniture to which filling materials are added, shall
3 be fire retardant and shall be labeled in a manner specified by the
4 bureau. This does not include furniture used exclusively for the
5 purpose of physical fitness and exercise.

6 (d) Regulations adopted by the bureau for other bedding
7 products shall not apply to any hotel, motel, bed and breakfast,
8 inn, or similar transient lodging establishment that has an automatic
9 fire extinguishing system that conforms to the specifications
10 established in Section 904.1 of Title 24 of the California Code of
11 Regulations.

12 ~~(e) This section shall become operative on July 1, 2007.~~

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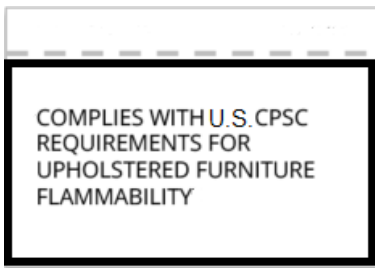
Agenda Item 8: Technical Bulletin 117-2013 and H.R. 133 'COVID–19 Regulatory Relief and Work From Home Safety Act' – Combined Label Requirements



What are the labeling requirements?*

Under 16 CFR part 1640, upholstered furniture subject to the standard must have a permanent label with the language: "Complies with U.S. CPSC requirements for upholstered furniture flammability." CPSC staff recommends that the certification statement be conspicuous and legible. The statement should be at least 1/8-inch high and not smaller than other text on the label; it should be in black text on a white background and surrounded with black border. The label may be a separate label, or it can be added to the bottom of an existing California TB 117-2013 label required by [SB-1019](#). The required statement must appear on the front of the label in English and cannot be on the back side. However, additional languages may be on the back side of the label.

Example of Separate Label:



Example of Combined Label:



*U.S. Consumer Product Safety Commission’s Upholstered Furniture Business Education – <https://www.cpsc.gov/Business--Manufacturing/Business-Education/Business-Guidance/Upholstered-Furniture>