

October 12, 2023
SACRAMENTO, CALIFORNIA

Bureau of Household Goods and Services

Advisory Council Meeting





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

IN-PERSON AND TELECONFERENCE MEETING

**Thursday, October 12, 2023, 10:00 am
Until the Completion of Business**

Meeting Location

Department of Consumer Affairs—Headquarters 2 Hearing Room (#186)
1625 North Market Blvd.
Sacramento, CA 95834

Important Notices to the Public: The Bureau of Household Goods and Services (Bureau) will hold a public meeting both in-person and via a teleconference platform.

Note: The Bureau will endeavor to provide a reliable means for members of the public to participate remotely; however, in the unlikely event that the remote means fails, the meeting may continue in person. For this reason, members of the public are advised to consider attending the meeting in person in order to ensure their participation during the meeting.

To participate via WebEx, please log on to this website the day of the meeting:

<https://dca-meetings.webex.com/dca-meetings/j.php?MTID=m9903791bb0bcba6d2b36ec86345ab285>

Event Number: 2493 718 6120
Event Password: BHGS10122023

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

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

provide their email address may utilize a fictitious email address in the following sample format: XXXXX@mailinator.com.

Public comments will be limited to three minutes unless, at the discretion of the Bureau Chief, circumstances require a shorter period. Members of the public will not be permitted to “yield” their allotted time to other members of the public to make comments.

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

Teleconference/Audio Conference Option:

US Toll +1-415-655-0001 US Toll
Access code: 249 371 86120
Passcode: 24471012

Advisory Council Members:

Pascal Benyamini, Public
Burt Grimes, Industry
Tom Keepers, Industry
Donald Lucas, Public
Sara Oakley, Industry
Dan Rhodes, Industry
Toby Taylor, Industry
Steve Weitekamp, Industry

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

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

The Bureau plans to webcast this meeting at <https://thedcapage.blog/webcasts/>. Webcast availability, however, cannot be guaranteed due to limited resources or technical difficulties. The meeting will not be cancelled if webcast is not available.

The meeting is accessible to the disabled. A person who needs disability-related accommodations or modifications to participate in the meeting may make a request by contacting Drue Goncalves via email at drue.goncalves@dca.ca.gov, by sending a written request to the address indicated above, or at TDD (800) 326-2297 for the hearing impaired. Please provide at least five working days' notice before the meeting to help ensure accommodations.

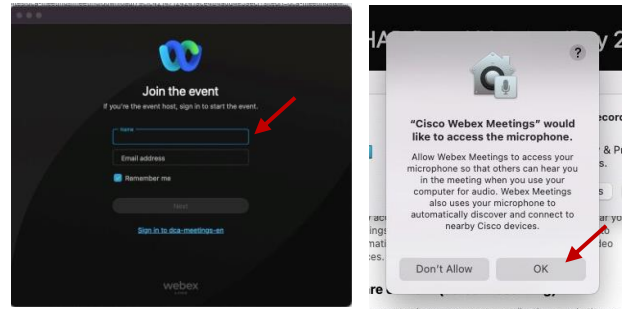
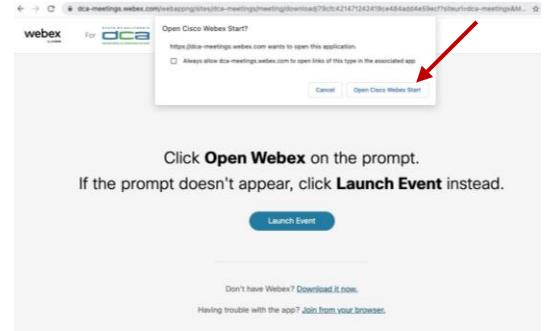
AGENDA

1. Bureau Chief Introduction, Call to Order, and Roll Call
2. Public Comment for Items Not on the Agenda
Please note that the Advisory Council may not discuss any matter raised during this public comment section that is not included on this agenda (Government Code sections 11125, 11125.7(a)).
3. Update from Board and Bureau Relations, Department of Consumer Affairs
4. Fiscal Update
 - a. Discussion of Amount of Citation Fines Collected
5. Review June 14, 2023, Advisory Council Meeting Minutes
6. Presentation from Advisory Council Members Dan Rhodes and Toby Taylor on Ignition Interlock Devices
7. Business Modernization Update
8. Division Updates and Statistical Overviews
 - a. Licensing
 - i. Update on Strategic Plan Objectives 1.1 - 1.4
 - b. Administrative
 - i. Update on Strategic Plan Objectives 5.1 - 5.5
 - c. Laboratory
 - d. Enforcement
 - i. Update on Strategic Plan Objectives 2.1 - 2.5
9. Communications and Education Update
10. Legislative and Policy Updates
 - a. Update on Bureau's Sunset Review & SB 814 (Roth, 2023)
 - b. Household Movers Enforcement Regulation Update
 - c. Upholstered Furniture and Bedding Law Label Regulatory Proposal
 - d. AB 1059 (Friedman, 2023) – Product Safety: Consumer Products: Fiberglass
 - e. SB 244 (Eggman) – Right to Repair Act

- f. SB 271 (Dodd) – Powered Wheelchairs: Right to Repair
 - g. Update on Strategic Plan Objectives 4.1 - 4.5
11. Confirm Future Meeting Dates for 2024
 12. Future Agenda Items
 13. Adjournment

If joining using the meeting link

- 1 Click on the meeting link. This can be found in the meeting notice you received.
- 2 If you have not previously used Webex on your device, your web browser may ask if you want to open Webex. Click "Open Cisco Webex Start" or "Open Webex", whichever option is presented. DO NOT click "Join from your browser", as you will not be able to participate during the meeting.
- 3 Enter your name and email address*. Click "Join as a guest". Accept any request for permission to use your microphone and/or camera.

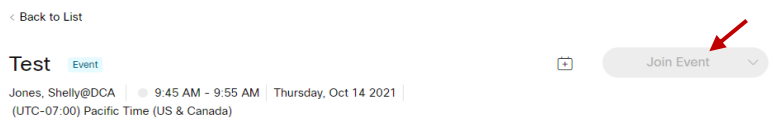
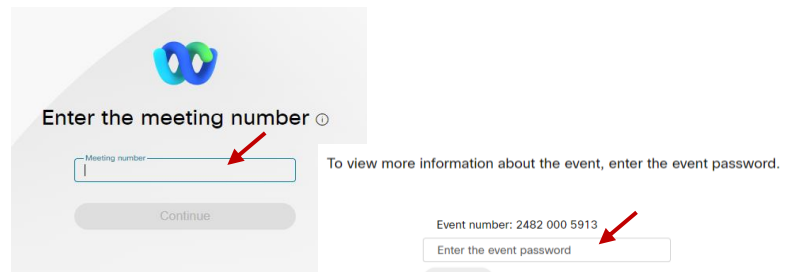
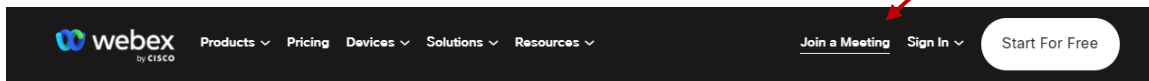


* Members of the public are not obligated to provide their name or personal information and may provide a unique identifier such as their initials or another alternative, and a fictitious email address like in the following sample format: XXXXX@mailinator.com.

OR

If joining from Webex.com

- 1 Click on "Join a Meeting" at the top of the Webex window.
- 2 Enter the meeting/event number and click "Continue". Enter the event password and click "OK". This can be found in the meeting notice you received.
- 3 The meeting information will be displayed. Click "Join Event".



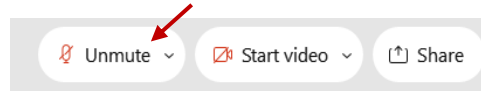
OR

Connect via telephone*:

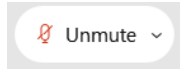
You may also join the meeting by calling in using the phone number, access code, and passcode provided in the meeting notice.

Microphone

Microphone control (mute/unmute button) is located on the command row.

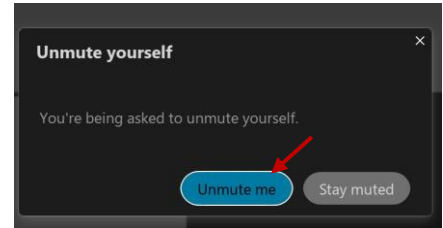


Green microphone = Unmuted: People in the meeting can hear you.



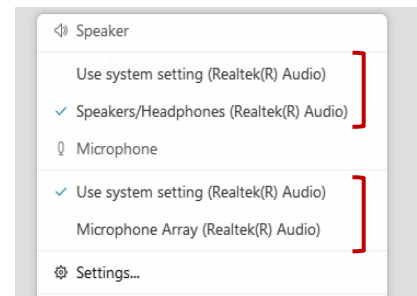
Red microphone = Muted: No one in the meeting can hear you.

Note: Only panelists can mute/unmute their own microphones. Attendees will remain muted unless the moderator enables their microphone at which time the attendee will be provided the ability to unmute their microphone by clicking on "Unmute Me".



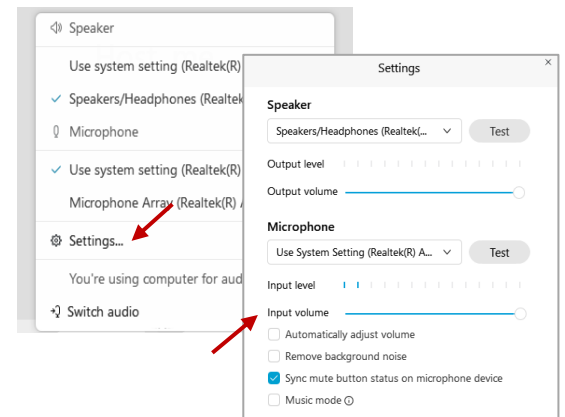
If you cannot hear or be heard

- 1 Click on the bottom facing arrow located on the Mute/Unmute button.
- 2 From the pop-up window, select a different:
 - Microphone option if participants can't hear you.
 - Speaker option if you can't hear participants.



If your microphone volume is too low or too high

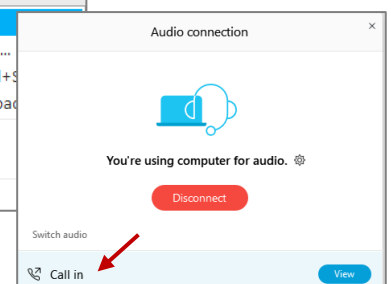
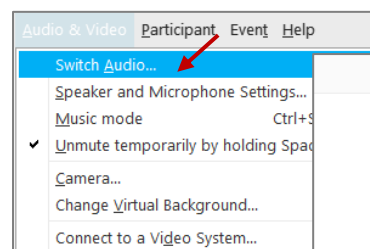
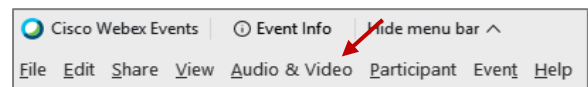
- 1 Locate the command row – click on the bottom facing arrow located on the Mute/Unmute button.
- 2 From the pop-up window:
 - Click on "Settings...":
 - Drag the "Input Volume" located under microphone settings to adjust your volume.



Audio Connectivity Issues

If you are connected by computer or tablet and you have audio issues or no microphone/speakers, you can link your phone through Webex. Your phone will then become your audio source during the meeting.

- 1 Click on "Audio & Video" from the menu bar.
- 2 Select "Switch Audio" from the drop-down menu.
- 3 Select the "Call In" option and following the directions.



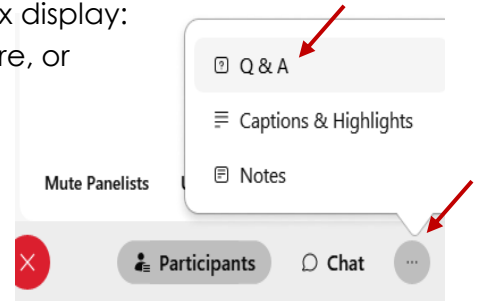
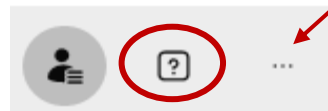
The question-and-answer (Q&A) and hand raise features are utilized for public comments.

NOTE: This feature is not accessible to those joining the meeting via telephone.

Q&A Feature

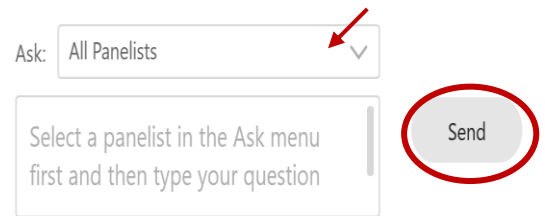
1 Access the Q&A panel at the bottom right of the Webex display:

- Click on the icon that looks like a “?” inside of a square, or
- Click on the 3 dots and select “Q&A”.



2 In the text box:

- Select “All Panelists” in the dropdown menu,
- Type your question/comment into the text box, and
- Click “Send”.



OR

Hand Raise Feature

- 1
- Hovering over your own name.
 - Clicking the hand icon that appears next to your name.
 - Repeat this process to lower your hand.

If connected via telephone:

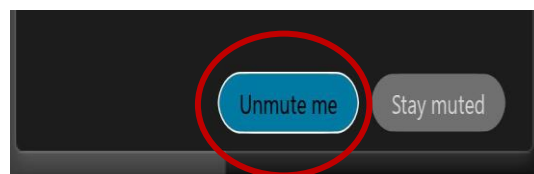
- Utilize the raise hand feature by pressing *3 to raise your hand.
- Repeat this process to lower your hand.

Unmuting Your Microphone



The moderator will call you by name and indicate a request has been sent to unmute your microphone. Upon hearing this prompt:

- Click the **Unmute me** button on the pop-up box that appears.

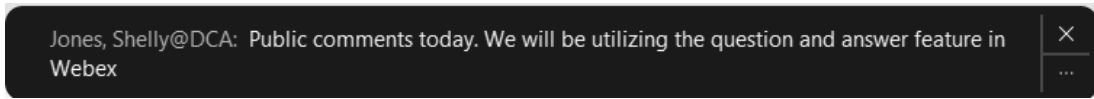


OR

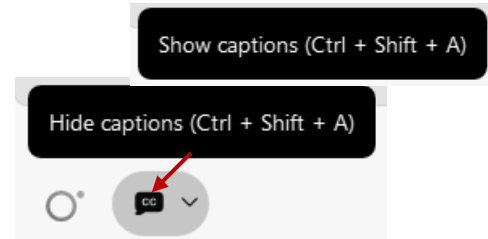
If connected via telephone:

- Press *3 to unmute your microphone.

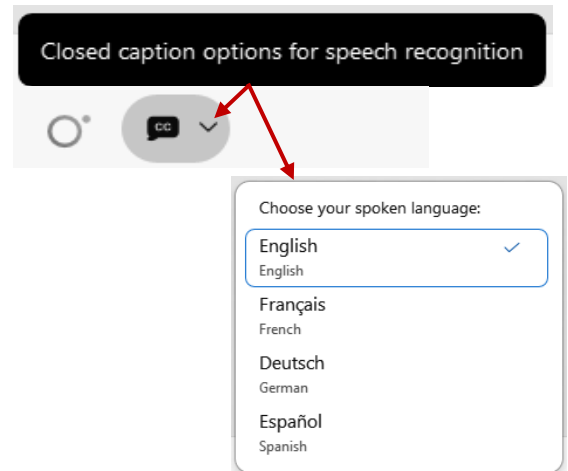
Webex provides real-time closed captioning displayed in a dialog box on your screen. The captioning box can be moved by clicking on the box and dragging it to another location on your screen.



The closed captioning can be hidden from view by clicking on the closed captioning icon. You can repeat this action to unhide the dialog box.



You can select the language to be displayed by clicking the drop-down arrow next to the closed captioning icon.



You can view the closed captioning dialog box with a light or dark background or change the font size by clicking the 3 dots on the right side of the dialog box.

