

July 18, 2019 Advisory Council Meeting Materials Packet

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**ADVISORY COUNCIL MEETING
NOTICE & AGENDA
July 18, 2019 | Thursday | 9:00 am
Until the Completion of Business**

Meeting Location:

Bureau of Household Goods and Services
4244 South Market Court, Suite D, Sacramento, CA 95834

Teleconference Participation Option:

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

Webcast Option:

The Bureau will not be webcasting this Advisory Council meeting. If you wish to participate or to have a guaranteed opportunity to observe, please plan to attend at a physical location.

Advisory Council Members:

Pascal Benyamini, Industry	Sharron Bradley, Industry
Burt Grimes, Industry	Chris Higdon, Industry
Judy Levin, Public	Michael Lipsett, Public
Donald Lucas, Public	Steven McDaniel, Industry
Antoinette Stein, Public	Steve Weitekamp, Industry
Brandon Wilson, Industry	David Yarbrough, Industry

The time and order of agenda items are subject to change at the discretion of the Advisory Council and may be taken out of order. The Bureau welcomes and encourages public participation in its meetings. The public may take appropriate opportunities to comment on any issue before the Bureau at the time the item is heard. If public comment is not specifically requested, members of the public should feel free to request an opportunity to comment, either in person, written or via the conference calling system provided.

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

AGENDA

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

2. Operations Update
 - a. Budget
 - b. Personnel

3. Statistical Overview
 - a. Licensing
 - b. Consumer Complaints
 - c. Enforcement
 - d. Investigations
 - e. Laboratory Testing

4. Legislative Update
 - a. AB 193 (Patterson) – Professions and Vocations
 - b. AB 496 (Low) – Business and Professions
 - c. AB 613 (Low) – Professions and Vocations: Regulatory Fees
 - d. AB 1296 (Gonzalez) – Tax Recovery in the Underground Economy Criminal Enforcement Program
 - e. AB 1469 (Low) – Electronic and Appliance Repairers: Trade Standards: Review
 - f. AB 1811 (Committee on Communications and Conveyance) – Public utilities: for hire vessel operators: household movers: commercial air operators
 - g. SB 144 (Mitchell) – Criminal Fees
 - h. SB 358 (Committee on Transportation) – Vehicles: Safety Regulations
 - i. SB 391 (Monning) – Household Movers Act: Enforcement; Special Investigators and Supervising Special Investigators
 - j. S. 3551 (Wicker) – Safer Occupancy Furniture Flammability Act (SOFFA)

5. Regulations Update
 - a. Substantial Relationship Criteria and Rehabilitation Criteria – Amendments to Title 4, California Code of Regulations (CCR) §§1380 and 1381; Title 16, CCR §§2767 and 2768; and new CCR sections, Title 16
 - b. Household Mover Regulations – Initial Rulemaking Proposal

6. Division of Household Movers Update
 - a. California Moving and Storage Association (CMSA) Conference
 - b. Household Movers Application Workshops
 - c. Additional Online Resources (fillable forms and outreach)

7. Home Furnishings and Thermal Insulation Update
 - a. AB 2998 Implementation
 - b. Renewal of Thermal Insulation Materials laboratory accreditation from National Voluntary Laboratory Accreditation Program (NVLAP)
– Accreditation effective through March 31, 2020

8. Ignition Interlock Device Program Update
 - a. Association of Ignition Interlock Program Administrators (AIIPA) Conference
 - c. Collaboration with California Regulatory Agencies (DMV/BAR)
 - d. Future Training Opportunities
 - e. Upcoming Regulations Packet

9. Public Comment on Items Not on The Agenda

10. Future Agenda Items/Confirmation of Next Meeting Date

11. Adjournment

Agenda Item 2a: Budget Update

0325 - Electronic and Appliance Repair Analysis of Fund Condition

Prepared 7.9.2019

(Dollars in Thousands)

Gov Budget	Prelim PY Actuals 2017-18	Prelim CY 2018-19	Governor's Budget BY 2019-20	BY+2 2020-21
BEGINNING BALANCE	\$ 2,848	\$ 2,962	\$ 2,768	\$ 3,071
Prior Year Adjustment	\$ -	\$ -	\$ -	\$ -
Adjusted Beginning Balance	\$ 2,848	\$ 2,962	\$ 2,768	\$ 3,071
REVENUES, TRANSFERS, AND OTHER ADJUSTMENTS				
Revenues:				
4121200 Delinquent fees	\$ 108	\$ 108	\$ 97	\$ 97
4127400 Renewal fees	\$ 2,443	\$ 2,194	\$ 2,511	\$ 2,511
4129200 Other regulatory fees	\$ 20	\$ 25	\$ 29	\$ 30
4129400 Other regulatory licenses and permits	\$ 398	\$ 231	\$ 627	\$ 627
4163000 Income from surplus money investments	\$ 9	\$ 56	\$ 52	\$ 50
4171400 Escheat of unclaimed checks and warrants	\$ 2	\$ 12	\$ 10	\$ 10
Total Revenues, Transfers, and Other Adjustments	\$ 2,980	\$ 2,626	\$ 3,326	\$ 3,325
Total Resources	\$ 5,828	\$ 5,588	\$ 6,094	\$ 6,396
EXPENDITURE AND EXPENDITURE ADJUSTMENTS				
Expenditures:				
1111 Department of Consumer Affairs Regulatory Boards, Bureaus, Divisions (State Operations)	\$ 2,701	\$ 2,664	\$ 2,829	\$ 2,886
8880 Financial Information System for California (State Operations)	\$ 4	\$ -	\$ -1	\$ -
9892 Supplemental Pension Payments (State Operations)	\$ -	\$ 21	\$ 46	\$ 21
9900 Statewide General Administrative Expenditures (Pro Rata) (State Operations)	\$ 161	\$ 135	\$ 149	\$ 135
Total Expenditures and Expenditure Adjustments	\$ 2,866	\$ 2,820	\$ 3,023	\$ 3,042
FUND BALANCE				
Reserve for economic uncertainties	\$ 2,962	\$ 2,768	\$ 3,071	\$ 3,354
Months in Reserve	12.6	11.0	12.1	13.0

NOTES: A. ASSUMES WORKLOAD AND REVENUE PROJECTIONS ARE REALIZED.
B. ASSUMES INTEREST RATE AT .361%.
C. ASSUMES APPROPRIATION GROWTH OF 2% PER YEAR.
D. PROJECTIONS THROUGH FM 10

3315 - Household Movers Fund

Analysis of Fund Condition

Prepared 7-10-19

(Dollars in Thousands)

Gov Budget

	Prelim PY Actuals 2017-18	Prelim CY 2018-19	Governor's Budget BY 2019-20	BY+2 2020-21
BEGINNING BALANCE	\$ -	\$ -	\$ 1,814	\$ 2,244
Prior Year Adjustment	\$ -	\$ -	\$ -	\$ -
Adjusted Beginning Balance	\$ -	\$ -	\$ 1,814	\$ 2,244
REVENUES, TRANSFERS, AND OTHER ADJUSTMENTS				
Revenues:				
4129200 Other Regulatory Fees	\$ -	\$ 2,041	\$ 2,596	\$ 2,596
4129400 Other Regulatory Licenses and Permits	\$ -	\$ 90	\$ 90	\$ 90
4163000 Investment Income - Surplus Money Investments	\$ -	\$ -	\$ 40	\$ 40
4173000 Penalty Assessments - Other	\$ -	\$ 1	\$ 1	\$ 1
Totals, Revenues	\$ -	\$ 2,132	\$ 2,727	\$ 2,727
Transfers and Other Adjustments				
Revenue Transfer from Household Mover's Fund (3315) to Motor Carriers Safety Improvement Fund (0293) per Public Utilities Code Section 5003.1	\$ -	\$ -21	\$ -21	\$ -
Revenue Transfer from the Transportation Rate Fund (0412) to the Household Mover's Fund (3315) per 8660-011-0412 and 8660-401, Budget Act of 2018	\$ -	\$ 750	\$ -	\$ -
Revenue Transfer from the Transportation Rate Fund (0412) to Household Movers Fund (3315) per 8660-401, Budget Act of 2018	\$ -	\$ 558	\$ -	\$ -
Total Revenues, Transfers, and Other Adjustments	\$ -	\$ 3,419	\$ 2,706	\$ 2,727
Total Resources	\$ -	\$ 3,419	\$ 4,520	\$ 4,971
EXPENDITURE AND EXPENDITURE ADJUSTMENTS				
Expenditures:				
1111 Department of Consumer Affairs Regulatory Boards, Bureaus, Divisions (State Operations)	\$ -	\$ 1,605	\$ 2,276	\$ 2,322
Total Expenditures and Expenditure Adjustments	\$ -	\$ 1,605	\$ 2,276	\$ 2,322
FUND BALANCE				
Reserve for economic uncertainties	\$ -	\$ 1,814	\$ 2,244	\$ 2,649
MONTHS IN RESERVE	0.0	9.6	11.6	13.4

- NOTES:
- A. ASSUMES WORKLOAD AND REVENUE PROJECTIONS ARE REALIZED
 - B. ASSUMES INTEREST RATE AT .361%.
 - C. ASSUMES APPROPRIATION GROWTH OF 2% PER YEAR.
 - D. PROJECTIONS THROUGH FM 10

0752 - Home Furnishings and Thermal Insulation Analysis of Fund Condition

Prepared 7-10-19

(Dollars in Thousands)

Gov Budget	Prelim PY Actuals 2017-18	Prelim CY 2018-19	Governor's Budget BY 2019-20	BY+1 2020-21
BEGINNING BALANCE	\$ 3,054	\$ 2,837	\$ 3,285	\$ 3,124
Prior Year Adjustment	\$ -	\$ -	\$ -	\$ -
Adjusted Beginning Balance	<u>\$ 3,054</u>	<u>\$ 2,837</u>	<u>\$ 3,285</u>	<u>\$ 3,124</u>
REVENUES, TRANSFERS, AND OTHER ADJUSTMENTS				
Revenues:				
4121200 Delinquent fees	\$ 116	\$ 127	\$ 110	\$ 110
4127400 Renewal fees	\$ 3,679	\$ 3,785	\$ 4,053	\$ 4,134
4129200 Other regulatory fees	\$ 114	\$ 143	\$ 124	\$ 124
4129400 Other regulatory licenses and permits	\$ 1,116	\$ 1,034	\$ 1,186	\$ 1,210
4163000 Investment Income - Surplus Money Investments	\$ 9	\$ 65	\$ 46	\$ 45
4170400 Sale of fixed assets	\$ -	\$ -	\$ -	\$ -
4171400 Escheat - Unclaimed Checks, Warrants, Bonds, and Coupons	\$ 6	\$ 15	\$ 10	\$ 10
4171500 Escheat - Unclaimed Property	\$ -	\$ -	\$ 7	\$ -
4172500 Miscellaneous revenues	\$ 1	\$ 1	\$ 1	\$ 1
Total Revenues, Transfers, and Other Adjustments	<u>\$ 5,041</u>	<u>\$ 5,170</u>	<u>\$ 5,537</u>	<u>\$ 5,634</u>
Total Resources	<u>\$ 8,095</u>	<u>\$ 8,007</u>	<u>\$ 8,822</u>	<u>\$ 8,758</u>
EXPENDITURE AND EXPENDITURE ADJUSTMENTS				
Expenditures:				
1111 Department of Consumer Affairs Regulatory Boards, Bureaus, Divisions (State Operations)	\$ 4,984	\$ 4,470	\$ 5,297	\$ 5,403
8880 Financial Information System for California (State Operations)	\$ 6	\$ 1	\$ -1	\$ -1
9892 Supplemental Pension Payments (State Operations)	\$ -	\$ 50	\$ 111	\$ 111
9900 Statewide General Administrative Expenditures (Pro Rata) (State Operations)	\$ 268	\$ 201	\$ 291	\$ 201
Total Expenditures and Expenditure Adjustments	<u>\$ 5,258</u>	<u>\$ 4,722</u>	<u>\$ 5,698</u>	<u>\$ 5,714</u>
FUND BALANCE				
Reserve for economic uncertainties	\$ 2,837	\$ 3,285	\$ 3,124	\$ 3,044
Months in Reserve	7.2	6.9	6.6	6.3

NOTES:

- A. ASSUMES WORKLOAD AND REVENUE PROJECTIONS ARE REALIZED THROUGH FM 10
- B. ASSUMES 2% GROWTH IN EXPENDITURES IN BY+1 AND ONGOING
- C. ASSUMES 1.5% GROWTH IN INCOME FROM SURPLUS MONEY
- D. BASED ON PRELIMINARY FM 10 EXPENDITURE AND REVENUE REPORT

Agenda Item 3a: Licensing Statistical Overview

LICENSING STATISTICS

Electronic and Appliance Repair Registrations				
	2015-16	2016-17	2017-18	2018-19
Appliance Service Dealers	2,629	2,595	2,695	2,634
Electronic Service Dealer	5,102	5,005	4,880	4,564
Combination Electronic/Appliance Service Dealer	634	586	556	566
Service Contract Administrator	43	48	51	57
Service Contract Seller	11,215	12,105	13,855	12,241
Total Active EAR Registrations	19,623	20,339	22,037	20,062

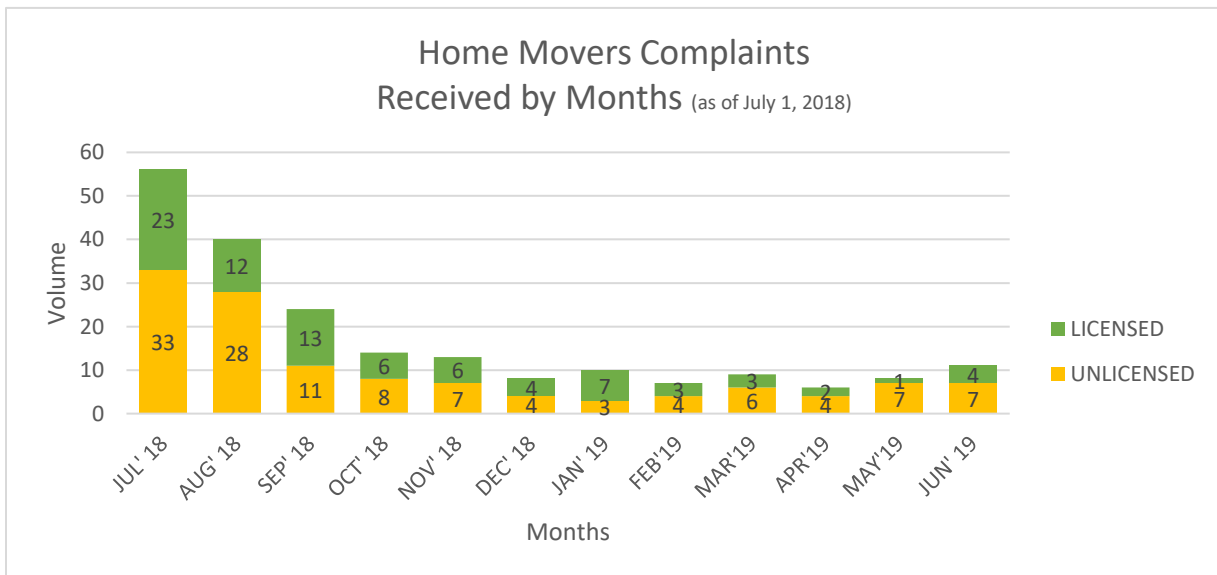
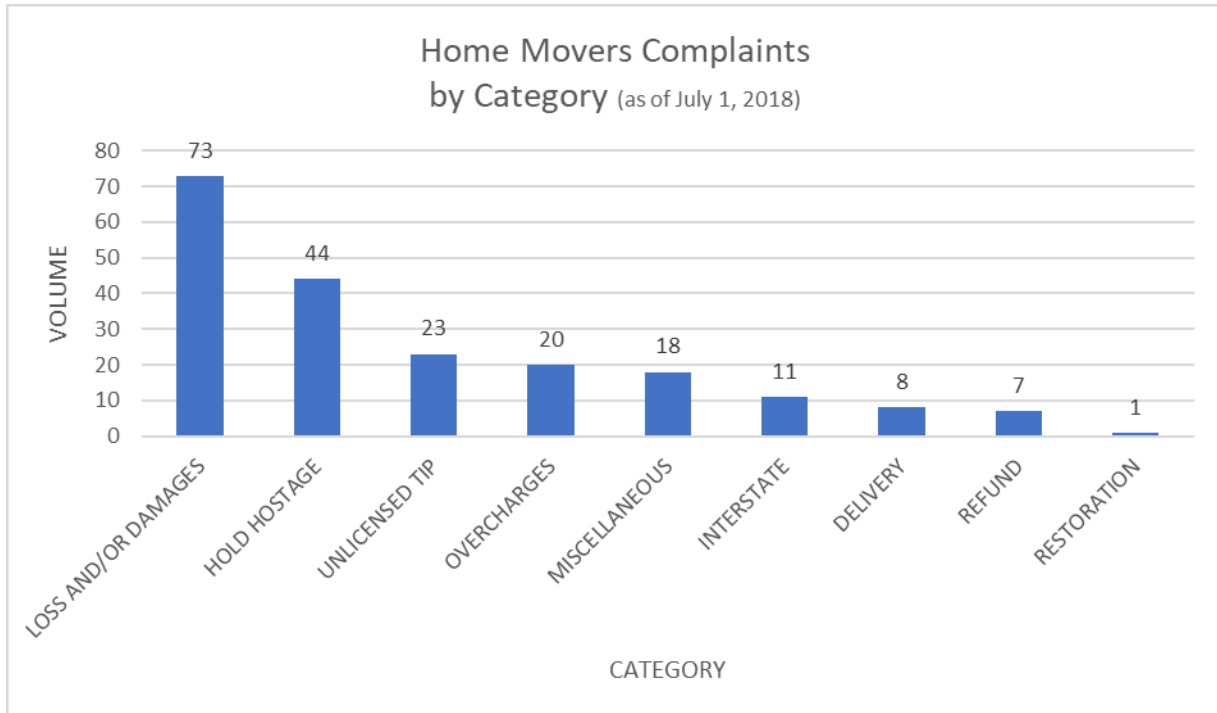
Household Furnishings and Thermal Insulation Licenses				
	2015-16	2016-17	2017-18	2018-19
Furniture Retailers	2,315	2,055	2,073	2,079
Bedding Retailers	1,592	1,960	2,065	2,245
Furniture & Bedding Retailers	11,715	11,879	11,713	11,260
Custom Upholsterers	497	495	487	476
Supply Dealers	136	122	102	93
Importers (includes overseas Manufacturers)	4,695	5,006	5,321	5,559
Manufacturers	1,481	1,540	1,498	1,467
Sanitizers	13	12	13	24
Wholesalers	170	198	184	183
Thermal Insulation Manufacturers	115	111	109	114
Total Active HFTI Licenses	22,729	23,378	23,627	23,500

Household Movers Permits				
	2015-16	2016-17	2017-18	2018-19
Permits Issued				131
Exams Administered				169
Total Active HHM Permits				1026

Agenda Item 3b: Consumer Complaints Statistical Overview

CONSUMER COMPLAINT STATISTICS Household Movers

Household Movers Consumer Complaints		
Year	OPENED	CLOSED
2015-16		
2016-17		
2017-18		
2018-19	203	181



BEAR/BHFTI

Electronic and Appliance Repair Consumer Complaints		
Year	OPENED	CLOSED
2015-16	678	758
2016-17	582	582
2017-18	1019	1014
2018-19*	528	500

Household Furnishings and Thermal Insulation Consumer Complaints		
Year	OPENED	CLOSED
2015-16	299	303
2016-17	237	248
2017-18	288	281
2018-19*	158	157

Agenda Items 3c: Enforcement Statistical Overview

BEAR/BHFTI ENFORCEMENT STATISTICS

- There has been one case forwarded to the Attorney General’s Office in FY 2018/19, and two cases currently pending.
- There is currently one licensee on probation.

TELEPHONE DISCONNECTS ORDERED			
Year	EAR	HFTI	Total
2015-16	78	19	97
2016-17	42	16	58
2017-18	48	17	65
2018-19	15	9	24

INTERNAL CASES (Investigations)						
OPENED				CLOSED		
Year	EAR	HFTI	Total	EAR	HFTI	Total
2015-16	1,048	584	1,632	1,109	607	1,716
2016-17	730	451	1,181	790	418	1,208
2017-18	624	355	979	705	388	1093
2018-19	400	215	615	434	216	650

CITATIONS ISSUED			
Year	EAR	HFTI	Total
2015-16	985	537	1,522
2016-17	684	402	1,086
2017-18	550	305	855
2018-19	384	230	614

Agenda Items 3d: Investigations Statistical Overview

HOUSEHOLD MOVERS INVESTIGATIONS STATISTICS

July 2018 - July 2019

Household Mover Cases Under Investigation	
July 2018 – July 2019	235

Hold Hostage Situations	
Resolved	30
Pending	8
Forwarded to Other Agencies	7
Total	45

Cease and Desist Letters Issued	
(Failure of Movers to Cease and Desist will result in Administrative Citations)	44

Investigative Subpoenas Issued	
July 2018 - July 2019	4

Investigations Referred to District Attorney	
July 2018 - July 2019	2

Agenda Item 3e: Laboratory Testing Statistical Overview

LAB STATISTICS

Data for FYTD 18/19

Type Test	Received 07/01/18-06/30/19	Completed Samples 07/01/18-06/30/19	
		Pass	Fail
TB117-2013	98	66 (92%)	6 (8%)
16 CFR 1633	31	31 (78%)	9 (22%)
Thermal Insulation	4	0	0
Bedding (No flammability tests)	42	28 (80%)	7 (20%)
**Labeling	N/A	Pass 9 (26%), Minor Violation 10 (28%), Moderate Violation 15 (43%), Failure 1 (3%)	
Total	175	---	---

**This category includes labeling results for all products except for Thermal Insulation. From 3/15/2019-06/30/2019.

Type Test	Completed 07/01/18 – 06/30/19	Manufacturing Locations 07/01/18 – 06/30/19		
		USA-CA	USA-other states	Overseas
TB117-2013	72	19 (26%)	4 (6%)	49 (68%)
16 CFR 1633	40	28 (70%)	8 (20%)	4 (10%)

FR Chemical Labeling and Analysis: Data for FYTD 18/19

Samples Received with the Flame Retardant Chemical Statement (TB117-2013) 07/01/18-06/30/19				
“NO” Chemicals Checked	Contains Chemicals	No Box Checked	FR Doc Request Sent	DTSC Analysis Conducted
89	7	2	38	38
91%	7%	2%	43% of those marked “No”	43% of those marked “No”

Samples Analyzed with the “NO” Flame Retardant Chemical Statement 07/01/18-06/30/19				
Type Test	Pass		Fail	
	No.	%	No.	%
DTSC Analysis (38)	34	89	4	11
FR Doc Review (38)*	29	76	5	13

*Review in progress for four components

Agenda Item 4: Legislative Update

Introduced by Assembly Member Patterson

January 10, 2019

An act to amend Sections 7026.1, 7316, 7332, 7334, 7337.5, 7396, 7423, 19011, 19017, 19051, 19059.5, 19060.6, and 19170 of, to add and repeal Section 101.5 of, and to repeal Sections 7326, 7365, 19010.1, and 19052 of, the Business and Professions Code, and to amend Section 110371 of the Health and Safety Code, relating to professions and vocations.

legislative counsel's digest

AB 193, as introduced, Patterson. Professions and vocations.

(1) Existing law establishes the Department of Consumer Affairs in the Business, Consumer Services, and Housing Agency to, among other things, ensure that certain businesses and professions that have potential impact upon the public health, safety, and welfare are adequately regulated.

This bill would require the department, beginning on January 1, 2021, to conduct a comprehensive review of all occupational licensing requirements and identify unnecessary licensing requirements that cannot be adequately justified. The bill would require the department to report to the Legislature on January 1, 2023, and every 2 years thereafter, on the department's progress, and would require the department to issue a final report to the Legislature no later than January 1, 2033. The bill would require the department to apply for federal funds that have been made available specifically for the purpose of reviewing, updating, and eliminating overly burdensome licensing requirements, as provided.

(2) Existing law provides for the licensure and regulation of contractors by the Contractors' State License Board in the department and includes within the term "contractor" a person who performs tree removal, tree pruning, stump removal, or engages in tree or limb cabling or guying.

This bill would delete tree pruning from those provisions.

(3) Existing law, the Barbering and Cosmetology Act, provides for the licensure and regulation of the practice of cosmetology by the State Board of Barbering and Cosmetology in the department and defines the practice of both barbering and cosmetology to include shampooing the hair of any person. The act also specifies that, within the practice of cosmetology, there is the specialty branch of skin care, which includes applying makeup, and the specialty branch of nail care, which includes cutting, trimming, polishing, coloring, tinting, cleansing, manicuring, or pedicuring the nails of any person.

This bill would delete shampooing another person from the practice of barbering and cosmetology, would delete the act of applying makeup on another person from the specialty practice of skin care, and would delete nail care from the practice of cosmetology.

(4) Existing law provides for the regulation of custom upholsterers by the Bureau of Household Goods and Services in the department, and requires every custom upholsterer to hold a custom upholsterer's license.

This bill would delete those provisions requiring licensure of custom upholsterers.

(5) The bill would make conforming and other nonsubstantive changes.

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. The Legislature finds and declares all of the
2 following:

3 (a) Many entities, including the Federal Trade Commission, the
4 United States Department of Labor, and the Milton Marks "Little
5 Hoover" Commission on California State Government Organization
6 and Economy, have acknowledged the unnecessary burdens that
7 occupational licensing places on otherwise qualified workers.

8 (b) Unnecessary licensing increases costs for consumers and
9 restricts opportunities for workers.

1 (c) Researchers show that occupational licensing restrictions
2 can result in almost three million fewer jobs and a cost of over
3 \$200,000,000,000 to consumers.

4 (d) The Institute for Justice estimates that burdensome licensing
5 in California results in a loss of 195,917 jobs and \$22,000,000,000
6 in misallocated resources.

7 (e) California is the most broadly and onerously licensed state
8 in the nation and has been identified as the nation’s worst licensing
9 environment for workers in lower-income occupations.

10 (f) Licensing is also believed to disproportionately affect
11 minorities and exacerbate income inequality.

12 SEC. 2. Section 101.5 is added to the Business and Professions
13 Code, to read:

14 101.5. (a) The department shall apply for federal funds that
15 have been made available specifically for the purposes of
16 reviewing, updating, and eliminating overly burdensome licensing
17 requirements.

18 (b) Beginning on January 1, 2021, the department shall conduct
19 a comprehensive review of all occupational licensing requirements
20 and shall identify unnecessary licensing requirements that cannot
21 be adequately justified. The department shall conduct the review
22 whether or not the state receives federal funds pursuant to
23 subdivision (a).

24 (c) The department shall report to the Legislature on January
25 1, 2023, and every two years thereafter until the department has
26 completed its review, on the department’s progress in conducting
27 the review. The department shall issue a final report to the
28 Legislature no later than January 1, 2033.

29 (d) A report to be submitted pursuant to subdivision (c) shall
30 be submitted in compliance with Section 9795 of the Government
31 Code.