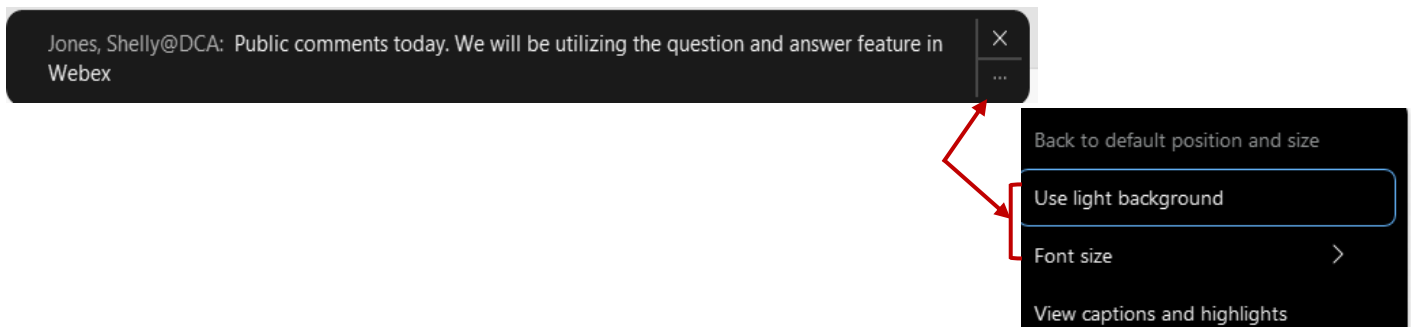


Table of Contents

Fiscal Update	1
Discussion of Amount of Citation Fines Collected	7
Review June 14, 2023, Advisory Council Meeting Minutes	9
Presentation from Advisory Council Members Dan Rhodes and Toby Taylor on Ignition Interlock Devices	21
Division Updates and Statistical Overviews	29
Licensing	30
Administrative	33
Laboratory	36
Enforcement	46
Communications and Education Update	53
Legislative and Policy Updates	57
Update on Bureau’s Sunset Review & SB 814 (Roth, 2023)	58
AB 1059 (Friedman, 2023) – Product Safety: Consumer Products: Fiberglass	95
SB 244 (Eggman) – Right to Repair Act	103
SB 271 (Dodd) – Powered Wheelchairs: Right to Repair	112
Confirm Future Meeting Dates for 2024	134

AGENDA ITEM 4

Fiscal Update

- a. Discussion of Amount of Citation Fines Collected

0325 - Bureau of Electronic Appliance Repair Fund Analysis of Fund Condition
(Dollars in Thousands)
2023 Budget Act

Prepared 8.24.23

w_2022-23 projections based on FM 13

	PY 2022-23	CY 2023-24	BY 2024-25	BY +1 2025-26	BY +2 2026-27
BEGINNING BALANCE	\$ 3,652	\$ 3,226	\$ 1,628	\$ -108	\$ -1,917
Prior Year Adjustment	\$ -	\$ -	\$ -	\$ -	\$ -
Adjusted Beginning Balance	\$ 3,652	\$ 3,226	\$ 1,628	\$ -108	\$ -1,917
REVENUES, TRANSFERS AND OTHER ADJUSTMENTS					
Revenues					
4121200 - Delinquent fees	\$ 123	\$ 99	\$ 99	\$ 99	\$ 99
4127400 - Renewal fees	\$ 2,049	\$ 2,213	\$ 2,213	\$ 2,213	\$ 2,213
4129200 - Other regulatory fees	\$ 12	\$ 11	\$ 11	\$ 11	\$ 11
4129400 - Other regulatory licenses and permits	\$ 249	\$ 300	\$ 300	\$ 300	\$ 300
4163000 - Income from surplus money investments	\$ 83	\$ 21	\$ -	\$ -	\$ -
4171400 - Escheat of unclaimed checks and warrants	\$ 4	\$ 0	\$ 0	\$ 0	\$ 0
Totals, Revenues	\$ 2,520	\$ 2,644	\$ 2,623	\$ 2,623	\$ 2,623
Totals, Transfers and Other Adjustments	\$ -	\$ -	\$ -	\$ -	\$ -
TOTALS, REVENUES, TRANSFERS AND OTHER ADJUSTMENTS	\$ 2,520	\$ 2,644	\$ 2,623	\$ 2,623	\$ 2,623
TOTAL RESOURCES	\$ 6,172	\$ 5,870	\$ 4,251	\$ 2,515	\$ 706
Expenditures:					
1111 Department of Consumer Affairs Regulatory Boards, Bureaus, Divisions (State Operations)	\$ 2,711	\$ 3,884	\$ 4,001	\$ 4,121	\$ 4,244
9892 Supplemental Pension Payments (State Operations)	\$ 46	\$ 46	\$ 46	\$ -	\$ -
9900 Statewide General Administrative Expenditures (Pro Rata) (State Operations)	\$ 189	\$ 312	\$ 312	\$ 312	\$ 312
TOTALS, EXPENDITURES AND EXPENDITURE ADJUSTMENTS	\$ 2,946	\$ 4,242	\$ 4,359	\$ 4,433	\$ 4,556
FUND BALANCE					
Reserve for economic uncertainties	\$ 3,226	\$ 1,628	\$ -108	\$ -1,917	\$ -3,850
Months in Reserve	9.1	4.5	-0.3	-5.0	-10.1

NOTES:

Assumes workload and revenue projections are realized in BY +1 and ongoing.
 Expenditure growth projected at 3% beginning BY +1.

0752 - Home Furnishings and Thermal Insulation Fund Analysis of Fund Condition
(Dollars in Thousands)
2023 Budget Act

Prepared 8.24.23

w_2022-23 projections based on FM 13

	CY 2022-23	BY 2023-24	BY +1 2024-25	BY +2 2025-26	BY +2 2025-262
BEGINNING BALANCE	\$ 6,821	\$ 6,564	\$ 5,311	\$ 3,857	\$ 2,302
Prior Year Adjustment	\$ -	\$ -	\$ -	\$ -	\$ -
Adjusted Beginning Balance	\$ 6,821	\$ 6,564	\$ 5,311	\$ 3,857	\$ 2,302
REVENUES, TRANSFERS AND OTHER ADJUSTMENTS					
Revenues					
4121200 - Delinquent fees	\$ 163	\$ 174	\$ 174	\$ 174	\$ 174
4127400 - Renewal fees	\$ 3,866	\$ 4,063	\$ 4,063	\$ 4,063	\$ 4,063
4129200 - Other regulatory fees	\$ 113	\$ 120	\$ 120	\$ 120	\$ 120
4129400 - Other regulatory licenses and permits	\$ 695	\$ 963	\$ 963	\$ 963	\$ 963
4163000 - Income from surplus money investments	\$ 164	\$ 73	\$ 57	\$ 34	\$ 8
4171400 - Escheat of unclaimed checks and warrants	\$ 16	\$ 0	\$ 0	\$ 0	\$ 0
Totals, Revenues	\$ 5,017	\$ 5,393	\$ 5,377	\$ 5,354	\$ 5,328
Totals, Transfers and Other Adjustments	\$ -	\$ -	\$ -	\$ -	\$ -
TOTALS, REVENUES, TRANSFERS AND OTHER ADJUSTMENTS	\$ 5,017	\$ 5,393	\$ 5,377	\$ 5,354	\$ 5,328
TOTAL RESOURCES	\$ 11,838	\$ 11,957	\$ 10,688	\$ 9,211	\$ 7,630
Expenditures:					
1111 Department of Consumer Affairs Regulatory Boards, Bureaus, Divisions (State Operations)	\$ 4,802	\$ 6,151	\$ 6,336	\$ 6,526	\$ 6,721
9892 Supplemental Pension Payments (State Operations)	\$ 111	\$ 111	\$ 111	\$ -	\$ -
9900 Statewide General Administrative Expenditures (Pro Rata) (State Operations)	\$ 361	\$ 384	\$ 384	\$ 384	\$ 384
TOTALS, EXPENDITURES AND EXPENDITURE ADJUSTMENTS	\$ 5,274	\$ 6,646	\$ 6,831	\$ 6,910	\$ 7,105
FUND BALANCE					
Reserve for economic uncertainties	\$ 6,564	\$ 5,311	\$ 3,857	\$ 2,302	\$ 525
Months in Reserve	11.9	9.3	6.7	3.9	0.9

NOTES:

Assumes workload and revenue projections are realized in BY +1 and ongoing.

3315 - Household Movers Fund Analysis of Fund Condition
(Dollars in Thousands)
2023 Budget Act

Prepared 8.24.23

w_2022-23 projections based on FM 13

	PY 2022-23	CY 2023-24	BY 2024-25	BY +1 2025-26	BY +2 2026-27
BEGINNING BALANCE	\$ 7,911	\$ 8,666	\$ 9,453	\$ 10,157	\$ 10,761
Prior Year Adjustment	\$ -	\$ -	\$ -	\$ -	\$ -
Adjusted Beginning Balance	\$ 7,911	\$ 8,666	\$ 9,453	\$ 10,157	\$ 10,761
REVENUES, TRANSFERS AND OTHER ADJUSTMENTS					
Revenues					
4121200 - Delinquent fees	\$ 128	\$ 133	\$ 133	\$ 133	\$ 133
4127400 - Renewal fees	\$ 3,663	\$ 4,011	\$ 4,011	\$ 4,011	\$ 4,011
4129200 - Other regulatory fees	\$ 76	\$ 77	\$ 77	\$ 77	\$ 77
4129400 - Other regulatory licenses and permits	\$ 84	\$ 90	\$ 90	\$ 90	\$ 90
4163000 - Income from surplus money investments	\$ 0	\$ 147	\$ 150	\$ 159	\$ 166
4171400 - Escheat of unclaimed checks and warrants	\$ 5	\$ -	\$ -	\$ -	\$ -
4172500 - Miscellaneous revenues	\$ 0	\$ -	\$ -	\$ -	\$ -
Totals, Revenues	\$ 3,956	\$ 4,458	\$ 4,461	\$ 4,470	\$ 4,477
Revenue Transfer from Household Mover's Fund (3315) to Motor Carriers Safety Improvement Fund (0293) per Public Utilities Code Section 5003.1	\$ -21	\$ -21	\$ -	\$ -	\$ -
Totals, Transfers and Other Adjustments	\$ -21	\$ -21	\$ -	\$ -	\$ -
TOTALS, REVENUES, TRANSFERS AND OTHER ADJUSTMENTS	\$ 3,935	\$ 4,437	\$ 4,461	\$ 4,470	\$ 4,477
TOTAL RESOURCES	\$ 11,846	\$ 13,103	\$ 13,914	\$ 14,627	\$ 15,238
Expenditures:					
1111 Department of Consumer Affairs Regulatory Boards, Bureaus, Divisions (State Operations)	\$ 2,969	\$ 3,552	\$ 3,659	\$ 3,768	\$ 3,881
9900 Statewide General Administrative Expenditures (Pro Rata) (State Operations)	\$ 211	\$ 98	\$ 98	\$ 98	\$ 98
TOTALS, EXPENDITURES AND EXPENDITURE ADJUSTMENTS	\$ 3,180	\$ 3,650	\$ 3,757	\$ 3,866	\$ 3,979
FUND BALANCE					
Reserve for economic uncertainties	\$ 8,666	\$ 9,453	\$ 10,157	\$ 10,761	\$ 11,259
Months in Reserve	28.5	30.2	31.5	32.5	34.0

NOTES:

Assumes workload and revenue projections are realized in BY +1 and ongoing.

Background

During the June 2023 Advisory Council meeting, council members asked to see how certain fund projections change over time to better understand how projections compare to final numbers.

Below, Bureau staff have compiled the numbers for each fund as reported at Advisory Council meetings over the last year. **Red** represents numbers reported at the October 13, 2022 meeting; **blue**, the January 18, 2023 meeting; **green** the June 14, 2023 meeting; and black are the current reported numbers. (All numbers in thousands, e.g., \$2,520 = \$2.52 million).

Electronic and Appliance Repair Fund				
	July 1, 2022 – June 30, 2023	July 1, 2023 – June 30, 2024	July 1, 2024 – June 30, 2025	July 1, 2025 – June 30, 2026
Revenue	\$2,614	\$2,626	\$2,614	\$2,614
	\$2,589	\$2,648	\$2,627	\$2,627
	\$2,498	\$2,648	\$2,627	\$2,627
	\$2,520	\$2,644	\$2,623	\$2,623
Expenditure	\$3,957	\$3,935	\$3,901	\$4,003
	\$3,188	\$4,242	\$4,359	\$4,433
	\$3,138	\$4,242	\$4,359	\$4,433
	\$2,946	\$4,242	\$4,359	\$4,433
Months in Reserve	6.5	2.5	-1.4	-5.6
	8.6	4.0	-0.7	-5.6
	8.5	3.9	-0.8	-5.7
	9.1	4.5	-0.3	-5.0

Home Furnishings and Thermal Insulation Fund				
	July 1, 2022 – June 30, 2023	July 1, 2023 – June 30, 2024	July 1, 2024 – June 30, 2025	July 1, 2025 – June 30, 2026
Revenue	\$5,183	\$5,201	\$5,181	\$5,158
	\$5,645	\$5,411	\$5,402	\$5,378
	\$5,163	\$5,407	\$5,390	\$5,367
	\$5,017	\$5,393	\$5,377	\$5,354
Expenditure	\$6,367	\$6,411	\$6,540	\$6,720
	\$5,447	\$6,646	\$6,831	\$7,021
	\$5,529	\$6,646	\$6,831	\$6,910
	\$5,274	\$6,646	\$6,831	\$6,910
Months in Reserve	10.2	7.8	5.2	2.4
	12.7	10.2	7.4	4.6
	11.7	9.2	6.6	3.9
	11.9	9.3	6.7	3.9

Household Movers Fund				
	July 1, 2022 – June 30, 2023	July 1, 2023 – June 30, 2024	July 1, 2024 – June 30, 2025	July 1, 2025 – June 30, 2026
Revenue	\$3,860	\$3,850	\$3,854	\$3,857
	\$4,480	\$4,459	\$4,465	\$4,474
	\$4,067	\$4,458	\$4,458	\$4,467
	\$3,956	\$4,458	\$4,461	\$4,470
Expenditure	\$3,862	\$3,742	\$3,557	\$3,641
	\$3,541	\$3,650	\$3,757	\$3,866
	\$3,520	\$3,650	\$3,757	\$3,866
	\$3,180	\$3,650	\$3,757	\$3,866
Months in Reserve	22.6	24.2	24.6	25.3
	29.0	30.7	32.0	33.9
	27.7	29.5	30.8	32.7
	28.5	30.2	31.5	32.5

AGENDA ITEM 4a

Discussion of Amount of Citation
Fines Collected

Background

During the June 2023 Advisory Council meeting, Bureau staff reported that the typical report it runs to determine the amount of citation fines paid was incorrect. To resolve the issue, staff committed to investigate the matter and report back at the October 2023 meeting.

Issue

While the Bureau is continuing to investigate this matter, initially it appears that the internal process to log the incoming revenue contributed to some of the errors. However, Bureau staff are also working to determine why most of the funds are being logged into other revenue categories, such as renewal and application fees.

As the Bureau continues to explore the coding error, staff have run internal enforcement reports on citation amounts for the prior fiscal year (July 1, 2022 to June 30, 2023), which were then compared with the Bureau’s monthly cashiering logs for accuracy.

Citations Issued and Amount Collected July 1, 2022-June 30, 2023				
	Citations Issued	Citation Amount Assessed*	Citations Paid	Citation Amount Collected
EAR	129	\$33,050	37	\$9,500
HFTI	143	\$70,850	73	\$24,650
HHM	93	\$114,000	4	\$4,500

*After a citation is issued, recipients can request a hearing (most are citation review conferences). In these hearings, fines can be withdrawn or reduced based on the circumstances of the case (often the financial hardship of the recipient). These numbers represent the totals following the determinations made in these hearings or other instances when citations are withdrawn.

Moving forward, staff will report these numbers as part of its ongoing Enforcement Update at Advisory Council meetings.

Once the Bureau resolves the coding issue related to citation fines paid, which we expect is a minor information technology issue, staff will run budget reports to insure they are consistent with BHGS internal enforcement reports.

AGENDA ITEM 5

Review June 14, 2023 Advisory
Council Meeting Minutes

**Bureau of Household Goods and Services (Bureau or BHGS)
Advisory Council Meeting Minutes
In-Person and Teleconference Meeting
June 14, 2023**

Department of Consumer Affairs – HQ 1 Hearing Room
1625 North Market Blvd., Room 102
Sacramento, CA 95834

Attendees:

Advisory Council Members: Pascal Banyamini, Industry
Burt Grimes, Industry
Tom Keepers, Industry
Donald Lucas, Public
Dan Rhodes, Industry
Toby Taylor, Industry
Steve Weitekamp, Industry

Bureau Staff: Justin Paddock, Bureau Chief
Claire Goldstene, Deputy Chief
Jacqueline Castro, Licensing Manager
Kelli Williams, Administrative Manager
Alda Aguirre, Supervising Special Investigator
Jacob Egger, Environmental Scientist

Others: Melissa Gear, DCA Board and Bureau
Relations Michael Kanotz, DCA Legal
Reneé Milano, DCA Budgets,
Suzanne Balkas, DCA Budgets

1. Welcome, Introductions, and Roll Call:

Bureau Chief Justin Paddock began the meeting and took roll call. Council Member Sara Oakley had an excused absence and Council Member Burt Grimes had not yet arrived.

2. Public Comment on Items Not on the Agenda

There was none.