32 (e) Notwithstanding Section 10231.5 of the Government Code,
33 this section is repealed on January 1, 2034.

34 SEC. 3. Section 7026.1 of the Business and Professions Code
35 is amended to read:

36 7026.1. (a) The term “contractor” includes all of the following:

37 (1) Any person not exempt under Section 7053 who maintains
38 or services air-conditioning, heating, or refrigeration equipment
39 that is a fixed part of the structure to which it is attached.

1 (2) (A) Any person, consultant to an owner-builder, firm,
2 association, organization, partnership, business trust, corporation,
3 or company, who or which undertakes, offers to undertake, purports
4 to have the capacity to undertake, or submits a bid to construct
5 any building or home improvement project, or part thereof.

6 (B) For purposes of this paragraph, a consultant is a person,
7 other than a public agency or an owner of privately owned real
8 property to be improved, who meets either of the following criteria
9 as it relates to work performed pursuant to a home improvement
10 contract as defined in Section 7151.2:

11 (i) Provides or oversees a bid for a construction project.

12 (ii) Arranges for and sets up work schedules for contractors and
13 subcontractors and maintains oversight of a construction project.

14 (3) A temporary labor service agency that, as the employer,
15 provides employees for the performance of work covered by this
16 chapter. The provisions of this paragraph shall not apply if there
17 is a properly licensed contractor who exercises supervision in
18 accordance with Section 7068.1 and who is directly responsible
19 for the final results of the work. Nothing in this paragraph shall
20 require a qualifying individual, as provided in Section 7068, to be
21 present during the supervision of work covered by this chapter. A
22 contractor requesting the services of a temporary labor service
23 agency shall provide ~~his or her~~ *the contractor's* license number to
24 that temporary labor service agency.

25 (4) Any person not otherwise exempt by this ~~chapter,~~ *chapter*
26 who performs tree removal, ~~tree pruning,~~ stump removal, or
27 engages in tree or limb cabling or guying. The term contractor
28 does not include a person performing the activities of a
29 nurseryperson who in the normal course of routine work performs
30 incidental pruning of trees, or guying of planted trees and their
31 limbs. The term contractor does not include a gardener who in the
32 normal course of routine work performs incidental pruning of trees
33 measuring less than 15 feet in height after planting.

34 (5) Any person engaged in the business of drilling, digging,
35 boring, or otherwise constructing, deepening, repairing,
36 re-perforating, or abandoning any water well, cathodic protection
37 well, or monitoring well.

38 (b) The term "contractor" or "consultant" does not include a
39 common interest development manager, as defined in Section
40 11501, and a common interest development manager is not required

1 to have a contractor's license when performing management
2 services, as defined in subdivision (d) of Section 11500.

3 SEC. 4. Section 7316 of the Business and Professions Code is
4 amended to read:

5 7316. (a) The practice of barbering is all or any combination
6 of the following practices:

7 (1) Shaving or trimming the beard or cutting the hair.

8 (2) Giving facial and scalp massages or treatments with oils,
9 creams, lotions, or other preparations either by hand or mechanical
10 appliances.

11 (3) Singeing, ~~shampooing~~, arranging, dressing, curling, waving,
12 chemical waving, hair relaxing, or dyeing the hair or applying hair
13 tonics.

14 (4) Applying cosmetic preparations, antiseptics, powders, oils,
15 clays, or lotions to scalp, face, or neck.

16 (5) Hairstyling of all textures of hair by standard methods that
17 are current at the time of the hairstyling.

18 (b) The practice of cosmetology is all or any combination of
19 the following practices:

20 (1) Arranging, dressing, curling, waving, machineless permanent
21 waving, permanent waving, cleansing, cutting, ~~shampooing~~,
22 relaxing, singeing, bleaching, tinting, coloring, straightening,
23 dyeing, applying hair tonics to, beautifying, or otherwise treating
24 by any means, the hair of any person.

25 (2) Massaging, cleaning, or stimulating the scalp, face, neck,
26 arms, or upper part of the human body, by means of the hands,
27 devices, apparatus or appliances, with or without the use of
28 cosmetic preparations, antiseptics, tonics, lotions, or creams.

29 (3) Beautifying the face, neck, arms, or upper part of the human
30 body, by use of cosmetic preparations, antiseptics, tonics, lotions,
31 or creams.

32 (4) Removing superfluous hair from the body of any person by
33 the use of depilatories or by the use of tweezers, chemicals, or
34 preparations or by the use of devices or appliances of any kind or
35 description, except by the use of light waves, commonly known
36 as rays.

37 ~~(5) Cutting, trimming, polishing, tinting, coloring, cleansing,
38 or manicuring the nails of any person.~~

39 ~~(6)~~

1 (5) Massaging, cleansing, treating, or beautifying the hands or
2 feet of any person.

3 (c) Within the practice of cosmetology there ~~exist~~ *exists* the
4 specialty ~~branches of skin care and nail care.~~

5 ~~(1) Skin care branch of skin care, which~~ is any one or more of
6 the following practices:

7 ~~(A)~~

8 (1) Giving facials, ~~applying makeup,~~ giving skin care, removing
9 superfluous hair from the body of any person by the use of
10 depilatories, tweezers or waxing, or applying eyelashes to any
11 person.

12 ~~(B)~~

13 (2) Beautifying the face, neck, arms, or upper part of the human
14 body, by use of cosmetic preparations, antiseptics, tonics, lotions,
15 or creams.

16 ~~(C)~~

17 (3) Massaging, cleaning, or stimulating the face, neck, arms, or
18 upper part of the human body, by means of the hands, devices,
19 apparatus, or appliances, with the use of cosmetic preparations,
20 antiseptics, tonics, lotions, or creams.

21 ~~(2) Nail care is the practice of cutting, trimming, polishing,~~
22 ~~coloring, tinting, cleansing, manicuring, or pedicuring the nails of~~
23 ~~any person or massaging, cleansing, or beautifying from the elbow~~
24 ~~to the fingertips or the knee to the toes of any person.~~

25 (d) The practice of barbering and the practice of cosmetology
26 do not include any of the following:

27 (1) The mere sale, fitting, or styling of wigs or hairpieces.

28 (2) Natural hair braiding. Natural hair braiding is a service that
29 results in tension on hair strands or roots by twisting, wrapping,
30 weaving, extending, locking, or braiding by hand or mechanical
31 device, provided that the service does not include haircutting or
32 the application of dyes, reactive chemicals, or other preparations
33 to alter the color of the hair or to straighten, curl, or alter the
34 structure of the hair.

35 (3) Threading. Threading is a technique that results in removing
36 hair by twisting thread around unwanted hair and pulling it from
37 the skin and the incidental trimming of eyebrow hair.

38 (e) Notwithstanding paragraph (2) of subdivision (d), a person
39 who engages in natural hairstyling, which is defined as the
40 provision of natural hair braiding services together with any of the

1 services or procedures defined within the regulated practices of
2 barbering or cosmetology, is subject to regulation pursuant to this
3 chapter and shall obtain and maintain a barbering or cosmetology
4 license as applicable to the services respectively offered or
5 performed.

6 (f) Electrolysis is the practice of removing hair from, or
7 destroying hair on, the human body by the use of an electric needle
8 only.

9 “Electrolysis” as used in this chapter includes electrolysis or
10 thermolysis.

11 SEC. 5. Section 7326 of the Business and Professions Code is
12 repealed.

13 ~~7326. The board shall admit to examination for a license as a~~
14 ~~manicurist to practice nail care, any person who has made~~
15 ~~application to the board in proper form, paid the fee required by~~
16 ~~this chapter, and is qualified as follows:~~

17 ~~(a) Is not less than 17 years of age.~~

18 ~~(b) Has completed the 10th grade in the public schools of this~~
19 ~~state or its equivalent.~~

20 ~~(c) Is not subject to denial pursuant to Section 480.~~

21 ~~(d) Has done any of the following:~~

22 ~~(1) Completed a course in nail care from a school approved by~~
23 ~~the board.~~

24 ~~(2) Practiced nail care, as defined in this chapter, outside of this~~
25 ~~state for a period of time equivalent to the study and training of a~~
26 ~~qualified person who has completed a course in nail care from a~~
27 ~~school the curriculum of which complied with requirements~~
28 ~~adopted by the board. Each three months of practice shall be~~
29 ~~deemed the equivalent of 100 hours of training for qualification~~
30 ~~under paragraph (1).~~

31 ~~(3) Completed the apprenticeship program in nail care specified~~
32 ~~in Article 4 (commencing with Section 7332).~~

33 SEC. 6. Section 7332 of the Business and Professions Code is
34 amended to read:

35 7332. (a) An apprentice is any person who is licensed by the
36 board to engage in learning or acquiring a knowledge of barbering,
37 cosmetology, skin care, ~~nail care~~, or electrology, in a licensed
38 establishment under the supervision of a licensee approved by the
39 board.

1 (b) For purposes of this section, “under the supervision of a
2 licensee” means that the apprentice shall be supervised at all times
3 by a licensee approved by the board while performing services in
4 a licensed establishment. At no time shall an apprentice be the
5 only individual working in the establishment. An apprentice that
6 is not being supervised by a ~~licensee~~, *licensee* that has been
7 approved by the board to supervise an ~~apprentice~~, *apprentice* shall
8 be deemed to be practicing unlicensed under this chapter.

9 SEC. 7. Section 7334 of the Business and Professions Code is
10 amended to read:

11 7334. (a) The board may license as an apprentice in barbering,
12 cosmetology, *or* skin ~~care, or nail~~ care any person who has made
13 application to the board upon the proper form, has paid the fee
14 required by this chapter, and who is qualified as follows:

15 (1) Is over 16 years of age.

16 (2) Has completed the 10th grade in the public schools of this
17 state or its equivalent.

18 (3) Is not subject to denial pursuant to Section 480.

19 (4) Has submitted evidence acceptable to the board that any
20 training the apprentice is required by law to obtain shall be
21 conducted in a licensed establishment and under the supervision
22 of a licensee approved by the board.

23 (b) The board may license as an apprentice in electrolysis any
24 person who has made application to the board upon the proper
25 form, has paid the fee required by this chapter, and who is qualified
26 as follows:

27 (1) Is not less than 17 years of age.

28 (2) Has completed the 12th grade or an accredited senior high
29 school course of study in schools of this state or its equivalent.

30 (3) Is not subject to denial pursuant to Section 480.

31 (4) Has submitted evidence acceptable to the board that any
32 training the apprentice is required by law to obtain shall be
33 conducted in a licensed establishment and under the supervision
34 of a licensee approved by the board.

35 (c) All persons making application as an apprentice in barbering
36 shall also complete a minimum of 39 hours of preapprentice
37 training in a facility approved by the board prior to serving the
38 general public.

39 (d) All persons making application as an apprentice in
40 cosmetology, skin care, ~~nail care~~, or electrology shall also complete

1 minimum preapprentice training for the length of time established
2 by the board in a facility approved by the board prior to serving
3 the general public.

4 (e) Apprentices may only perform services on the general public
5 for which they have received technical training.

6 (f) Apprentices shall be required to obtain at least the minimum
7 hours of technical instruction and minimum number of practical
8 operations for each subject as specified in board regulations for
9 courses taught in schools approved by the board, in accordance
10 with Sections 3074 and 3078 of the Labor Code.

11 SEC. 8. Section 7337.5 of the Business and Professions Code
12 is amended to read:

13 7337.5. (a) The board shall adopt regulations providing for
14 the submittal of applications for admission to examination of
15 students of approved cosmetology, electrology, or barbering
16 schools who have completed at least 75 percent of the required
17 course clock hours and curriculum requirements (60 percent for
18 students of the manicurist course), or any person licensed as an
19 apprentice in barbering, cosmetology, ~~or skin-care, or nail~~ care
20 who has completed at least 75 percent of the required
21 apprenticeship training hours. The regulations shall include
22 provisions that ensure that all proof of qualifications of the
23 applicant is received by the board before the applicant is examined.

24 (b) An application for examination submitted by a student of
25 an approved cosmetology, electrology, or barbering school under
26 this section shall be known as a “school preapplication” and an
27 additional preapplication fee may be required.

28 (c) An application for examination submitted by a person
29 licensed as an apprentice in barbering, cosmetology, ~~or skin-care;~~
30 ~~or nail~~ care shall be known as an “apprenticeship preapplication”
31 and an additional fee may be required.

32 (d) The board shall administer the licensing examination not
33 later than 10 working days after graduation from an approved
34 cosmetology, electrology, or barbering school to students who
35 have submitted an application for admission for examination under
36 the preapplication procedure, or not later than 10 working days
37 after completion of an approved barbering, cosmetology, ~~or skin~~
38 ~~care, or nail~~ care apprenticeship program for a person licensed as
39 an apprentice.

1 SEC. 9. Section 7365 of the Business and Professions Code is
2 repealed.

3 ~~7365. A nail care course established by a school shall consist~~
4 ~~of not less than 350 hours of practical training and technical~~
5 ~~instruction in accordance with a curriculum established by board~~
6 ~~regulation.~~

7 SEC. 10. Section 7396 of the Business and Professions Code
8 is amended to read:

9 7396. The form and content of a license issued by the board
10 shall be determined in accordance with Section 164.

11 The license shall prominently state that the holder is licensed as
12 a barber, cosmetologist, esthetician, ~~manicurist~~, electrologist, or
13 apprentice, and shall contain a photograph of the licensee.

14 SEC. 11. Section 7423 of the Business and Professions Code
15 is amended to read:

16 7423. The amounts of the fees required by this chapter relating
17 to licenses for individual practitioners are as follows:

18 (a) (1) ~~Cosmetologist~~—A *cosmetologist* application and
19 examination fee shall be the actual cost to the board for developing,
20 purchasing, grading, and administering the examination.

21 (2) A cosmetologist initial license fee shall not be more than
22 fifty dollars (\$50).

23 (b) (1) An esthetician application and examination fee shall be
24 the actual cost to the board for developing, purchasing, grading,
25 and administering the examination.

26 (2) An esthetician initial license fee shall not be more than forty
27 dollars (\$40).

28 ~~(c) (1) A manicurist application and examination fee shall be~~
29 ~~the actual cost to the board for developing, purchasing, grading,~~
30 ~~and administering the examination.~~

31 ~~(2) A manicurist initial license fee shall not be more than~~
32 ~~thirty-five dollars (\$35).~~

33 ~~(d)~~

34 (c) (1) A barber application and examination fee shall be the
35 actual cost to the board for developing, purchasing, grading, and
36 administering the examination.

37 (2) A barber initial license fee shall be not more than fifty dollars
38 (\$50).

39 ~~(e)~~

1 (d) (1) An electrologist application and examination fee shall
2 be the actual cost to the board for developing, purchasing, grading,
3 and administering the examination.

4 (2) An electrologist initial license fee shall be not more than
5 fifty dollars (\$50).

6 ~~(f)~~

7 (e) An apprentice application and license fee shall be not more
8 than twenty-five dollars (\$25).

9 ~~(g)~~

10 (f) The license renewal fee for individual practitioner licenses
11 that are subject to renewal shall be not more than fifty dollars
12 (\$50).

13 ~~(h)~~

14 (g) Notwithstanding Section 163.5 the license renewal
15 delinquency fee shall be 50 percent of the renewal fee in effect on
16 the date of renewal.

17 ~~(i)~~

18 (h) Any preapplication fee shall be established by the board in
19 an amount sufficient to cover the costs of processing and
20 administration of the preapplication.

21 SEC. 12. Section 19010.1 of the Business and Professions
22 Code is repealed.

23 ~~19010.1. "Custom upholsterer" means a person who, either by~~
24 ~~himself or herself or through employees or agents, repairs,~~
25 ~~reupholsters, re-covers, restores, or renews upholstered furniture,~~
26 ~~or who makes to order and specification of the user any article of~~
27 ~~upholstered furniture, using either new materials or owner's~~
28 ~~materials.~~

29 SEC. 13. Section 19011 of the Business and Professions Code
30 is amended to read:

31 19011. "Manufacturer" means a person who, either by ~~himself~~
32 ~~or herself~~ *themselves* or through employees or agents, makes any
33 article of upholstered furniture or bedding in whole or in part, ~~or~~
34 ~~who does the upholstery or covering of any unit thereof,~~ using
35 either new or secondhand material. ~~"Manufacturer" does not,~~
36 ~~however, include a "custom upholsterer," as defined in Section~~
37 ~~19010.1.~~

38 SEC. 14. Section 19017 of the Business and Professions Code
39 is amended to read:

1 19017. “Owner’s material” means any article or material
2 belonging to a person for ~~his or her~~ *their* own, or *their* tenant’s
3 use, that is sent to any ~~manufacturer, manufacturer or~~ bedding
4 ~~renovator, or custom upholsterer to be repaired or renovated,~~
5 *renovator* or used in repairing or renovating.

6 SEC. 15. Section 19051 of the Business and Professions Code
7 is amended to read:

8 19051. Every upholstered-furniture retailer, unless ~~he or she~~
9 *the person* holds an importer’s license, a furniture and bedding
10 manufacturer’s license, a wholesale furniture and bedding dealer’s
11 license, ~~a custom upholsterer’s license,~~ or a retail furniture and
12 bedding dealer’s ~~license~~ *license*, shall hold a retail furniture dealer’s
13 license.

14 (a) This section does not apply to a person whose sole business
15 is designing and specifying for interior spaces, and who purchases
16 specific amenable upholstered furniture items on behalf of a client,
17 provided that the furniture is purchased from an appropriately
18 licensed importer, wholesaler, or retailer. This section does not
19 apply to a person who sells “used” and “antique” furniture as
20 defined in Sections 19008.1 and 19008.2.

21 (b) This section does not apply to a person who is licensed as
22 a home medical device retail facility by the State Department of
23 Health Services, provided that the furniture is purchased from an
24 appropriately licensed importer, wholesaler, or retailer.

25 SEC. 16. Section 19052 of the Business and Professions Code
26 is repealed.

27 ~~19052.—Every custom upholsterer, unless he or she holds a~~
28 ~~furniture and bedding manufacturer’s license, shall hold a custom~~
29 ~~upholsterer’s license.~~

30 SEC. 17. Section 19059.5 of the Business and Professions
31 Code is amended to read:

32 19059.5. Every sanitizer shall hold a sanitizer’s license unless
33 ~~he or she~~ *the person* is licensed as a home medical device retail
34 facility by the State Department of Health Services or as an
35 upholstered furniture and bedding manufacturer, retail furniture
36 and bedding dealer, *or* retail bedding ~~dealer, or custom upholsterer.~~
37 *dealer.*

38 SEC. 18. Section 19060.6 of the Business and Professions
39 Code is amended to read:

1 19060.6. ~~(a) Except as provided in subdivision (b), every~~ *Every*
 2 person who, on ~~his or her~~ *their* own account, advertises, ~~solicits~~
 3 *solicits*, or contracts to ~~manufacture, repair or renovate~~ *manufacture*
 4 upholstered furniture or bedding, and who either does the work
 5 ~~himself or herself~~ *themselves* or has others do ~~it for him or her, it,~~
 6 shall obtain the particular license required by this chapter for the
 7 particular type of work that ~~he or she~~ *the person* solicits or
 8 advertises that ~~he or she~~ *the person* will do, regardless of whether
 9 ~~he or she~~ *the person* has a shop or factory.

10 ~~(b) Every person who, on his or her own account, advertises,~~
 11 ~~solicits or contracts to repair or renovate upholstered furniture and~~
 12 ~~who does not do the work himself or herself nor have employees~~
 13 ~~do it for him or her but does have the work done by a licensed~~
 14 ~~custom upholsterer need not obtain a license as a custom~~
 15 ~~upholsterer but shall obtain a license as a retail furniture dealer.~~
 16 ~~However, nothing in this section shall exempt a retail furniture~~
 17 ~~dealer from complying with Sections 19162 and 19163.~~

18 SEC. 19. Section 19170 of the Business and Professions Code
 19 is amended to read:

20 19170. (a) The fee imposed for the issuance and for the
 21 biennial renewal of each license granted under this chapter shall
 22 be set by the chief, with the approval of the director, at a sum not
 23 more nor less than that shown in the following table:
 24

	Maximum	Minimum
	fee	fee
27 Importer's license	\$940	\$120
28 Furniture and bedding manufacturer's		
29 license	940	120
30 Wholesale furniture and bedding		
31 dealer's license	675	120
32 Supply dealer's license	675	120
33 Custom upholsterer's license	450	80
34 Sanitizer's license	450	80
35 Retail furniture and bedding dealer's license	300	40
36 Retail furniture dealer's license	150	20
37 Retail bedding dealer's license	150	20

38
 39 (b) Individuals who, in their own homes and without the
 40 employment of any other person, make, sell, advertise, or contract

1 to make pillows, quilts, quilted pads, or comforters are exempt
2 from the fee requirements imposed by subdivision (a). However,
3 these individuals shall comply with all other provisions of this
4 chapter.

5 (c) Retailers who only sell “used” and “antique” furniture as
6 defined in Sections 19008.1 and 19008.2 are exempt from the fee
7 requirements imposed by subdivision (a). Those retailers are also
8 exempt from the other provisions of this chapter.

9 (d) A person who makes, sells, or advertises upholstered
10 furniture and bedding as defined in Sections 19006 and 19007,
11 and who also makes, sells, or advertises furniture used exclusively
12 for the purpose of physical fitness and exercise, shall comply with
13 the fee requirements imposed by subdivision (a).

14 (e) A person who has paid the required fee and who is licensed
15 ~~either~~ as an upholstered furniture and bedding manufacturer ~~or a~~
16 ~~custom upholsterer~~ under this chapter shall not be required to
17 additionally pay the fee for a sanitizer’s license.

18 SEC. 20. Section 110371 of the Health and Safety Code is
19 amended to read:

20 110371. (a) A professional cosmetic manufactured on or after
21 July 1, 2020, for sale in this state shall have a label affixed on the
22 container that satisfies all of the labeling requirements for any
23 other cosmetic pursuant to the Federal Food, Drug, and Cosmetic
24 Act (21 U.S.C. Sec. 301, et seq.), and the federal Fair Packaging
25 and Labeling Act (15 U.S.C. Sec. 1451, et seq.).

26 (b) The following definitions shall apply to this section:

27 (1) “Ingredient” has the same meaning as in Section 111791.5.

28 (2) “Professional” means a person that has been granted a license
29 by the State Board of Barbering and Cosmetology to practice in
30 the field of cosmetology, ~~nail care~~, barbering, or esthetics.

31 (3) “Professional cosmetic” means a cosmetic product as it is
32 defined in Section 109900 that is intended or marketed to be used
33 only by a professional on account of a specific ingredient, increased
34 concentration of an ingredient, or other quality that requires safe
35 handling, or is otherwise used by a professional.

O

Introduced by Assembly Member Low

February 12, 2019

An act to amend Sections 23.8, 23.9, 25, 27, 28, 30, 31, 101, 101.7, 102.3, 103, 105.5, 106, 107, 108.5, 111, 114, 114.3, 115.5, 115.6, 116, 119, 120, 121, 124, 125, 125.3, 125.6, 125.9, 127, 129, 130, 132, 136, 137, 138, ~~and 144~~ 144, 151, 152, 152.6, 153, 156.1, 158, 159.5, 161, 210, 328, 450, and 450.3 of the Business and Professions Code, relating to business and professions.

legislative counsel's digest

AB 496, as amended, Low. Business and professions.

Under existing law, the Department of Consumer Affairs, which is under the control of the director of the Director of Consumer Affairs, is comprised of various boards, as defined, that license and regulate various professions and vocations. *With respect to the Department of Consumer Affairs, existing law provides that the Governor has power to remove from office any member of any board appointed by the Governor for specified reasons, including incompetence.*

This bill would ~~replace gendered terms with nongendered terms and make various other nonsubstantive changes.~~ *instead provide that the appointing authority has power to remove a board member from office for those specified reasons.*

Existing law authorizes the director to audit and review, upon the director's own initiative or upon the request of a consumer or licensee, inquiries and complaints regarding, among other things, dismissals of disciplinary cases of specified licensees and requires the director to

report to the Chairpersons of the Senate Business and Professions Committee and the Assembly Health Committee annually regarding any findings from such an audit or review.

This bill would instead require the director to report to the Chairpersons of the Senate Business, Professions and Economic Development Committee and the Assembly Business and Professions Committee.

Existing law defines the term “licentiate” to mean any person authorized by a license, certificate, registration, or other means to engage in a business or profession regulated or referred to, as specified.

This bill would instead define “licensee” to mean any person authorized by a license, certificate, registration, or other means to engage in a business or profession regulated or referred to, as specified, and would provide that any reference to licentiate be deemed to refer to licensee.

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: no.
State-mandated local program: no.

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

- 1 SECTION 1. Section 23.8 of the Business and Professions
- 2 Code is amended to read:
- 3 23.8. “Licensee” means any person authorized by a license,
- 4 certificate, registration, or other means to engage in a business or
- 5 profession regulated by this code or referred to in Sections 1000
- 6 and 3600.
- 7 Any reference to licentiate in this code shall be deemed to refer
- 8 to licensee.
- 9 SEC. 2. Section 23.9 of the Business and Professions Code is
- 10 amended to read:
- 11 23.9. Notwithstanding any other provision of this code, any
- 12 individual who, while imprisoned in a state prison or other
- 13 correctional institution, is trained, in the course of a rehabilitation
- 14 program approved by the particular licensing agency concerned
- 15 and provided by the prison or other correctional institution, in a
- 16 particular skill, occupation, or profession for which a state license,
- 17 certificate, or other evidence of proficiency is required by this code

1 shall not, when released from the prison or institution, be denied
2 the right to take the next regularly scheduled state examination or
3 any examination thereafter required to obtain the license,
4 certificate, or other evidence of proficiency and shall not be denied
5 such license, certificate, or other evidence of proficiency, because
6 of that individual's imprisonment or the conviction from which
7 the imprisonment resulted, or because the individual obtained the
8 individual's training in prison or in the correctional institution, if
9 the licensing agency, upon recommendation of the Adult Authority
10 or the Department of the Youth Authority, as the case may be,
11 finds that the individual is a fit person to be licensed.

12 SEC. 3. Section 25 of the Business and Professions Code is
13 amended to read:

14 25. Any person applying for a license, registration, or the first
15 renewal of a license, after the effective date of this section, as a
16 licensed marriage and family therapist, a licensed clinical social
17 worker, a licensed psychologist, or a licensed professional clinical
18 counselor shall, in addition to any other requirements, show by
19 evidence satisfactory to the agency regulating the business or
20 profession, that they have completed training in human sexuality
21 as a condition of licensure. The training shall be creditable toward
22 continuing education requirements as deemed appropriate by the
23 agency regulating the business or profession, and the course shall
24 not exceed more than 50 contact hours.

25 The Board of Psychology shall exempt from the requirements
26 of this section any persons whose field of practice is such that they
27 are not likely to have use for this training.

28 "Human sexuality" as used in this section means the study of a
29 human being as a sexual being and how a human being functions
30 with respect thereto.