3. Update from Melissa Gear, Deputy Director of Board and Bureau Relations, Department of Consumer Affairs

Melissa Gear, DCA Deputy Director of Board and Bureau Relations, provided and update on the Department of Consumer Affairs.

Ms. Gear announced that the Chief of Legislation for the Contractors State License Board, Yeaphana La Marr, and the Executive Officer of the Speech Language Pathology and Audiology Board, Paul Sanchez, were elected chair and vice-chair respectively to the Diversity, Equity, and Inclusion (DEI) Steering Committee. She also noted that in June 2023, three DEI courses will be available for all employees through DCA's SOLID Training Unit.

Ms. Gear also announced that the temporary exemptions to the Bagley- Keene Open Meetings Act expire at the end of June 2023; therefore, all public meetings held after July 1, 2023, must adhere to all the Act's provisions.

Council Member Burt Grimes arrived during the presentation.

Ms. Gear noted that Council Members will be required to take two mandatory classes: The Board Member Orientation (BMOT) and Sexual Harassment trainings. Ms. Gear also explained that BMOT must be completed within one year of appointment.

4. Review January 18, 2023, Advisory Council Meeting Minutes

There were no Council Member or public comments about the January 18, 2023, Advisory Council meeting minutes.

5. Business Modernization Update

Bureau Chief Justin Paddock provided an update on the business modernization cohort project. Chief Paddock announced that as of June 1, 2023, applications for HHM licenses can be completed and submitted online. Chief Paddock also announced plans for the second and third releases of the business modernization plan that will impact HHM's quarterly reports as well as license maintenance and Service Dealer contracts for the EAR program.

Council Member Comment: Mr. Weitekamp asked when permit lookups will be moved from the California Public Utilities Commission to the Bureau website. Chief Paddock responded that he didn't have a specific answer, some features are still being refined but that it will happen in 2023.

Council Member Comment: Mr. Lucas asked if the Bureau had received any feedback since applications went online. Chief Paddock stated that

Licensing Manager Jacqueline Castro would provide an update during her presentation.

6. Division Updates and Statistical Overviews

a. Fiscal

Suzanne Balkas and Reneé Milano from DCA budgets presented the fiscal update. Ms. Balkas reported that currently EAR has funds to sustain it for 8.5 months if no additional revenue is received.

For HFTI, Ms. Balkas reported a projection of 11.7 months in reserve for the current fiscal year.

For HHM, Ms. Balkas reported a current fiscal year reserve of 27.7 months.

Ms. Milano commented that the DCA Budgets Office routinely projects 3 percent growth each budget year.

Council Member Comment: Mr. Keepers asked for clarifications on the reforecast projections for the current year. Ms. Milano answered that each month they project actuals. Chief Paddock stated that the current actuals are through March 30, 2023.

Mr. Keepers commented that it would be helpful to see both prior numbers and current numbers to better identify any changes. Mr. Benyamini added that it might be helpful to only see prior numbers if there is a change of 5 percent or more. Chief Paddock agreed.

Mr. Weitekamp noted that there will likely be a drop in revenue for HHM because the industry is slowing at this time.

Council Member Comment: Mr. Lucas asked if the financial information would change due to fund consolidation. Chief Paddock answered that it would, but not right away. He also stressed that fund consolidation is important because the time staff work for various programs fluctuates.

Chief Paddock announced that at the October 2023 council meeting there will be an agenda item focused on the collection of citations that Mr. Weitekamp asked about because the data the Bureau received on payment of fines is incorrect and requires investigation.

Councilmember Comment: Mr. Weitekamp noted that he appreciated the effort in looking further into it.

Chief Paddock concluded the presentation by assuring there will be reversions in the future for budget projections.

b. Administration

Administrative Manager Kelli Williams presented the administration update and an update on Strategic Plan Objectives 5.1 - 5.5.

Ms. Williams reported on changes to the Enforcement unit, which include plans to hire an enforcement chief, and announced a Bureau staff realignment that will affect the Lab and Enforcement units. She also discussed vacancies in both of those units specifically and noted that the Bureau-wide vacancy rate is currently 26 percent.

Council Member Comment: Mr. Grimes inquired about the vacancies and training for the Special Investigator (SI) positions. Ms. Williams reviewed the total number of vacancies and Chief Paddock noted that the SI's are cross-trained in all three programs.

Council Member Comment: Mr. Lucas asked if the vacancy rate for the Bureau was comparable to other bureaus. Chief Paddock said he has anecdotally checked with other boards and bureaus and that some are higher and others are lower.

Mr. Lucas also inquired about shaded positions on the vacancy chart. Ms. Williams answered that those positions are on hold until a Lab Manager is hired. Chief Paddock noted that he prefers that managers create their own teams.

Council Member Comment: Mr. Rhodes asked what background checks take three to six months to conduct. Ms. Williams responded that the Division of Investigations conducts an in-depth background check that can take a number of months. Mr. Weitekamp commented that for staff working on HHM cases these background checks are of value.

Council Member Comment: Mr. Weitekamp inquired about whether or not the Bureau's background check for staff is longer than other investigative units for different departments. Chief Paddock answered that the Bureau's background checks are more extensive to grant Special Investigators the authority to issue infractions that compel an individual to appear in court. Chief Paddock stated that he was considering making changes that would grant this authority only to supervisors and leads in an effort to reduce delays with the hiring process.

Council Member Comment: Mr. Rhodes asked if Special Investigators could undergo the background check after being hired. Chief Paddock said that could potentially lead to uncomfortable situations in instances when an applicant's background check is denied, which would prevent them from issuing infractions, but they would continue to work at the Bureau.

c. Licensing

Licensing Manager Jacqueline Castro provided a statistical update on licensing regarding slight increases and decreases in license and registrations for Electronic and Appliance Repair, Home Furnishings and Thermal Insulation licenses, and Household Movers (HHM). Regarding HHM quarterly revenue, Ms. Castro reported that there continues to be a steady increase in the total revenue received.

Ms. Castro provided updates on Licensing strategic plan objectives 1.1 – 1.4, including efforts from Enforcement staff to bring delinquent licensees into compliance; a continued focus on customer service; the June 1, 2023, launch of the HHM online application; and the CPUC electronic filing system being available to existing permit holders but not new applicants.

d. Laboratory

Environmental Scientist Jacob Egger provided an update on laboratory statistics and vacancies.

Mr. Egger reported that the Lab was accredited in May 2023 by the International Accreditation Service.

Mr. Egger also reported that Environmental Scientist Dylan Inglefield and Chief Paddock attended the International Association of Bedding and Furniture Labeling Officials (IABFLO) conference in Portland, Maine. Mr. Egger announced that Chief Paddock is now the Vice President of IABFLO.

Council Member Comment: Mr. Lucas asked if the Bureau communicates about mattress testing with CPSC and inquired if they have similar failures. Chief Paddock stated that the Bureau only reports mattress failures to CPSC, but that recent failures have not been reported because the Bureau held on to the mattresses for too long. Mr. Lucas expressed surprised at the number of failures, given that the standard has been in place for some time. Chief Paddock said the Bureau intends to pull and test follow-up samples for those mattresses that sat too long to verify results.

Mr. Lucas asked if the CPSC failure rate is close to the Bureau's failure rate. Mr. Egger responded that he was not aware of the CPSC failure rate. Mr. Lucas stated it would be helpful if the Bureau presented its data alongside that of CPSC to provide additional context for testing results. Chief Paddock agreed. Mr. Lucas also suggested that the statistics be presented as the total number of tests over the last four quarters rather than an average of the past four quarter's test results. Mr. Egger agreed and will make that change for future meetings.

Council Member Comment: Council Member Grimes asked for clarification about the types of label failures that occur and if the Bureau could educate businesses with products that fail. Mr. Egger responded that minor violations include spelling errors, moderate violations involve percentages that are a bit off, and a major failure generally involves missing information that is not on the label.

Mr. Grimes suggested that an FAQ might help educate industry. Chief Paddock said that staff could create an updated FAQ after the changes in the new label regulations are adopted.

Council Member Comment: Mr. Lucas stated that the failure rate is outrageous, but expressed hope that the new label regulations will reduce the failure rate.

e. Enforcement

Supervising Special Investigator Alda Aguirre provided the Enforcement update, including an update about staffing levels and a mentoring program that pairs new staff with more experienced staff.

Ms. Aguirre reviewed investigative highlights from the past fiscal quarter, partnerships with other federal, state, and local agencies, and reported that the Bureau has forwarded four cases to the Attorney General that originated in collaboration with the California Department of Industrial Relations. She also noted that the Bureau has been working on the Memorandum of Agreement with the Federal Motor Carrier Safety Administration.

Ms. Aguirre reported on an undercover sting operation targeting unlicensed household movers that resulted in eight cases being referred to the Kern County District Attorney's office.

Ms. Aguirre also highlighted consumer assistance provided by staff as well as educational efforts directed toward industry. She also reviewed statistics about incoming complaints to the Compliance Union as well as statistics on desk and field investigations.

Lastly, Ms. Aguirre announced that the Bureau is seeking feedback about refinements to the definition of "hold hostage."

Council Member Comment: Mr. Weitekamp congratulated the Bureau for the information provided on page 34 of the meeting packet materials as well as the proactive stings and stated that he completely understands the challenge of vacancies in Enforcement. He also raised concerns about the statistics on pages 26-29 of the meeting packet and requested further explanation of their meaning.

Mr. Weitekamp also expressed his disagreement with the Bureau's definition of "hold hostage" and stated that he believes it should be much broader than just the retention of custody because many scammers don't have physical assets.

Ms. Aguirre responded that the lack of information about case disposition is being addressed in the buildout of the new enforcement database that will better capture this information Chief Paddock added that closure codes are simpler for EAR/HFTI but more staff intensive for household mover cases.

Mr. Weitekamp asked if it was possible to track the lineage of cases. Chief Paddock stated that it could be captured to some degree through statistics on case aging, but that the request can't be met until after the new system is built out.

Ms. Aguirre said that she agreed with Mr. Weitekamp about the need to broaden the definition of "hold hostage," and noted that the Bureau is seeking input from Advisory Council Members as well as members of the public.

Council Member Comment: Mr. Rhodes inquired about investigations and how the Bureau balances policing those who were previously compliant as compared to those who have never been compliant. Ms. Aguirre responded that staff conduct sweeps and compile a list of businesses operating without a valid permit, license, or registration. Investigators educate businesses with no prior experience with the Bureau and later cited if they fail to secure a permit, license, or registration. Businesses that were previously compliant

but are now delinquent are issued citations. She also noted that Enforcement staff often educate business owners with the goal of compliance.

Chief Paddock announced a temporary suspension of sting operations until enforcement supervisors are in place because they are incredibly work intensive and he wants staff to continue to prioritize responding to consumer complaints.

7. Legislative and Policy Updates

a. Update on Bureau's Sunset Review & SB 814 (Roth, 2023)

Chief Paddock provided a brief update on the Bureau's sunset bill. He stated that it contains several provisions that Bureau staff sought, including a four-year reauthorization and the removal of the HHM application financial requirements.

Chief Paddock also spoke on provisions in the bill that he expects to see soon and noted that he does not expect to see fingerprint requirements for EAR service dealers in the bill and that he is unsure about the withhold from sale proposal for HFTI.

He announced that the bill is currently in the Assembly but that a policy committee hearing date has not yet been set.

b. CPS Fee Study

Chief Paddock presented on the CPS fee study and noted that while the study recommends sizable fee increases for EAR and HFTI the Bureau is only seeking modest fee increases.

Chief Paddock also discussed the Bureau's desire for fund consolidation with periodic audits to determine how much time individual staff dedicates to each program.

Council Member Comments: Mr. Weitekamp asked how much the study cost. Chief Paddock replied that it was around \$89,000. Mr. Weitekamp expressed concern that the authors of the report fully understood the Household Movers program and noted his vehement opposition to the recommendation for application and transfer fees. He also expressed disagreement about using average numbers for movers rather than median and questioned the accuracy of the page 41, as they are based on two of the most dynamic years in the industry as a result of Covid. Chief Paddock

responded that the Bureau has not pursued a rulemaking to increase fees for the Household Movers program.

Council Member Comment: Mr. Keepers asked how much financial projections play into the fee recommendation versus work and time allocation. Chief Paddock said that staff surveys are given higher priority because they determine how the various programs will meet the fiscal projections. Chief Paddock stated that he believes a periodic audit is the only and best way to determine if the Bureau's fee structure is appropriate.

Council Member Comment: Mr. Weitekamp said he thought that testing and live scan fees would be separated on Household Mover permit applications. Chief Paddock stated that applicants will pay the Bureau's exam vendor directly and for fingerprints directly. He also stated that while it would be more expensive for the applicant it will save the Bureau money.

c/d. Household Movers Enforcement Regulation Update and Household Movers Licensing Regulation Update

Chief Paddock elected to present items 7c and 7d at the same time.

Chief Paddock provided updates on both the licensing and enforcement regulations and reported that the enforcement regulations are 80 percent complete and awaiting financial analysis.

Chief Paddock also announced the Bureau has prioritized hiring a policy/regulation manager and then outlined his regulation priorities.

e. Upholstered Furniture and Bedding Law Label Regulatory Proposal

Chief Paddock began by noting the importance of Bureau staff attending industry and regulatory agency conferences.

Chief Paddock then spoke about and sought feedback on several issues related to questions that appear on pages 61-62 of the meeting packet and which arose at the IABFLO conference.

Chief Paddock began by summarizing some changes the Bureau may be making regarding the flammability statement on law labels.

Council Member Comment: Mr. Lucas asked how IABFLO meeting attendees responded to the proposed law label changes. Chief Paddock replied that the industry supported being consistent with the Consumer Products Safety Commission (CPSC) federal requirement and eliminating some verbiage. Mr. Lucas also asked how the Bureau is contacting

businesses based overseas with label failures to ensure compliance. Chief Paddock responded that the Bureau assumes that holding online retailers accountable for ensuring labels are compliant will address this problem.

Chief Paddock then spoke about detachable items on products, such as sofas with multiple cushions and pillows, and whether each item requires a separate law label or if the Bureau should allow manufacturers more flexibility.

Chief Paddock also informed Council Members about the approach Utah is taking regarding online sales and the law label; noted that the Bureau plans to update its finish size technical bulletin and post it to the website; discussed the definitions of certain terms that appear on the law label that could be updated to provide clearer disclosure to consumers and one term he'd like to remove from the label; and spoke about what information, outside of advertisements, the Bureau would allow a retailer to disclose on a law label. He added that by seeking this change, he is expecting a lot of industry feedback, which he welcomes.

Council Member Comment: Mr. Lucas commented that if the Bureau required the chemical names used that it would be confusing for consumers. Chief Paddock responded by discussing how and if the label includes information on plastic materials in the articles. Mr. Lucas said plastics would have to be defined too, but stressed that the priority is a label that is informative and understandable for the consumer.

f. AB 1059 (Friedman, 2023) – Product Safety: Consumer Products: Fiberglass

Chief Paddock updated Council Members about AB 1059 and the impact on the Bureau if it passes and becomes law, reviewed those who support and oppose the bill, and noted that the Bureau is acting as a technical expert on this legislation.

Chief Paddock also reported that the Bureau's fiscal impact if the bill passes is \$157,000 annually because it will require hiring another environmental scientist.

g. SB 244 (Eggman) – Right to Repair Act

Chief Paddock reviewed the requirements of SB 244 and noted that the Bureau is watching the bill, but it will not affect Bureau operations.

h. SB 271 (Dodd) – Powered Wheelchairs: Right to Repair

Chief Paddock reviewed the provisions of SB 271 and stated that the Bureau is monitoring its progress.

i. Update on Strategic Planning Objectives 4.1 – 4.5

Chief Paddock provided updates on strategic plan objectives 4.1 – 4.5.

8. Communication and Education

Deputy Bureau Chief Claire Goldstene provided an update on the Bureau’s communications and education efforts. Ms. Goldstene shared work the Bureau has done to improve outreach, including issuing press releases, media stories highlighting the Bureau’s work, and participation at educational events where Bureau staff presented informational material to consumers and provided updates to industry groups.

Deputy Chief Goldstene announced that, unfortunately, the Bureau lacks sufficient staff to have a booth at various county fairs.

She also announced that the Bureau plans to hire a fulltime communications manager to oversee outreach and communications efforts targeting the Bureau’s three main audiences: consumers, applicants, and licensees.

9. Confirm Future Meeting Date of October 12, 2023

Chief Paddock confirmed that the next Advisory Council meeting will take place on Thursday, October 12, 2023.

Council Member Comment: Mr. Weitekamp announced that, unfortunately, he will be out of the country that date. Chief Paddock replied that to accommodate the schedules of other Council Members the meeting date can’t be changed, but that CMSA is welcome to have someone attend the meeting as a member of the public.