31 The content and length of the training shall be determined by
32 the administrative agency regulating the business or profession
33 and the agency shall proceed immediately upon the effective date
34 of this section to determine what training, and the quality of staff
35 to provide the training, is available and shall report its
36 determination to the Legislature on or before July 1, 1977.

37 If a licensing board or agency proposes to establish a training
38 program in human sexuality, the board or agency shall first consult
39 with other licensing boards or agencies that have established or

1 propose to establish a training program in human sexuality to
2 ensure that the programs are compatible in scope and content.

3 SEC. 4. Section 27 of the Business and Professions Code is
4 amended to read:

5 27. (a) Each entity specified in subdivisions (c), (d), and (e)
6 shall provide on the ~~Internet~~ *internet* information regarding the
7 status of every license issued by that entity in accordance with the
8 California Public Records Act (Chapter 3.5 (commencing with
9 Section 6250) of Division 7 of Title 1 of the Government Code)
10 and the Information Practices Act of 1977 (Chapter 1 (commencing
11 with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil
12 Code). The public information to be provided on the ~~Internet~~
13 *internet* shall include information on suspensions and revocations
14 of licenses issued by the entity and other related enforcement
15 action, including accusations filed pursuant to the Administrative
16 Procedure Act (Chapter 3.5 (commencing with Section 11340) of
17 Part 1 of Division 3 of Title 2 of the Government Code) taken by
18 the entity relative to persons, businesses, or facilities subject to
19 licensure or regulation by the entity. The information may not
20 include personal information, including home telephone number,
21 date of birth, or social security number. Each entity shall disclose
22 a licensee's address of record. However, each entity shall allow a
23 licensee to provide a post office box number or other alternate
24 address, instead of the licensee's home address, as the address of
25 record. This section shall not preclude an entity from also requiring
26 a licensee, who has provided a post office box number or other
27 alternative mailing address as the licensee's address of record, to
28 provide a physical business address or residence address only for
29 the entity's internal administrative use and not for disclosure as
30 the licensee's address of record or disclosure on the ~~Internet~~.
31 *internet*.

32 (b) In providing information on the ~~Internet~~, *internet*, each entity
33 specified in subdivisions (c) and (d) shall comply with the
34 Department of Consumer Affairs' guidelines for access to public
35 records.

36 (c) Each of the following entities within the Department of
37 Consumer Affairs shall comply with the requirements of this
38 section:

1 (1) The Board for Professional Engineers, Land Surveyors, and
2 Geologists shall disclose information on its registrants and
3 licensees.

4 (2) The Bureau of Automotive Repair shall disclose information
5 on its licensees, including auto repair dealers, smog stations, lamp
6 and brake stations, smog check technicians, and smog inspection
7 certification stations.

8 (3) The Bureau of Household Goods and Services shall disclose
9 information on its licensees and registrants, including major
10 appliance repair dealers, combination dealers (electronic and
11 appliance), electronic repair dealers, service contract sellers, service
12 contract administrators, *and household movers*.

13 (4) The Cemetery and Funeral Bureau shall disclose information
14 on its licensees, including cemetery brokers, cemetery salespersons,
15 cemetery managers, crematory managers, cemetery authorities,
16 crematories, cremated remains disposers, embalmers, funeral
17 establishments, and funeral directors.

18 (5) The Professional Fiduciaries Bureau shall disclose
19 information on its licensees.

20 (6) The Contractors' State License Board shall disclose
21 information on its licensees and registrants in accordance with
22 Chapter 9 (commencing with Section 7000) of Division 3. In
23 addition to information related to licenses as specified in
24 subdivision (a), the board shall also disclose information provided
25 to the board by the Labor Commissioner pursuant to Section 98.9
26 of the Labor Code.

27 (7) The Bureau for Private Postsecondary Education shall
28 disclose information on private postsecondary institutions under
29 its jurisdiction, including disclosure of notices to comply issued
30 pursuant to Section 94935 of the Education Code.

31 (8) The California Board of Accountancy shall disclose
32 information on its licensees and registrants.

33 (9) The California Architects Board shall disclose information
34 on its licensees, including architects and landscape architects.

35 (10) The State Athletic Commission shall disclose information
36 on its licensees and registrants.

37 (11) The State Board of Barbering and Cosmetology shall
38 disclose information on its licensees.

39 (12) The Acupuncture Board shall disclose information on its
40 licensees.

1 (13) The Board of Behavioral Sciences shall disclose
2 information on its licensees and registrants.

3 (14) The Dental Board of California shall disclose information
4 on its licensees.

5 (15) The State Board of Optometry shall disclose information
6 on its licensees and registrants.

7 (16) The Board of Psychology shall disclose information on its
8 licensees, including psychologists, psychological assistants, and
9 registered psychologists.

10 (17) The Veterinary Medical Board shall disclose information
11 on its licensees, registrants, and permit holders.

12 (d) The State Board of Chiropractic Examiners shall disclose
13 information on its licensees.

14 (e) The Structural Pest Control Board shall disclose information
15 on its licensees, including applicators, field representatives, and
16 operators in the areas of fumigation, general pest and wood
17 destroying pests and organisms, and wood roof cleaning and
18 treatment.

19 (f) The Bureau of Cannabis Control shall disclose information
20 on its licensees.

21 (g) "Internet" for the purposes of this section has the meaning
22 set forth in paragraph (6) of subdivision (f) of Section 17538.

23 SEC. 5. Section 28 of the Business and Professions Code is
24 amended to read:

25 28. (a) The Legislature finds that there is a need to ensure that
26 professionals of the healing arts who have demonstrable contact
27 with victims and potential victims of child, elder, and dependent
28 adult abuse, and abusers and potential abusers of children, elders,
29 and dependent adults are provided with adequate and appropriate
30 training regarding the assessment and reporting of child, elder,
31 and dependent adult abuse that will ameliorate, reduce, and
32 eliminate the trauma of abuse and neglect and ensure the reporting
33 of abuse in a timely manner to prevent additional occurrences.

34 (b) The Board of Psychology and the Board of Behavioral
35 Sciences shall establish required training in the area of child abuse
36 assessment and reporting for all persons applying for initial
37 licensure and renewal of a license as a psychologist, clinical social
38 worker, professional clinical counselor, or marriage and family
39 therapist. This training shall be required one time only for all
40 persons applying for initial licensure or for licensure renewal.

Pages 7 – 42 omitted
because amendments are not
relevant to the Bureau

- 1 interest in any organization subject to regulation by the board,
- 2 ~~commission~~ *commission*, or committee of which ~~he is~~ *they are* a
- 3 member.

O

Introduced by Assembly Member Low

February 14, 2019

An act to add Section 101.1 to the Business and Professions Code, relating to professions and vocations, and making an appropriation therefor.

legislative counsel's digest

AB 613, as introduced, Low. Professions and vocations: regulatory fees.

Exiting law establishes the Department of Consumer Affairs, which is comprised of boards that are established for the purpose of regulating various professions and vocations, and generally authorizes a board to charge fees for the reasonable regulatory cost of administering the regulatory program for the profession or vocation. Existing law establishes the Professions and Vocations Fund in the State Treasury, which consists of specified special funds and accounts, some of which are continuously appropriated.

This bill would authorize each board within the department to increase every 4 years any fee authorized to be imposed by that board by an amount not to exceed the increase in the California Consumer Price Index for the preceding 4 years, subject to specified conditions. The bill would require the Director of Consumer Affairs to approve any fee increase proposed by a board except under specified circumstances. By authorizing an increase in the amount of fees deposited into a continuously appropriated fund, this bill would make an appropriation.

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

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

1 SECTION 1. Section 101.1 is added to the Business and
2 Professions Code, to read:

3 *101.1. (a) Notwithstanding any other law, no more than once*
4 *every four years, any board listed in Section 101 may increase any*
5 *fee authorized to be imposed by that board by an amount not to*
6 *exceed the increase in the California Consumer Price Index, as*
7 *determined pursuant to Section 2212 of the Revenue and Taxation*
8 *Code, for the preceding four years in accordance with the*
9 *following:*

10 *(1) The board shall provide its calculations and proposed fee,*
11 *rounded to the nearest whole dollar, to the director and the director*
12 *shall approve the fee increase unless any of the following apply:*

13 *(A) The board has unencumbered funds in an amount that is*
14 *equal to more than the board’s operating budget for the next two*
15 *fiscal years.*

16 *(B) The fee would exceed the reasonable regulatory costs to the*
17 *board in administering the provisions for which the fee is*
18 *authorized.*

19 *(C) The director determines that the fee increase would be*
20 *injurious to the public health, safety, or welfare.*

21 *(2) The adjustment of fees and publication of the adjusted fee*
22 *list is not subject to the Administrative Procedure Act (Chapter*
23 *3.5 (commencing with Section 11340) of Part 1 of Division 3 of*
24 *Title 2) of the Government Code.*

25 *(b) For purposes of this section, “fee” includes any fees*
26 *authorized to be imposed by a board for regulatory costs. “Fee”*
27 *does not include administrative fines, civil penalties, or criminal*
28 *penalties.*

O

AMENDED IN SENATE JUNE 21, 2019
AMENDED IN ASSEMBLY APRIL 24, 2019
california legislature—2019–20 regular session

ASSEMBLY BILL

No. 1296

Introduced by Assembly Member Gonzalez

February 22, 2019

An act to add Part 12.3 (commencing with Section 15925) to Division 3 of Title 2 of, and to repeal Section 15929 of, the Government Code, *and to amend Section 1095 of the Unemployment Insurance Code*, relating to *the* underground economy.

legislative counsel's digest

AB 1296, as amended, Gonzalez. Tax Recovery in the Underground Economy Criminal Enforcement Program.

Existing law, until January 1, 2019, established the Revenue Recovery and Collaborative Enforcement Team as a pilot program consisting of a team of agencies charged with specified duties that included developing a plan to document, review, and evaluate data and complaints, evaluating the benefits of a processing center to receive and analyze data, share complaints, and research leads, and providing agencies with investigative leads to combat criminal tax evasion associated with the underground economy.

This bill would establish the Tax Recovery in the Underground Economy Criminal Enforcement Program in the Department of Justice to combat underground economic activities through a multiagency collaboration to, among other things, pool resources, collaborate and share data, prosecute violations, and recover state revenue lost to the underground economy, as specified. The bill would require Tax

Recovery in the Underground Economy Criminal Enforcement Program *investigative* teams to be located in Sacramento, Los Angeles, San Diego, the San Francisco Bay area, and Fresno. The bill would establish a Tax Recovery in the Underground Economy Criminal Enforcement Program executive board ~~and Tax Recovery in the Underground Economy Criminal Enforcement Program committees~~ to ensure multiagency ~~collaboration~~ *collaboration and to oversee the investigative teams, as provided.* The bill would *authorize, and in certain circumstances require, the exchange of confidential information, as provided.* *The bill would* require that information exchanged pursuant to these provisions retain its confidential status, as specified. ~~The~~

The bill would require the Department of Justice, in consultation with the executive board of the program, to submit to the Legislature a report on or before July 1, 2021, and annually thereafter, that includes specific information relating to the program. The bill would require the Legislative Analyst's Office to, on or before July 1, ~~2022~~, 2026, submit a report to the Legislature that includes an analysis of the effectiveness of the program, as specified, along with recommendations to improve the program. *The bill would repeal these reporting requirements on January 1, 2027.*

Under existing law, the information obtained in the administration of the Unemployment Insurance Code is for the exclusive use and information of the Director of Employment Development in the discharge of their duties and is confidential. However, existing law permits the use of the information for specified purposes. Existing law makes it a crime for any person to knowingly access, use, or disclose this confidential information without authorization.

This bill would permit the use of the information to enable the Tax Recovery in the Underground Economy Criminal Enforcement Program to carry out its duties. Because the bill would expand the group of persons who can be convicted for knowingly accessing, using, or disclosing this information without authorization, it would expand the scope of an existing crime and therefore 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: ~~no~~-yes.

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

1 SECTION 1. (a) The Legislature finds and declares all of the
2 following:

3 (1) The underground economy has significant negative effects
4 on Californians. Many workers go without basic rights and
5 protections, law-abiding businesses are put at a competitive
6 disadvantage, consumer protections are threatened, and tax
7 revenues are lost that could otherwise fund programs in education,
8 law enforcement, infrastructure, or fund tax reductions for the
9 majority of Californians who play by the rules.

10 (2) According to a 2013 report by the University of California,
11 Los Angeles (UCLA) Labor Center prepared for the State Board
12 of Equalization (now the California Department of Tax and Fee
13 Administration), the underground economy ~~has~~ more than doubled
14 between 1970 and 2000. The state's underground economy is
15 estimated at \$60 to \$140 billion annually. An estimated \$8.5 billion
16 in corporate, personal, and sales and use taxes go uncollected each
17 year.

18 (3) It is the intent of the Legislature in enacting this act to
19 support the goals of the Tax Recovery in the Underground
20 Economy Criminal Enforcement Program, which include all of
21 the following:

22 (A) To protect workers, law-abiding businesses, and consumers
23 by bringing justice to unscrupulous businesses operating in the
24 state's underground economy.

25 (B) To recover significant lost revenues to the state by
26 prosecuting egregious, felony-level tax and fee evasion crimes in
27 the state's underground economy.

28 (C) To facilitate information sharing among participating
29 agencies to assess leads, conduct investigations, and prosecute
30 felony-level tax and fee evasion crimes in the underground
31 economy.

32 (D) To support multiagency investigative teams in every region
33 of the state.

34 SEC. 2. Part 12.3 (commencing with Section 15925) is added
35 to Division 3 of Title 2 of the Government Code, to read:

1 PART 12.3. TAX RECOVERY IN THE UNDERGROUND
2 ECONOMY CRIMINAL ENFORCEMENT ACT

3
4 15925. This part shall be known, and may be cited, as the Tax
5 Recovery in the Underground Economy Criminal Enforcement
6 Act.

7 15926. (a) The Tax Recovery in the Underground Economy
8 Criminal Enforcement Program is hereby established in the
9 Department of Justice to combat underground economic activities
10 through a multiagency collaboration to do, to the extent practicable,
11 the following:

- 12 (1) Pool resources and leverage enforcement efforts.
13 (2) Collaborate and share data with state and federal partners.
14 (3) Efficiently prosecute violations covering jurisdictions of
15 multiple agencies to address the severity of the crimes and impose
16 appropriate penalties on convicted violators.
17 (4) Recover state revenue lost to the underground economy.

18 (b) The Tax Recovery in the Underground Economy Criminal
19 Enforcement Program shall include an executive board to ensure
20 efficient and effective multiagency-~~collaboration~~ *collaboration,*
21 *and to oversee the investigative teams established pursuant to*
22 *Section 15927,* in furtherance of this act. The executive board shall
23 consist of the following voting members:

24 *(1) A representative from the Department of Justice who shall*
25 *be designated by the Attorney General to facilitate and oversee*
26 *the multiagency collaboration set forth in this act.*

27 ~~(1)~~
28 (2) A representative from the Division of Law Enforcement at
29 the Department of Justice.

30 ~~(2)~~
31 (3) A representative from the Criminal Law Division at the
32 Department of Justice.

33 ~~(3)~~
34 (4) A representative from the Investigations and Special
35 Operations Bureau at the California Department of Tax and Fee
36 Administration.

37 ~~(4)~~
38 (5) A representative from the Criminal Investigation Bureau at
39 the Franchise Tax Board.

40 ~~(5)~~

1 (6) A representative from the Investigation Division at the
2 Employment Development Department.

3 (c) The Tax Recovery in the Underground Economy Criminal
4 Enforcement Program may, as the executive board deems
5 appropriate, invite the following state agencies to join the executive
6 board in an advisory capacity:

- 7 (1) The California Health and Human Services Agency.
- 8 (2) The Department of Consumer Affairs.
- 9 (3) The Department of Industrial Relations.
- 10 (4) The Department of Insurance.
- 11 (5) The Department of Motor Vehicles.
- 12 (6) The Department of the California Highway Patrol.
- 13 (7) The Department of Alcoholic Beverage Control.
- 14 (8) The Bureau of Cannabis Control.
- 15 (9) The Contractors' State License Board.

16 (d) The Tax Recovery in the Underground Economy Criminal
17
18 appropriate, invite other ~~state and federal~~ *state, federal, and local*
19 agencies to join the executive board in an advisory capacity subject
20 to paragraph (2) of subdivision (b) of Section 15928.

21 (e) The addition of an advisory agency to the Tax Recovery in
22 the Underground Economy Criminal Enforcement Program
23 executive board shall be by written agreement between the voting
24 members of the executive board and the agency joining the
25 executive board. The written agreement shall govern the
26 participation of the agency joining the executive board. The written
27 agreement shall include provisions ensuring that confidential
28 information is shared only when necessary to assess leads, conduct
29 an investigation, or prosecute a case.

30 (f) *The executive board of the Tax Recovery in the Underground*
31 *Economy Criminal Enforcement Program shall meet as needed,*
32 *but shall meet at least quarterly, to conduct its business.*

33 15927. ~~(a)~~ The Tax Recovery in the Underground Economy
34 Criminal Enforcement Program shall include investigative teams
35 located in Sacramento, Los Angeles, San Diego, the San Francisco
36 Bay area, and ~~Fresno under the direct oversight of the Department~~
37 ~~of Justice.~~ *Fresno.* The investigative teams shall include, but are
38 not limited to, duly authorized representatives of the agencies listed
39 in subdivision (b) of Section 15926. The addition of an agency to
40 an investigative team shall be by written agreement between the

1 Tax Recovery in the Underground Economy Criminal Enforcement
2 Program's executive board and the agency joining the investigative
3 team. The written agreement shall govern the participation of the
4 agency joining the investigative team.

5 ~~(b) Each investigative team shall have a committee established~~
6 ~~by the Tax Recovery in the Underground Economy Criminal~~
7 ~~Enforcement Program's executive board to ensure efficient and~~
8 ~~effective multi-agency collaboration in each region in furtherance~~
9 ~~of this act.~~

10 ~~(c) The Tax Recovery in the Underground Economy Criminal~~
11 ~~Enforcement Program's executive board and each investigative~~
12 ~~team's committee shall meet as needed, but shall meet at least~~
13 ~~quarterly, to conduct its business.~~

14 15928. (a) For cases that involve tax or fee administration
15 associated with underground economic activities, *notwithstanding*
16 *the confidentiality provisions specified in subdivision (d)*, duly
17 authorized members of the Tax Recovery in the Underground
18 Economy Criminal Enforcement Program employed by an agency
19 listed in subdivision (b) of Section 15926 or employed by an
20 agency that joined the Tax Recovery in the Underground Economy
21 Criminal Enforcement Program pursuant to subdivision (c) of
22 Section 15926 shall exchange intelligence, data, including
23 confidential tax and fee information, documents, information,
24 complaints, or lead referrals for the purposes listed in subdivision
25 (c).

26 (b) (1) Notwithstanding subdivision (a), no person employed
27 by an agency listed in subdivision (b) or (c) of Section 15926 shall
28 disclose confidential tax or fee information to a person employed
29 by an agency invited to join the executive board pursuant to
30 subdivision (d) of Section 15926, except as set forth in paragraph
31 (2).

32 (2) For cases that involve a known or suspected felony ~~level tax~~
33 ~~or fee evasion crime, voting members and advisory members~~
34 *violation involving tax- or fee-related crimes, including, but not*
35 *limited to, tax evasion or tax fraud, a person employed by an*
36 *agency listed in subdivision (b) or (c) of Section 15926* may share
37 confidential tax or fee information with other members of an
38 investigatory team of the Tax Recovery in the Underground
39 Economy Criminal Enforcement Program if all of the following
40 criteria are met:

1 (A) The confidential tax or fee information is obtained by a
2 ~~voting member or advisory member of the Tax Recovery in the~~
3 ~~Underground Economy Criminal Enforcement Program~~ *person*
4 *employed by an agency listed in subdivision (b) or (c) of Section*
5 *15926* pursuant to existing law, agreements authorized by existing
6 law, or order by the Governor.

7 (B) The person who receives the confidential tax or fee
8 information is a peace officer.

9 (C) The confidential tax or fee information is for one of the
10 purposes listed in subdivision (c) related to a felony level tax or
11 fee evasion crime.

12 (D) The person receiving the confidential tax or fee information
13 has a legitimate need to know to assess leads, conduct an
14 investigation, or prosecute a case.

15 (E) There is a nondisclosure agreement that prohibits the person
16 receiving the confidential tax or fee information from ~~disclosing~~
17 *doing any of the following:*

18 *(i) Disclosing* the information to any person that is not part of
19 the Tax Recovery in the Underground Economy Criminal
20 Enforcement ~~Program or disclosing~~ *Program.*

21 *(ii) Disclosing* the information to any other unauthorized person.

22 *(iii) Using the information for purposes not related to the Tax*
23 *Recovery in the Underground Economy Criminal Enforcement*
24 *Program.*

25 *Consistent with subparagraph (E), the executive board shall*
26 *develop and adopt a standard nondisclosure agreement for*
27 *purposes of subparagraph (E). The Administrative Procedure Act*
28 *(Chapter 3.5 (commencing with Section 11340) of Part 1) shall*
29 *not apply to the standard nondisclosure agreement adopted*
30 *pursuant to subparagraph (E).*

31 (c) The intelligence, data, including confidential tax or fee
32 information, documents, information, complaints, and lead referrals
33 exchanged pursuant to this section shall be used for the following
34 purposes:

35 (1) To assess leads or referrals in order to determine if an
36 investigation is warranted.

37 (2) To conduct investigations.

38 (3) To prosecute violations.

39 (4) To conduct data analytics.

40 ~~(5) To enforce judgments.~~

1 (d) Any person who was or has been involved in the Tax
2 Recovery in the Underground Economy Criminal Enforcement
3 Program pursuant to Section 15926 or 15927 or any person who
4 has at any time obtained that knowledge from any of the foregoing
5 persons shall not divulge, or make known in any manner not
6 provided by law, any of the confidential information received by
7 or reported to the Tax Recovery in the Underground Economy
8 Criminal Enforcement Program. Confidential information
9 authorized to be exchanged pursuant to this section shall retain its
10 confidential status and shall otherwise remain subject to the
11 confidentiality provisions contained in, but not limited to, all of
12 the following provisions:

13 (1) Section 11183 as that section pertains to the Department of
14 Justice.

15 (2) Sections ~~1094 and 1095~~ *1094, 1095, and 2111* of the
16 Unemployment Insurance Code as those sections pertain to the
17 Employment Development Department.

18 (3) Sections 19542, 19542.1, and 19542.3 of the Revenue and
19 Taxation Code as those Sections pertain to the Franchise Tax
20 Board.

21 (4) Section 15619 of this code, Section 42464.8 of the Public
22 Resources Code, and Sections 7056, 7056.5, 8255, 9255, 9255.1,
23 30455, 32455, 32457, 38705, 38706, 43651, 45981, 45982, 45983,
24 45984, 46751, 50159, 50160, 50161, 55381, 60608, and 60609 of
25 the Revenue and Taxation Code, as those sections pertain to the
26 California Department of Tax and Fee Administration.

27 (5) Any other information confidentiality provisions in *federal*
28 *and* state law.

29 (6) Any information confidentiality provisions that are
30 applicable to any agency that is added to the Tax Recovery in the
31 Underground Economy Criminal Enforcement Program pursuant
32 to subdivision (c) or (d) of Section 15926.

33 (e) A member of the Tax Recovery in the Underground
34 Economy Criminal Enforcement Program shall not exchange
35 federal tax data without authorization from the Internal Revenue
36 Service.

37 (f) The Tax Recovery in the Underground Economy Criminal
38 Enforcement Program's executive board shall oversee the Tax
39 Recovery in the Underground Economy Criminal Enforcement
40 Program to ensure ~~the protection of~~ *that appropriate policies,*

1 *procedures, and training are in place to protect* confidential tax
2 and fee information pursuant to this part.

3 (g) The Tax Recovery in the Underground Economy Criminal
4 Enforcement Program shall, to the extent the Legislature
5 appropriates funds for purposes of this section, develop a data
6 analytics system that enhances the efficiency and effectiveness of
7 the ~~multi-agency~~ *multiagency* collaboration set forth by this act.

8 15929. (a) On or before July 1, 2021, and annually thereafter,
9 the Department of Justice, in consultation with the executive board
10 of the Tax Recovery in the Underground Economy Criminal
11 Enforcement Program, shall submit a report to the Legislature that
12 includes, but is not limited to, the following information:

13 (1) The number of leads or complaints received by the Tax
14 Recovery in the Underground Economy Criminal Enforcement
15 Program during the reporting period.

16 (2) The number of cases investigated or prosecuted through
17 civil action or criminal prosecution as a result of the work of the
18 Tax Recovery in the Underground Economy Criminal Enforcement
19 Program.

20 (3) The amount and final disposition of moneys collected *from*
21 *criminal prosecutions* through *the* Tax Recovery in the
22 Underground Economy Criminal Enforcement Program's
23 enforcement efforts.

24 (4) The status of the multiagency collaboration required by this
25 act.

26 (5) A list of the agencies that received confidential tax or fee
27 information pursuant to subdivision (b) of Section 15928.

28 (6) The number of instances, if any, of unauthorized or suspected
29 unauthorized access, use, or disclosure of confidential tax or fee
30 information. The report shall include the number of instances, if
31 any, of unauthorized or suspected unauthorized access, use, or
32 disclosure of confidential tax or fee information dating back to the
33 inception of the Tax Recovery in the Underground Economy
34 Criminal Enforcement Program and its predecessor programs.

35 (7) The status of any efforts to plan for, develop, and implement
36 a data analytics system that enhances the efficiency and
37 effectiveness of the multiagency collaboration set forth in this act.

38 (b) The Legislative Analyst's Office, on or before July 1, ~~2022,~~
39 *2026*, shall submit a report to the Legislature that includes an
40 analysis of the effectiveness of the Tax Recovery in the

1 Underground Economy Criminal Enforcement Program in
2 accomplishing the purposes specified in subdivision (a) of Section
3 15926 along with recommendations to improve the program.

4 (c) (1) A report required to be submitted pursuant to
5 subdivisions (a) and (b) shall be submitted in compliance with
6 Section 9795 of the Government Code.

7 (2) ~~Pursuant to~~ *Notwithstanding* Section 10231.5, this section
8 is repealed on January 1, ~~2024~~, 2027.

9 *SEC. 3. Section 1095 of the Unemployment Insurance Code is*
10 *amended to read:*

11 1095. The director shall permit the use of any information in
12 ~~his or her~~ *their* possession to the extent necessary for any of the
13 following purposes and may require reimbursement for all direct
14 costs incurred in providing any and all information specified in
15 this section, except information specified in subdivisions (a) to
16 (e), inclusive:

17 (a) To enable the director or ~~his or her~~ *their* representative to
18 carry out ~~his or her~~ *their* responsibilities under this code.

19 (b) To properly present a claim for benefits.

20 (c) To acquaint a worker or ~~his or her~~ *their* authorized agent
21 with ~~his or her~~ *their* existing or prospective right to benefits.

22 (d) To furnish an employer or ~~his or her~~ *their* authorized agent
23 with information to enable ~~him or her~~ *them* to fully discharge ~~his~~
24 ~~or her~~ *their* obligations or safeguard ~~his or her~~ *their* rights under
25 this division or Division 3 (commencing with Section 9000).