Chief Paddock also announced that the next meeting may be a dual site meeting that takes place in both Northern and Southern California.

10. Future Agenda Items

Chief Paddock said to expect a presentation on ignition interlock devices at the next meeting and updates on online labeling.

11. Adjournment

Chief Paddock adjourned the meeting.

AGENDA ITEM 6

Presentation from Advisory Council
Members Dan Rhodes and Toby Taylor
on Ignition Interlock Devices

Ignition Interlock Devices

Advisory Council Members Dan Rhodes and Toby Taylor will conduct a presentation during the October 12, 2023, meeting to provide council members an overview of interlock ignition devices, the state regulatory environment surrounding them, and the specific regulatory role of the Bureau of Household Goods and Services.

Below are the relevant California statutory and regulatory code sections related to ignition interlock devices, followed by copies of the PowerPoint slides.

California Business and Professions Code

Section 9807 - Certified Ignition Interlock Devices; Installation, Calibration, Service, Maintenance, and Monitoring by Certain Licensed Service Dealers; Compliance with Specified Provisions Relating to Payment of Ignition Interlock Device Costs

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

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

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

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

California Code of Regulations (CCR) Title 16 Division 27 Article 4

16 CCR § 2744 - Ignition Interlock Devices

Ignition interlock device standards apply to the installation, calibration, maintenance, monitoring, or servicing of electrical devices installed in a motor vehicle that measure a motorist's breath sample for alcohol content, and, on the basis of that measurement, allow or not allow the vehicle's starter to be energized.

16 CCR § 2744.1 – Installation Standards Applicable to Ignition Interlock Devices

An electronic service dealer, as defined in subdivision (p) of Section 9801 of the Business and Professions Code, who installs, calibrates, maintains, monitors, or services any ignition interlock device shall:

- (a) Prohibit customers or other unauthorized persons from observing the installation, calibration, maintenance, monitoring, or servicing of an ignition interlock device.
- (b) Have all tools, test equipment, and manuals needed to install or otherwise service an ignition interlock device and to screen vehicles for acceptable mechanical and electrical condition prior to installation.
- (c) Provide adequate security measures to prevent unauthorized persons from accessing secured materials (tamper seals or installation instructions).
- (d) Install or service an ignition interlock device in a vehicle taking into account the condition of the vehicle's mechanical and electrical systems.
- (e) Install or service an ignition interlock device following accepted trade standards and instructions from the ignition interlock device manufacturer.
- (f) Verify that the ignition interlock device is functioning properly after it has been installed in the vehicle or serviced.
- (g) Ensure that an interlock ignition device is not installed or serviced in a manner that could adversely affect the performance of the ignition interlock device or impede the safe operation of the vehicle.
- (h) Restore a vehicle to its original condition when an interlock ignition device is removed. All severed wires must be permanently reconnected and insulated with heat shrink tubing or equivalent.

Ignition Interlock Instruments



Bureau of Household Goods and Services
Advisory Council Meeting
October 12, 2023

1

Ignition Interlock Instruments

Interlock Devices

- > An adaptation of a screening device technology.
- > Designed to provide a rapid approximation of breath alcohol concentration.
- > Are used extensively as a condition for driver license actions and/or court requirement, and
- > Are capable of producing accurate and reliable results when proper scientific safeguards are applied.



2

Ignition Interlock Instruments

IID Components

- > **Handset**
 - > Breath test sampling part of the device.
 - > Contains vital electronics (pressure, temperature, and flow sensors, etc.),
 - > Features the display.
- > **Interlock data logger**
 - > Contains the relay that prevents or allows the car from starting/operating.
 - > Contains memory.
 - > Generally installed out of sight.



3

Ignition Interlock Instruments

Installation

- > Averages between 45 minutes to 2 hours. Good rule of thumb is one hour.
- > Exotic cars can take longer (Hybrid and Electric).

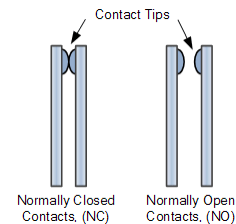


4

Ignition Interlock Instruments

IID Operation

- > A user delivers a breath test into the BAIID.
- > The BAIID will analyze the breath test.
- > If the breath test is below the alcohol set point (0.03 g/210L), the BAIID will enter a not-blocking State.
- > If the breath test is at or above the alcohol set point, the BAIID will enter a blocking State.
- > Retest (5-15, 15-45, 5 min).

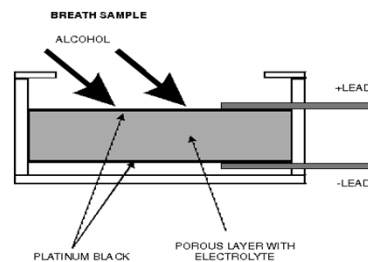


5

Ignition Interlock Instruments

Device Characteristics

- > Fuel Cell
 - > Ethanol specific.
 - > An electrochemical device in which alcohol is absorbed and oxidized to acetic acid.
 - > Electrons move to respective leads. Fuel cell becomes a battery.
 - > Electrical charge is proportional to alcohol concentration.



6

The California Program

History

- > Program began as a Pilot program in several counties from 2010 – 2015.
- > Program expanded statewide with new a Pilot program beginning in 2019 and ending in 2025.
- > 14 “Manufacturers” on the Approved Manufacturers & BAIIDS list published by DMV.
- > 2019 Total IIDs installed in CA – 32,642.
- > This is the most installed BAIIDS of the 23 states on the list.

7

The California Program

Entities Involved

- > Department of Motor Vehicles (DMV)
– Lead Agency
- > Office of Traffic Safety (OTS)
- > Bureau of Automotive Repair (BAR)
- > Bureau of Household Goods and Services (BHGS)



8

The California Program

BHGS Role

- > 16 CCR § 2744 et seq.
- > Prescribe installation standards for an electronic service dealer who installs, calibrates, maintains, monitors, or services an ignition interlock device.

9

Quality Assurance Plans

Questions



10

AGENDA ITEM 8

Division Updates and Statistical Overviews

- a. Licensing
- b. Administrative
- c. Laboratory
- d. Enforcement

AGENDA ITEM 8a

Licensing

The Licensing Unit oversees four distinct areas: Electronic and Appliance Repair, Home Furnishings and Thermal Insulation, Service Contracts, and Household Movers. The Licensing staff work daily with applicants and licensees who have questions about their application and/or license fees via phone and email, and review applications and determine if any requirements have not been met. In addition, Licensing staff also process licensing and registration renewals, household mover quarterly reports, address/business/owner changes, delinquencies, license histories/certifications, and review new service contract agreement language.

Electronic and Appliance Repair Registrations

Quarter Ending	12/31/22	3/31/23	6/30/23	As of 8/31/23	Average
Appliance Service Dealers	2,586	2,663	2,696	2,725	2,668
Electronic Service Dealers	3,190	3,192	3,151	3,126	3,165
Combination Electronic/ Appliance Service Dealers	267	258	260	261	262
Service Contract Administrators	75	79	80	80	79
Service Contract Sellers	11,877	11,773	11,489	11,501	11,660
Total Active EAR Registrations	17,995	17,965	17,676	17,693	17,832

Home Furnishings and Thermal Insulation Licenses

Quarter Ending	12/31/22	3/31/23	6/30/23	As of 8/31/23	Average
Furniture Retailers	1,871	1,894	1,879	1,826	1,868
Bedding Retailers	1,869	1,903	1,964	1,978	1,929
Furniture and Bedding Retailers	10,303	10,319	10,310	10,284	10,304
Custom Upholsterers	433	415	397	398	411
Supply Dealers	89	91	91	92	91
Importers (includes overseas Manufacturers)	5,946	5,940	5,894	5,870	5,913
Manufacturers	1,340	1,332	1,323	1,325	1,330
Sanitizers	31	32	31	31	31
Wholesalers	152	151	147	146	149
Thermal Insulation Manufacturers	100	99	93	95	97
Total Active HFTI Licenses	22,114	22,134	22,129	22,045	22,121

Household Movers Permits

Quarter Ending	12/31/22	3/31/23	6/30/23	As of 8/31/23	Average
New Permits Issued	31	25	42	16	29
Exams Administered	30	32	37	28	32
Exam Pass Rate	90%	94%	92%	93%	92%
Total Active HHM Permits	1,096	1,063	1,090	976*	1,056

*The number of total active HHM permits has decreased due to quarterly report suspensions, workers' compensation annual reports (total number of employees in support of BHGS-regulated operations as clerical office employees, salesperson, or warehouses-furniture operation during 2022 calendar year), and permit cancellations.

Household Movers Quarterly Revenue Report

Quarter Ending	12/31/22	3/31/23	6/30/23	As of 8/31/23*	Average
Quarterly Reports Received	1,123	768	1,039	857	947
Gross Revenue	\$812,411	\$471,001	\$690,021	\$690,331	\$665,941
Administrative Fees	\$11,230	\$7,680	\$10,390	\$8,570	\$9,468
CHP Fees	\$5,615	\$3,840	\$5,195	\$4,285	\$4,734
Net Revenue	\$795,566	\$459,481	\$674,436	\$677,476	\$651,740
Net Revenue Including Admin Fees	\$806,796	\$467,161	\$684,826	\$686,046	\$652,928

*The "Quarterly Reports Received" and the revenue collected for the current quarter will increase as the Bureau continues to receive outstanding revenue.

AGENDA ITEM 8b

Administrative

The Administration Unit is responsible for personnel management, which includes recruitment and hiring, on/off-boarding staff, and assisting Bureau staff in resolving pay and benefits issues. In addition, the unit handles contract administration and procurement, as well as asset management. It also provides support for the Executive Office, covers the reception area, responds to Public Records Act requests, and coordinates record management for the Bureau. Lastly, the unit oversees building facilities requests and provides training and travel liaison assistance for staff.

Bureau Staffing

Since the addition of the Household Movers division in 2018, Bureau staffing has increased by 39 percent, growing from 49.5 positions to 69 positions covering all three program areas. Most of this growth has occurred in Enforcement and also includes five additional management positions throughout the Bureau. With this increase in staff, hiring priorities have been based on business needs and available resources. Hiring continues to be a top priority for the Administration unit.

As shown below, between June 1, 2023 and September 15, 2023, the Bureau filled six vacancies (two of which were internal promotions) and is currently in the midst of eleven additional employee recruitments.

Hired—June 1, 2023-September 15, 2023

	Licensing	Admin.	Lab	Enforcement	Management
June	Analyst	--	--	--	--
July	--	--	--	--	--
August	--	Office Tech.	--	Analyst	Enforcement Chief
Sept. (to 9/15)	--	--	--	Analyst	Senior Env. Scientist

Recruitments in Process (Job Posted/Interviews Scheduled/Background)—As of September 15, 2023

Licensing	Enforcement	Management
Analyst	Analyst (2)	Policy Manager
	Investigator (3)	Outreach/Education
	Office Tech	Enforcement—South
		Enforcement—North

Bureau management has developed a plan to address the vacancies shown in the table below: paperwork to begin recruitment for the part-time analyst in Licensing is underway; the new Senior Environmental Scientist has prioritized hiring and has already begun the process to fill vacancies in the unit; and once the enforcement managers are in place they will recruit to fill the investigator positions as they build their respective teams. Bureau management also reduced the number of investigator positions subject to the longer background review, which will speed up the hiring process.

Vacancies—As of September 15, 2023

Licensing	Admin.	Lab	Enforcement
Analyst (part-time)	Fully Staffed	Textile Tech (2)	Investigator North (4)
		Office Tech	Analyst (2)
		Environmental Scientist	

Telework

The Bureau recognizes that telework is vital for employee recruitment and retention and has invested in equipment to facilitate its viability, which has allowed staff in all units to work on a hybrid schedule. Managers closely monitor productivity to insure that telework does not infringe on the completion of staff work. The option for telework has also expanded both the number and quality of applicants for vacant positions.

AGENDA ITEM 8c

Laboratory

The BHGS Laboratory conducts testing to ensure that manufacturers comply with all Bureau laws and regulations for the Household Furnishings and Thermal Insulation program. Laboratory staff conduct physical break downs, chemical analyses, and flammability tests of insulation materials, upholstered furniture, bedding products, and mattresses. Following analysis, the resulting scientific reports are used to support the Bureau’s enforcement efforts.

Technical Bulletin 117-2013

Technical Bulletin 117-2013 is California’s smolder resistance test for filling materials used in upholstered furniture. This standard is intended to produce upholstered furniture which has a reduced risk of smoldering. This standard provides methods for smolder resistance of cover fabrics, barrier materials, resilient filling materials, and decking materials used in upholstered furniture.

TB 117-2013 – Smoldering Test of Upholstered Furniture					
Results	Quarter Ending				Overall Results
	12/31/22*	3/31/23	6/30/23*	As of 8/31/23	
Pass	29	22	12	6	69
Fail	0	1	0	0	1
Total tested	30	23	15	6	74
Pass rate	100%	96%	100%	100%	99%

*There was one inconclusive sample in the quarter that ended 12/31/2022 and three inconclusive samples in the quarter that 6/30/2023. These follow-up samples needed for additional testing information and . are included in the total tested, but their results were not counted in the pass/fail rate.

TB 117-2013 testing failures are rare, but when they do occur it most often involves manufacturers outside the United States. Overall, manufacturers’ products are meeting California’s smoldering standards.

TB 117-2013 – Manufacturing Locations of Testing Failures					
Location	Quarter Ending				Overall Results
	12/31/22	3/31/23	6/30/23	As of 8/31/23	
U.S. - California	0	0	0	0	0
U.S. – Other States	0	0	0	0	0
Outside U.S.	0	1	0	0	1
Total Failures	0	1	0	0	1
Samples Tested	30	23	15	6	74

16 Code of Federal Regulations (CFR) 1633

16 CFR 1633 is the U.S. Consumer Product Safety Commission’s standard for the flammability (open flame) of mattress sets. Part 1633 establishes flammability requirements that all mattress sets must meet before sale or introduction into commerce. The standard intends to reduce deaths and injuries associated with mattress fires by limiting the size of the fire generated by a mattress set during a thirty-minute test.

16 CFR 1633 – Flammability (Open Flame) Test of Mattress Sets					
Results	Quarter Ending				Overall Result
	12/31/22	3/31/23	6/30/23	As of 8/31/23	
Pass	2	1	4	7	14
Fail	5	0	1	3	9
Total tested	7	1	5	10	23
Pass rate	29%	100%	80%	70%	61%

Between the quarter ending December 31, 2022 and August 31, 2023, mattresses have a 61 percent pass rate.

16 CFR 1633 – Manufacturing Locations of Testing Failures					
Location	Quarter Ending				Overall Result
	12/31/22	3/31/23	6/30/23	As of 8/31/23	
U.S. - California	4	0	1	1	6
U.S. – Other States	1	0	0	0	1
Outside U.S.	0	0	0	2	2
Total Failures	5	0	1	3	9
Samples Tested	7	1	5	10	23

Thermal Insulation

Thermal insulation testing includes smoldering, flammability, corrosion, and R-value (efficiency rating) of thermal insulation samples. The Bureau tests various thermal insulation, such as loose-fill cellulose, fiberglass battings, loose-fill fiberglass, and polystyrene foam boards.

Thermal Insulation Testing – Smoldering, Flammability, Corrosion & R-Value					
Results	Quarter Ending				Overall Result
	12/31/22	3/31/23	6/30/23	As of 8/31/23	
Pass	0	4	0	0	4
Fail	1	1	0	0	2
Total tested	1	5	0	0	6
Pass rate	0%	80%	N/A	N/A	67%

In recent years, thermal insulation testing had declined amid a greater focus on the furniture and bedding programs. However, in June 2023, the laboratory implemented a new protocol to increase thermal insulation testing by sending out thermal insulation sample requests every June and December. The samples requested in June are currently undergoing testing so do appear in the table below.

Thermal Insulation – Manufacturing Locations of Testing Failures					
Location	Quarter Ending				Overall Result
	12/31/22	3/31/23	6/30/23	As of 8/31/23	
U.S. - California	0	0	0	0	0
U.S. – Other States	1	1	0	0	2
Outside U.S.	0	0	0	0	0
Total Failures	1	1	0	0	2
Samples Tested	1	5	0	0	6

Bedding Testing – Finished Size and Net Weight

Bedding testing consists of compliance with finish size and net weight measurements. Examples of bedding products include comforters, bed pillows, mattress pads, and mattresses.

Bedding Testing – Finish Size and Net Weight*					
Results	Quarter Ending				Overall Result
	12/31/22	3/31/23	6/30/23	As of 8/31/23	
Pass	11	2	7	8	28
Fail	4	3	5	2	14
Total tested	15	5	12	10	42
Pass rate	83%	40%	58%	80%	67%

*Please note: Label failures are not reported in this section of the Lab update.

Bedding failures (finish size and net weight) are relatively split among all manufacturing locations. Lab staff have concluded that manufacturers are often unclear about how finish size is measured, so staff are creating clarifying content for the BHGS website.

Bedding Testing – Manufacturing Locations of Testing Failures					
Location	Quarter Ending				Overall Result
	12/31/22	3/31/23	6/30/23	As of 8/31/23	
U.S. - California	2	0	1	2	5
U.S. – Other States	0	1	3	0	4
Outside U.S.	2	2	1	0	5
Total Failures	4	3	5	2	14
Samples Tested	15	5	12	10	42

The table below includes test results for TB 117-2013, 16 CFR 1633, bedding and thermal insulation. Information about label review and flame-retardant chemical testing results follow.

The Bureau's furniture, bedding, and mattress program underwent accreditation beginning in May 2023, which led to a decline in samples tested during the quarter ending June 30, 2023. Once the lab is fully staffed, declines in testing during the accreditation process are expected to be less noticeable.

BHGS Laboratory Testing Totals*					
Results	Quarter Ending				Overall Results
	12/31/22	3/31/23	6/30/23	As of 8/31/23	
Pass	42	29	23	21	115
Fail	10	5	6	5	26
Total tested	52	34	29	26	141
Pass rate	81%	85%	79%	81%	82%

*This table excludes DTSC testing and labeling review results. Mattresses are counted twice on this table, since they are tested both as bedding and as 16 CFR 1633.

Flame Retardant Chemical Labeling and Testing

Since the passage of SB 1019 in 2015, manufacturers are required to state if their product does or does not contain flame-retardant chemicals. Currently, almost all manufacturers state they do not use flame-retardant chemicals in their products.

Flame Retardant Chemical Statement Analysis					
Label Checked As	Quarter Ending				Quarterly Average
	12/31/22	3/31/23	6/30/23*	As of 8/31/23	
No Added FR Chemicals	29	23	14	6	72
Added FR Chemicals	0	0	0	0	0
No Box Checked	1	0	2	0	3
Total	30	23	16	6	75
No Added FR Chemicals check on Flammability Label	97%	100%	93%	100%	97%

*In the quarter ending June 30, 2023, one of the upholstered furniture items predated TB 117-2013 and SB 1019 and was, therefore, not factored into the pass rate for flame retardant chemical statements.

The Bureau sends products where the flammability label includes a “contains NO added flame retardant” statement to the California Department of Toxic Substances Control (DTSC) for chemical analysis to confirm the accuracy of the statement. This includes juvenile products, foam in adult mattresses, and upholstered furniture.

No samples sent to DTSC between the quarter ending December 31, 2022 and August 31, 2023, contained over 1000ppm (parts per million) of flame-retardant chemicals. Though each sample can involve sending multiple layers to DTSC for testing, it will only be recorded as one overall pass or fail.

Samples Analyzed by DTSC with the “No Added Flame Retardant” Chemical Statement					
DTSC Analysis	Quarter Ending				Overall Result
	12/31/22	3/31/23	6/30/23	As of 8/31/23	
Pass	1	1	0	0	2
Fail	0	0	0	0	0
Total Tested	1	1	0	0	2
Pass Rate	100%	100%	N/A	N/A	100%

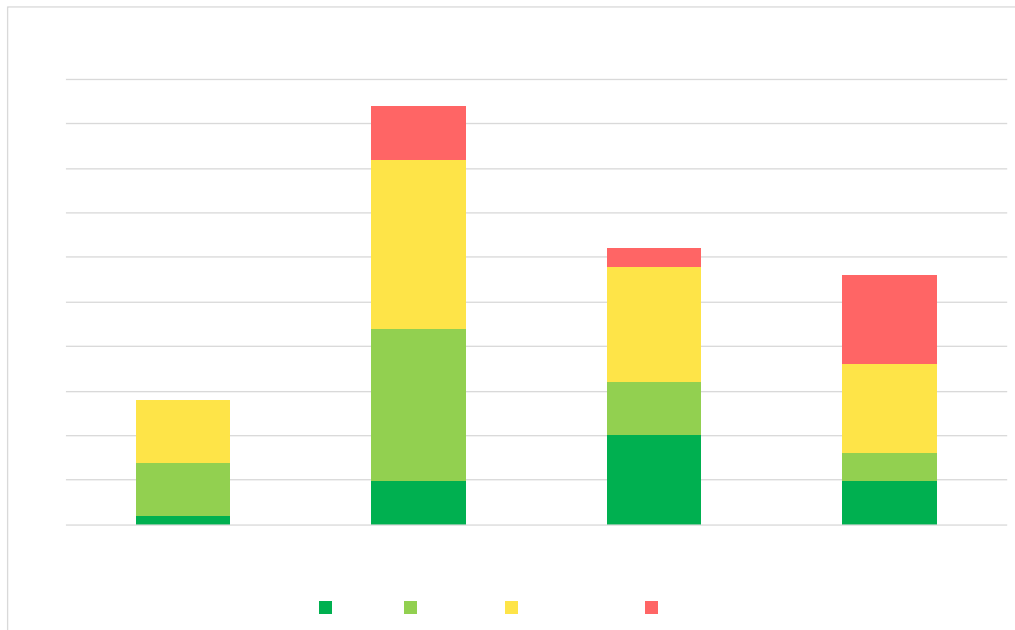
Label Review

Label review is conducted on all mattresses, upholstered furniture, and bedding products. A Laboratory analyst reviews the law and flammability labels attached to the products to determine if the manufacturer has followed the rules and regulations that apply to their product. Between the quarter ending December 31, 2022 and August 31, 2023, only 18 percent of labels reviewed had no violations, while 82 percent of the labels reviewed had at least one violation, as shown in the two charts below.

The Bureau will reimburse businesses with samples that pass or samples with minor labeling failures, but not those with moderate labeling failures. Major labeling failures lead to enforcement action against the manufacturer.

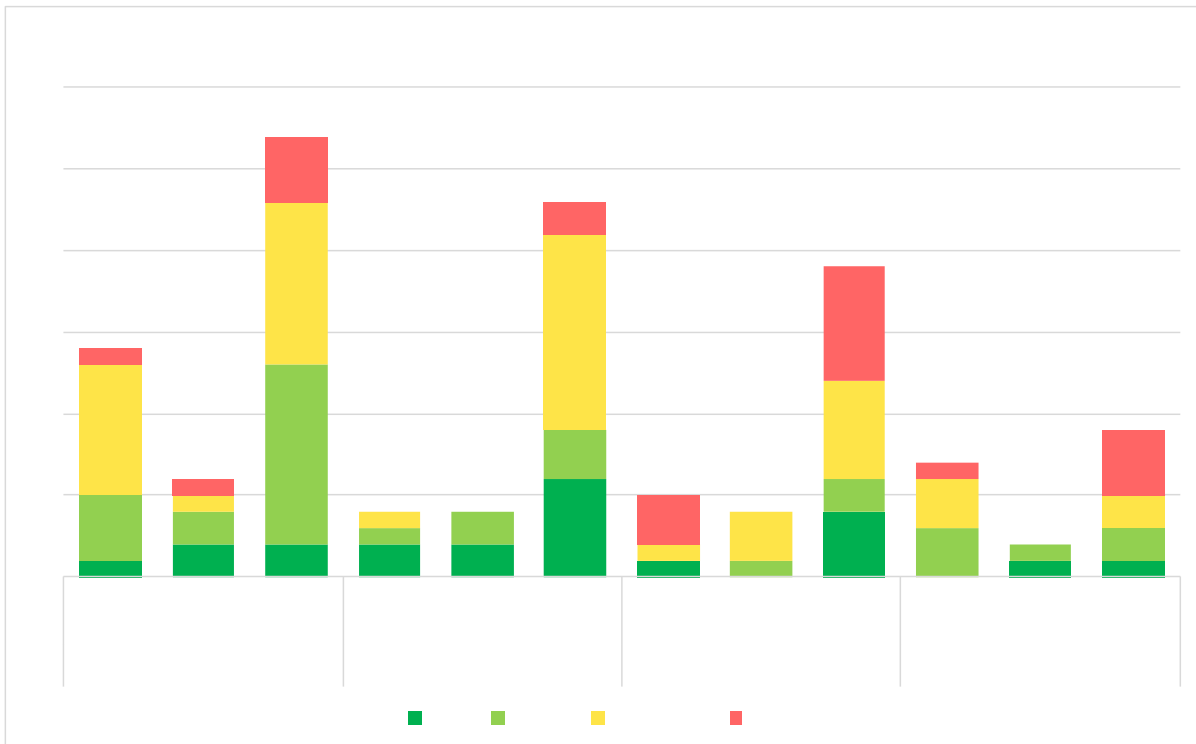
Label Reviews Conducted					
Labeling Results*	Quarter Ending				Overall Results
	12/31/22	3/31/23	6/30/23	As of 8/31/23	
Pass	5	10	5	2	22
Minor	17	6	3	5	31
Moderate	19	13	10	6	48
Major	6	2	10	5	23
Total Labels Reviewed	47	31	28	18	124
Pass rate of labels	11%	32%	18%	11%	18%

*Labeling results exclude thermal insulation products.



The data in the two charts below show that most label failures involve manufacturers from outside the United States, as most of the collected samples are from manufacturers outside the U.S. When comparing “total failures” and “samples tested,” the majority of samples tested failed the label review.

Label Reviews – Manufacturing Locations of Label Failures					
Location	Quarter Ending				Overall Results
	12/31/22	3/31/23	6/30/23	As of 8/31/23	
U.S. – California	13	2	4	7	27
U.S. – Other States	4	2	4	1	11
Outside U.S.	25	17	15	8	64
Total Failures	42	21	23	16	102
Samples Tested	47	31	28	18	124



In response to a request from Advisory Council members, below are examples of minor, moderate, and major label failure violations. While this list is not comprehensive and is subject to change, it highlights the most common violations.

Minor:

- Spelling, grammar, punctuation errors
- Added or deleted words
- Wrong type of label (removable cushions improperly listed)
- Filling form incorrect (i.e. Polyester Fiber instead of Polyester Fiber Batting or Polyurethane Foam instead of Polyurethane Foam Pad)
- Non-generic name (Heat Resistant Polyurethane Foam)
- Font size
- Incorrect label color (excluding sanitization and/or secondhand labels – see Major Failures below)
- Information out of order (“Under Penalty of law...” below the certification statement)

Moderate:

- Percentages incorrect
- Net weight incorrect
- Units missing from finish size
- Filling material listed on the law label is not found in the product (excluding incorrect form)
- Units missing from finish size
- Finish size only given in non-inch units

Major:

- No percentages and/or component listed in the “ALL NEW MATERIALS” section of the law label for filling materials
- Registry number not printed or incorrect registry number printed on law label
- Law and flammability label not legible
- Old flammability label (i.e., TB 117 not TB 117-2013 label)
- Filling material misidentified and deceiving to the consumer
- Any filling material in the product is not found on the law label (excluding incorrect form)
- Any flammability label without SB 1019 label, contains FRs checked, or a box is not checked
- Any section missing on law label (e.g., Certification, Under Penalty of Law, ALL NEW MATERIALS)
- Sanitization and/or secondhand labels incorrect colors

AGENDA ITEM 8d

Enforcement

Enforcement Program Update and Statistical Review

Investigation Highlights

Attorney General Referrals

In July 2023, the Enforcement division referred an HHM case to the Attorney General's Office and successfully obtained a Default Decision and Order against a HFTI business that has continued to operate with a delinquent license.

District Attorney Offices

The Enforcement program participates in quarterly consumer fraud taskforce meetings with the San Diego County District Attorney's Office, along with other local and state regulatory and law enforcement agencies, to discuss ongoing trends in consumer fraud. At the most recent meetings (June 14, 2023 and September 13, 2023), Bureau staff presented information about its current San Diego cases as well as San Diego-area sweep and outreach efforts. The Enforcement program also attended the San Bernardino County Strike Force Meeting on September 14, 2023, and presented information on outreach efforts and future plans to conduct a sweep in the San Bernardino area.

Memorandum of Agreement with Federal Motor Carrier Safety Administration

In October 2020, the Bureau and the Department of Transportation Federal Motor Carrier Safety Administration (FMCSA) signed a Memorandum of Agreement. As a result of that agreement, the Bureau has access to various FMCSA systems and can assist with taking enforcement action and the release of goods for moves that take place outside of California. For example, in July 2023, Bureau Special Investigators negotiated two household mover releases – one involved a \$500 discount for a consumer and a release to pick-up their belongings from a storage unit in Texas and another involved a reduction in household moving fees from \$5,800 to \$2,200 for a release made in Montana.

San Diego County Sweep Operation

On September 6 and 7, 2023, the Enforcement program performed a compliance sweep in San Diego County focused on businesses previously licensed with the Bureau who were operating without a valid license. Investigators visited 24 businesses and issued 14 citations for operating with delinquent licenses: 11 EAR and 3 HFTI. During the two-day sweep, staff also provided educational outreach to three businesses and found one business that was no longer operating.

Cease Letters

Between April 2023 and August 2023, the Enforcement program issued 44 cease letters to household movers who were found to have transported household goods using California roadways or were found advertising moving services in California consumers without a valid BHGS permit. These letters serve as an opportunity to notify businesses that a Bureau Household Mover permit is required to operate on California roadways,

share information about how they can obtain a permit, and inform businesses that continued operations may result in administrative action.

Consumer/Business Assistance

The Enforcement program works daily with consumers to help resolve complaints filed against both licensed and unlicensed businesses.

On May 10, 2023, the Bureau received a complaint alleging that the consumer attempted numerous times without success to return/exchange a bed and mattress to an unlicensed business they had found via an online offer after the business delivered the wrong mattress for the bed. On June 27, 2023, a Bureau investigator visited the business to discuss the complaint, the law, and to provide the owner a license application. On July 5, 2023, the business issued a full refund to the consumer and applied for a license, which was issued on July 31, 2023.

On May 10, 2023, following negotiations by a Bureau special investigator, an unlicensed household mover refunded 100 percent of an \$885 payment and returned all transported/stored property to a consumer. A citation of \$500 was issued to the business for operating without a valid BHGS permit.

In June 2023, during the investigation of several household mover complaints Bureau Enforcement staff negotiated the refund of over \$13,000 to consumers. As part of these efforts, in two separate cases, permitted household movers forgave \$5,876 and \$760 because a “change order” was not written; in another case an unlicensed household mover refunded \$5,525 to a consumer and was issued a citation for unlicensed operations. Additionally, a restoration company that transported a consumer’s goods was not issued the insurance payment of \$34,917 for moving services because the business operated without a valid BHGS permit and did not perform the restoration work in an agreeable manner. The business released the consumer’s goods and has submitted a household mover application.

In July 2023, the resolution of three complaints filed against an unregistered appliance repair business resulted in refunds to consumers of more than \$5,000. One consumer was refunded \$2,780 after reporting water leaks and problems with the ice maker following their refrigerator repair. A second consumer received an \$800 refund after the control board of their refrigerator could not be repaired and a third consumer was issued a partial refund of \$1,874 after the repair of their refrigerator was not completed.

During August 2023, the Enforcement program staff coordinated the release and delivery of household goods that had been transported from California to Georgia which an unlicensed household mover had held after demanding payment of \$8,940 in additional fees that were not included in the initial agreement. The consumer received their goods without having to pay any additional fees.

Complaint Intake Statistics

Complaints Received and Investigations Initiated

All complaints received by the Bureau are processed and triaged by the Compliance Unit, and each complainant receives an acknowledgement letter. Compliance Unit staff then determine if the Bureau has jurisdiction. Bureau staff close non-jurisdictional cases without investigation and send a letter to the consumer with information about other remedies. When the Bureau does have jurisdiction, complaints are mediated or investigated further.

The table below shows the number of incoming complaints for all three program areas between the quarter ending December 31, 2022 and August 31, 2022, and the number closed without investigation (non-jurisdictional) or referred for investigation. The number of cases referred for investigation fluctuates from quarter to quarter. While variance is not uncommon, Bureau staff will continue to closely monitor these numbers to identify any potential long-term trends. In addition, beginning in September 2022, the Bureau changed its process so that all incoming HHM complaints are investigated.

Complaints Received*					
	Quarter Ending 12/31/2022	Quarter Ending 03/31/2023	Quarter Ending 06/30/2023	As of 08/31/2023	Quarter Average
EAR					
Received	287	276	303	209	269
Closed w/out Investigation	204	192	165	119	170
Referred for Investigation	88	72	128	101	97
HFTI					
Received	124	141	136	76	119
Closed w/out Investigation	92	75	56	14	59
Referred for Investigation	37	54	72	72	59
HHM					
Received	89	96	91	78	89
Referred for Investigation	109	94	91	79	93
Bureau Totals					
Received	500	513	530	651	549
Closed w/out Investigation	296	267	224	136	231
Referred for Investigation	234	220	291	252	249

*The number of complaints received for each quarter will not be equivalent to the combined “closed without investigation” and “referred for investigation” because complaints either closed or investigated may have been received during a prior quarter or closed during the following quarter.