26 (e) To enable an employer to receive a reduction in contribution
27 rate.

28 (f) To enable federal, state, or local governmental departments
29 or agencies, subject to federal law, to verify or determine the
30 eligibility or entitlement of an applicant for, or a recipient of, public
31 social services provided pursuant to Division 9 (commencing with
32 Section 10000) of the Welfare and Institutions Code, or Part A of
33 Subchapter IV of the federal Social Security Act (42 U.S.C. Sec.
34 601 et seq.), when the verification or determination is directly
35 connected with, and limited to, the administration of public social
36 services.

37 (g) To enable county administrators of general relief or
38 assistance, or their representatives, to determine entitlement to
39 locally provided general relief or assistance, when the

1 determination is directly connected with, and limited to, the
2 administration of general relief or assistance.

3 (h) To enable state or local governmental departments or
4 agencies to seek criminal, civil, or administrative remedies in
5 connection with the unlawful application for, or receipt of, relief
6 provided under Division 9 (commencing with Section 10000) of
7 the Welfare and Institutions Code or to enable the collection of
8 expenditures for medical assistance services pursuant to Part 5
9 (commencing with Section 17000) of Division 9 of the Welfare
10 and Institutions Code.

11 (i) To provide any law enforcement agency with the name,
12 address, telephone number, birth date, social security number,
13 physical description, and names and addresses of present and past
14 employers, of any victim, suspect, missing person, potential
15 witness, or person for whom a felony arrest warrant has been
16 issued, when a request for this information is made by any
17 investigator or peace officer as defined by Sections 830.1 and
18 830.2 of the Penal Code, or by any federal law enforcement officer
19 to whom the Attorney General has delegated authority to enforce
20 federal search warrants, as defined under Sections 60.2 and 60.3
21 of Title 28 of the Code of Federal Regulations, as amended, and
22 when the requesting officer has been designated by the head of
23 the law enforcement agency and requests this information in the
24 course of and as a part of an investigation into the commission of
25 a crime when there is a reasonable suspicion that the crime is a
26 felony and that the information would lead to relevant evidence.
27 The information provided pursuant to this subdivision shall be
28 provided to the extent permitted by federal law and regulations,
29 and to the extent the information is available and accessible within
30 the constraints and configurations of existing department records.
31 Any person who receives any information under this subdivision
32 shall make a written report of the information to the law
33 enforcement agency that employs ~~him or her~~, *them*, for filing under
34 the normal procedures of that agency.

35 (1) This subdivision shall not be construed to authorize the
36 release to any law enforcement agency of a general list identifying
37 individuals applying for or receiving benefits.

38 (2) The department shall maintain records pursuant to this
39 subdivision only for periods required under regulations or statutes
40 enacted for the administration of its programs.

1 (3) This subdivision shall not be construed as limiting the
2 information provided to law enforcement agencies to that pertaining
3 only to applicants for, or recipients of, benefits.

4 (4) The department shall notify all applicants for benefits that
5 release of confidential information from their records will not be
6 protected should there be a felony arrest warrant issued against
7 the applicant or in the event of an investigation by a law
8 enforcement agency into the commission of a felony.

9 (j) To provide public employee retirement systems in California
10 with information relating to the earnings of any person who has
11 applied for or is receiving a disability income, disability allowance,
12 or disability retirement allowance, from a public employee
13 retirement system. The earnings information shall be released only
14 upon written request from the governing board specifying that the
15 person has applied for or is receiving a disability allowance or
16 disability retirement allowance from its retirement system. The
17 request may be made by the chief executive officer of the system
18 or by an employee of the system so authorized and identified by
19 name and title by the chief executive officer in writing.

20 (k) To enable the Division of Labor Standards Enforcement in
21 the Department of Industrial Relations to seek criminal, civil, or
22 administrative remedies in connection with the failure to pay, or
23 the unlawful payment of, wages pursuant to Chapter 1
24 (commencing with Section 200) of Part 1 of Division 2 of, and
25 Chapter 1 (commencing with Section 1720) of Part 7 of Division
26 2 of, the Labor Code.

27 (l) To enable federal, state, or local governmental departments
28 or agencies to administer child support enforcement programs
29 under Part D of Title IV of the federal Social Security Act (42
30 U.S.C. Sec. 651 et seq.).

31 (m) To provide federal, state, or local governmental departments
32 or agencies with wage and claim information in its possession that
33 will assist those departments and agencies in the administration
34 of the Victims of Crime Program or in the location of victims of
35 crime who, by state mandate or court order, are entitled to
36 restitution that has been or can be recovered.

37 (n) To provide federal, state, or local governmental departments
38 or agencies with information concerning any individuals who are
39 or have been:

1 (1) Directed by state mandate or court order to pay restitution,
2 fines, penalties, assessments, or fees as a result of a violation of
3 law.

4 (2) Delinquent or in default on guaranteed student loans or who
5 owe repayment of funds received through other financial assistance
6 programs administered by those agencies. The information released
7 by the director for the purposes of this paragraph shall not include
8 unemployment insurance benefit information.

9 (o) To provide an authorized governmental agency with any
10 and all relevant information that relates to any specific workers'
11 compensation insurance fraud investigation. The information shall
12 be provided to the extent permitted by federal law and regulations.
13 For the purposes of this subdivision, "authorized governmental
14 agency" means the district attorney of any county, the office of
15 the Attorney General, the Contractors' State License Board, the
16 Department of Industrial Relations, and the Department of
17 Insurance. An authorized governmental agency may disclose this
18 information to the State Bar of California, the Medical Board of
19 California, or any other licensing board or department whose
20 licensee is the subject of a workers' compensation insurance fraud
21 investigation. This subdivision shall not prevent any authorized
22 governmental agency from reporting to any board or department
23 the suspected misconduct of any licensee of that body.

24 (p) To enable the Director of Consumer Affairs, or ~~his or her~~
25 *their* representatives, to access unemployment insurance quarterly
26 wage data on a case-by-case basis to verify information on school
27 administrators, school staff, and students provided by those schools
28 who are being investigated for possible violations of Chapter 8
29 (commencing with Section 94800) of Part 59 of Division 10 of
30 Title 3 of the Education Code.

31 (q) To provide employment tax information to the tax officials
32 of Mexico, if a reciprocal agreement exists. For purposes of this
33 subdivision, "reciprocal agreement" means a formal agreement to
34 exchange information between national taxing officials of Mexico
35 and taxing authorities of the State Board of Equalization, the
36 Franchise Tax Board, and the Employment Development
37 Department. Furthermore, the reciprocal agreement shall be limited
38 to the exchange of information that is essential for tax
39 administration purposes only. Taxing authorities of the State of
40 California shall be granted tax information only on California

1 residents. Taxing authorities of Mexico shall be granted tax
2 information only on Mexican nationals.

3 (r) To enable city and county planning agencies to develop
4 economic forecasts for planning purposes. The information shall
5 be limited to businesses within the jurisdiction of the city or county
6 whose planning agency is requesting the information, and shall
7 not include information regarding individual employees.

8 (s) To provide the State Department of Developmental Services
9 with wage and employer information that will assist in the
10 collection of moneys owed by the recipient, parent, or any other
11 legally liable individual for services and supports provided pursuant
12 to Chapter 9 (commencing with Section 4775) of Division 4.5 of,
13 and Chapter 2 (commencing with Section 7200) and Chapter 3
14 (commencing with Section 7500) of Division 7 of, the Welfare
15 and Institutions Code.

16 (t) To provide the State Board of Equalization with employment
17 tax information that will assist in the administration of tax
18 programs. The information shall be limited to the exchange of
19 employment tax information essential for tax administration
20 purposes to the extent permitted by federal law and regulations.

21 (u) This section shall not be construed to authorize or permit
22 the use of information obtained in the administration of this code
23 by any private collection agency.

24 (v) The disclosure of the name and address of an individual or
25 business entity that was issued an assessment that included
26 penalties under Section 1128 or 1128.1 shall not be in violation
27 of Section 1094 if the assessment is final. The disclosure may also
28 include any of the following:

29 (1) The total amount of the assessment.

30 (2) The amount of the penalty imposed under Section 1128 or
31 1128.1 that is included in the assessment.

32 (3) The facts that resulted in the charging of the penalty under
33 Section 1128 or 1128.1.

34 (w) To enable the Contractors' State License Board to verify
35 the employment history of an individual applying for licensure
36 pursuant to Section 7068 of the Business and Professions Code.

37 (x) To provide any peace officer with the Division of
38 Investigation in the Department of Consumer Affairs information
39 pursuant to subdivision (i) when the requesting peace officer has
40 been designated by the chief of the Division of Investigation and

1 requests this information in the course of and as part of an
2 investigation into the commission of a crime or other unlawful act
3 when there is reasonable suspicion to believe that the crime or act
4 may be connected to the information requested and would lead to
5 relevant information regarding the crime or unlawful act.

6 (y) To enable the Labor Commissioner of the Division of Labor
7 Standards Enforcement in the Department of Industrial Relations
8 to identify, pursuant to Section 90.3 of the Labor Code, unlawfully
9 uninsured employers. The information shall be provided to the
10 extent permitted by federal law and regulations.

11 (z) To enable the Chancellor of the California Community
12 Colleges, in accordance with the requirements of Section 84754.5
13 of the Education Code, to obtain quarterly wage data, commencing
14 January 1, 1993, on students who have attended one or more
15 community colleges, to assess the impact of education on the
16 employment and earnings of students, to conduct the annual
17 evaluation of district-level and individual college performance in
18 achieving priority educational outcomes, and to submit the required
19 reports to the Legislature and the Governor. The information shall
20 be provided to the extent permitted by federal statutes and
21 regulations.

22 (aa) To enable the Public Employees' Retirement System to
23 seek criminal, civil, or administrative remedies in connection with
24 the unlawful application for, or receipt of, benefits provided under
25 Part 3 (commencing with Section 20000) of Division 5 of Title 2
26 of the Government Code.

27 (ab) To enable the State Department of Education, the University
28 of California, the California State University, and the Chancellor
29 of the California Community Colleges, pursuant to the
30 requirements prescribed by the federal American Recovery and
31 Reinvestment Act of 2009 (Public Law 111-5), to obtain quarterly
32 wage data, commencing July 1, 2010, on students who have
33 attended their respective systems to assess the impact of education
34 on the employment and earnings of those students, to conduct the
35 annual analysis of district-level and individual district or
36 postsecondary education system performance in achieving priority
37 educational outcomes, and to submit the required reports to the
38 Legislature and the Governor. The information shall be provided
39 to the extent permitted by federal statutes and regulations.

1 (ac) To provide the Agricultural Labor Relations Board with
2 employee, wage, and employer information, for use in the
3 investigation or enforcement of the
4 Alatorre-Zenovich-Dunlap-Berman Agricultural Labor Relations
5 Act of 1975 (Part 3.5 (commencing with Section 1140) of Division
6 2 of the Labor Code). The information shall be provided to the
7 extent permitted by federal statutes and regulations.

8 (ad) (1) To enable the State Department of Health Care
9 Services, the California Health Benefit Exchange, the Managed
10 Risk Medical Insurance Board, and county departments and
11 agencies to obtain information regarding employee wages,
12 California employer names and account numbers, employer reports
13 of wages and number of employees, and disability insurance and
14 unemployment insurance claim information, for the purpose of:

15 (A) Verifying or determining the eligibility of an applicant for,
16 or a recipient of, state health subsidy programs, limited to the
17 Medi-Cal program, provided pursuant to Chapter 7 (commencing
18 with Section 14000) of Part 3 of Division 9 of the Welfare and
19 Institutions Code, and the Access for Infants and Mothers Program,
20 provided pursuant to *former* Part 6.3 (commencing with Section
21 12695) of Division 2 of the Insurance Code, when the verification
22 or determination is directly connected with, and limited to, the
23 administration of the state health subsidy programs referenced in
24 this subparagraph.

25 (B) Verifying or determining the eligibility of an applicant for,
26 or a recipient of, federal subsidies offered through the California
27 Health Benefit Exchange, provided pursuant to Title 22
28 (commencing with Section 100500) of the Government Code,
29 including federal tax credits and cost-sharing assistance pursuant
30 to the federal Patient Protection and Affordable Care Act (Public
31 Law 111-148), as amended by the federal Health Care and
32 Education Reconciliation Act of 2010 (Public Law 111-152), when
33 the verification or determination is directly connected with, and
34 limited to, the administration of the California Health Benefit
35 Exchange.

36 (C) Verifying or determining the eligibility of employees and
37 employers for health coverage through the Small Business Health
38 Options Program, provided pursuant to Section 100502 of the
39 Government Code, when the verification or determination is

1 directly connected with, and limited to, the administration of the
2 Small Business Health Options Program.

3 (2) The information provided under this subdivision shall be
4 subject to the requirements of, and provided to the extent permitted
5 by, federal law and regulations, including Part 603 of Title 20 of
6 the Code of Federal Regulations.

7 (ae) To provide any peace officer with the Investigations
8 Division of the Department of Motor Vehicles with information
9 pursuant to subdivision (i), when the requesting peace officer has
10 been designated by the Chief of the Investigations Division and
11 requests this information in the course of, and as part of, an
12 investigation into identity theft, counterfeiting, document fraud,
13 or consumer fraud, and there is reasonable suspicion that the crime
14 is a felony and that the information would lead to relevant evidence
15 regarding the identity theft, counterfeiting, document fraud, or
16 consumer fraud. The information provided pursuant to this
17 subdivision shall be provided to the extent permitted by federal
18 law and regulations, and to the extent the information is available
19 and accessible within the constraints and configurations of existing
20 department records. Any person who receives any information
21 under this subdivision shall make a written report of the
22 information to the Investigations Division of the Department of
23 Motor Vehicles, for filing under the normal procedures of that
24 division.

25 (af) Until January 1, 2020, to enable the Department of Finance
26 to prepare and submit the report required by Section 13084 of the
27 Government Code that identifies all employers in California that
28 employ 100 or more employees who receive benefits from the
29 Medi-Cal program (Chapter 7 (commencing with Section 14000)
30 of Part 3 of Division 9 of the Welfare and Institutions Code). The
31 information used for this purpose shall be limited to information
32 obtained pursuant to Section 11026.5 of the Welfare and
33 Institutions Code and from the administration of personal income
34 tax wage withholding pursuant to Division 6 (commencing with
35 Section 13000) and the disability insurance program and may be
36 disclosed to the Department of Finance only for the purpose of
37 preparing and submitting the report and only to the extent not
38 prohibited by federal law.

39 (ag) To provide, to the extent permitted by federal law and
40 regulations, the Student Aid Commission with wage information

1 in order to verify the employment status of an individual applying
2 for a Cal Grant C award pursuant to subdivision (c) of Section
3 69439 of the Education Code.

4 (ah) To enable the Department of Corrections and Rehabilitation
5 to obtain quarterly wage data of former inmates who have been
6 incarcerated within the prison system in order to assess the impact
7 of rehabilitation services or the lack of these services on the
8 employment and earnings of these former inmates. Quarterly data
9 for a former inmate's employment status and wage history shall
10 be provided for a period of one year, three years, and five years
11 following release. The data shall only be used for the purpose of
12 tracking outcomes for former inmates in order to assess the
13 effectiveness of rehabilitation strategies on the wages and
14 employment histories of those formerly incarcerated. The
15 information shall be provided to the department to the extent not
16 prohibited by federal law.

17 (ai) To enable federal, state, or local government departments
18 or agencies, or their contracted agencies, subject to federal law,
19 including the confidentiality, disclosure, and other requirements
20 set forth in Part 603 of Title 20 of the Code of Federal Regulations,
21 to evaluate, research, or forecast the effectiveness of public social
22 services programs administered pursuant to Division 9
23 (commencing with Section 10000) of the Welfare and Institutions
24 Code, or Part A of Subchapter IV of Chapter 7 of the federal Social
25 Security Act (42 U.S.C. Sec. 601 et seq.), when the evaluation,
26 research, or forecast is directly connected with, and limited to, the
27 administration of the public social services programs.

28 (aj) To enable the California Workforce Development Board,
29 the Chancellor of the California Community Colleges, the
30 Superintendent of Public Instruction, the Department of
31 Rehabilitation, the State Department of Social Services, the Bureau
32 for Private Postsecondary Education, the Department of Industrial
33 Relations, the Division of Apprenticeship Standards, and the
34 Employment Training Panel to access any relevant quarterly wage
35 data necessary for the evaluation and reporting of their respective
36 program performance outcomes as required and permitted by
37 various state and federal laws pertaining to performance
38 measurement and program evaluation under the federal Workforce
39 Innovation and Opportunity Act (Public Law 113-128); the
40 workforce performance metrics dashboard pursuant to paragraph

1 (1) of subdivision (i) of Section 14013; the Adult Education Block
2 Grant Program consortia performance metrics pursuant to Section
3 84920 of the Education Code; the economic and workforce
4 development program performance measures pursuant to Section
5 88650 of the Education Code; and the California Community
6 Colleges Economic and Workforce Development Program
7 performance measures established in Part 52.5 (commencing with
8 Section 88600) of Division 7 of Title 3 of the Education Code.

9 (ak) (1) To provide any peace officer with the Enforcement
10 Branch of the Department of Insurance with both of the following:

11 (A) Information provided pursuant to subdivision (i) that relates
12 to a specific insurance fraud investigation involving automobile
13 insurance fraud, life insurance and annuity fraud, property and
14 casualty insurance fraud, and organized automobile insurance
15 fraud. That information shall be provided when the requesting
16 peace officer has been designated by the Chief of the Fraud
17 Division of the Department of Insurance and requests the
18 information in the course of, and as part of, an investigation into
19 the commission of a crime or other unlawful act when there is
20 reasonable suspicion to believe that the crime or act may be
21 connected to the information requested and would lead to relevant
22 information regarding the crime or unlawful act.

23 (B) Employee, wage, employer, and state disability insurance
24 claim information that relates to a specific insurance fraud
25 investigation involving health or disability insurance fraud when
26 the requesting peace officer has been designated by the Chief of
27 the Fraud Division of the Department of Insurance and requests
28 the information in the course of, and as part of, an investigation
29 into the commission of a crime or other unlawful act when there
30 is reasonable suspicion to believe that the crime or act may be
31 connected to the information requested and would lead to relevant
32 information regarding the crime or unlawful act.

33 (2) To enable the State Department of Developmental Services
34 to obtain quarterly wage data of consumers served by that
35 department for the purposes of monitoring and evaluating
36 employment outcomes to determine the effectiveness of the
37 Employment First Policy, established pursuant to Section 4869 of
38 the Welfare and Institutions Code.

1 (3) The information provided pursuant to this subdivision shall
2 be provided to the extent permitted by federal statutes and
3 regulations.

4 *(al) To enable the Tax Recovery in the Underground Economy*
5 *Criminal Enforcement Program, as established by Part 12.3*
6 *(commencing with Section 15925) of Division 3 of Title 2 of the*
7 *Government Code, to carry out its duties pursuant to that part.*

8 *SEC. 4. No reimbursement is required by this act pursuant to*
9 *Section 6 of Article XIII B of the California Constitution because*
10 *the only costs that may be incurred by a local agency or school*
11 *district will be incurred because this act creates a new crime or*
12 *infraction, eliminates a crime or infraction, or changes the penalty*
13 *for a crime or infraction, within the meaning of Section 17556 of*
14 *the Government Code, or changes the definition of a crime within*
15 *the meaning of Section 6 of Article XIII B of the California*
16 *Constitution.*

O

Introduced by Assembly Member Low

February 22, 2019

An act to add Section 9815 to the Business and Professions Code, relating to professions and vocations.

legislative counsel's digest

AB 1469, as introduced, Low. Electronic and appliance repairers: trade standards: review.

Existing law, the Electronic and Appliance Repair Dealer Registration Law, provides for the registration and regulation of service dealers and service contractors by the Bureau of Household Goods and Services within the Department of Consumer Affairs. Existing law authorizes the Director of Consumer Affairs to deny, suspend, revoke, or place on probation the registration of a service dealer for specified acts or omissions done by the service dealer or associated person, including that the service dealer or associated person willfully departed from or disregarded accepted trade standards for good and workmanlike installation or repair. Existing administrative law adopted by the bureau defines the term “accepted trade standards for good and workmanlike repair” for these purposes.

This bill would require, by July 1, 2021, the Bureau of Household Goods and Services, in consultation with stakeholders, to conduct a review of its accepted trade standards for good and workmanlike repair to determine whether additional regulations need to be adopted concerning privacy and security implications of connected devices, as defined.

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 9815 is added to the Business and
2 Professions Code, to read:
3 *9815. Not later than July 1, 2021, the Bureau of Household*
4 *Goods and Services, in consultation with stakeholders, shall*
5 *conduct a review of its accepted trade standards for good and*
6 *workmanlike like repair, as defined in Section 2741 of Title 16 of*
7 *the California Code of Regulations, to determine whether additional*
8 *regulations should be adopted concerning privacy and security*
9 *implications of connected devices, as defined in Section 1798.91.05*
10 *of the Civil Code.*

O

ASSEMBLY BILL

No. 1811

Introduced by Committee on Communications and Conveyance

March 4, 2019

An act to amend Sections 421, 422, 423, 424, 737.3, 3901, 3902, 3903, 3950, and 24243 of, to amend the heading of Chapter 1 (commencing with Section 3901) of Division 2 of, to add Part 3 (commencing with Section 24000) to Division 9 of, to repeal Sections 912.1, 918, 918.1, and 918.2 of, and to repeal Chapter 9 (commencing with Section 5500) of Division 2 of, the Public Utilities Code, relating to public utilities.

legislative counsel's digest

AB 1811, as introduced, Committee on Communications and Conveyance. Public utilities: for hire vessel operators: household movers: commercial air operators.

(1) Existing law requires the Legislative Counsel to annually prepare, publish, and maintain an electronic list of all reports that state and local agencies are required or requested by law to prepare and file with the Governor or the Legislature, or both, in the future or within the preceding year.

This bill would require the Legislative Counsel to revise the list by deleting a specified report from the list.

(2) Under existing law, the Public Utilities Commission has regulatory authority over public utilities. Chapter 421 of the Statutes of 2017 transferred regulatory authority for vessels for hire from the commission to the Division of Boating and Waterways within the Department of Parks and Recreation, for household goods carriers, which were renamed to “household movers,” from the commission to

the Division of Household Movers within the Bureau of Electronic and Appliance Repair, Home Furnishings, and Thermal Insulation in the Department of Consumer Affairs, and for commercial air operators from the commission to the city, county, or city and county with geographic jurisdiction.

This bill would make conforming changes, update cross-references, and renumber provisions, relating to those transfers of regulatory authority. The bill would also repeal certain related reporting requirements of the commission.

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 421 of the Public Utilities Code is
2 amended to read:
3 421. (a) The commission shall annually determine a fee to be
4 paid by every passenger stage corporation, charter-party carrier of
5 passengers, pipeline corporation, ~~for hire vessel operator,~~ common
6 carrier vessel operator, *and* railroad corporation, ~~and commercial~~
7 ~~air operator,~~ and every other common carrier and related business
8 subject to the jurisdiction of the commission, except as otherwise
9 provided in Article 3 (commencing with Section ~~431~~) ~~of this~~
10 ~~chapter and Chapter 6 (commencing with Section 5001) of Division~~
11 ~~2. 431~~).
12 (b) The annual fee shall be established to produce a total amount
13 equal to the amount established in the authorized commission
14 budget for the same year, including adjustments appropriated by
15 the Legislature and an appropriate reserve, to regulate common
16 carriers and related businesses, less the amount to be paid from
17 special accounts or funds pursuant to Section 403, reimbursements,
18 federal funds, other revenues, and unencumbered funds from the
19 preceding year.
20 (c) Notwithstanding any other ~~provision of~~ law, the fees paid
21 by railroad corporations shall be used for state-funded railroad
22 investigation and enforcement activities of the commission, other
23 than the rail safety activities funded by the Transportation Planning
24 and Development Account pursuant to Section 99315. The railroad
25 fees shall be set annually at a level that generates not less than the

1 amount sufficient to fund activities pursuant to Sections 765.5,
2 916.2, and 7712.

3 (d) Expenditures of the detailed budget for the expenditure of
4 railroad corporation fees submitted to the Legislature pursuant to
5 Section 916.5 shall be limited to the following items:

6 (1) Expenditures for employees occupying, and actually
7 performing service in, railroad-safety personnel positions that are
8 directly involved in inspecting railroads and enforcing rail safety
9 regulations. The commission shall expend the funds budgeted
10 pursuant to this subdivision for the salaries, per diem, and travel
11 expenses of employees specified in this paragraph, unless, by
12 statute, the commission is specifically prohibited from expending
13 all or part of those funds.

14 (2) Expenditures for employees occupying, and actually
15 performing service in, clerical and support staff positions that are
16 directly associated with railroad-safety inspections.

17 (3) Expenditures for legal personnel who actually pursue
18 violations of rail safety regulations beyond the informal complaint
19 level.

20 (4) Expenditures for the pro rata share of the commission's
21 overhead costs while state personnel are actually occupying the
22 positions and are performing the duties specified in paragraphs (1)
23 to (3), inclusive.

24 (e) The Department of Finance shall notify the Joint Legislative
25 Budget Committee, pursuant to Section 28.00 of the annual Budget
26 Act, ~~prior to~~ *before* authorizing any change in the Budget Act
27 appropriation for railroad corporation fees that is larger than one
28 hundred thousand dollars (\$100,000), or 10 percent of the amount
29 budgeted, whichever is less.

30 (f) On or before January 1, 1994, the commission shall hire a
31 minimum of four additional operating practices inspectors,
32 exclusive of supervisory personnel, who are, or shall become by
33 July 1, 1994, federally certified, for the purpose of enforcing
34 compliance by railroads operating in this state with state and federal
35 safety regulations.

36 (g) The commission, in performing its duties, shall limit the
37 expenditure of funds for rail safety purposes to those railroad
38 corporation fees collected pursuant to subdivision (d). ~~In no event~~
39 ~~shall the commission~~ *The commission shall not* fund railroad safety

1 activities ~~utilizing~~ using funds from other commission accounts
2 unrelated to railroad safety.

3 SEC. 2. Section 422 of the Public Utilities Code is amended
4 to read:

5 422. The commission shall establish the fee pursuant to Section
6 421 with the approval of the Department of Finance and in
7 accordance with all of the following:

8 (a) In its annual budget request, the commission shall specify,
9 at a minimum, both of the following:

10 (1) The amount of its budget to be financed by the fee.

11 (2) The dollar allocation of the amount of its budget to be
12 financed by the fee by each class of carrier and related business
13 subject to the fee. Each class of carrier and related business subject
14 to this article shall pay fees sufficient to support the commission's
15 regulatory activities for the class from which the fee is collected
16 and to establish an appropriate reserve.

17 (b) The commission may establish different and distinct methods
18 of assessing fees for each class of carrier and related business, if
19 the revenues collected are consistent with paragraph (2) of
20 subdivision (a).

21 (c) (1) Within each class of carrier and related business subject
22 to the fee, the commission shall allocate, among the members of
23 the class, the amount of the commission's budget to be financed
24 by the fee based on the ratio that each member's gross intrastate
25 revenues bears to the total gross intrastate revenues of the class,
26 except for railroad corporations, whose fees shall be allocated
27 within that class in accordance with subdivision ~~(g)~~ (f).

28 (2) However, in the case of passenger vehicle operators, the
29 commission may assess fees on a basis other than revenue,
30 including, but not limited to, on a per vehicle basis, in an amount
31 sufficient to support the regulatory activities of the commission
32 for the passenger vehicle operators class from which the fee is
33 collected, and to establish an appropriate reserve.

34 (d) Any carrier or related business ~~which~~ that is a member of
35 more than one class of carrier or related business shall be subject
36 to the fee for each class of which it is a member.

37 (e) For every carrier and related business having annual gross
38 intrastate revenues of one hundred thousand dollars (\$100,000) or
39 less, or for every railroad corporation having annual gross intrastate
40 revenues of ten million dollars (\$10,000,000) or less, the

1 commission shall annually establish uniform fees, which shall be
2 not less than a minimum annual fee, to be paid by each carrier and
3 related business and by each railroad corporation, if the revenues
4 collected are consistent with paragraph (2) of subdivision (a).
5 Every carrier and related business and railroad corporation paying
6 fees pursuant to this subdivision shall show proof of eligibility at
7 the time of payment in a form the commission may specify.

8 ~~(f) The commission shall annually establish a uniform fee, which~~
9 ~~shall be not less than a minimum annual fee, to be paid by every~~
10 ~~commercial air operator and for-hire vessel operator, if the revenues~~
11 ~~collected are consistent with paragraph (2) of subdivision (a).~~

12 ~~(g)~~

13 (f) The commission shall establish the initial fee amount to be
14 paid by railroad corporations subject to this section, and the
15 regulations for the assessment and collection of the fee, no later
16 than January 31, 1992. The commission shall collect the initial fee
17 from railroad corporations beginning on February 1, 1992, and
18 shall disburse the amounts collected as directed in Section 309.7,
19 as added by Assembly Bill 684 of the 1991–92 Regular Session,
20 and Section 421.

21 ~~(h)~~

22 (g) The commission shall establish regulations for allocating
23 the proportionate share of the fee established pursuant to paragraph
24 (2) of subdivision (a) to be paid by the rail corporations within
25 that class. The regulations may ~~utilize~~ use gross intrastate revenues;
26 track mileage within the state; terminals located within the state;
27 loaded car miles traveled within the state; fuel consumption; or
28 any other measure deemed by the commission to be appropriate
29 in allocating the fee among railroad corporations. On or before
30 January 15, 1992, railroad corporations as a group may submit a
31 proposed plan of allocation to the commission, which the
32 commission shall consider in establishing the regulations.

33 SEC. 3. Section 423 of the Public Utilities Code is amended
34 to read:

35 423. Except as provided in Section 404, every carrier and
36 related business subject to Section 421 shall make the payments
37 of the required fee in accordance with the following schedule:

38 (a) Every carrier and related business with annual gross intrastate
39 revenues of one hundred thousand dollars (\$100,000) or ~~less,~~ less
40 and railroad ~~corporation, commercial air operator, and for-hire~~

1 ~~vessel operator~~ *corporation* shall make payment of the fee to the
2 commission on an annual basis on or before January 15.

3 (b) Every other carrier and related business not subject to
4 subdivision (a) shall make payment of the fee on a quarterly basis
5 between the first and 15th days of July, October, January, and
6 April.

7 (c) Each carrier and related business subject to subdivision (b)
8 shall, at that time, prepare and transmit a report, in the form the
9 commission may specify, showing the gross operating revenue of
10 the carrier or related business for the calendar quarter covered by
11 the report together with the fee established pursuant to Section
12 421. In the case of a railroad corporation, the report shall address
13 the factors identified by the commission as the basis for allocation
14 pursuant to subdivision ~~(g)~~ *(f)* of Section 422.

15 (d) Any carrier or related business required to submit
16 information and reports under this article may, in lieu thereof,
17 submit copies of information or reports made to another
18 governmental agency if all of the following requirements are met:

19 (1) The alternate information or reports contain all of the
20 information required by the commission.

21 (2) The requirements to which the alternate information or
22 reports are responsive are clearly identified.

23 (3) The information or reports are certified by the carrier or
24 related business to be true and correct.

25 SEC. 4. Section 424 of the Public Utilities Code is amended
26 to read:

27 424. As used in this article:

28 (a) "Class" means a group of carriers or related businesses as
29 specified by the commission for purposes of establishing the fees
30 pursuant to this article. The commission shall create separate
31 classes for ~~the following:~~ passenger vehicle operators, pipeline
32 corporations, *common carrier* vessel operators, *and* railroad
33 ~~corporations, and commercial air operators.~~ *corporations.* Nothing
34 in this section restricts the commission from establishing other
35 carrier classes or from establishing other classes within the existing
36 classes listed in this section, including classes based on the kinds
37 of vehicles used.

38 (b) "Gross intrastate revenue" includes all compensation for the
39 transportation or storage of property or the transportation of persons
40 when both the origin and destination of the transportation or the

1 performance of the service is within this state, and shall not include
2 compensation for the transportation of persons or property in
3 interstate or foreign commerce or the transportation of vehicles
4 by ferries. "Gross intrastate revenue," as determined pursuant to
5 this article, shall apply only for purposes of determining the fees
6 required by this chapter and shall not necessarily constitute gross
7 operating revenue for any other purpose.

8 (c) "Fee" means that monetary amount determined in accordance
9 with this article.

10 SEC. 5. Section 737.3 of the Public Utilities Code is amended
11 to read:

12 737.3. (a) (1) A highway carrier, as defined by subdivision
13 (c), a freight forwarder, a party representing a carrier or freight
14 forwarder, or an assignee of a carrier or freight forwarder shall
15 not, based on a filed tariff or a filed contract, collect or attempt to
16 collect any additional charge in excess of the charge originally
17 billed by the carrier or freight forwarder for transportation service
18 previously provided subject to the jurisdiction of the commission,
19 except where there are mistakes in billing that are acknowledged
20 by both parties or that are the result of intentional misrepresentation
21 by the shipper.

22 (2) Similarly, the person or entity against whom a claim has
23 been made under the circumstances described in paragraph (1)
24 shall not be liable for additional amounts based on a filed tariff or
25 a filed contract, except where there are mistakes in billing
26 acknowledged by both parties or that are the result of intentional
27 misrepresentation by the shipper.

28 (b) For ~~the~~ purposes of this section, the term "claimant" shall
29 mean the carrier or freight forwarder, or its assignee or
30 representative making a claim for the collection of rates and
31 charges in addition to those originally billed and collected for the
32 transportation.

33 (c) "Highway carrier" or "carrier" means every corporation or
34 person, their lessees, trustees, receivers or trustees appointed by
35 any court whatsoever, engaged in transportation of property for
36 compensation or hire as a business over any public highway in
37 this state by means of a motor vehicle, except that "highway
38 carrier" does not include:

39 (1) Any farmer resident of this state who occasionally transports
40 from the place of production to a warehouse, regular market, place

1 of storage, or place of shipment the farm products of neighboring
2 farmers in exchange for like services or for a cash consideration
3 or farm products for compensation.

4 (2) Persons or corporations hauling their own property.

5 (3) Any farmer operating a motor vehicle used exclusively in
6 the transportation of ~~his or her~~ *the farmer's* livestock and
7 agricultural commodities or in the transportation of supplies to ~~his~~
8 ~~or her~~ *the farmer's* farm.

9 (4) Any nonprofit agricultural cooperative association organized
10 and acting within the scope of its powers under Chapter 1
11 (commencing with Section 54001) of Division 20 of the *Food and*
12 *Agricultural Code* to the extent only that it is engaged in
13 transporting its own property or the property of its members.

14 (5) Any person exclusively transporting United States mail
15 pursuant to a contract with the United States government.

16 ~~(6) Any integrated intermodal small package carrier which is~~
17 ~~registered subject to Chapter 2.7 (commencing with Section 4120).~~

18 ~~(7) Any household goods carrier, as defined in Section 5109.~~

19 (d) For purposes of this section, "mistakes in billing" include,
20 but are not limited to, matters such as clerical errors, billing for
21 transportation of a different commodity than the commodity
22 actually shipped, and billing for transportation of a smaller amount
23 of the commodity than the amount actually shipped.

24 (e) This section shall apply to all claims arising from
25 transportation performed (in whole or in part) before January 1,
26 1995, including all lawsuits or claims pending on the effective
27 date of this section.

28 (f) If any claim that qualifies under this section was settled by
29 mutual agreement of the parties to the claim, or resolved by a final
30 adjudication of a federal or state court, before the effective date
31 of this section, the settlement or adjudication shall be treated as
32 binding, enforceable, and not contrary to law, unless the settlement
33 was agreed to as a result of fraud or coercion.

34 (g) If the claimant has filed, on or before the effective date of
35 this section, a suit for the collection of additional freight charges,
36 the claimant shall notify the person, or entity, from whom
37 additional freight charges are sought of the provisions of this
38 section within 30 days of the effective date of this section.

39 (h) If, on or before the effective date of this section, the claimant
40 has demanded the payment of additional freight charges and has

1 not filed a suit for the collection of additional freight charges, the
2 claimant shall notify the person, or entity, from whom additional
3 freight charges are sought of the provisions of this section within
4 30 days of the effective date of this section.

5 SEC. 6. Section 912.1 of the Public Utilities Code is repealed.

6 ~~912.1. The Public Utilities Commission shall conduct an audit
7 of the expenditures of the funds received pursuant to Chapter 6
8 (commencing with Section 5001) of Division 2 each fiscal year.
9 The results of this audit shall be reported in writing, on or before
10 February 15th of each year thereafter, with respect to the audit for
11 the fiscal year ending on the previous June 30th, to the appropriate
12 policy and budget committees of the respective houses of the
13 Legislature.~~

14 SEC. 7. Section 918 of the Public Utilities Code is repealed.

15 ~~918.— The commission shall, within 30 days prior to
16 commencement of the regular session of the Legislature, submit
17 to the Governor a full and true report of transactions under Chapter
18 6 (commencing with Section 5001) of Division 2 during the
19 preceding biennium, including a complete statement of receipts
20 and expenditures during the period.~~

21 SEC. 8. Section 918.1 of the Public Utilities Code is repealed.

22 ~~918.1.— (a) The commission shall hire an independent entity
23 for not more than two hundred fifty thousand dollars (\$250,000)
24 to, in consultation with carrier trade associations for industries
25 under the jurisdiction of the commission, assess the capabilities
26 of the commission's Transportation Enforcement Branch to carry
27 out the activities specified in subdivision (b) of Section 5102 and
28 subdivision (b) of Section 5352. The commission shall report to
29 the Legislature no later than February 1, 2017, on licensing matters
30 and no later than July 1, 2017, on enforcement matters. The report
31 shall contain an analysis of current capabilities and deficiencies,
32 and recommendations to overcome any deficiencies identified.~~

33 ~~(b) Pursuant to Section 10231.5 of the Government Code, this
34 section shall remain in effect only until January 1, 2021, and as of
35 that date is repealed, unless a later enacted statute, that is enacted
36 before January 1, 2021, deletes or extends that date.~~

37 SEC. 9. Section 918.2 of the Public Utilities Code is repealed.

38 ~~918.2. The commission and the Department of Insurance shall
39 collaborate on a study of transportation network company insurance
40 to assess whether coverage requirements are appropriate to the~~

1 ~~risk of transportation network company services in order to~~
2 ~~promote data-driven decisions on insurance requirements, and~~
3 ~~shall report the findings of this study to the Legislature no later~~
4 ~~than December 31, 2017.~~

5 SEC. 10. The heading of Chapter 1 (commencing with Section
6 3901) of Division 2 of the Public Utilities Code is amended to
7 read:

8
9 Chapter 1.

10 Interstate and Foreign Motor Carriers of ~~Household Goods and~~ Passengers Act

11
12 SEC. 11. Section 3901 of the Public Utilities Code is amended
13 to read:

14 3901. This chapter may be cited as the Interstate and Foreign
15 Motor Carriers of ~~Household Goods and~~ Passengers Act.

16 SEC. 12. Section 3902 of the Public Utilities Code is amended
17 to read:

18 3902. (a) ~~No household goods carrier, as defined in Section~~
19 ~~5109, shall engage in any interstate or foreign transportation of~~
20 ~~property for compensation by motor vehicle, and no A~~ motor carrier
21 shall *not* engage in any interstate or foreign transportation of
22 passengers for compensation by motor vehicle, on any public
23 highway in this state without first having registered the operation
24 with the commission or the carrier's base registration state, if other
25 than California, as determined in accordance with final regulations
26 issued by the Interstate Commerce Commission pursuant to the
27 Intermodal Surface Transportation Efficiency Act of 1991 (49
28 U.S.C. Sec. 11506). To register with the commission, carriers
29 specified in this section shall comply with the following:

30 (1) When the operation requires authority from the Interstate
31 Commerce Commission under the Interstate Commerce Act, or
32 authority from another federal regulatory agency, a copy of that
33 authority shall be filed with the initial application for registration.
34 A copy of any additions or amendments to the authority shall be
35 filed with the commission.

36 (2) If the operation does not require authority from the Interstate
37 Commerce Commission under the Interstate Commerce Act, or
38 authority from another federal regulatory agency, an affidavit of
39 that exempt status shall be filed with the application for
40 registration.

1 (3) The commission shall grant registration upon the filing of
2 the application pursuant to applicable law and the payment of any
3 applicable fees, subject to the carrier's compliance with this
4 chapter.

5 SEC. 13. Section 3903 of the Public Utilities Code is amended
6 to read:

7 3903. ~~Household goods carriers, as defined in Section 5109,~~
8 ~~engaged in interstate or foreign transportation or property for~~
9 ~~compensation by motor vehicle, and motor~~ *Motor* carriers engaged
10 in interstate or foreign transportation of passengers for
11 compensation by motor vehicle, upon any public highway in this
12 state who had registered their authority from the Interstate
13 Commerce Commission with the commission pursuant to former
14 Section 3810 are not required to file another initial application as
15 prescribed in paragraph (1) of subdivision (a) of Section 3902.

16 SEC. 14. Section 3950 of the Public Utilities Code is amended
17 to read:

18 3950. It is a violation of law for any person or corporation to
19 operate, or cause to be operated, on the highways of this state, any
20 motor vehicle in the transportation of ~~property or~~ passengers for
21 compensation in interstate commerce without having first complied
22 with the requirements of this chapter. That violation may be
23 prosecuted and punished as provided in Section 16560 of the
24 Vehicle Code.

25 SEC. 15. Chapter 9 (commencing with Section 5500) of
26 Division 2 of the Public Utilities Code is repealed.

27 SEC. 16. Part 3 (commencing with Section 24000) is added to
28 Division 9 of the Public Utilities Code, to read:

29
30 **PART 3. COMMERCIAL AIR CARRIERS**

31
32 24000. As used in this article, "commercial air operator" means
33 any person owning, controlling, operating, renting, or managing
34 aircraft for any commercial purpose for compensation.
35 "Commercial air operator" does not include any person owning,
36 controlling, operating, renting, managing, furnishing, or otherwise
37 providing transportation by hot air balloon for entertainment,
38 sporting, or recreational purposes.

39 24001. As used in this article, "aircraft" means any contrivance
40 used for navigation of, or flight in, the air. "Aircraft" does not

1 include a hot air balloon furnished or providing transportation for
2 entertainment, sporting, or recreational purposes.

3 24002. As used in this article, “person” means any individual,
4 firm, partnership, private, municipal or public corporation, limited
5 liability company, company, association, joint stock association,
6 trustee, receiver, assignee, or other similar representative.

7 24003. All commercial air operators shall maintain in force at
8 least one million dollars (\$1,000,000) of liability insurance for
9 personal injury, wrongful death, and property damage resulting
10 from the operation of an aircraft pursuant to this article, with
11 additional liability coverage of one hundred thousand dollars
12 (\$100,000) for each passenger for any aircraft covered by this
13 article.

14 24004. (a) All commercial air operators shall comply with any
15 requirement of a city, county, or city and county that the person
16 obtain a business license as a condition for operating in that city,
17 county, or city and county.

18 (b) All commercial air operators shall also provide the city,
19 county, or city and county a currently effective certificate of
20 insurance evidencing insurance coverage as required in Section
21 24003. A new certificate of insurance shall be provided to the city,
22 county, or city and county at least annually or whenever there is
23 a material change in insurance coverage. A city, county, or city
24 and county shall give reasonable notice of this requirement with
25 any business license renewal notification. A city, county, or city
26 and county may charge a reasonable fee for purposes of carrying
27 out the provisions of this subdivision.

28 24005. (a) The protection against liability shall be continued
29 in effect so long as the commercial air operator continues to offer
30 services for compensation. The policy of insurance or surety bond
31 shall not be cancelable on less than 30 days’ written notice to the
32 city, county, or city and county, except in the event of cessation
33 of operations as a commercial air operator.

34 24006. Any commercial air operator who knowingly refuses
35 or fails to procure protection against liability, as required by
36 Section 24003, is guilty of a misdemeanor.

37 24007. Notwithstanding the provisions of Section 24004, a
38 city, county, or city and county shall have the authority to accept
39 policies of insurance written by nonadmitted insurers subject to
40 Section 1763 of the Insurance Code of this state, provided that the

1 policies of insurance shall meet the rules and regulations adopted
2 therefor by the applicable jurisdiction.

3 24008. Following an administrative hearing, a city, county, or
4 city and county may impose a penalty of not exceeding one
5 thousand dollars (\$1,000) upon any commercial air operator who
6 fails to file the evidence of liability protection required by this
7 article.

8 24009. (a) Notwithstanding any other provision of this article,
9 any person owning, controlling, operating, renting, managing,
10 furnishing, or otherwise providing transportation by hot air balloon
11 for hire shall maintain in force at least one million dollars
12 (\$1,000,000) of liability insurance for personal injury, wrongful
13 death, and property damage resulting from the operation of a
14 balloon carrying up to 10 passengers, with additional liability
15 coverage of one hundred thousand dollars (\$100,000) for each
16 passenger for any balloon carrying more than 10 passengers. A
17 notice shall be provided to every passenger that identifies both the
18 insurer providing a policy of liability insurance to the person
19 providing that transportation and the amount of insurance coverage
20 provided by that policy.

21 (b) Any person owning, controlling, operating, renting,
22 managing, furnishing, or otherwise providing transportation by
23 hot air balloon for hire shall comply with any requirement of a
24 city, county, or city and county that the person obtain a business
25 license as a condition for operating in that city, county, or city and
26 county. Whenever a city, county, or city and county requires a
27 business license, any person owning, controlling, operating, renting,
28 managing, furnishing, or otherwise providing transportation by
29 hot air balloon for hire shall prominently display the license only
30 within the city or county of the person's primary place of business
31 frequented by customers and potential customers. Whenever a
32 city, county, or city and county requires a business license, the
33 person shall provide to the city, county, or city and county a
34 currently effective certificate of insurance evidencing insurance
35 coverage as required in subdivision (a). A new certificate of
36 insurance shall be provided to the city, county, or city and county,
37 at least annually or whenever there is a material change in insurance
38 coverage. A city, county, or city and county shall give reasonable
39 notice of this requirement with any business license renewal
40 notification. Every business license issued by a city, county, or

1 city and county to any person owning, controlling, operating,
2 renting, managing, furnishing, or otherwise providing
3 transportation by hot air balloon for hire and every currently
4 effective certificate of insurance evidencing insurance coverage
5 shall be maintained as a public record. The city, county, or city
6 and county may charge a reasonable fee for purposes of carrying
7 out the provisions of this subdivision.

8 (c) Any person who violates subdivision (a) by failing to
9 maintain insurance in force as required by subdivision (a) is guilty
10 of a misdemeanor. Any person who violates subdivision (b) by
11 failing to obtain and maintain a current valid city, county, or city
12 and county business license issued by the local government
13 jurisdiction where the person's primary place of business is located,
14 in accordance with subdivision (b), is guilty of a misdemeanor.

15 SEC. 17. Section 24243 of the Public Utilities Code is amended
16 to read:

17 24243. This part does not apply to:

18 (a) Any aircraft owned and operated by or leased to and subject
19 to the sole control of the United States or any civil or military
20 agency of the United States or of the District of Columbia, the
21 Commonwealth of Puerto Rico or any territory or possession of
22 the United States.

23 (b) Any aircraft owned and operated by or leased to and subject
24 to the sole control of this or any other state or agency thereof or
25 any political subdivision or municipality of this or any other state.

26 (c) Any aircraft owned and operated by or leased to and subject
27 to the sole control of any foreign country or any civil or military
28 agency thereof or any political subdivision or municipality thereof.

29 (d) Any commercial air operator subject to ~~Chapter 9~~
30 ~~(commencing with Section 5500) of Division 2, Part 3~~
31 ~~(commencing with Section 24000).~~

32 (e) Any aircraft operated by an operator subject to the provisions
33 of Article 2 (commencing with Section 11931) of Chapter 5 of
34 Division 6 of the *Food and Agricultural Code*.

35 (f) Any person who maintains in effect an insurance policy
36 meeting the requirements of Section 24350 and who has filed with
37 the department a certificate of insurance issued by the insurance
38 company ~~which that issued such policy; provided, however, the~~
39 ~~policy, provided that such the~~ person shall, in accordance with the

1 provisions of Section 24300, report each aircraft accident in which
2 ~~he~~ *the person* is involved as operator or owner of aircraft.

3 SEC. 18. The Legislative Counsel shall revise the list required
4 by Section 10242.5 of the Government Code by deleting the
5 following Public Utilities Commission report from the list:

6 Description: Report on the number of investigators conducting
7 enforcement of household goods carriers, past and current
8 enforcement efforts, planned future enforcement efforts, and
9 options to provide adequate funding for enforcement activities.

10 Authority: Item 8660-001-0412 of Section 2 of the Budget Act
11 of 2016

12 Date Due: By January 1, 2017

13 Recipient: Legislature

O

AMENDED IN SENATE MARCH 27, 2019

SENATE BILL

No. 144

Introduced by ~~Senator Mitchell~~ *Senators Mitchell and Hertzberg*

January 18, 2019

~~An act relating to criminal fees.~~ *An act to amend Sections 7158, 7159.5, 7159.14, 7161, 9807, 9848, and 9882.14 of the Business and Professions Code, to amend Sections 6157, 27706, 27707, 27750, 27752, 27756, 27757, 29550, 29551, 50050, 68085, 68085.1, 68085.5, 68085.7, 68085.8, 71380, 71386, 76000.10, 76223, 77009, 77203, and 77205 of, to add Section 6111 to, to repeal Sections 22712, 27753, 29550.1, 29550.2, and 29550.3 of, and to repeal and add Section 68635 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, 295, 597.3, 670, 987, 987.2, 1000.3, 1001.90, 1202.4, 1202.42, 1203, 1203.016, 1203.018, 1203.066, 1203.067, 1203.097, 1203.1, 1203.1a, 1203.1ab, 1203.1d, 1203.1i, 1203.4, 1203.4a, 1203.41, 1203.42, 1203.45, 1203.9, 1205, 1208, 1208.2, 1208.3, 1210.1, 1211, 1462.5, 1463, 1463.007, 1463.010, 1463.011, 1463.012, 1463.14, 1464.8, 2085.5, 2085.6, 2085.7, 3000.07, 4011.1, 4018.6, 4024.2, and 5008.2 of, to add Section 1465.9 to, and to repeal Sections 987.4, 987.5, 987.8, 987.81, 1001.15, 1001.16, 1203.1b, 1203.1bb, 1203.1c, 1203.1e, 1203.1h, 1203.1m, 1209, 1210.15, 1214.1, 1214.5, 1463.07, 3010.8, 4011.2, 5007.5, and 6266 of, the Penal Code, to amend Sections 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 of, to add Section 44237 to, and to repeal Sections 40508.5, 40508.6, and 40611, of, the Vehicle Code, and to amend Sections 903.45 and 904 of, and to repeal Section 903.3 of, the Welfare and Institutions Code, relating to fees.*

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legislative counsel's digest

SB 144, as amended, Mitchell. ~~Fees: criminal administrative fees.~~
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 administering probation and diversion programs, collecting restitution orders, processing arrests and citations, administering drug testing, incarcerating inmates, facilitating medical visits, and sealing or expunging criminal records.

This bill would repeal the authority to collect these fees, among others. The bill would make the unpaid balance of any court-imposed costs unenforceable and uncollectible and would require any portion of a judgment imposing those costs to be vacated. The bill would also prohibit the imposition of trial court filing fees or costs related to the persons underlying criminal conviction.

(2) Existing law allows the board of supervisors of any county to establish the office of the public defender and requires the public defender to defend, without expense to the defendant, any person who is not financially able to employ counsel and who is charged with the commission of a crime. Existing law allows the court to hold a hearing to determine whether a defendant owns an interest in real property or other assets and to impose a lien on the property. Upon conclusion of trial, existing law allows the court to make a determination of a defendant's present ability to pay all or a portion of the cost of the public defender. If the court finds that the defendant has the financial ability to pay, existing law requires the court to order the defendant to pay all or a part of the costs the court believes reasonable and compatible with the defendant's financial ability.

This bill would delete the authority of the court to impose liens on the defendant's property and make a post-trial determination of the defendant's ability to pay and to order the defendant to pay the costs of the public defender. By requiring a county to provide a public defender without charge to a defendant who may have the ability to pay, this bill would impose a state-mandated local program.

(3) 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 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.

(4) 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) 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 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.

(6) 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 and to pay a fee to the Department of Motor Vehicles to cover the costs of administering the program.

This bill would delete the requirement that the person pay the costs of the ignition interlock device program and the requirement that the person pay the fee to the department.

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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

~~Existing law imposes various fees contingent upon a criminal arrest, prosecution, or conviction for the cost of administering the criminal justice system, including administering probation and diversion programs, collecting restitution orders, processing arrests and citations, administering drug testing, incarcerating inmates, facilitating medical visits, and sealing or expunging criminal records.~~

~~This bill would state the intent of the Legislature to enact legislation to eliminate the range of administrative fees that agencies and courts are authorized to impose to fund elements of the criminal legal system, and to eliminate all outstanding debt incurred as a result of the imposition of administrative fees.~~

Vote: ~~majority~~ $\frac{2}{3}$. Appropriation: no. Fiscal committee: ~~no~~ *yes*. State-mandated local program: ~~no~~ *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 justice 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 justice fees have no formal punitive or public safety
18 function. Instead, they undermine public safety because the debt
19 they cause can limit access to employment, housing, education,
20 and public benefits, which creates additional barriers to successful
21 reentry. Research also shows that criminal justice fees can push
22 individuals into underground economies and can result in
23 individuals turning to criminal activity or predatory lending to
24 pay their debts.

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

28 (j) The use of criminal justice fees has been argued by some to
29 be unconstitutional. On February 20, 2019, the United States
30 Supreme Court ruled unanimously in *Timbs v. Indiana* that the
31 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
37 and tradition."