Desk Investigations

Compliance Unit analysts perform desk investigations and mediate licensed electronic and appliance repair complaints as well as home furnishings and thermal insulation complaints. Household mover complaints are forwarded to the Special Investigations Unit for investigation after the Compliance Unit completes its initial triage. (See the “Field Investigations” chart below for statistics on HHM complaints). The Compliance Unit is also responsible for investigating and writing citations for laboratory testing that result in label or flammability failure, investigating licensing fee waivers, and investigating criminal background and subsequent arrest investigations.

The chart below shows the number of desk investigations that Compliance Unit staff received and closed between the quarter ending December 31, 2022 and August 31, 2023. Over the last two months, Bureau management prioritized filling staff vacancies in the Compliance Unit and resumed desk investigations for the household mover cases on June 1, 2023.

Desk Investigations					
	Quarter Ending 12/31/2022	Quarter Ending 03/31/2023	Quarter Ending 6/30/2023	As of 08/31/2023	Quarter Average
EAR					
Received	74	64	107	76	80
Closed	53	35	29	32	37
HFTI					
Received	32	29	49	43	38
Closed	19	8	16	14	14
Compliance Unit Totals					
Received	106	93	156	119	119
Closed	72	43	45	46	52

Note: Until June 1, 2023, household mover complaints were forwarded to the Special Investigations Unit for investigation after the Compliance Unit completed its initial triage. Since then, the Compliance Unit began to conduct desk investigations for household mover complaints. Between June 1, 2023 and August 31, 2023, 24 household mover complaints were assigned for desk investigation.

Field Investigations

The Special Investigations Unit investigates egregious complaints against licensed and unlicensed businesses. SIU staff are located throughout California and work with other state and local agencies, sharing case information and strategies to assist in mediation between businesses and consumers. In addition, SIU staff conduct field inspections to address unlicensed operations and license renewal delinquencies and collect product samples for testing in the Bureau lab.

The table below shows the number of field investigations received and closed by SIU between the quarter ending December 31, 2022 and August 31, 2023. Cases are closed when citations are issued, consumer complaints are mediated, disciplinary action is taken, or no further action is required. As in years past, the number of cases referred for field investigation varies from quarter to quarter. Bureau management continue to monitor these numbers to identify any long-term trends.

Field Investigations					
	Quarter Ending 12/31/2022	Quarter Ending 03/31/2023	Quarter Ending 06/30/2023	As of 08/31/2023	Quarter Average
EAR					
Received	22	8	33	106	42
Closed	27	15	28	21	23
HFTI					
Received	17	28	40	64	37
Closed	15	32	30	14	23
HHM					
Received	109	94	73	67	86
Closed	136	24	92	28	70
Field Unit Totals					
Received	148	130	146	237	165
Closed	178	71	150	63	116

Enforcement Program Citations Assessed

During an investigation and while conducting inspections, Enforcement staff use a variety of methods to gain compliance, including education, cease letters, and citations.

The chart below details the number of citations issued and the overall amount assessed for all three programs between the quarter ending December 31, 2022 and August 31, 2023. Changes in SIU staffing – onboarding, new employees, and extended leave – have led to some fluctuations quarter-to-quarter in the number of citations issued. Management is committed to cross-training enforcement staff so that all investigators can work in all three program areas.

Citations Assessed					
	Quarter Ending 12/31/2022	Quarter Ending 03/31/2023	Quarter Ending 06/30/2023	As of 8/31/2023	Quarter Average
EAR					
Citations Issued	39	20	27	14	25
Amount	\$10,450	\$5,250	\$7,000	\$3,750	\$6,613
HFTI					
Citations Issued	19	42	45	11	29
Amount	\$9,100	\$18,950	\$26,350	\$5,600	\$15,000
HHM					
Citations Issued	13	21	12	16	16
Amount	\$22,000	\$45,000	\$20,500	\$24,000	\$27,875
Bureau Totals					
Citations Issued	71	83	84	41	70
Amount	\$41,550	\$69,200	\$53,850	\$33,350	\$49,488

HHM Recoveries and Hold Hostages (Tracking Began July 1, 2022)

	Quarter Ending 12/31/2022	Quarter Ending 03/31/2023	Quarter Ending 06/30/2023	As of 8/31/2023	Quarter Average
Hold Hostage Cases Verified	3	0	3	1	2
Total Recoveries	1	3	1	1	2

AGENDA ITEM 9

Communications and Education Update



The Bureau has begun the recruitment process to hire an outreach/education manager who, in coordination with the Department of Consumer Affairs' Communications Office, will lead efforts related to outreach, updating various publications, website redesign/update, and overall communications targeted to consumers, licensees, applicants, and other interested parties. Once that person is in place, the Bureau anticipates an increase in its outreach and communications efforts.

In the meantime, Bureau staff from both Licensing and Enforcement have continued to assist with outreach events throughout the state.

Presentations

The Bureau participated in the following outreach events between July and October 2023:

Date	Event	Location
July 17, 2023	Senior Scam Stopper Asm. Valencia	Anaheim
August 10, 2023	Senior Scam Stopper Asm. Wallis	Yucaipa
September 20, 2023	Senior Scam Stopper Asm. Jackson	Moreno Valley
October 5, 2023	Senior Scam Stopper Sen. Wilk	Santa Clarita
October 5, 2023	Riverside County Law Enforcement Summit	Riverside County
October 12, 2023	Senior Scam Stopper Asm. Rendon	Lakewood
October 17, 2023	Better Business Bureau	Sacramento
October 27, 2023	Senior Summit Resource Fair	Orange County

- On July 17, 2023, Nancy Torres-Mancia and Levi Jacobe represented the Bureau at a Senior Scam Stopper outreach event in Anaheim with about 30 people in attendance coordinated by the Contractors State License Board and Assembly Member Valencia's district office.



Nancy Torres-Mancia and Levi Jacobe at a Senior Scam Stopper outreach event in Anaheim

- On August 10, 2023, Raleigh Jacobe and Christopher Herron represented the Bureau at a Senior Scam Stopper outreach event in Yucaipa coordinated by the Contractors State License Board and Assembly Member Wallis' district office. Staff from the Department of Financial Protection and Innovation also participated, and the seminar focused on how seniors can protect themselves from various scams.



Christopher Herron and Raleigh Jacobe at a Senior Scam Stopper event in Yucaipa

- On September 20, 2023, Raleigh Jacobe represented the Bureau at a Senior Scam Stopper outreach event with over 150 attendees in Moreno Valley coordinated by the Contractors State License Board and Assembly Member Jackson's district office.
- On October 5, 2023, Nancy Torres-Mancia and Alanna Dubois represented the Bureau at a Senior Scam Stopper outreach event in Santa Clarita coordinated by the Contractors State License Board and Senator Wilk's district office.
- On October 5, 2023, four investigators from the Bureau's Southern California investigative unit participated in the Riverside County Law Enforcement Summit to enhance collaboration among law enforcement agencies and share training and resources, including updates related to elder and dependent adult abuse investigations.
- On October 12, 2023, Larry Perlman, Nancy Torres-Mancia, and Raleigh Jacobe will present information about consumer protection and avoiding fraud at a Senior Scam Stopper outreach event in Lakewood coordinate by the Contractors State License Board and Assembly Member Rendon's district office.
- On October 17, 2023, Nancy Torres-Mancia and Erin Bertoni will present information about consumer protection specifically focused on household movers to the Better Business Bureau in Sacramento
- On October 27, 2023, the Bureau is scheduled to participate in a Senior Summit Resource Fair at Soka University in Orange County.

Communication and Education Strategic Plan Goals

As noted above, the Bureau has begun recruiting a full-time staff person to help oversee and implement outreach/education efforts and once that person is in place the Bureau will hire a student assistant to assist with these efforts.

Once the outreach team is hired, the Bureau has identified four communication and education priorities for the first year to reach its three primary audiences of consumers, applicants, and licensees:

- Update existing and develop new outreach material to ensure accuracy of information for all three programs
- Launch virtual applicant workshops for the Household Movers program to explain the new online application
- Develop and distribute an annual newsletter for licensees in all three programs
- Plan for and begin a relaunch of the Bureau's website in collaboration with DCA to both improve navigation and ensure information is accurate and up-to-date for consumers, applicants, and existing licensees

AGENDA ITEM 10

Legislative and Policy Updates

- a. Update on Bureau's Sunset Review & SB 814 (Roth, 2023)
- d. AB 1059 (Friedman, 2023) – Product Safety: Consumer Products: Fiberglass
- e. SB 244 (Eggman) – Right to Repair Act
- f. SB 271 (Dodd) – Powered Wheelchairs: Right to Repair
- g. Update on Strategic Plan Objectives 4.1 - 4.5



AGENDA ITEM 10a

Update on Bureau's Sunset Review &
SB 814 (Roth,2023)



Background

The Bureau submitted its Sunset Review report to the Legislature in December 2022. On March 16, 2023, DCA Director Kim Kirchmeyer and Bureau Chief Justin Paddock testified before the Assembly and Senate Business and Professions Committees and on April 17, 2023, the Bureau submitted formal responses to questions raised in the Committee's background paper as well as those that arose during the March hearing, along with proposed legislative language for the Bureau's sunset bill (SB 814—Roth).

Sunset Bill Status

On September 14, 2023, SB 814 passed out of both houses of the Legislature and was sent to Governor Newsom for his signature or veto.

Provisions in the Bill

All Programs

- Sunset date extension for the Bureau to 2028
- Consolidating the Bureau's three operating funds into one fund
- Inclusion of LLCs as a permissible business type

EAR

- The Bureau must conduct at least two spot check inspections of any EAR service dealers throughout the state annually (please note, the Bureau currently conducts hundreds of spot check inspections of service dealers each year)
- Automatic cancelation of an EAR registration after it has had an expired status for six years
- Updated definition of EAR legal terms

HFTI

- Removal of flame-retardant chemical document requirements

HHM

- Removal of business-related financial requirements for HHM applicants

Provided the Governor signs the bill, the provisions listed above will take effect January 1, 2024. Please note: in consultation with DCA's Budget Office, fund consolidation will begin on July 1, 2024, to coincide with the start of next fiscal year.

Provisions that Failed

All Programs

- Increasing fees for EAR and HFTI registrants and licensees and requiring HHM applicants to separately pay for fingerprinting and exam fees
- Fee for business name change requests

EAR

- Fingerprinting requirements for service dealers

HFTI

- Removal of cap on the Bureau's cost recovery for product testing and inspections
- Update to the statewide withhold from sale program

HHM

- Clarifying language that interstate movers using California roads must have a California permit
- Allowing out-of-state movers to have an alternate means to apply without California residency
- Automatic suspension of permittees who do not maintain proper insurance coverage or pay quarterly fees

AMENDED IN ASSEMBLY JULY 6, 2023
AMENDED IN ASSEMBLY JUNE 27, 2023
AMENDED IN SENATE MAY 18, 2023
AMENDED IN SENATE APRIL 27, 2023

SENATE BILL

No. 814

Introduced by Senator Roth
(Principal coauthor: Assembly Member Berman)

February 17, 2023

An act to amend Sections 9801, 9810, 9812, 9812.5, 9814, 9814.5, 9830.5, 9832.5, 9847.5, 9849, 9851, 9853, 9855, 9855.9, 9860, 9862.5, 9863, 9870, 9871, 9872, 9873, 9874, 19002, 19063, 19064, 19094, 19174, 19211, 19212, 19214, 19225.5, 19229, and 19239 of, to amend, repeal, and add Section 205 of, and to add and repeal Sections 9874.5, 19174.5, 19229.5 of, the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

SB 814, as amended, Roth. Household goods and services.

(1) Existing law, the Electronic and Appliance Repair Dealer Registration Law, establishes the Bureau of Household Goods and Services, under the direction of a chief who is responsible to the Director of Consumer Affairs, and provides for the licensure and regulation of, among others, electronic and appliance repair dealers and service contractors by the bureau. A violation of its provisions is a crime. Existing law repeals those provisions relating to service contractors on January 1, 2024.

This bill would extend operation of those provisions relating to service contractors until January 1, 2028. Because a violation of those provisions is a crime, the bill would impose a state-mandated local program.

Existing law prohibits acting as a service dealer without obtaining registration under the law and defines “service dealer” for this purpose to include, among other things, a person who for compensation repairs, services, or maintains an electronic set or major appliance. Existing law defines various terms for purposes of the law, including, among other things, “electronic set,” “appliance,” and “video game.”

This bill would amend the definition of “electronic set” to additionally include a cellular device or any other device that depends for its functioning on digital electronics, as specified. The bill would expand the definition of “appliance” to mean any device primarily used for residential purposes, including an ice maker, dehumidifier, and portable residential furnace. The bill would amend the definition of “video game” to remove the requirement that it has its own cathode ray tube, television set, or monitor. By expanding the definition of “service dealer” for purposes of the law, the violation of which is a crime, this bill would impose a state-mandated local program.

Existing law requires the director, on their own initiative, to conduct spot check investigations of service dealers of specified electronics and appliances throughout the state on a continuous basis.

This bill would require the director to conduct spot check investigations, as described above, no less than twice per year.

Existing law requires the director to distribute to each registered service dealer and each registered service contractor copies of these provisions and of the regulations adopted under these provisions.

This bill would authorize the director to, alternatively, make those provisions and regulations available on its internet website.

Under existing law, registration under the Electronic and Appliance Repair Dealer Registration Law expires no more than 12 months after the issue date. Existing law provides for the renewal of both unexpired and expired registrations, as specified.

This bill would authorize the bureau to impose conditions on the renewal of an expired registration of a service contractor. The bill would cancel a registration of a service contractor that has not been renewed within 6 years of its issuance and would authorize a holder of a canceled registration to submit a new application for reissuance or reinstatement of the registration if specified requirements are met.

(2) Existing law, the Home Furnishings and Thermal Insulation Act, prohibits any person from engaging in business regulated by the act unless they hold a valid, unexpired license, as specified. Existing law defines “person” for this purpose.

This bill would expand the definition of “person” to include a limited liability company and would make conforming changes.

Existing law imposes various labeling requirements, including requiring a manufacturer of a covered product to indicate whether or not the product contains added ~~flame-retardant~~ *flame retardant* chemicals by including a ~~flame-retardant~~ *flame retardant* chemical statement on the label, as specified. Existing law requires the manufacturer to retain documentation to show whether ~~flame-retardant~~ *flame retardant* chemicals were added to a product sold in California and to provide documentation upon request of the bureau establishing the accuracy of the ~~flame-retardant~~ *flame retardant* chemical statement on the label. Existing law imposes fines for a violation of those documentation requirements.

This bill would delete the above-described documentation requirements and would make conforming changes.

(3) Existing law, the Household Movers Act, provides for the licensure and regulation of household movers, including corporations and persons, as defined, by the Division of Household Movers established within the bureau.

This bill would add to the definition of “corporation” a limited liability company and would make conforming changes.

Existing law requires the bureau to issue a permit only to those applicants who it finds have demonstrated that they possess sufficient knowledge, ability, integrity, and financial resources and responsibility to perform the service within the scope of their application.

This bill would delete that requirement.

(4) Existing law subjects the powers and duties of the bureau to review by the appropriate policy committees of the Legislature and requires this review to be performed as if the laws administered by the bureau were scheduled to be repealed on January 1, 2024.

This bill would instead require this review to be performed as if those laws were scheduled to be repealed on January 1, 2028.

(5) Existing law, the Electronic and Appliance Repair Dealer Registration Law, establishes the Electronic and Appliance Repair Fund, and requires all fees collected pursuant to that law to be deposited in the fund and used for the administration of the bureau and the

administration of that law. Existing law, the Home Furnishings and Thermal Insulation Act, establishes the Home Furnishings and Thermal Insulation Fund to be expended for the purposes of the bureau in carrying out the act. Existing law requires all fees collected under the act to be credited to the fund. Existing law, the Household Movers Act, establishes the Household Movers Fund to be used by the bureau for the administration of the act and requires all moneys collected pursuant to the act to be deposited into the fund.