38 SEC. 2. It is the intent of the Legislature to eliminate the range
39 of administrative fees that agencies and courts are authorized to
40 impose to fund elements of the criminal legal system and to

1 *eliminate all outstanding debt incurred as a result of the imposition*
2 *of administrative fees.*

3 *SEC. 3. Section 7158 of the Business and Professions Code is*
4 *amended to read:*

5 7158. (a) Any person who shall accept or receive a completion
6 certificate or other evidence that performance of a contract for a
7 work of improvement, including but not limited to a home
8 improvement, is complete or satisfactorily concluded, with
9 knowledge that the document is false and that the performance is
10 not substantially completed, and who shall utter, offer, or use the
11 document in connection with the making or accepting of any
12 assignment or negotiation of the right to receive any payment from
13 the owner, under or in connection with a contract, or for the
14 purpose of obtaining or granting any credit or loan on the security
15 of the right to receive any payment shall be guilty of a
16 misdemeanor and subject to a fine of not less than five hundred
17 dollars (\$500) nor more than five thousand dollars (\$5,000), or to
18 imprisonment in the county jail for a term of not less than one
19 month nor more than one year, or both.

20 (b) Any person who violates this section as part of a plan or
21 scheme to defraud an owner of a residential or nonresidential
22 structure, including a mobilehome or manufactured home, in
23 connection with the offer or performance of repairs to the structure
24 for damage caused by a natural disaster, shall be ordered by the
25 court to make full restitution to the victim based on the person's
26 ability to pay, as defined ~~in subdivision (e) of Section 1203.1b of~~
27 ~~the Penal Code.~~ *paragraph (2) of subdivision (b) of Section 27755*
28 *of the Government Code.* In addition to full restitution, and
29 imprisonment authorized by subdivision (a), the court may impose
30 a fine of not less than five hundred dollars (\$500) nor more than
31 twenty-five thousand dollars (\$25,000), based upon the defendant's
32 ability to pay. This subdivision applies to natural disasters for
33 which a state of emergency is proclaimed by the Governor pursuant
34 to Section 8625 of the Government Code or for which an
35 emergency or major disaster is declared by the President of the
36 United States.

37 *SEC. 4. Section 7159.5 of the Business and Professions Code*
38 *is amended to read:*

39 7159.5. This section applies to all home improvement contracts,
40 as defined in Section 7151.2, between an owner or tenant and a

1 contractor, whether a general contractor or a specialty contractor,
2 that is licensed or subject to be licensed pursuant to this chapter
3 with regard to the transaction.

4 (a) Failure by the licensee or a person subject to be licensed
5 under this chapter, or by ~~his or her~~ *their* agent or salesperson, to
6 comply with the following provisions is cause for discipline:

7 (1) The contract shall be in writing and shall include the agreed
8 contract amount in dollars and cents. The contract amount shall
9 include the entire cost of the contract, including profit, labor, and
10 materials, but excluding finance charges.

11 (2) If there is a separate finance charge between the contractor
12 and the person contracting for home improvement, the finance
13 charge shall be set out separately from the contract amount.

14 (3) If a downpayment will be charged, the downpayment ~~may~~
15 *shall* not exceed one thousand dollars (\$1,000) or 10 percent of
16 the contract amount, whichever *amount* is less.

17 (4) If, in addition to a downpayment, the contract provides for
18 payments to be made prior to completion of the work, the contract
19 shall include a schedule of payments in dollars and cents
20 specifically referencing the amount of work or services to be
21 performed and any materials and equipment to be supplied.

22 (5) Except for a downpayment, the contractor ~~may~~ *shall* neither
23 request nor accept payment that exceeds the value of the work
24 performed or material delivered.

25 (6) Upon any payment by the person contracting for home
26 improvement, and prior to any further payment being made, the
27 contractor shall, if requested, obtain and furnish to the person a
28 full and unconditional release from any potential lien claimant
29 claim or mechanics lien authorized pursuant to Sections 8400 and
30 8404 of the Civil Code for any portion of the work for which
31 payment has been made. The person contracting for home
32 improvement may withhold all further payments until these releases
33 are furnished.

34 (7) If the contract provides for a payment of a salesperson's
35 commission out of the contract price, that payment shall be made
36 on a pro rata basis in proportion to the schedule of payments made
37 to the contractor by the disbursing party in accordance with
38 paragraph (4).

39 (8) A contractor furnishing a performance and payment bond,
40 lien and completion bond, or a bond equivalent or joint control

1 approved by the registrar covering full performance and payment
2 is exempt from paragraphs (3), (4), and (5), and need not include,
3 as part of the contract, the statement regarding the downpayment
4 specified in subparagraph (C) of paragraph (8) of subdivision (d)
5 of Section 7159, the details and statement regarding progress
6 payments specified in paragraph (9) of subdivision (d) of Section
7 7159, or the Mechanics Lien Warning specified in paragraph (4)
8 of subdivision (e) of Section 7159. A contractor furnishing these
9 bonds, bond equivalents, or a joint control approved by the registrar
10 may accept payment prior to completion. If the contract provides
11 for a contractor to furnish joint control, the contractor shall not
12 have any financial or other interest in the joint control.
13 Notwithstanding any other law, a licensee shall be licensed in this
14 state in an active status for not less than two years prior to
15 submitting an Application for Approval of Blanket Performance
16 and Payment Bond as provided in Section 858.2 of Title 16 of the
17 California Code of Regulations as it read on January 1, 2016.

18 (b) A violation of paragraph (1), (3), or (5) of subdivision (a)
19 by a licensee or a person subject to be licensed under this chapter,
20 or by ~~his or her~~ *their* agent or salesperson, is a misdemeanor
21 punishable by a fine of not less than one hundred dollars (\$100)
22 nor more than five thousand dollars (\$5,000), or by imprisonment
23 in a county jail not exceeding one year, or by both that fine and
24 imprisonment.

25 (1) An indictment or information against a person who is not
26 licensed but who is required to be licensed under this chapter shall
27 be brought, or a criminal complaint filed, for a violation of this
28 section, in accordance with paragraph (4) of subdivision (d) of
29 Section 802 of the Penal Code, within four years from the date of
30 the contract or, if the contract is not reduced to writing, from the
31 date the buyer makes the first payment to the contractor.

32 (2) An indictment or information against a person who is
33 licensed under this chapter shall be brought, or a criminal complaint
34 filed, for a violation of this section, in accordance with paragraph
35 (2) of subdivision (d) of Section 802 of the Penal Code, within
36 two years from the date of the contract or, if the contract is not
37 reduced to writing, from the date the buyer makes the first payment
38 to the contractor.

39 (3) The limitations on actions in this subdivision shall not apply
40 to any administrative action filed against a licensed contractor.

1 (c) Any person who violates this section as part of a plan or
2 scheme to defraud an owner or tenant of a residential or
3 nonresidential structure, including a mobilehome or manufactured
4 home, in connection with the offer or performance of repairs to
5 the structure for damage caused by a natural disaster, shall be
6 ordered by the court to make full restitution to the victim based
7 on the person's ability to pay, as defined in ~~subdivision (e) of~~
8 ~~Section 1203.1b of the Penal Code.~~ *paragraph (2) of subdivision*
9 *(b) of Section 27755 of the Government Code.* In addition to full
10 restitution, and imprisonment authorized by this section, the court
11 may impose a fine of not less than five hundred dollars (\$500) nor
12 more than twenty-five thousand dollars (\$25,000), based upon the
13 defendant's ability to pay. This subdivision applies to natural
14 disasters for which a state of emergency is proclaimed by the
15 Governor pursuant to Section 8625 of the Government Code, or
16 for which an emergency or major disaster is declared by the
17 President of the United States.

18 *SEC. 5. Section 7159.14 of the Business and Professions Code*
19 *is amended to read:*

20 7159.14. (a) This section applies to a service and repair
21 contract as defined in Section 7159.10. A violation of this section
22 by a licensee or a person subject to be licensed under this chapter,
23 or by ~~his or her~~ *their* agent or salesperson, is cause for discipline.

24 (1) The contract ~~may~~ *shall* not exceed seven hundred fifty dollars
25 (\$750).

26 (2) The contract shall be in writing and shall state the agreed
27 contract amount, which may be stated as either a fixed contract
28 amount in dollars and cents or, if a time and materials formula is
29 used, as an estimated contract amount in dollars and cents.

30 (3) The contract amount shall include the entire cost of the
31 contract including profit, labor, and materials, but excluding
32 finance charges.

33 (4) The actual contract amount of a time and materials contract
34 may not exceed the estimated contract amount without written
35 authorization from the buyer.

36 (5) The prospective buyer ~~must~~ *shall* have initiated contact with
37 the contractor to request work.

38 (6) The contractor ~~may~~ *shall* not sell the buyer goods or services
39 beyond those reasonably necessary to take care of the particular
40 problem that caused the buyer to contact the contractor.

1 (7) ~~No payment may~~ *Payment shall not* be due before the project
2 is completed.

3 (8) A service and repair contractor ~~may~~ *shall* charge only one
4 service charge. For purposes of this chapter, a service charge
5 includes ~~such~~ charges *such* as a service or trip charge, or an
6 inspection fee.

7 (9) A service and repair contractor charging a service charge
8 ~~must~~ *shall* disclose in all advertisements that there is a service
9 charge and, when the customer initiates the call for service, ~~must~~
10 *shall* disclose the amount of the service charge.

11 (10) The service and repair contractor ~~must~~ *shall* offer to the
12 customer any parts that were replaced.

13 (11) Upon any payment by the buyer, the contractor shall, if
14 requested, obtain and furnish to the buyer a full and unconditional
15 release from any potential lien claimant claim or mechanics lien
16 authorized pursuant to Sections 8400 and 8404 of the Civil Code
17 for any portion of the work for which payment has been made.

18 (b) A violation of paragraph (1), (2), (3), (4), (5), (6), or (8) of
19 subdivision (a) by a licensee or a person subject to be licensed
20 under this chapter, or by ~~his or her~~ *their* agent or salesperson, is a
21 misdemeanor punishable by a fine of not less than one hundred
22 dollars (\$100) nor more than five thousand dollars (\$5,000), or by
23 imprisonment in a county jail not exceeding one year, or by both
24 that fine and imprisonment.

25 (1) An indictment or information against a person who is not
26 licensed but who is required to be licensed under this chapter shall
27 be brought, or a criminal complaint filed, for a violation of this
28 section, in accordance with paragraph (4) of subdivision (d) of
29 Section 802 of the Penal Code, within four years from the date of
30 the contract or, if the contract is not reduced to writing, from the
31 date the buyer makes the first payment to the contractor.

32 (2) An indictment or information against a person who is
33 licensed under this chapter shall be brought, or a criminal complaint
34 filed, for a violation of this section, in accordance with paragraph
35 (2) of subdivision (d) of Section 802 of the Penal Code, within
36 two years from the date of the contract or, if the contract is not
37 reduced to writing, from the date the buyer makes the first payment
38 to the contractor.

1 (3) The limitations on actions in this subdivision ~~shall~~ do not
2 apply to any administrative action filed against a licensed
3 contractor.

4 (c) Any person who violates this section as part of a plan or
5 scheme to defraud an owner or tenant of a residential or
6 nonresidential structure, including a mobilehome or manufactured
7 home, in connection with the offer or performance of repairs to
8 the structure for damage caused by a natural disaster, shall be
9 ordered by the court to make full restitution to the victim based
10 on the person's ability to pay, as defined in ~~subdivision (e) of~~
11 ~~Section 1203.1b of the Penal Code.~~ *paragraph (2) of subdivision*
12 *(b) of Section 27755 of the Government Code.* In addition to full
13 restitution, and imprisonment authorized by this section, the court
14 may impose a fine of not less than five hundred dollars (\$500) nor
15 more than twenty-five thousand dollars (\$25,000), based upon the
16 defendant's ability to pay. This subdivision applies to natural
17 disasters for which a state of emergency is proclaimed by the
18 Governor pursuant to Section 8625 of the Government Code, or
19 for which an emergency or major disaster is declared by the
20 President of the United States.

21 *SEC. 6. Section 7161 of the Business and Professions Code is*
22 *amended to read:*

23 7161. It is a misdemeanor for any person to engage in any of
24 the following acts, the commission of which ~~shall be~~ *is* cause for
25 disciplinary action against any licensee or applicant:

26 (a) Using false, misleading, or deceptive advertising as an
27 inducement to enter into any contract for a work of improvement,
28 including, but not limited to, any home improvement contract,
29 whereby any member of the public may be misled or injured.

30 (b) Making any substantial misrepresentation in the procurement
31 of a contract for a home improvement or other work of
32 improvement or making any false promise of a character likely to
33 influence, persuade, or induce any person to enter into the contract.

34 (c) Any fraud in the execution of, or in the material alteration
35 of, any contract, trust deed, mortgage, promissory note, or other
36 document incident to a home improvement transaction or other
37 transaction involving a work of improvement.

38 (d) Preparing or accepting any trust deed, mortgage, promissory
39 note, or other evidence of indebtedness upon the obligations of a
40 home improvement transaction or other transaction for a work of

1 improvement with knowledge that it specifies a greater monetary
2 obligation than the consideration for the improvement work, which
3 consideration may be a time sale price.

4 (e) Directly or indirectly publishing any advertisement relating
5 to home improvements or other works of improvement that
6 contains an assertion, representation, or statement of fact that is
7 false, deceptive, or misleading, or by any means advertising or
8 purporting to offer to the general public this improvement work
9 with the intent not to accept contracts for the particular work or at
10 the price that is advertised or offered to the public, except that any
11 advertisement that is subject to and complies with the existing
12 rules, regulations, or guides of the Federal Trade Commission shall
13 not be deemed false, deceptive, or misleading.

14 (f) Any person who violates subdivision (b), (c), (d), or (e) as
15 part of a plan or scheme to defraud an owner of a residential or
16 nonresidential structure, including a mobilehome or manufactured
17 home, in connection with the offer or performance of repairs to
18 the structure for damage caused by a natural disaster, shall be
19 ordered by the court to make full restitution to the victim based
20 on the person's ability to pay, as defined in ~~subdivision (e) of~~
21 ~~Section 1203.1b of the Penal Code.~~ *paragraph (2) of subdivision*
22 *(b) of Section 27755 of the Government Code.* In addition to full
23 restitution and imprisonment as authorized by this section, the
24 court may impose a fine of not less than five hundred dollars (\$500)
25 nor more than twenty-five thousand dollars (\$25,000), based upon
26 the defendant's ability to pay. This subdivision applies to natural
27 disasters for which a state of emergency is proclaimed by the
28 Governor pursuant to Section 8625 of the Government Code or
29 for which an emergency or major disaster is declared by the
30 President of the United States.

31 *SEC. 7. Section 9807 of the Business and Professions Code is*
32 *amended to read:*

33 9807. (a) Notwithstanding any other law, a service dealer
34 licensed under this chapter and authorized to engage in the
35 electronic repair industry, as defined in subdivision (p) of Section
36 9801, may install, calibrate, service, maintain, and monitor certified
37 ignition interlock devices.

38 ~~(b) (1) The director may issue a citation to, or suspend, revoke,~~
39 ~~or place on probation the registration of, a service dealer who~~
40 ~~installs, calibrates, services, maintains, or monitors ignition~~

1 ~~interlock devices if the service dealer is not in compliance with~~
2 ~~subdivision (k) of Section 23575.3 of the Vehicle Code.~~

3 ~~(2) A service dealer shall provide to an individual receiving~~
4 ~~ignition interlock device services the information provided in~~
5 ~~subdivision (k) of Section 23575.3 of the Vehicle Code along with~~
6 ~~the contact telephone number of the bureau.~~

7 (e)

8 (b) The bureau shall adopt regulations to implement this section
9 consistent with the standards adopted by the Bureau of Automotive
10 Repair and the Office of Traffic Safety under Section 9882.14.

11 *SEC. 8. Section 9848 of the Business and Professions Code is*
12 *amended to read:*

13 9848. All proceedings ~~to contest a citation for a violation of~~
14 ~~subdivision (k) of Section 23575.3 of the Vehicle Code or~~ to deny
15 registration or suspend, revoke, or place on probation a registration
16 shall be conducted pursuant to Chapter 5 (commencing with
17 Section 11500) of Part 1 of Division 3 of Title 2 of the Government
18 Code.

19 *SEC. 9. Section 9882.14 of the Business and Professions Code*
20 *is amended to read:*

21 9882.14. (a) The bureau shall cooperate with the Office of
22 Traffic Safety and adopt standards for the installation, maintenance,
23 and servicing of certified ignition interlock devices by automotive
24 repair dealers.

25 (b) The manufacturers of certified ignition interlock devices
26 shall comply with standards established by the bureau for the
27 installation of those ignition interlock devices.

28 (c) The bureau may charge manufacturers of certified interlock
29 ignition devices a fee to recover the *reasonable* cost of monitoring
30 installation standards.

31 ~~(d) (1) The director may issue a citation to, or suspend or revoke~~
32 ~~the registration of, an automotive repair dealer who installs,~~
33 ~~maintains, and services ignition interlock devices if the automotive~~
34 ~~repair dealer is not in compliance with subdivision (k) of Section~~
35 ~~23575.3 of the Vehicle Code.~~

36 ~~(2) An automotive repair dealer shall provide to an individual~~
37 ~~receiving ignition interlock device services the information~~
38 ~~provided in subdivision (k) of Section 23575.3 of the Vehicle Code~~
39 ~~along with the contact telephone number of the bureau.~~

Pages 14 – 216 omitted
because amendments
are not relevant to the Bureau.

1 (1) Original issuance of a traffic violator school owner, operator,
2 instructor, and branch or classroom location license.

3 (2) Renewal of a traffic violator school owner, operator,
4 instructor, and branch or classroom location license.

5 (3) Issuance of a duplicate or corrected traffic violator school
6 owner, operator, instructor, and branch or classroom location
7 license.

8 (4) Transfer of an operator or instructor license from one traffic
9 violator school to another.

10 (5) Approval of curriculum, based on the instructional modality
11 of the curriculum.

12 (6) Fees for administering the examinations pursuant to Sections
13 11206 and 11207.

14 (b) The fees authorized under subdivision (a) shall be sufficient
15 to defray the ~~actual~~ *reasonable* cost to the department to administer
16 the traffic violator school program, except for routine monitoring
17 of instruction.

18 ~~(c) A single administrative fee shall be assessed against, and~~
19 ~~collected by the court pursuant to Section 42007.1 from, each~~
20 ~~driver who is allowed or ordered to attend traffic violator school.~~
21 ~~Included in this fee shall be an amount determined by the~~
22 ~~department to be sufficient to defray the cost of routine monitoring~~
23 ~~of traffic violator school instruction.~~

24 ~~(d) This section shall become operative on September 1, 2011.~~

25 *SEC. 119. Section 13386 of the Vehicle Code, as added by*
26 *Section 22 of Chapter 783 of the Statutes of 2016, is amended to*
27 *read:*

28 13386. (a) (1) The department shall certify or cause to be
29 certified ignition interlock devices required by Article 5
30 (commencing with Section 23575) of Chapter 2 of Division 11.5
31 and publish a list of approved devices.

32 (2) (A) The department shall ensure that ignition interlock
33 devices that have been certified according to the requirements of
34 this section continue to meet certification requirements. The
35 department may periodically require manufacturers to indicate in
36 writing whether the devices continue to meet certification
37 requirements.

38 (B) The department may use denial of certification, suspension
39 or revocation of certification, or decertification of an ignition
40 interlock device in another state as an indication that the

1 certification requirements are not met, if either of the following
2 apply:

3 (i) The denial of certification, suspension or revocation of
4 certification, or decertification in another state constitutes a
5 violation by the manufacturer of Article 2.55 (commencing with
6 Section 125.00) of Chapter 1 of Division 1 of Title 13 of the
7 California Code of Regulations.

8 (ii) The denial of certification for an ignition interlock device
9 in another state was due to a failure of an ignition interlock device
10 to meet the standards adopted by the regulation set forth in clause
11 (i), specifically Sections 1 and 2 of the model specification for
12 breath alcohol ignition interlock devices, as published by notice
13 in the Federal Register, Vol. 57, No. 67, Tuesday, April 7, 1992,
14 on pages 11774 to 11787, inclusive, or the Model Specifications
15 for Breath Alcohol Ignition Interlock Devices, as published by
16 notice in the Federal Register, Vol. 78, No. 89, Wednesday, May
17 8, 2013, on pages 25489 to 26867, inclusive.

18 (C) Failure to continue to meet certification requirements shall
19 result in suspension or revocation of certification of ignition
20 interlock devices.

21 (b) (1) A manufacturer shall not furnish an installer, service
22 center, technician, or consumer with technology or information
23 that allows a device to be used in a manner that is contrary to the
24 purpose for which it is certified.

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

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

31 (d) The department shall utilize information from an
32 independent, accredited (ISO/IEC 17025) laboratory to certify
33 ignition interlock devices of the manufacturer or manufacturer's
34 agent, in accordance with the guidelines. The cost of certification
35 shall be borne by the manufacturers of ignition interlock devices.
36 If the certification of a device is suspended or revoked, the
37 manufacturer of the device shall be responsible for, and shall bear
38 the cost of, the removal of the device and the replacement of a
39 certified device of the manufacturer or another manufacturer.

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

5 (f) All manufacturers of ignition interlock devices that meet the
6 requirements of subdivision (e) and are certified in a manner
7 approved by the department, who intend to sell the devices in this
8 state, first shall apply to the department on forms provided by that
9 department. The application shall be accompanied by a fee in an
10 amount not to exceed the amount necessary to cover the costs
11 incurred by the department in carrying out this section.

12 (g) The department shall ensure that standard forms and
13 procedures are developed for documenting decisions and
14 compliance and communicating results to relevant agencies. These
15 forms shall include all of the following:

16 (1) An "Option to Install," to be sent by the department to repeat
17 offenders along with the mandatory order of suspension or
18 revocation. This shall include the alternatives available for early
19 license reinstatement with the installation of an ignition interlock
20 device and shall be accompanied by a toll-free telephone number
21 for each manufacturer of a certified ignition interlock device.
22 Information regarding approved installation locations shall be
23 provided to drivers by manufacturers with ignition interlock devices
24 that have been certified in accordance with this section.

25 (2) A "Verification of Installation" to be returned to the
26 department by the reinstating offender upon application for
27 reinstatement. Copies shall be provided for the manufacturer or
28 the manufacturer's agent.

29 (3) A "Notice of Noncompliance" and procedures to ensure
30 continued use of the ignition interlock device during the restriction
31 period and to ensure compliance with maintenance requirements.
32 The maintenance period shall be standardized at 60 days to
33 maximize monitoring checks for equipment tampering.

34 ~~(h) Every manufacturer and manufacturer's agent certified by~~
35 ~~the department to provide ignition interlock devices shall adopt~~
36 ~~fee schedules that provide for the payment of the costs of the device~~
37 ~~by applicants in amounts commensurate with the applicant's ability~~
38 ~~to pay.~~

39 (i)

1 (h) A person who manufactures, installs, services, or repairs,
2 or otherwise deals in ignition interlock devices shall not disclose,
3 sell, or transfer to a third party any individually identifiable
4 information pertaining to individuals who are required by law to
5 install an ignition interlock device on a vehicle that ~~he or she~~ *the*
6 *individual* owns or operates, except to the extent necessary to
7 confirm or deny that an individual has complied with ignition
8 interlock device installation and maintenance requirements.

9 (⊕)

10 (i) This section shall become operative January 1, 2026.

11 *SEC. 120. Section 21212 of the Vehicle Code is amended to*
12 *read:*

13 21212. (a) A person under 18 years of age shall not operate a
14 bicycle, a nonmotorized scooter, or a skateboard, nor wear in-line
15 or roller skates, nor ride upon a bicycle, a nonmotorized scooter,
16 or a skateboard as a passenger, upon a street, bikeway, as defined
17 in Section 890.4 of the Streets and Highways Code, or any other
18 public bicycle path or trail unless that person is wearing a properly
19 fitted and fastened bicycle helmet that meets the standards of either
20 the American Society for Testing and Materials (ASTM) or the
21 United States Consumer Product Safety Commission (CPSC), or
22 standards subsequently established by those entities. This
23 requirement also applies to a person who rides upon a bicycle
24 while in a restraining seat that is attached to the bicycle or in a
25 trailer towed by the bicycle.

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

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

36 (d) A charge under this section shall be dismissed when the
37 person charged alleges in court, under oath, that the charge against
38 the person is the first charge against that person under this section,
39 unless it is otherwise established in court that the charge is not the
40 first charge against the person.

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

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

8 (f) A record of the action shall not be transmitted to the court
9 ~~and a fee shall not be imposed pursuant to Section 40611~~ upon a
10 citation for not wearing a properly fitted and fastened bicycle
11 helmet pursuant to subdivision (a) if the parent or legal guardian
12 of the person described in subdivision (a) delivers proof to the
13 issuing agency within 120 days after the citation was issued that
14 the person has a helmet meeting the requirements specified in
15 subdivision (a) and the person has completed a local bicycle safety
16 course or a related safety course, if one is available, as prescribed
17 by authorities in the local jurisdiction.

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

21 (1) Seventy-two and one-half percent of the amount collected
22 shall be deposited in a special account of the county health
23 department, to be used for bicycle, nonmotorized scooter,
24 skateboard, and in-line and roller skate safety education and for
25 assisting low-income families in obtaining approved bicycle
26 helmets for children under the age of 18 years, either on a loan or
27 purchase basis. The county may contract for the implementation
28 of this program, which, to the extent practicable, shall be operated
29 in conjunction with the child passenger restraint program pursuant
30 to Section 27360.

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

34 (3) If the violation occurred within a city, 25 percent of the
35 amount collected shall be transferred to, and deposited in, the
36 treasury of that city. If the violation occurred in an unincorporated
37 area, this 25 percent shall be deposited and used pursuant to
38 paragraph (1).

1 *SEC. 121. Section 23573 of the Vehicle Code, as amended by*
2 *Section 23 of Chapter 485 of the Statutes of 2017, is amended to*
3 *read:*

4 23573. (a) The Department of Motor Vehicles, upon receipt
5 of the court's abstract of conviction for a violation listed in
6 subdivision (j), shall inform the convicted person of the
7 requirements of this section and the term for which the person is
8 required to have a functioning, certified ignition interlock device
9 installed. The records of the department shall reflect the mandatory
10 use of the device for the term required and the time when the device
11 is required to be installed pursuant to this code.

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

15 (c) *(1)* A person who is notified by the department pursuant to
16 subdivision (a) shall, within 30 days of notification, complete ~~all~~
17 *both* of the following:

18 ~~(1)~~

19 *(A)* Arrange for each vehicle operated by the person to be fitted
20 with a functioning, certified ignition interlock device by a certified
21 ignition interlock device provider under Section 13386.

22 ~~(2)~~

23 *(B)* Notify the department and provide to the department proof
24 of installation by submitting the "Verification of Installation" form
25 described in paragraph (2) of subdivision (g) of Section 13386.

26 ~~(3) Pay to the department a fee sufficient to cover the costs of~~
27 ~~administration of this section, including startup costs, as determined~~
28 ~~by the department.~~

29 *(2) The person shall not be responsible for the costs of the*
30 *certified ignition interlock device or for servicing by installers.*

31 (d) The department shall place a restriction on the driver's
32 license record of the convicted person that states the driver is
33 restricted to driving only vehicles equipped with a functioning,
34 certified ignition interlock device.

35 (e) (1) A person who is notified by the department pursuant to
36 subdivision (a) shall arrange for each vehicle with an ignition
37 interlock device to be serviced by the installer at least once every
38 60 days in order for the installer to recalibrate and monitor the
39 operation of the device.

1 (2) The installer shall notify the department if the device is
2 removed or indicates that the person has attempted to remove,
3 bypass, or tamper with the device, or if the person fails three or
4 more times to comply with any requirement for the maintenance
5 or calibration of the ignition interlock device.

6 (f) The department shall monitor the installation and
7 maintenance of the functioning, certified ignition interlock device
8 installed pursuant to subdivision (a).

9 (g) (1) A person who is notified by the department, pursuant
10 to subdivision (a), is exempt from the requirements of subdivision
11 (c) if all of the following circumstances occur:

12 (A) Within 30 days of the notification, the person certifies to
13 the department all of the following:

14 (i) The person does not own a vehicle.

15 (ii) The person does not have access to a vehicle at ~~his or her~~
16 *the person's* residence.

17 (iii) The person no longer has access to the vehicle being driven
18 by the person when ~~he or she~~ *the person* was arrested for a violation
19 that subsequently resulted in a conviction for a violation listed in
20 subdivision (j).

21 (iv) The person acknowledges that ~~he or she~~ *the person* is only
22 allowed to drive a vehicle that is fitted with a functioning, certified
23 ignition interlock device and that ~~he or she~~ *the person* is required
24 to have a valid driver's license before ~~he or she~~ *the person* can
25 drive.

26 (v) The person is subject to the requirements of this section
27 when ~~he or she~~ *the person* purchases or has access to a vehicle.

28 (B) The person's driver's license record has been restricted
29 pursuant to subdivision (d).

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

33 (2) A person who has been granted an exemption pursuant to
34 this subdivision and who subsequently drives a vehicle in violation
35 of the exemption is subject to the penalties of subdivision (i) in
36 addition to any other applicable penalties in law.

37 (h) This section does not permit a person to drive without a
38 valid driver's license.

39 (i) A person who is required under subdivision (c) to install a
40 functioning, certified ignition interlock device who willfully fails

1 to install the ignition interlock device within the time period
2 required under subdivision (c) is guilty of a misdemeanor and shall
3 be punished by imprisonment in a county jail for not more than
4 six months or by a fine of not more than five thousand dollars
5 (\$5,000), or by both that fine and imprisonment.

6 (j) In addition to all other requirements of this code, a person
7 convicted of any of the following violations shall be punished as
8 follows:

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

15 (2) Upon a conviction of a violation of Section 14601.2,
16 14601.4, or 14601.5 subsequent to two prior convictions of a
17 violation of Section 23103.5, 23152, or 23153, within a 10-year
18 period, or one prior conviction of Section 14601.2, 14601.4, or
19 14601.5, within a 10-year period, the person shall immediately
20 install a functioning, certified ignition interlock device, pursuant
21 to this section, in all vehicles operated by that person for a term
22 of two years.

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

31 (k) The department shall notify the court if a person subject to
32 this section has failed to show proof of installation within 30 days
33 of the department informing the person ~~he or she is~~ *they are*
34 required to install a functioning, certified ignition interlock device.

35 (l) Subdivisions (g), (h), (j), (k), and (l) of Section 23575 apply
36 to this section.

37 (m) The requirements of this section are in addition to any other
38 requirements of law.

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

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

4 *SEC. 122. Section 23573 of the Vehicle Code, as amended by*
5 *Section 24 of Chapter 485 of the Statutes of 2017, is amended to*
6 *read:*

7 23573. (a) The Department of Motor Vehicles, upon receipt
8 of the court's abstract of conviction for a violation listed in
9 subdivision (j), shall inform the convicted person of the
10 requirements of this section and the term for which the person is
11 required to have a functioning, certified ignition interlock device
12 installed. The records of the department shall reflect the mandatory
13 use of the device for the term required and the time when the device
14 is required to be installed pursuant to this code.

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

18 (c) (1) A person who is notified by the department pursuant to
19 subdivision (a) shall, within 30 days of notification, complete ~~all~~
20 *both* of the following:

21 ~~(1)~~

22 (A) Arrange for each vehicle operated by the person to be fitted
23 with a functioning, certified ignition interlock device by a certified
24 ignition interlock device provider under Section 13386.

25 ~~(2)~~

26 (B) Notify the department and provide to the department proof
27 of installation by submitting the "Verification of Installation" form
28 described in paragraph (2) of subdivision (g) of Section 13386.

29 ~~(3) Pay to the department a fee sufficient to cover the costs of~~
30 ~~administration of this section, including startup costs, as determined~~
31 ~~by the department.~~

32 (2) *The person shall not be responsible for the costs of the*
33 *certified ignition interlock device or for servicing by installers.*

34 (d) The department shall place a restriction on the driver's
35 license record of the convicted person that states the driver is
36 restricted to driving only vehicles equipped with a functioning,
37 certified ignition interlock device.

38 (e) (1) A person who is notified by the department pursuant to
39 subdivision (a) shall arrange for each vehicle with an ignition
40 interlock device to be serviced by the installer at least once every

1 60 days in order for the installer to recalibrate and monitor the
2 operation of the device.

3 (2) The installer shall notify the department if the device is
4 removed or indicates that the person has attempted to remove,
5 bypass, or tamper with the device, or if the person fails three or
6 more times to comply with any requirement for the maintenance
7 or calibration of the ignition interlock device.

8 (f) The department shall monitor the installation and
9 maintenance of the ignition interlock device installed pursuant to
10 subdivision (a).

11 (g) (1) A person who is notified by the department, pursuant
12 to subdivision (a), is exempt from the requirements of subdivision
13 (c) if all of the following circumstances occur:

14 (A) Within 30 days of the notification, the person certifies to
15 the department all of the following:

16 (i) The person does not own a vehicle.

17 (ii) The person does not have access to a vehicle at ~~his or her~~
18 *the person's* residence.

19 (iii) The person no longer has access to the vehicle being driven
20 by the person when ~~he or she~~ *the person* was arrested for a violation
21 that subsequently resulted in a conviction for a violation listed in
22 subdivision (j).

23 (iv) The person acknowledges that ~~he or she~~ *the person* is only
24 allowed to drive a vehicle that is fitted with a functioning, certified
25 ignition interlock device and that ~~he or she~~ *the person* is required
26 to have a valid driver's license before ~~he or she~~ *the person* can
27 drive.

28 (v) The person is subject to the requirements of this section
29 when ~~he or she~~ *the person* purchases or has access to a vehicle.

30 (B) The person's driver's license record has been restricted
31 pursuant to subdivision (d).

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

35 (2) A person who has been granted an exemption pursuant to
36 this subdivision and who subsequently drives a vehicle in violation
37 of the exemption is subject to the penalties of subdivision (i) in
38 addition to any other applicable penalties in law.

39 (h) This section does not permit a person to drive without a
40 valid driver's license.

1 (i) A person who is required under subdivision (c) to install a
2 functioning, certified ignition interlock device who willfully fails
3 to install the ignition interlock device within the time period
4 required under subdivision (c) is guilty of a misdemeanor and shall
5 be punished by imprisonment in a county jail for not more than
6 six months or by a fine of not more than five thousand dollars
7 (\$5,000), or by both that fine and imprisonment.

8 (j) In addition to all other requirements of this code, a person
9 convicted of any of the following violations shall be punished as
10 follows:

11 (1) Upon a conviction of a violation of Section 14601.2,
12 14601.4, or 14601.5 subsequent to one prior conviction of a
13 violation of Section 23103.5, 23152, or 23153, within a 10-year
14 period, the person shall immediately install a functioning, certified
15 ignition interlock device, pursuant to this section, in all vehicles
16 operated by that person for a term of one year.

17 (2) Upon a conviction of a violation of Section 14601.2,
18 14601.4, or 14601.5 subsequent to two prior convictions of a
19 violation of Section 23103.5, 23152, or 23153, within a 10-year
20 period, or one prior conviction of Section 14601.2, 14601.4, or
21 14601.5, within a 10-year period, the person shall immediately
22 install a functioning, certified ignition interlock device, pursuant
23 to this section, in all vehicles operated by that person for a term
24 of two years.

25 (3) Upon a conviction of a violation of Section 14601.2,
26 14601.4, or 14601.5 subsequent to three or more prior convictions
27 of a violation of Section 23103.5, 23152, or 23153, within a
28 10-year period, or two or more prior convictions of Section
29 14601.2, 14601.4, or 14601.5, within a 10-year period, the person
30 shall immediately install a functioning, certified ignition interlock
31 device, pursuant to this section, in all vehicles operated by that
32 person for a term of three years.

33 (k) The department shall notify the court if a person subject to
34 this section has failed to show proof of installation within 30 days
35 of the department informing the person ~~he or she is~~ *they are*
36 required to install a functioning, certified ignition interlock device.

37 (l) Subdivisions (j), (k), (m), (n), and (o) of Section 23575 apply
38 to this section.

39 (m) The requirements of this section are in addition to any other
40 requirements of law.

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

2 *SEC. 123. Section 23575.3 of the Vehicle Code is amended to*
3 *read:*

4 23575.3. (a) In addition to any other requirement imposed by
5 law, a court shall notify a person convicted of a violation listed in
6 subdivision (h) that ~~he or she~~ *the person* is required to install a
7 functioning, certified ignition interlock device on any vehicle that
8 the person operates and that ~~he or she~~ *the person* is prohibited from
9 operating a motor vehicle unless that vehicle is equipped with a
10 functioning, certified ignition interlock device in accordance with
11 this section.

12 (b) The Department of Motor Vehicles, upon receipt of the
13 court's abstract of conviction for a violation listed in subdivision
14 (h), shall inform the convicted person of the requirements of this
15 section, including the term for which the person is required to have
16 a certified ignition interlock device installed. The records of the
17 department shall reflect the mandatory use of the device for the
18 term required and the time when the device is required to be
19 installed by this code.

20 (c) The department shall advise the person that installation of
21 a functioning, certified ignition interlock device on a vehicle does
22 not allow the person to drive without a valid driver's license.

23 (d) (1) A person who is notified by the department pursuant to
24 subdivision (b) shall do ~~all~~ *both* of the following:

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

28 (B) Provide to the department proof of installation by submitting
29 the "Verification of Installation" form described in paragraph (2)
30 of subdivision (g) of Section 13386.

31 ~~(C) Pay a fee, determined by the department, that is sufficient~~
32 ~~to cover the costs of administration of this section.~~

33 (2) A person who is notified by the department pursuant to
34 subdivision (b), is exempt from the requirements of this subdivision
35 until the time ~~he or she~~ *the person* purchases or has access to a
36 vehicle if, within 30 days of the notification, the person certifies
37 to the department all of the following:

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

39 (B) The person does not have access to a vehicle at ~~his or her~~
40 *the person's* residence.

1 (C) The person no longer has access to the vehicle ~~he or she~~ *the*
2 *person* was driving at the time ~~he or she~~ *the person* was arrested
3 for a violation that subsequently resulted in a conviction for a
4 violation listed in subdivision (h).

5 (D) The person acknowledges that ~~he or she~~ *the person* is only
6 allowed to drive a vehicle that is equipped with a functioning,
7 certified ignition interlock device.

8 (E) The person acknowledges that ~~he or she~~ *the person* is
9 required to have a valid driver's license before ~~he or she~~ *the person*
10 can drive.

11 (F) The person acknowledges that ~~he or she~~ *the person* is subject
12 to the requirements of this section when ~~he or she~~ *the person*
13 purchases or has access to a vehicle.

14 *(3) The person shall not be responsible for the costs of the*
15 *certified ignition interlock device or for servicing by installers.*

16 (e) In addition to any other restrictions the department places
17 on the driver's license record of the convicted person when the
18 person is issued a restricted driver's license pursuant to Section
19 13352 or 13352.4, the department shall place a restriction on the
20 driver's license record of the person that states the driver is
21 restricted to driving only vehicles equipped with a functioning,
22 certified ignition interlock device for the applicable term.

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

28 (2) The installer shall notify the department if the device is
29 removed or indicates that the person has attempted to remove,
30 bypass, or tamper with the device, or if the person fails three or
31 more times to comply with any requirement for the maintenance
32 or calibration of the ignition interlock device.

33 (g) The department shall monitor the installation and
34 maintenance of the ignition interlock device installed pursuant to
35 subdivision (d).

36 (h) A person is required to install a functioning, certified ignition
37 interlock device pursuant to this section for the applicable term,
38 as follows:

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

4 (A) Upon a conviction with no priors, punishable under Section
5 23536, only one of the following may occur:

6 (i) The court may order installation of a functioning, certified
7 ignition interlock device on any vehicle that the person operates
8 and prohibit that person from operating a motor vehicle unless that
9 vehicle is equipped with a functioning, certified ignition interlock
10 device. If the court orders the ignition interlock device restriction,
11 the term shall be determined by the court for a period not to exceed
12 six months from the date of conviction. The court shall notify the
13 department of the conviction as specified in subdivision (a) of
14 Section 1803 or Section 1816, and shall specify the terms of the
15 ignition interlock device restriction in accordance with subdivision
16 (a) of Section 1804. The department shall place the restriction on
17 the driver's license record of the person that states the driver is
18 restricted to driving only vehicles equipped with a functioning,
19 certified ignition interlock device for the applicable term.

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

22 (iii) The person may apply to the department for a restriction
23 of the driving privilege under paragraph (1) of subdivision (a) of
24 Section 13352 or subdivision (c) of Section 13352.1.

25 (B) Upon a conviction with one prior, punishable under Section
26 23540, the person shall install a functioning, certified ignition
27 interlock device in the vehicle, as ordered by the court, that is
28 operated by that person for a mandatory term of 12 months.

29 (C) Upon a conviction with two priors, punishable under Section
30 23546, the person shall install a functioning, certified ignition
31 interlock device in the vehicle, as ordered by the court, that is
32 operated by that person for a mandatory term of 24 months.

33 (D) Upon a conviction with three or more priors punishable
34 under Section 23550, or a conviction punishable under Section
35 23550.5, the person shall install a functioning, certified ignition
36 interlock device in the vehicle, as ordered by the court, that is
37 operated by that person for a mandatory term of 36 months.

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

1 (A) Upon a conviction with no priors, punishable under Section
2 23554, the person shall install a functioning, certified ignition
3 interlock device in the vehicle, as ordered by the court, that is
4 operated by that person for a mandatory term of 12 months.

5 (B) Upon a conviction with one prior, punishable under Section
6 23560, the person shall install a functioning, certified ignition
7 interlock device in the vehicle, as ordered by the court, that is
8 operated by that person for a mandatory term of 24 months.

9 (C) Upon a conviction with two priors, punishable under Section
10 23550 or 23566, the person shall install a functioning, certified
11 ignition interlock device in the vehicle, as ordered by the court,
12 that is operated by that person for a mandatory term of 36 months.

13 (D) Upon a conviction with one prior punishable under Section
14 23550.5, the person shall install a functioning, certified ignition
15 interlock device in the vehicle, as ordered by the court, that is
16 operated by that person for a mandatory term of 48 months.

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

24 (4) The terms prescribed in this subdivision shall begin once a
25 person has complied with subparagraph (B) of paragraph (1) of
26 subdivision (d) and either upon the reinstatement of the privilege
27 to drive pursuant to Section 13352 or the issuance of a restricted
28 driver’s license pursuant to Section 13352. A person shall receive
29 credit for any period in which ~~he or she~~ *the person* had a restricted
30 driver’s license issued pursuant to Section 13353.6 or 13353.75.

31 (i) Subdivisions (g), (h), (j), and (k) of Section 23575 apply to
32 this section.

33 (j) If a person fails to comply with any of the requirements
34 regarding ignition interlock devices, the period in which the person
35 was not in compliance shall not be credited towards the mandatory
36 term for which the ignition interlock device is required to be
37 installed.

38 ~~(k)(1) Every manufacturer and manufacturer’s agent certified~~
39 ~~by the department to provide ignition interlock devices, under~~
40 ~~Section 13386, shall adopt the following fee schedule that provides~~

1 for the payment of the costs of the certified ignition interlock
2 device by offenders subject to this chapter in amounts
3 commensurate with that person's income relative to the federal
4 poverty level, as defined in Section 127400 of the Health and
5 Safety Code:

6 (A) A person with an income at 100 percent of the federal
7 poverty level or below and who provides income verification
8 pursuant to paragraph (2) is responsible for 10 percent of the cost
9 of the manufacturer's standard ignition interlock device program
10 costs, and any additional costs accrued by the person for
11 noncompliance with program requirements.

12 (B) A person with an income at 101 to 200 percent of the federal
13 poverty level and who provides income verification pursuant to
14 paragraph (2) is responsible for 25 percent of the cost of the
15 manufacturer's standard ignition interlock device program costs,
16 and any additional costs accrued by the person for nonecompliance
17 with program requirements.

18 (C) A person with an income at 201 to 300 percent of the federal
19 poverty level and who provides income verification pursuant to
20 paragraph (2) is responsible for 50 percent of the cost of the
21 manufacturer's standard ignition interlock device program costs,
22 and any additional costs accrued by the person for nonecompliance
23 with program requirements.

24 (D) A person who is receiving CalFresh benefits and who
25 provides proof of those benefits to the manufacturer or
26 manufacturer's agent or authorized installer is responsible for 50
27 percent of the cost of the manufacturer's standard ignition interlock
28 device program costs, and any additional costs accrued by the
29 person for nonecompliance with program requirements.

30 (E) A person with an income at 301 to 400 percent of the federal
31 poverty level and who provides income verification pursuant to
32 paragraph (2) is responsible for 90 percent of the cost of the
33 manufacturer's standard ignition interlock device program costs,
34 and any additional costs accrued by the person for nonecompliance
35 with program requirements.

36 (F) All other offenders are responsible for 100 percent of the
37 cost of the ignition interlock device.

38 (G) The manufacturer is responsible for the percentage of costs
39 that the offender is not responsible for pursuant to subparagraphs
40 (A) to (E), inclusive.

1 ~~(2) The ignition interlock device provider shall verify the~~
2 ~~offender's income to determine the cost of the ignition interlock~~
3 ~~device pursuant to this subdivision by verifying one of the~~
4 ~~following documents from the offender:~~

5 ~~(A) The previous year's federal income tax return.~~

6 ~~(B) The previous three months of weekly or monthly income~~
7 ~~statements.~~

8 ~~(C) Employment Development Department verification of~~
9 ~~unemployment benefits.~~

10 ~~(D) The Department of Consumer Affairs may impose a civil~~
11 ~~assessment not to exceed one thousand dollars (\$1,000) upon a~~
12 ~~manufacturer or manufacturer's agent certified to provide ignition~~
13 ~~interlock devices who fails to inform an offender subject to this~~
14 ~~chapter of the provisions of subdivision (k), or who fails to comply~~
15 ~~with the provisions of subdivision (k).~~

16 ~~(m)~~

17 (k) This section does not permit a person to drive without a valid
18 driver's license.

19 ~~(n)~~

20 (l) The requirements of this section are in addition to any other
21 requirements of law.

22 ~~(o)~~

23 (m) For the purposes of this section, the following definitions
24 apply:

25 (1) "Bypass" means either of the following:

26 (A) Failure to take any random retest.

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

30 (2) "Operates" includes operating a vehicle that is not owned
31 by the person subject to this section.

32 (3) "Owned" means solely owned or owned in conjunction with
33 another person or legal entity.

34 (4) "Random retest" means a breath test performed by the driver
35 upon a certified ignition interlock device at random intervals after
36 the initial engine startup breath test and while the vehicle's motor
37 is running.

38 (5) "Vehicle" does not include a motorcycle until the state
39 certifies an ignition interlock device that can be installed on a
40 motorcycle. A person subject to an ignition interlock device

1 restriction shall not operate a motorcycle for the duration of the
2 ignition interlock device restriction period.

3 ~~(p)~~
4 (n) The requirements of this section shall apply only to a person
5 who is convicted for a violation of Section 23152 or 23153 that
6 occurred on or after January 1, 2019.

7 ~~(q)~~
8 (o) This section shall become operative on January 1, 2019.

9 ~~(r)~~
10 (p) This section shall remain in effect only until January 1, 2026,
11 and as of that date is repealed, unless a later enacted statute, that
12 is enacted before January 1, 2026, deletes or extends that date.

13 *SEC. 124. Section 40508.5 of the Vehicle Code is repealed.*

14 ~~40508.5. (a) In addition to the fees authorized or required by
15 any other provision of law, a county may, by resolution of the
16 board of supervisors, require the courts of that county to impose
17 an assessment of fifteen dollars (\$15) upon every person who
18 violates his or her written promise to appear or a lawfully granted
19 continuance of his or her promise to appear in court or before a
20 person authorized to receive a deposit of bail, or who otherwise
21 fails to comply with any valid court order for a violation of any
22 provision of this code or local ordinance adopted pursuant to this
23 code. This assessment shall apply whether or not a violation of
24 Section 40508 is concurrently charged or a warrant of arrest is
25 issued pursuant to Section 40515.~~

26 ~~(b) The courts subject to subdivision (a) shall increase the bail
27 schedule amounts to reflect the amount of the assessment imposed
28 by this section.~~

29 ~~(c) If bail is returned, the amount of the assessment shall also
30 be returned, but only if the person did not violate his or her promise
31 to appear or citation following a lawfully granted continuance.~~

32 ~~(d) The clerk of the court shall deposit the amounts collected
33 under this section in the county treasury. All money so deposited
34 shall be used first for the development and operation of an
35 automated county warrant system. If sufficient funds are available
36 after appropriate expenditures to develop, modernize, and maintain
37 the automated warrant system, a county may use the balance to
38 fund a warrant service task force for the purpose of serving all
39 bench warrants within the county.~~

40 *SEC. 125. Section 40508.6 of the Vehicle Code is repealed.*

Pages 235-263 omitted because amendments
are not relevant to the Bureau

AMENDED IN ASSEMBLY JULY 2, 2019

AMENDED IN SENATE APRIL 8, 2019

SENATE BILL

No. 358

Introduced by Committee on Transportation (Senators Beall (Chair), Dodd, Galgiani, Grove, McGuire, Morrell, Roth, Rubio, Skinner, Stone, Umberg, and Wieckowski)

February 20, 2019

An act to amend Section 2810.3 of the Labor Code, to amend Sections ~~2113~~, 2036, 2113, 36627, and 36633 of the Streets and Highways Code, and to amend ~~Section~~ Sections 27150.2, 27151, and 34500 of, and to repeal ~~Section~~ Sections 16020.1 and 16020.2 of, the Vehicle Code, relating to transportation.

legislative counsel's digest

SB 358, as amended, Committee on Transportation. Transportation.

(1) Existing law creates the Road Maintenance and Rehabilitation Program and, after certain allocations for the program are made, requires the remaining funds available for the program to be allocated 50% for maintenance of the state highway system or for purposes of the state highway operation and protection program and 50% for apportionment to cities and counties by the Controller pursuant to a specified formula. Before receiving an apportionment of funds under the program from the Controller in a fiscal year, existing law requires a city or county to submit to the California Transportation Commission a list of projects proposed to be funded with these funds. In order to receive an allocation or apportionment of these funds, existing law requires the city or county to annually expend a certain minimum amount from its general fund for street, road, and highway purposes. Existing law authorizes the Controller to perform audits to ensure

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compliance with this expenditure requirement and requires a city or county that has not complied with this expenditure requirement to reimburse the state the funds it received during the fiscal year it was not in compliance.

This bill would require, for an eligible city or county that has not met its minimum expenditure requirement, as described above, the Controller to withhold from its apportionment for a fiscal year following an audit an amount up to the amount of funds that the city or county received during the fiscal year that was audited. The bill would require that the amount withheld be reallocated or reapportioned to other cities or counties who meet the minimum expenditure requirement in one annual payment, as specified, and would also require, if the amount to be apportioned is less than the amount to be withheld, that the city or county reimburse the state for the difference between the amount withheld and the apportionment that was received in the fiscal year that was audited. The bill would require, if the city or county is ineligible for an apportionment, the city or county to reimburse the state in an amount equal to the allocation or apportionment it received in the fiscal year that it was audited. The bill would authorize the Controller to adopt rules, regulations, and procedures necessary to carry out the purposes of these provisions.

~~(1)~~

(2) Article XIX of the California Constitution restricts the use of excise tax revenues imposed by the state on fuels used in motor vehicles on public highways to highway and certain mass transit purposes and provides for the deposit of these fuel excise tax revenues in the Highway Users Tax Account for apportionments to cities, among other things. Existing law prohibits apportionments from the account to a city pursuant to specified provisions from being made unless the city has set up by ordinance a special gas tax street improvement fund, and requires the apportionment of those moneys to be deposited into that fund.

This bill would delete the reference to those specified provisions providing for apportionments from the account, thereby prohibiting any and all apportionments from the account to a city from being made unless the city has set up by ordinance a special gas tax street fund, and thereby requiring the apportionment of those moneys to be deposited into that fund.

~~(2)~~

(3) Existing law provides that, on and after January 1, 2020, provisions requiring an applicant for registration renewal to submit a form issued by the insurer as evidence that the applicant is in compliance with the financial responsibility laws of the state do not apply to vehicle owners with a residence address in the County of Los Angeles *or in the City and County of San Francisco* at the time of registration renewal. Existing law also provides that, on and after January 1, 2020, provisions requiring a person who drives a motor vehicle to provide evidence of financial responsibility for the vehicle upon demand of a peace officer or traffic collision investigator do not apply to a person who drives a motor vehicle upon a highway in the County of Los ~~Angeles. Angeles~~ *or in the City and County of San Francisco*.

This bill would repeal those provisions.

(4) *Existing law requires every motor vehicle subject to registration to be equipped with an adequate muffler in constant operation and properly maintained to prevent any excessive or unusual noise and prohibits a muffler or exhaust system from being equipped with a cutout, bypass, or similar device. Existing law further prohibits the modification of an exhaust system of a motor vehicle in a manner that will amplify or increase the noise emitted by the motor of the vehicle so that the vehicle exceeds existing noise limits when tested in accordance with specified standards.*

This bill would update the noise level testing standards described above to reflect a more recent standard.

~~(3)~~

(5) Existing law requires the Department of Motor Vehicles (DMV) to regulate the safe operation of certain vehicles, including, but not limited to, motortrucks of 3 or more axles that are more than 10,000 pounds gross vehicle weight rating, truck tractors, and any motortruck regulated by the ~~Department of Motor Vehicles~~, DMV, the Public Utilities Commission, or the United States Secretary of Transportation.

This bill would additionally require the ~~department~~ DMV to regulate the safe operation of motortrucks regulated by the ~~Bureau of Household Goods and Services~~. *Department of Consumer Affairs, and would remove motortrucks regulated by the Public Utilities Commission from that regulation by the DMV.*

~~(4)~~

(6) The bill would make other technical, nonsubstantive changes.