This bill would establish the Household Goods and Services Fund within the Professions and Vocations Fund to be administered by the bureau for the purposes of administering the Electronic and Appliance Repair Dealer Registration Law, the Home Furnishings and Thermal Insulation Act, and the Household Movers Act. The bill would require all moneys collected pursuant to those laws to instead be deposited in the Household Goods and Services Fund and would require all moneys in the above-described funds ~~as of July 1, 2024,~~ to be transferred to the Household Goods and Services Fund ~~on that date.~~ *by July 1, 2026.* The bill would ~~repeat~~ *abolish* the Electronic and Appliance Repair Fund, the Home Furnishings and Thermal Insulation Fund, and the Household Movers Fund ~~as of on July 1, 2024.~~ *2026.*

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

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

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

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

- 1 SECTION 1. Section 205 of the Business and Professions Code
- 2 is amended to read:
- 3 205. (a) There is in the State Treasury the Professions and
- 4 Vocations Fund. The fund shall consist of the following special
- 5 funds:
- 6 (1) Accountancy Fund.
- 7 (2) California Architects Board Fund.
- 8 (3) Athletic Commission Fund.
- 9 (4) Barbering and Cosmetology Contingent Fund.
- 10 (5) Cemetery and Funeral Fund.

- 1 (6) Contractors License Fund.
- 2 (7) State Dentistry Fund.
- 3 (8) Home Furnishings and Thermal Insulation Fund.
- 4 (9) California Architects Board-Landscape Architects Fund.
- 5 (10) Contingent Fund of the Medical Board of California.
- 6 (11) Optometry Fund.
- 7 (12) Pharmacy Board Contingent Fund.
- 8 (13) Physical Therapy Fund.
- 9 (14) Private Security Services Fund.
- 10 (15) Professional Engineer's, Land Surveyor's, and Geologist's
- 11 Fund.
- 12 (16) Consumer Affairs Fund.
- 13 (17) Behavioral Sciences Fund.
- 14 (18) Licensed Midwifery Fund.
- 15 (19) Court Reporters' Fund.
- 16 (20) Veterinary Medical Board Contingent Fund.
- 17 (21) Vocational Nursing and Psychiatric Technicians Fund.
- 18 (22) Electronic and Appliance Repair Fund.
- 19 (23) Acupuncture Fund.
- 20 (24) Physician Assistant Fund.
- 21 (25) Board of Podiatric Medicine Fund.
- 22 (26) Psychology Fund.
- 23 (27) Respiratory Care Fund.
- 24 (28) Speech-Language Pathology and Audiology and Hearing
- 25 Aid Dispensers Fund.
- 26 (29) Board of Registered Nursing Fund.
- 27 (30) Animal Health Technician Examining Committee Fund.
- 28 (31) State Dental Hygiene Fund.
- 29 (32) Structural Pest Control Fund.
- 30 (33) Structural Pest Control Education and Enforcement Fund.
- 31 (34) Structural Pest Control Research Fund.
- 32 (35) Household Movers Fund.
- 33 (36) Household Goods and Services Fund.
- 34 (b) For accounting and recordkeeping purposes, the Professions
- 35 and Vocations Fund shall be deemed to be a single special fund,
- 36 and each of the several special funds therein shall constitute and
- 37 be deemed to be a separate account in the Professions and
- 38 Vocations Fund. Each account or fund shall be available for
- 39 expenditure only for the purposes as are now or may hereafter be
- 40 provided by law.

1 (c) This section shall remain in effect only until July 1, ~~2024~~,
 2 2026, and as of that date is repealed.

3 SEC. 2. Section 205 is added to the Business and Professions
 4 Code, to read:

5 205. (a) There is in the State Treasury the Professions and
 6 Vocations Fund. The fund shall consist of the following special
 7 funds:

- 8 (1) Accountancy Fund.
- 9 (2) California Architects Board Fund.
- 10 (3) Athletic Commission Fund.
- 11 (4) Barbering and Cosmetology Contingent Fund.
- 12 (5) Cemetery and Funeral Fund.
- 13 (6) Contractors License Fund.
- 14 (7) State Dentistry Fund.
- 15 (8) California Architects Board-Landscape Architects Fund.
- 16 (9) Contingent Fund of the Medical Board of California.
- 17 (10) Optometry Fund.
- 18 (11) Pharmacy Board Contingent Fund.
- 19 (12) Physical Therapy Fund.
- 20 (13) Private Security Services Fund.
- 21 (14) Professional Engineer's, Land Surveyor's, and Geologist's
 22 Fund.
- 23 (15) Consumer Affairs Fund.
- 24 (16) Behavioral Sciences Fund.
- 25 (17) Licensed Midwifery Fund.
- 26 (18) Court Reporters' Fund.
- 27 (19) Veterinary Medical Board Contingent Fund.
- 28 (20) Vocational Nursing and Psychiatric Technicians Fund.
- 29 (21) Acupuncture Fund.
- 30 (22) Physician Assistant Fund.
- 31 (23) Board of Podiatric Medicine Fund.
- 32 (24) Psychology Fund.
- 33 (25) Respiratory Care Fund.
- 34 (26) Speech-Language Pathology and Audiology and Hearing
 35 Aid Dispensers Fund.
- 36 (27) Board of Registered Nursing Fund.
- 37 (28) Animal Health Technician Examining Committee Fund.
- 38 (29) State Dental Hygiene Fund.
- 39 (30) Structural Pest Control Fund.
- 40 (31) Structural Pest Control Education and Enforcement Fund.

1 (32) Structural Pest Control Research Fund.

2 (33) Household Goods and Services Fund.

3 (b) For accounting and recordkeeping purposes, the Professions
4 and Vocations Fund shall be deemed to be a single special fund,
5 and each of the several special funds therein shall constitute and
6 be deemed to be a separate account in the Professions and
7 Vocations Fund. Each account or fund shall be available for
8 expenditure only for the purposes as are now or may hereafter be
9 provided by law.

10 (c) This section shall become operative on July 1, ~~2024~~ 2026.

11 SEC. 3. Section 9801 of the Business and Professions Code is
12 amended to read:

13 9801. The following terms as used in this chapter have the
14 meaning expressed in this section:

15 (a) "Person" includes a firm, partnership, association, limited
16 liability company, or corporation.

17 (b) "Department" means the Department of Consumer Affairs.

18 (c) "Director" means the Director of Consumer Affairs.

19 (d) "Bureau" means the Bureau of Household Goods and
20 Services.

21 (e) "Chief" means the Chief of the Bureau of Household Goods
22 and Services.

23 (f) "Service dealer" means a person who, for compensation,
24 engages in, or holds themselves out to the public as offering
25 services in the business of:

26 (1) Repairing, servicing, or maintaining an electronic set
27 normally used or sold for personal, family, household, or home
28 office use.

29 (2) Installing, repairing, servicing, or maintaining equipment
30 or a burglar alarm system for use in private motor vehicles.

31 (3) Installing, repairing, servicing, or maintaining television or
32 radio receiver antennas, rotators, and accessories or direct satellite
33 signal receiving equipment located on or adjacent to a residence
34 and not involving a function that is subject to and regulated under
35 the provisions of Chapter 9 (commencing with Section 7000).

36 (4) Repairing, servicing, or maintaining major appliances.

37 (g) "Equipment" for the purposes of this chapter means an
38 electronic set, appliance, antenna, rotator, and accessories.

39 (h) "Electronic set" includes, but is not limited to, any television,
40 radio, audio or video recorder or playback equipment, video

1 camera, video game, video monitor, computer system, cellular
2 device, such as a telephone or tablet, photocopier, facsimile
3 machine, or any other device that depends for its functioning, in
4 whole or in part, on any digital electronic embedded or attached
5 to the product and has a value over ten dollars (\$10) and is
6 normally used or sold for personal, family, household, or home
7 office use.

8 (i) "Appliance" or "major home appliance" means any device
9 primarily used for residential purposes, including, but not limited
10 to, any refrigerator, freezer, range, microwave oven, washer, dryer,
11 dishwasher, trash compactor, ice maker, dehumidifier, residential
12 portable furnace, or room air-conditioner normally used or sold
13 for personal, family, household, or home office use, or for use in
14 private motor vehicles.

15 (j) "Antenna" includes, but is not limited to, a resonant device
16 designed especially for the purpose of capturing electromagnetic
17 energy transmitted by direct satellite or commercial radio or
18 television broadcasting facilities. An antenna and its associated
19 accessories are not deemed to be a part of a set and shall be
20 considered, under this section, to be located outside or in the attic
21 of a residence.

22 (k) "Rotator," when used in connection with an antenna
23 installation or repair, includes, but is not limited to, an
24 electromechanical device operated from a remote location to rotate
25 an antenna on a horizontal plane. A rotator and its associated
26 accessories are not deemed to be a part of a set and shall be
27 considered under this section, with the exception of the directional
28 control unit, to be located outside or in the attic of a residence.

29 (l) "Accessories," when used in connection with an antenna or
30 rotator installation or repair, includes, but is not limited to, masts,
31 towers, clamps, guy wires, eye hooks, standoff insulators, roof
32 saddles, vent pipe mounts, chimney mount kits, signal
33 amplifiers/boosters, multiset couplers, transmission lines, control
34 cables, directional control units, and other devices as may be used
35 from time to time to effect installation or repair.

36 (m) "Computer system" includes, but is not limited to, a central
37 processing unit that performs data manipulation functions, and
38 any associated peripheral devices, including, but not limited to,
39 keyboards, display terminals, printers, or disk drives.

1 (n) "Video game" includes, but is not limited to, any electronic
2 amusement device that utilizes a computer, microprocessor, or
3 similar electronic circuitry.

4 (o) "Direct satellite signal receiving equipment" includes, but
5 is not limited to, receivers, down converters, amplifiers, and audio
6 or video processors related to the reception of audio, video, or data
7 signals broadcasted or rebroadcasted by communication satellites
8 located in space.

9 (p) "Electronic repair industry" means those activities defined
10 in paragraph (1), (2), or (3) of subdivision (f).

11 (q) "Appliance repair industry" means those activities defined
12 in paragraph (4) of subdivision (f).

13 SEC. 4. Section 9810 of the Business and Professions Code is
14 amended to read:

15 9810. (a) (1) There is in the Department of Consumer Affairs
16 a Bureau of Household Goods and Services, under the supervision
17 and control of the director. The director shall administer and
18 enforce the provisions of this chapter and Chapter 3 (commencing
19 with Section 19000) and Chapter 3.1 (commencing with Section
20 19225) of Division 8.

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

25 (b) The Governor shall appoint, subject to confirmation by the
26 Senate, a chief of the bureau at a salary to be fixed and determined
27 by the director with the approval of the Director of Finance. The
28 chief shall serve under the direction and supervision of the director
29 and at the pleasure of the Governor.

30 (c) Every power granted to or duty imposed upon the director
31 under this chapter and Chapter 3 (commencing with Section 19000)
32 and Chapter 3.1 (commencing with Section 19225) of Division 8
33 may be exercised or performed in the name of the director by a
34 deputy or assistant director or by the chief, subject to conditions
35 and limitations that the director may prescribe.

36 (d) Whenever the laws of this state refer to the Bureau of
37 Electronic Repair Dealer Registration or the Bureau of Electronic
38 and Appliance Repair, the reference shall be construed to be to the
39 Bureau of Household Goods and Services.

1 (e) Notwithstanding any other law, the powers and duties of the
2 Bureau of Household Goods and Services, as set forth in this
3 chapter and Chapter 3 (commencing with Section 19000) and
4 Chapter 3.1 (commencing with Section 19225) of Division 8, shall
5 be subject to review by the appropriate policy committees of the
6 Legislature. The review shall be performed as if this chapter and
7 Chapter 3 (commencing with Section 19000) and Chapter 3.1
8 (commencing with Section 19225) of Division 8 were scheduled
9 to be repealed on January 1, 2028.

10 SEC. 5. Section 9812 of the Business and Professions Code is
11 amended to read:

12 9812. The director shall gather evidence of violations of this
13 chapter and of any regulation established hereunder, by any service
14 dealer, whether registered or not, and by any employee, partner,
15 officer, or member of any service dealer. The director shall, on
16 their own initiative, conduct spot check investigations of service
17 dealers throughout the state on a continuous basis, but no less than
18 twice per year.

19 SEC. 6. Section 9812.5 of the Business and Professions Code
20 is amended to read:

21 9812.5. The director shall gather evidence of violations of this
22 chapter and of any regulation established hereunder by any service
23 contractor, whether registered or not, and by any employee, partner,
24 officer, or member of any service contractor. The director shall,
25 on their own initiative, conduct spot check investigations of service
26 contractors throughout the state on a continuous basis.

27 This section shall remain in effect only until January 1, 2028,
28 and as of that date is repealed.

29 SEC. 7. Section 9814 of the Business and Professions Code is
30 amended to read:

31 9814. The director may establish and enforce regulations as
32 may be reasonable for the conduct of service dealers and for the
33 general enforcement of the various provisions of this chapter in
34 the protection of the public. The director may, by regulation, define
35 the scope of the terms described in subdivisions (g) to (q),
36 inclusive, of Section 9801 to include items of the same general
37 nature or class as those enumerated therein. The director shall
38 either make available on its internet website or distribute to each
39 registered service dealer copies of this chapter and of the
40 regulations thereunder. These regulations shall be adopted,

1 amended, or repealed in accordance with the provisions of Chapter
2 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
3 Title 2 of the Government Code.

4 SEC. 8. Section 9814.5 of the Business and Professions Code
5 is amended to read:

6 9814.5. The director may establish and enforce reasonable
7 regulations for the conduct of service contractors, and for the
8 general enforcement of the various provisions of this chapter in
9 the protection of the public. The director shall either make available
10 on its internet website or distribute to each registered service
11 contractor copies of this chapter and of the regulations adopted
12 under this chapter. Regulations shall be adopted, amended, or
13 repealed in accordance with Chapter 3.5 (commencing with Section
14 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

15 SEC. 9. Section 9830.5 of the Business and Professions Code
16 is amended to read:

17 9830.5. (a) Each service contractor shall pay the fee required
18 by this chapter for each place of business operated by them in this
19 state and shall register with the bureau upon forms prescribed by
20 the director. The forms shall contain sufficient information to
21 identify the service contractor, including name, address, retail
22 seller's permit number, if a permit is required under the Sales and
23 Use Tax Law (Part 1 (commencing with Section 6001) of Division
24 2 of the Revenue and Taxation Code), a copy of the certificate of
25 qualification as filed with the Secretary of State if the service
26 contractor is a foreign corporation, and other identifying data to
27 be prescribed by the bureau. If the business is to be carried on
28 under a fictitious name, that fictitious name shall be stated. If the
29 service contractor is a partnership, identifying data shall be stated
30 for each partner. If the service contractor is a private company that
31 does not file an annual report on Form 10-K with the Securities
32 and Exchange Commission, data shall be included for each of the
33 officers and directors of the company as well as for the individual
34 in charge of each place of the service contractor's business in the
35 State of California, subject to any regulations the director may
36 adopt. If the service contractor is a publicly held corporation or a
37 private company that files an annual report on Form 10-K with
38 the Securities and Exchange Commission, it shall be sufficient for
39 purposes of providing data for each of the officers and directors
40 of the corporation or company to file with the director the most

1 recent annual report on Form 10-K that is filed with the Securities
2 and Exchange Commission.

3 (b) A service contractor who does not operate a place of business
4 in this state but who sells, issues, or administers service contracts
5 in this state, shall hold a valid registration issued by the bureau
6 and shall pay the registration fee required by this chapter as if they
7 had a place of business in this state.

8 (c) This section shall remain in effect only until January 1, 2028,
9 and as of that date is repealed.

10 SEC. 10. Section 9832.5 of the Business and Professions Code
11 is amended to read:

12 9832.5. (a) Registrations issued under this chapter shall expire
13 no more than 12 months after the issue date. The expiration date
14 of registrations shall be set by the director in a manner to best
15 distribute renewal procedures throughout the year.

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

20 (c) To renew an expired registration, the service contractor shall
21 apply for renewal on a form prescribed by the director, pay the
22 renewal fee in effect on the last regular renewal date, and pay all
23 accrued and unpaid delinquency and renewal fees. The bureau
24 may impose conditions on a registration issued pursuant to this
25 subdivision.

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

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

35 (f) A registration that is not renewed within six years of its
36 expiration shall be canceled, but if the holder of the registration
37 submits a new application and meets all of the following
38 requirements, the registration may be reissued or reinstated:

39 (1) No fact, circumstance, or condition exists which would
40 justify denial of registration under Section 480.

1 (2) The registrant pays all renewal, delinquency, and penalty
2 fees that have accrued since the date on which the registration was
3 last renewed.

4 (g) This section shall remain in effect only until January 1, 2028,
5 and as of that date is repealed.

6 SEC. 11. Section 9847.5 of the Business and Professions Code
7 is amended to read:

8 9847.5. (a) Each service contractor shall maintain those records
9 as are required by the regulations adopted to carry out the
10 provisions of this chapter for a period of at least three years. These
11 records shall be open for reasonable inspection by the director or
12 other law enforcement officials.

13 (b) This section shall remain in effect only until January 1, 2028,
14 and as of that date is repealed.