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 2810.3 of the Labor Code is amended to
2 read:

3 2810.3. (a) As used in this section:

4 (1) (A) "Client employer" means a business entity, regardless
5 of its form, that obtains or is provided workers to perform labor
6 within its usual course of business from a labor contractor.

7 (B) "Client employer" does not include any of the following:

8 (i) A business entity with a workforce of fewer than 25 workers,
9 including those hired directly by the client employer and those
10 obtained from, or provided by, any labor contractor.

11 (ii) A business entity with five or fewer workers supplied by a
12 labor contractor or labor contractors to the client employer at any
13 given time.

14 (iii) The state or any political subdivision of the state, including
15 any city, county, city and county, or special district.

16 (2) "Labor" has the same meaning provided by Section 200.

17 (3) "Labor contractor" means an individual or entity that
18 supplies, either with or without a contract, a client employer with
19 workers to perform labor within the client employer's usual course
20 of business. "Labor contractor" does not include any of the
21 following:

22 (A) A bona fide nonprofit, community-based organization that
23 provides services to workers.

24 (B) A bona fide labor organization or apprenticeship program
25 or hiring hall operated pursuant to a collective bargaining
26 agreement.

27 (C) A motion picture payroll services company, as defined in
28 subparagraph (A) of paragraph (4) of subdivision (f) of Section
29 679 of the Unemployment Insurance Code.

30 (D) A third party who is a party to an employee leasing
31 arrangement, as defined by Rule 4 of Section V of the California
32 Workers' Compensation Experience Rating Plan-1995 (Section
33 2353.1 of Title 10 of the California Code of Regulations), as it
34 read on January 1, 2014, except those arrangements described in
35 subrule d of Rule 4 of Section V, if the employee leasing
36 arrangement contractually obligates the client employer to assume
37 all civil legal responsibility and civil liability under this act.

1 (4) “Wages” has the same meaning provided by Section 200
2 and all sums payable to an employee or the state based upon any
3 failure to pay wages, as provided by law.

4 (5) “Worker” does not include an employee who is exempt from
5 the payment of an overtime rate of compensation for executive,
6 administrative, and professional employees pursuant to wage orders
7 by the Industrial Welfare Commission described in Section 515.

8 (6) “Usual course of business” means the regular and customary
9 work of a business, performed within or upon the premises or
10 worksite of the client employer.

11 (b) A client employer shall share with a labor contractor all civil
12 legal responsibility and civil liability for all workers supplied by
13 that labor contractor for both of the following:

14 (1) The payment of wages.

15 (2) Failure to secure valid workers’ compensation coverage as
16 required by Section 3700.

17 (c) A client employer shall not shift to the labor contractor any
18 legal duties or liabilities under Division 5 (commencing with
19 Section 6300) with respect to workers supplied by the labor
20 contractor.

21 (d) At least 30 days prior to filing a civil action against a client
22 employer for violations covered by this section, a worker or the
23 worker’s representative shall notify the client employer of
24 violations under subdivision (b).

25 (e) Neither the client employer nor the labor contractor may
26 take any adverse action against any worker for providing
27 notification of violations or filing a claim or civil action.

28 (f) The provisions of subdivisions (b) and (c) are in addition to,
29 and shall be supplemental of, any other theories of liability or
30 requirement established by statute or common law.

31 (g) This section does not prohibit a client employer from
32 establishing, exercising, or enforcing by contract any otherwise
33 lawful remedies against a labor contractor for liability created by
34 acts of a labor contractor.

35 (h) This section does not prohibit a labor contractor from
36 establishing, exercising, or enforcing by contract any otherwise
37 lawful remedies against a client employer for liability created by
38 acts of a client employer.

39 (i) Upon request by a state enforcement agency or department,
40 a client employer or a labor contractor shall provide to the agency

1 or department any information within its possession, custody, or
2 control required to verify compliance with applicable state laws.
3 Upon request, these records shall be made available promptly for
4 inspection, and the state agency or department shall be permitted
5 to copy them. This subdivision does not require the disclosure of
6 information that is not otherwise required to be disclosed by
7 employers upon request by a state enforcement agency or
8 department.

9 (j) The Labor Commissioner may adopt regulations and rules
10 of practice and procedure necessary to administer and enforce the
11 provisions of subdivisions (b) and (i) that are under the Labor
12 Commissioner's jurisdiction.

13 (k) The Division of Occupational Safety and Health may adopt
14 regulations and rules of practice and procedure necessary to
15 administer and enforce the provisions of subdivisions (c) and (i)
16 that are under its jurisdiction.

17 (l) The Employment Development Department may adopt
18 regulations and rules of practice and procedure necessary to
19 administer and enforce the provisions of subdivisions (b) and (i)
20 that are under its jurisdiction.

21 (m) A waiver of this section is contrary to public policy, and is
22 void and unenforceable.

23 (n) This section does not impose individual liability on a
24 homeowner for labor or services received at the home or the owner
25 of a home-based business for labor or services received at the
26 home.

27 (o) This section does not impose liability on a client employer
28 for the use of an independent contractor other than a labor
29 contractor or to change the definition of independent contractor.

30 (p) This section does not impose liability on the following:

31 (1) A client employer that is not a motor carrier of property
32 based solely on the employer's use of a third-party motor carrier
33 of property with interstate or intrastate operating authority to ship
34 or receive freight.

35 (2) A client employer that is a motor carrier of property
36 subcontracting with, or otherwise engaging, another motor carrier
37 of property to provide transportation services using its own
38 employees and commercial motor vehicles, as defined in Section
39 34601 of the Vehicle Code.

1 (3) A client employer that is not a household *mover* based solely
2 on the employer’s use of a third-party household *mover* permitted
3 by the *Bureau of Household Goods and Services* pursuant to
4 *Chapter 3.1 (commencing with Section 19225) of Division 8 of*
5 *the Business and Professions Code* to move household goods.

6 (4) A client employer that is a household *mover* permitted by
7 the *Bureau of Household Goods and Services* pursuant to *Chapter*
8 *3.1 (commencing with Section 19225) of Division 8 of the Business*
9 *and Professions Code* subcontracting with, or otherwise engaging,
10 another permitted household *mover* to provide transportation of
11 household goods using its own employees and motor vehicles, as
12 defined in *former* Section 5108 of the Public Utilities Code.

13 (5) A client employer that is a cable operator, as defined by
14 Section 5830 of the Public Utilities Code, a direct-to-home satellite
15 service provider, or a telephone corporation, as defined by Section
16 234 of the Public Utilities Code, based upon its contracting with
17 a company to build, install, maintain, or perform repair work
18 utilizing the employees and vehicles of the contractor if the name
19 of the contractor is visible on employee uniforms and vehicles.

20 (6) A motor club holding a certificate of authority issued
21 pursuant to Chapter 2 (commencing with Section 12160) of Part
22 5 of Division 2 of the Insurance Code when it contracts with third
23 parties to provide motor club services utilizing the employees and
24 vehicles of the third-party contractor if the name of the contractor
25 is visible on the contractor’s vehicles.

26 *SEC. 2. Section 2036 of the Streets and Highways Code is*
27 *amended to read:*

28 2036. (a) Cities and counties shall maintain their existing
29 commitment of local funds for street, road, and highway purposes
30 in order to remain eligible for an allocation or apportionment of
31 funds pursuant to Section 2032.

32 (b) In order to receive an allocation or apportionment pursuant
33 to Section 2032, the city or county shall annually expend from its
34 general fund for street, road, and highway purposes an amount not
35 less than the annual average of its expenditures from its general
36 fund during the 2009–10, 2010–11, and 2011–12 fiscal years, as
37 reported to the Controller pursuant to Section 2151. For purposes
38 of this subdivision, in calculating a city’s or county’s annual
39 general fund expenditures and its average general fund expenditures
40 for the 2009–10, 2010–11, and 2011–12 fiscal years, any

1 unrestricted funds that the city or county may expend at its
2 discretion, including vehicle in-lieu tax revenues and revenues
3 from fines and forfeitures, expended for street, road, and highway
4 purposes shall be considered expenditures from the general fund.
5 One-time allocations that have been expended for street and
6 highway purposes, but which may not be available on an ongoing
7 basis, including revenue provided under the Teeter Plan Bond Law
8 of 1994 (Chapter 6.6 (commencing with Section 54773) of Part 1
9 of Division 2 of Title 5 of the Government Code), may not be
10 considered when calculating a city's or county's annual general
11 fund expenditures.

12 (c) For any city incorporated after July 1, 2009, the Controller
13 shall calculate an annual average expenditure for the period
14 between July 1, 2009, and December 31, 2015, inclusive, that the
15 city was incorporated.

16 (d) For purposes of subdivision (b), the Controller may request
17 fiscal data from cities and counties in addition to data provided
18 pursuant to Section 2151, for the 2009–10, 2010–11, and 2011–12
19 fiscal years. Each city and county shall furnish the data to the
20 Controller not later than 120 days after receiving the request. The
21 Controller may withhold payment to cities and counties that do
22 not comply with the request for information or that provide
23 incomplete data.

24 (e) The Controller may perform audits to ensure compliance
25 with subdivision (b) when deemed necessary. ~~Any~~

26 *(1) For any city or county that has not complied with subdivision*
27 ~~*(b) shall reimburse the state for the funds it received during that*~~
28 ~~*fiscal year. Any funds returned as a result of a failure to comply*~~
29 ~~*with subdivision (b) shall be reapportioned to the other counties*~~
30 ~~*and cities whose expenditures are in compliance. (b), the Controller*~~
31 ~~*shall withhold from its apportionment pursuant to Section 2032*~~
32 ~~*for a fiscal year following an audit an amount up to the amount*~~
33 ~~*of funds that the city or county received during the fiscal year that*~~
34 ~~*was audited. The amount withheld shall be reapportioned in one*~~
35 ~~*annual payment pursuant to paragraph (3).*~~

36 *(2) If the amount to be apportioned pursuant to Section 2032*
37 *is less than the amount to be withheld pursuant to paragraph (1),*
38 *the city or county shall reimburse the state for the difference*
39 *between the amount withheld and the apportionment that was*
40 *received during the fiscal year that was audited. If the city or*

1 *county is ineligible for an apportionment pursuant to Section 2032,*
2 *the city or county shall reimburse the state in an amount equal to*
3 *the allocation or apportionment it received in the fiscal year that*
4 *was audited.*

5 *(3) Any funds withheld or returned as a result of a failure to*
6 *comply with subdivision (b) shall be reallocated or reapportioned*
7 *to the other counties or cities whose expenditures are in compliance*
8 *during the fiscal year that the funds are withheld or returned. The*
9 *reallocation or reapportionment shall be pursuant to the formula*
10 *in clauses (i) and (ii) of subparagraph (C) of paragraph (3) of*
11 *subdivision (a) of Section 2103.*

12 *(4) The Controller may adopt any rules, regulations, and*
13 *procedures necessary to carry out the purposes of this section.*

14 (f) If a city or county fails to comply with the requirements of
15 subdivision (b) in a particular fiscal year, the city or county may
16 expend during that fiscal year and the following fiscal year a total
17 amount that is not less than the total amount required to be
18 expended for those fiscal years for purposes of complying with
19 subdivision (b).

20 ~~SEC. 2.~~

21 *SEC. 3.* Section 2113 of the Streets and Highways Code is
22 amended to read:

23 2113. (a) An apportionment of money from the Highway Users
24 Tax Account shall not be made to a city unless the city has set up,
25 by ordinance, a special gas tax street fund.

26 (b) All amounts paid to each city out of the Highway Users Tax
27 Account shall be deposited in its special gas tax street fund.

28 (c) In making any expenditure, a city shall follow the law
29 governing it in regard to the doing of the particular type of work
30 in cases that are not exclusively municipal affairs.

31 (d) A state officer or employee shall not be liable for anything
32 done, or omitted to be done, by a city in the performance of any
33 work.

34 (e) Interest received by a city from the investment of money in
35 its special gas tax street fund shall be deposited in the fund and
36 shall be used for street purposes.

37 ~~SEC. 3.~~

38 *SEC. 4.* Section 36627 of the Streets and Highways Code is
39 amended to read:

1 36627. Following adoption of the resolution establishing district
2 assessments on properties pursuant to Section 36625, the clerk
3 shall record a notice and an assessment diagram pursuant to Section
4 3114. No other provision of Division 4.5 (commencing with
5 Section 3100) applies to an assessment district created pursuant
6 to this part.

7 ~~SEC. 4.~~

8 *SEC. 5.* Section 36633 of the Streets and Highways Code is
9 amended to read:

10 36633. The validity of an assessment levied under this part
11 shall not be contested in an action or proceeding unless the action
12 or proceeding is commenced within 30 days after the resolution
13 levying the assessment is adopted pursuant to Section 36626. An
14 appeal from a final judgment in an action or proceeding shall be
15 perfected within 30 days after the entry of judgment.

16 ~~SEC. 5.~~

17 *SEC. 6.* Section 16020.1 of the Vehicle Code is repealed.

18 *SEC. 7. Section 16020.2 of the Vehicle Code is repealed.*

19 ~~16020.2. (a) On and after January 1, 2020, Section 4000.37~~
20 ~~does not apply to vehicle owners with a residence address in the~~
21 ~~City and County of San Francisco at the time of registration~~
22 ~~renewal.~~

23 ~~(b) On and after January 1, 2020, subdivisions (a) and (b) of~~
24 ~~Section 16028 do not apply to a person who drives a motor vehicle~~
25 ~~upon a highway in the City and County of San Francisco.~~

26 *SEC. 8. Section 27150.2 of the Vehicle Code is amended to*
27 *read:*

28 27150.2. (a) Stations providing referee functions pursuant to
29 Section 44036 of the Health and Safety Code shall provide for the
30 testing of vehicular exhaust systems and the issuance of certificates
31 of compliance only for those vehicles that have received a citation
32 for a violation of Section 27150 or 27151.

33 (b) A certificate of compliance for a vehicular exhaust system
34 shall be issued pursuant to subdivision (a) if the vehicle complies
35 with Sections 27150 and 27151. Exhaust systems installed on
36 motor vehicles, other than motorcycles, with a manufacturer's
37 gross vehicle weight rating of less than 6,000 pounds comply with
38 Sections 27150 and 27151 if they emit no more than 95 dbA when
39 tested in accordance with Society of Automotive Engineers
40 Standard ~~J1169 May 1998. J1492 October 2008.~~

1 (c) An exhaust system certificate of compliance issued pursuant
2 to subdivision (a) shall identify, to the extent possible, the make,
3 model, year, license number, and vehicle identification number of
4 the vehicle tested, and the make and model of the exhaust system
5 installed on the vehicle.

6 (d) The station shall charge a fee for the exhaust system
7 certificate of compliance issued pursuant to subdivision (a). The
8 fee charged shall be calculated to recover the costs incurred by the
9 Department of Consumer Affairs to implement this section. The
10 fees charged by the station shall be deposited in the Vehicle
11 Inspection and Repair Fund established by Section 44062 of the
12 Health and Safety Code.

13 (e) Vehicular exhaust systems are exempt from the requirements
14 of Sections 27150 and 27151 if compliance with those sections,
15 or the regulations adopted pursuant thereto, would cause an
16 unreasonable hardship without resulting in a sufficient
17 corresponding benefit with respect to noise level control.

18 *SEC. 9. Section 27151 of the Vehicle Code is amended to read:*

19 27151. (a) ~~No~~ A person shall *not* modify the exhaust system
20 of a motor vehicle in a manner which will amplify or increase the
21 noise emitted by the motor of the vehicle so that the vehicle is not
22 in compliance with the provisions of Section 27150 or exceeds the
23 noise limits established for the type of vehicle in Article 2.5
24 (commencing with Section 27200). ~~No~~ A person shall *not* operate
25 a motor vehicle with an exhaust system so modified.

26 (b) For the purposes of exhaust systems installed on motor
27 vehicles with a manufacturer's gross vehicle weight rating of less
28 than 6,000 pounds, other than motorcycles, a sound level of 95
29 dbA or less, when tested in accordance with Society of Automotive
30 Engineers Standard ~~J1169 May 1998, J1492 October 2008,~~
31 complies with this section. Motor vehicle exhaust systems or parts
32 thereof include, but are not limited to, nonoriginal exhaust
33 equipment.

34 ~~SEC. 6.~~

35 *SEC. 10.* Section 34500 of the Vehicle Code is amended to
36 read:

37 34500. The department shall regulate the safe operation of the
38 following vehicles:

39 (a) Motortrucks of three or more axles that are more than 10,000
40 pounds gross vehicle weight rating.

- 1 (b) Truck tractors.
- 2 (c) Buses, schoolbuses, school pupil activity buses, youth buses,
3 farm labor vehicles, modified limousines, and general public
4 paratransit vehicles.
- 5 (d) Trailers and semitrailers designed or used for the
6 transportation of more than 10 persons, and the towing motor
7 vehicle.
- 8 (e) Trailers and semitrailers, pole or pipe dollies, auxiliary
9 dollies, and logging dollies used in combination with vehicles
10 listed in subdivision (a), (b), (c), (d), or (j). This subdivision does
11 not include camp trailers, trailer coaches, and utility trailers.
- 12 (f) A combination of a motortruck and a vehicle or vehicles set
13 forth in subdivision (e) that exceeds 40 feet in length when coupled
14 together.
- 15 (g) A vehicle, or a combination of vehicles, transporting
16 hazardous materials.
- 17 (h) Manufactured homes that, when moved upon the highway,
18 are required to be moved pursuant to a permit, as specified in
19 Section 35780 or 35790.
- 20 (i) A park trailer, as described in Section 18009.3 of the Health
21 and Safety Code, that, when moved upon a highway, is required
22 to be moved pursuant to a permit pursuant to Section 35780.
- 23 (j) Any other motortruck not specified in subdivisions (a) to
24 (h), inclusive, or subdivision (k), that is regulated by the
25 Department of Motor Vehicles, ~~the Public Utilities Commission,~~
26 ~~the Bureau of Household Goods and Services,~~ *Department of*
27 *Consumer Affairs*, or the United States Secretary of Transportation.
- 28 (k) A commercial motor vehicle with a gross vehicle weight
29 rating of 26,001 or more pounds or a commercial motor vehicle
30 of any gross vehicle weight rating towing a vehicle described in
31 subdivision (e) with a gross vehicle weight rating of more than
32 10,000 pounds, except combinations including camp trailers, trailer
33 coaches, or utility trailers. For purposes of this subdivision, the
34 term “commercial motor vehicle” has the *same* meaning *as* defined
35 in subdivision (b) of Section 15210.

O

Introduced by Senator Monning

February 20, 2019

An act to amend Section 19283.1 of the Business and Professions Code, relating to business.

legislative counsel's digest

SB 391, as introduced, Monning. Household Movers Act: enforcement: special investigators and supervising special investigators.

Existing law, the Household Movers Act, provides for the regulation of household movers by the Bureau of Electronic and Appliance Repair,

Home Furnishings, and Thermal Insulation in the Department of Consumer Affairs: The act authorizes a peace officer to enforce or assist in the enforcement of certain provisions of the act that are subject to criminal penalties.

This bill would also authorize a person employed as a special investigator or supervising special investigator by the bureau and designated by the Director of Consumer Affairs to issue a written notice to appear in court for those violations for which a peace officer may enforce or assist in the enforcement, in accordance with specified procedures.

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 19283.1 of the Business and Professions
- 2 Code is amended to read:
- 3 19283.1. (a) The bureau shall ensure that this chapter is
- 4 enforced and obeyed, and that violations thereof are promptly

1 prosecuted and that moneys due to the state are recovered and
2 collected.

3 (b) For purposes of this section, “peace officer” means a person
4 designated as a peace officer pursuant to Chapter 4.5 (commencing
5 with Section 830) of Title 3 of Part 2 of the Penal Code.

6 (c) A peace officer may enforce and assist in the enforcement
7 of Sections 19277 and 19278, resulting from a violation of Section
8 19236, 19237, 19244, or 19276, or more than one of those sections.
9 A peace officer may additionally enforce and assist in the
10 enforcement of Sections 19277.1 and 19279.3. In any case in which
11 an arrest authorized by this subdivision is made for an offense
12 declared to be a misdemeanor, and the person arrested does not
13 demand to be taken before a magistrate, the arresting peace officer
14 may, instead of taking the person before a magistrate, follow the
15 procedure prescribed by Chapter 5C (commencing with Section
16 853.5) of Title 3 of Part 2 of the Penal Code. The provisions of
17 that chapter shall thereafter apply with reference to any proceeding
18 based upon the issuance of a citation pursuant to this authority.

19 (d) The bureau shall coordinate enforcement of this section with
20 those peace officers likely to be involved in enforcing this section,
21 including undertaking both of the following:

22 (1) Educational outreach to promote awareness among those
23 peace officers about the requirements of Sections 19236, 19237,
24 19244, 19276, 19277, 19277.1, 19278, and 19279.3.

25 (2) Establishing lines of communication so that the bureau is
26 notified if an action is commenced to enforce the requirements of
27 those sections specified in subdivision (c), so that the bureau may
28 take appropriate action to enforce the citation and fine provisions
29 of this article.

30 (e) The Attorney General, a district attorney of the proper county
31 or city and county, or a city attorney may institute and prosecute
32 actions or proceedings for the violation of any law committed in
33 connection with, or arising from, a transaction involving the
34 transportation of household goods and personal effects.

35 *(f) Notwithstanding any other law, a person employed as a*
36 *special investigator or supervising special investigator by the*
37 *bureau and designated by the director shall have the authority to*
38 *issue a written notice to appear in court pursuant to Chapter 5C*
39 *(commencing with Section 853.5) of Title 3 of Part 2 of the Penal*
40 *Code for a violation of a provision for which a peace officer may*

1 *enforce or assist in the enforcement pursuant to subdivision (c).*
2 *An employee so designated is not a peace officer, is not entitled*
3 *to safety member retirement benefits as a result of the designation,*
4 *and does not have the power of arrest.*

O

115TH CONGRESS
2^D SESSION

S. 3551

To adopt a certain California flammability standard as a Federal flammability standard to protect against the risk of upholstered furniture flammability, and for other purposes.

IN THE SENATE OF THE UNITED STATES

OCTOBER 4, 2018

Mr. WICKER (for himself and Mr. BLUMENTHAL) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To adopt a certain California flammability standard as a Federal flammability standard to protect against the risk of upholstered furniture flammability, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Safer Occupancy Fur-
5 niture Flammability Act” or “SOFFA”.

6 **SEC. 2. ADOPTION OF CALIFORNIA FLAMMABILITY STAND-**
7 **ARD AS A FEDERAL STANDARD.**

8 (a) **DEFINITIONS.**—In this section—

1 (1) the term “bedding product” means—
2 (A) an item that is used for sleeping or
3 sleep-related purposes; or
4 (B) any component or accessory with re-
5 spect to an item described in subparagraph (A),
6 without regard to whether the component or ac-
7 cessory, as applicable, is used—
8 (i) alone; or
9 (ii) along with, or contained within,
10 that item;

11 (2) the term “California standard” means the
12 standard set forth by the Bureau of Electronic and
13 Appliance Repair, Home Furnishings and Thermal
14 Insulation of the Department of Consumer Affairs of
15 the State of California in Technical Bulletin 117–
16 2013, entitled “Requirements, Test Procedure and
17 Apparatus for Testing the Smolder Resistance of
18 Materials Used in Upholstered Furniture”, originally
19 published June 2013, as in effect on the date of en-
20 actment of this Act;

21 (3) the terms “foundation” and “mattress”
22 have the meanings given those terms in section
23 1633.2 of title 16, Code of Federal Regulations, as
24 in effect on the date of enactment of this Act; and
25 (4) the term “upholstered furniture”—

1 (A) means an article of seating furniture
2 that—
3 (i) is intended for indoor use;
4 (ii) is movable or stationary;
5 (iii) is constructed with a contiguous
6 upholstered—
7 (I) seat; and
8 (II)(aa) back; or
9 (bb) arm;
10 (iv) is—
11 (I) made or sold with a cushion
12 or pillow, without regard to whether
13 that cushion or pillow, as applicable,
14 is attached or detached with respect
15 to the article of furniture; or
16 (II) stuffed or filled, or able to be
17 stuffed or filled, in whole or in part,
18 with any material, including a sub-
19 stance or material that is hidden or
20 concealed by fabric or another cov-
21 ering, including a cushion or pillow
22 belonging to, or forming a part of, the
23 article of furniture; and
24 (v) together with the structural units
25 of the article of furniture, any filling mate-

1 rial, and the container and covering with
2 respect to those structural units and that
3 filling material, can be used as a support
4 for the body of an individual, or the limbs
5 and feet of an individual, when the indi-
6 vidual sits in an upright or reclining posi-
7 tion;

8 (B) includes an article of furniture that is
9 intended for use by a child; and

10 (C) does not include—

11 (i) a mattress;

12 (ii) a foundation;

13 (iii) any bedding product; or

14 (iv) furniture that is used exclusively
15 for the purpose of physical fitness and ex-
16 ercise.

17 (b) ADOPTION OF STANDARD.—

18 (1) IN GENERAL.—Beginning on the date that
19 is 180 days after the date of enactment of this Act,
20 and except as provided in paragraph (2), the Cali-
21 fornia standard shall be considered to be a flamma-
22 bility standard promulgated by the Consumer Prod-
23 uct Safety Commission under section 4 of the Flam-
24 mable Fabrics Act (15 U.S.C. 1193).

1 (2) TESTING AND CERTIFICATION.—A fabric,
2 related material, or product to which the California
3 standard applies as a result of paragraph (1) shall
4 not be subject to section 14(a) of the Consumer
5 Product Safety Act (15 U.S.C. 2063(a)).

6 (c) PREEMPTION.—

7 (1) IN GENERAL.—Notwithstanding section 16
8 of the Flammable Fabrics Act (15 U.S.C. 1203) and
9 section 231 of the Consumer Product Safety Im-
10 provement Act of 2008 (15 U.S.C. 2051 note), and
11 except as provided in subparagraphs (B) and (C) of
12 paragraph (2), no State or any political subdivision
13 of a State may establish or continue in effect any
14 provision of a flammability law, regulation, code,
15 standard, or requirement that is designed to protect
16 against the risk of occurrence of fire, or to slow or
17 prevent the spread of fire, with respect to uphol-
18 stered furniture.

19 (2) PRESERVATION OF CERTAIN STATE LAW.—
20 Nothing in this Act or the Flammable Fabrics Act
21 (15 U.S.C. 1191 et seq.) may be construed to pre-
22 empt or otherwise affect—

23 (A) any State or local law, regulation,
24 code, standard, or requirement that—

- 1 (i) concerns health risks associated
2 with upholstered furniture; and
- 3 (ii) is not designed to protect against
4 the risk of occurrence of fire, or to slow or
5 prevent the spread of fire, with respect to
6 upholstered furniture;
- 7 (B) sections 1374 through 1374.3 of title
8 4, California Code of Regulations (except for
9 subsections (b) and (c) of section 1374 of that
10 title), as in effect on the date of enactment of
11 this Act; or
- 12 (C) the California standard.

Æ