15 SEC. 12. Section 9849 of the Business and Professions Code,
16 as amended by Section 81 of Chapter 625 of the Statutes of 2022,
17 is amended to read:

18 9849. (a) The expiration of a valid registration shall not deprive
19 the director of jurisdiction to proceed with any investigation or
20 hearing on a cease and desist order against a service dealer or
21 service contractor or to render a decision to suspend, revoke, or
22 place on probation a registration.

23 (b) This section shall remain in effect only until January 1, 2028,
24 and as of that date is repealed.

25 SEC. 13. Section 9849 of the Business and Professions Code,
26 as amended by Section 82 of Chapter 625 of the Statutes of 2022,
27 is amended to read:

28 9849. (a) The expiration of a valid registration shall not deprive
29 the director of jurisdiction to proceed with any investigation or
30 hearing on a cease and desist order against a service dealer or to
31 render a decision to suspend, revoke, or place on probation a
32 registration.

33 (b) This section shall become operative on January 1, 2028.

34 SEC. 14. Section 9851 of the Business and Professions Code,
35 as amended by Section 83 of Chapter 625 of the Statutes of 2022,
36 is amended to read:

37 9851. (a) The superior court in and for the county wherein any
38 person carries on, or attempts to carry on, business as a service
39 dealer or service contractor in violation of the provisions of this
40 chapter, or any regulation thereunder, shall, on application of the

1 director, issue an injunction or other appropriate order restraining
2 that conduct.

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

8 (c) This section shall remain in effect only until January 1, 2028,
9 and as of that date is repealed.

10 SEC. 15. Section 9851 of the Business and Professions Code,
11 as amended by Section 84 of Chapter 625 of the Statutes of 2022,
12 is amended to read:

13 9851. (a) The superior court in and for the county wherein any
14 person carries on, or attempts to carry on, business as a service
15 dealer in violation of the provisions of this chapter, or any
16 regulation thereunder, shall, on application of the director, issue
17 an injunction or other appropriate order restraining that conduct.

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

23 (c) This section shall become operative on January 1, 2028.

24 SEC. 16. Section 9853 of the Business and Professions Code,
25 as amended by Section 85 of Chapter 625 of the Statutes of 2022,
26 is amended to read:

27 9853. (a) A plea or verdict of guilty or a conviction following
28 a plea of nolo contendere made to a charge substantially related
29 to the qualifications, functions, and duties of a service dealer or
30 service contractor is deemed to be a conviction within the meaning
31 of this article. The director may suspend, revoke, or place on
32 probation a registration, or may deny registration, when the time
33 for appeal has elapsed, or the judgment of conviction has been
34 affirmed on appeal or when an order granting probation is made
35 suspending the imposition of sentence, irrespective of a subsequent
36 order under Section 1203.4 of the Penal Code, allowing that person
37 to withdraw their plea of guilty and to enter a plea of not guilty,
38 or setting aside the verdict of guilty, or dismissing the accusation,
39 information, or indictment.

1 (b) This section shall remain in effect only until January 1, 2028,
2 and as of that date is repealed.

3 SEC. 17. Section 9853 of the Business and Professions Code,
4 as amended by Section 86 of Chapter 625 of the Statutes of 2022,
5 is amended to read:

6 9853. (a) A plea or verdict of guilty or a conviction following
7 a plea of nolo contendere made to a charge substantially related
8 to the qualifications, functions, and duties of a service dealer is
9 deemed to be a conviction within the meaning of this article. The
10 director may suspend, revoke, or place on probation a registration,
11 or may deny registration, when the time for appeal has elapsed, or
12 the judgment of conviction has been affirmed on appeal or when
13 an order granting probation is made suspending the imposition of
14 sentence, irrespective of a subsequent order under Section 1203.4
15 of the Penal Code allowing that person to withdraw their plea of
16 guilty and to enter a plea of not guilty, or setting aside the verdict
17 of guilty, or dismissing the accusation, information, or indictment.

18 (b) This section shall become operative January 1, 2028.

19 SEC. 18. Section 9855 of the Business and Professions Code
20 is amended to read:

21 9855. The definitions used in this section shall govern the
22 construction and terms as used in this chapter:

23 (a) "Service contract" means a contract in writing to perform,
24 over a fixed period of time or for a specified duration, services
25 relating to the maintenance, replacement, or repair of consumer
26 goods and may include provisions for incidental payment of
27 indemnity under limited circumstances, including, but not limited
28 to, power surges, food spoilage, or accidental damage from
29 handling. "Service contract" shall not include a contract in writing
30 to maintain structural wiring associated with the delivery of cable,
31 telephone, or other broadband communications services. "Service
32 contract" shall not include a contract in which a consumer agrees
33 to pay a provider of vision care services for a discount on optical
34 products or contact lenses for a specified duration.

35 (b) "Service contract administrator" or "administrator" means
36 a person who performs or arranges the collection, maintenance,
37 or disbursement of moneys to compensate any party for claims or
38 repairs pursuant to a service contract, and who also performs or
39 arranges any of the following activities on behalf of service contract
40 sellers:

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

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

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

6 A service contract administrator shall not be an obligor on a
7 service contract unless all service contracts under which the service
8 contract administrator is obligated to perform are insured under a
9 service contract reimbursement insurance policy.

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

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

22 (3) "Service contract seller" or "seller" shall not include the
23 following:

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

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

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

37 (e) "Service contractor" means a service contract administrator
38 or a service contract seller.

39 (f) "Service contract reimbursement insurance policy" means
40 a policy of insurance issued by an insurer admitted to do business

1 in this state providing coverage for all obligations and liabilities
2 incurred by a service contract seller under the terms of the service
3 contracts sold in this state by the service contract seller to a service
4 contractholder. The service contract reimbursement insurance
5 policy shall either cover all service contracts sold or specifically
6 cover those contracts sold to residents of the State of California.

7 (g) “Obligor” is the entity financially and legally obligated under
8 the terms of a service contract.

9 (h) “Optical products” means prescription and nonprescription
10 eyewear. “Optical products” shall not include contact lenses of
11 any kind.

12 (i) The terms “manufacturer,” “retail seller,” “retailer,” and
13 “sale” shall have the same meanings ascribed to them in Section
14 1791 of the Civil Code.

15 (j) “Consumer goods” means any new or used product or part
16 thereof that is used, bought, or leased for use primarily for personal,
17 family, or household purposes, including assistive devices.

18 ~~(k) This section shall become operative on January 1, 2020.~~

19 ~~SEC. 18.~~

20 *SEC. 19.* Section 9855.9 of the Business and Professions Code
21 is amended to read:

22 9855.9. This article shall remain in effect only until January
23 1, 2028, and as of that date is repealed.

24 ~~SEC. 19.~~

25 *SEC. 20.* Section 9860 of the Business and Professions Code,
26 as amended by Section 88 of Chapter 625 of the Statutes of 2022,
27 is amended to read:

28 9860. (a) The director shall establish procedures for accepting
29 complaints from the public against any service dealer or service
30 contractor.

31 (b) This section shall remain in effect only until January 1, 2028,
32 and as of that date is repealed.

33 ~~SEC. 20.~~

34 *SEC. 21.* Section 9860 of the Business and Professions Code,
35 as amended by Section 89 of Chapter 625 of the Statutes of 2022,
36 is amended to read:

37 9860. (a) The director shall establish procedures for accepting
38 complaints from the public against any service dealer.

39 (b) This section shall become operative on January 1, 2028.

1 ~~SEC. 21.~~

2 *SEC. 22.* Section 9862.5 of the Business and Professions Code
3 is amended to read:

4 9862.5. (a) If a complaint indicates a possible violation of this
5 chapter or of the regulations adopted pursuant to this chapter, the
6 director may advise the service contractor of the contents of the
7 complaint and, if the service contractor is so advised, the director
8 shall make a summary investigation of the facts after the service
9 contractor has had reasonable opportunity to reply thereto.

10 (b) This section shall remain in effect only until January 1, 2028,
11 and as of that date is repealed.

12 ~~SEC. 22.~~

13 *SEC. 23.* Section 9863 of the Business and Professions Code,
14 as amended by Section 91 of Chapter 625 of the Statutes of 2022,
15 is amended to read:

16 9863. (a) If, upon summary investigation, it appears probable
17 to the director that a violation of this chapter, or the regulations
18 thereunder, has occurred, the director, in their discretion, may
19 suggest measures that in the director's judgment would compensate
20 the complainant for the damages they suffered as a result of the
21 alleged violation. If the service dealer or service contractor accepts
22 the director's suggestions and performs accordingly, the director
23 shall give that fact due consideration in any subsequent disciplinary
24 proceeding. If the service dealer or service contractor declines to
25 abide by the suggestions of the director, the director may
26 investigate further and may institute disciplinary proceedings in
27 accordance with the provisions of this chapter.

28 (b) This section shall remain in effect only until January 1, 2028,
29 and as of that date is repealed.

30 ~~SEC. 23.~~

31 *SEC. 24.* Section 9863 of the Business and Professions Code,
32 as amended by Section 92 of Chapter 625 of the Statutes of 2022,
33 is amended to read:

34 9863. (a) If, upon summary investigation, it appears probable
35 to the director that a violation of this chapter, or the regulations
36 thereunder, has occurred, the director, in their discretion, may
37 suggest measures that in the director's judgment would compensate
38 the complainant for the damages they suffered as a result of the
39 alleged violation. If the service dealer accepts the director's
40 suggestions and performs accordingly, the director shall give that

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

6 (b) This section shall become operative on January 1, 2028.

7 ~~SEC. 24.~~

8 *SEC. 25.* Section 9870 of the Business and Professions Code
9 is amended to read:

10 9870. All fees collected pursuant to this chapter shall be paid
11 into the State Treasury to the credit of the Household Goods and
12 Services Fund, which fund is hereby created.

13 ~~SEC. 25.~~

14 *SEC. 26.* Section 9871 of the Business and Professions Code
15 is amended to read:

16 9871. The director shall report to the State Controller at the
17 beginning of each month, for the month preceding, the amount
18 and source of all revenue received by the bureau pursuant to this
19 chapter, and at that time shall pay the entire amount thereof into
20 the State Treasury for credit to the Household Goods and Services
21 Fund.

22 ~~SEC. 26.~~

23 *SEC. 27.* Section 9872 of the Business and Professions Code
24 is amended to read:

25 9872. The money in the Household Goods and Services Fund
26 necessary for the administration of the bureau and the
27 administration of this chapter shall be used for those purposes.

28 ~~SEC. 27.~~

29 *SEC. 28.* Section 9873 of the Business and Professions Code,
30 as amended by Section 93 of Chapter 625 of the Statutes of 2022,
31 is amended to read:

32 9873. The fees prescribed by this chapter shall be set by the
33 director by regulation, according to the following schedule:

34 (a) (1) The initial registration fee for an electronic repair
35 industry service dealer or for an appliance repair industry service
36 dealer is not more than two hundred five dollars (\$205) for each
37 place of business in this state. The initial registration fee for a
38 service contractor is not more than ninety-five dollars (\$95) for
39 each place of business in this state.

1 (2) The initial registration fee for a person who engages in
2 business as both an electronic repair industry service dealer and
3 an appliance repair industry service dealer is not more than four
4 hundred five dollars (\$405) for each place of business in this state.
5 The initial registration fee for a person who is a service contractor
6 and engages in business as either an electronic repair industry
7 service dealer or an appliance repair industry service dealer is not
8 more than three hundred dollars (\$300) for each place of business
9 in this state.

10 (3) The initial registration fee for a person who engages in both
11 the electronic repair industry and the appliance repair industry as
12 a service dealer and is a service contractor is not more than five
13 hundred dollars (\$500) for each place of business in this state.

14 (4) A service dealer or service contractor who does not operate
15 a place of business in this state, but engages in the electronic repair
16 industry or the appliance repair industry, or sells, issues, or
17 administers service contracts in this state, shall pay the registration
18 fee specified herein as if that service dealer or service contractor
19 had a place of business in this state.

20 (b) (1) The annual registration renewal fee for an electronic
21 repair industry service dealer or for an appliance repair industry
22 service dealer is not more than two hundred five dollars (\$205)
23 for each place of business in this state, if renewed prior to its
24 expiration date. The annual registration renewal fee for a service
25 contractor is ninety-five dollars (\$95) for each place of business
26 in this state, if renewed prior to its expiration date.

27 (2) The annual renewal fee for a service dealer who engages in
28 the business as both an electronic repair industry service dealer
29 and an appliance repair industry service dealer is not more than
30 four hundred dollars (\$400) for each place of business in this state.

31 (3) The annual renewal fee for a service dealer who engages in
32 the electronic repair industry and the appliance repair industry and
33 is a service contractor is not more than four hundred seventy-five
34 dollars (\$475) for each place of business in this state.

35 (4) A service dealer or service contractor who does not operate
36 a place of business in this state, but who engages in the electronic
37 repair industry or the appliance repair industry, or sells or issues
38 service contracts in this state, shall pay the renewal fee specified
39 herein as if that service dealer or service contractor had a place of
40 business in this state.

1 (c) The delinquency fee is an amount equal to 50 percent of the
2 renewal fee for a license in effect on the date of renewal of the
3 license, except as otherwise provided in Section 163.5.

4 (d) This section shall remain in effect only until January 1,
5 2028, and as of that date is repealed.

6 ~~SEC. 28.~~

7 *SEC. 29.* Section 9873 of the Business and Professions Code,
8 as amended by Section 94 of Chapter 625 of the Statutes of 2022,
9 is amended to read:

10 9873. The fees prescribed by this chapter shall be set by the
11 director by regulation, according to the following schedule:

12 (a) The initial registration fee for an electronic repair industry
13 service dealer or for an appliance repair industry service dealer is
14 not more than two hundred five dollars (\$205) for each place of
15 business in this state. The initial registration fee for a person who
16 engages in business as both an electronic repair industry service
17 dealer and an appliance repair industry service dealer is not more
18 than four hundred five dollars (\$405).

19 (b) The annual registration renewal fee for an electronic repair
20 industry service dealer or for an appliance repair industry service
21 dealer is not more than two hundred five dollars (\$205) for each
22 place of business in this state, if renewed prior to its expiration
23 date. The annual renewal fee for a service dealer who engages in
24 the business as both an electronic repair industry service dealer
25 and an appliance repair industry service dealer is not more than
26 four hundred dollars (\$400).

27 (c) The delinquency fee is an amount equal to 50 percent of the
28 renewal fee for a license in effect on the date of renewal of the
29 license, except as otherwise provided in Section 163.5.

30 (d) This section shall become operative on January 1, 2028.

31 ~~SEC. 29.~~

32 *SEC. 30.* Section 9874 of the Business and Professions Code
33 is amended to read:

34 9874. All salaries, expenses, or costs incurred or sustained
35 pursuant to this chapter shall be payable only out of the Household
36 Goods and Services Fund.

37 ~~SEC. 30.~~

38 *SEC. 31.* Section 9874.5 is added to the Business and
39 Professions Code, to read:

1 9874.5. (a) All moneys in the Electronic and Appliance Repair
2 Fund ~~on July 1, 2024~~, shall be transferred to the Household Goods
3 and Services Fund ~~on that date~~. *by July 1, 2026. On July 1, 2026,*
4 *the Electronic and Appliance Repair Fund shall be abolished.*

5 (b) This section shall remain in effect only until December 31,
6 ~~2024~~, 2026, and as of that date is repealed.

7 ~~SEC. 31.~~

8 *SEC. 32.* Section 19002 of the Business and Professions Code
9 is amended to read:

10 19002. "Person" includes any individual, partnership,
11 association, firm, auctioneer, trust, limited liability company, and
12 corporation, and the agents, servants, and employees of any of
13 them.

14 ~~SEC. 32.~~

15 *SEC. 33.* Section 19063 of the Business and Professions Code
16 is amended to read:

17 19063. The bureau may refuse to issue any license provided
18 for in this chapter to any individual:

19 (a) Who has had any license issued to them revoked, or whose
20 license is under suspension, or who has failed to renew their license
21 while it was under suspension.

22 (b) If any license of a partnership or limited liability company
23 of which they are or were a member, or of a corporation of which
24 they are or were an officer or director, or of a firm or association
25 of which they are or were an officer or of which they are or were
26 acting in a managerial capacity, has had any license issued to it
27 revoked or suspended, and while acting as a member, officer,
28 director, or in a managerial capacity they participated in any of
29 the prohibited acts for which the license was revoked or suspended.

30 ~~SEC. 33.~~

31 *SEC. 34.* Section 19064 of the Business and Professions Code
32 is amended to read:

33 19064. The bureau may refuse to issue any license provided
34 for in this chapter to any partnership, corporation, limited liability
35 company, firm, or association:

36 (a) Who has had any license issued to it revoked, or whose
37 license is under suspension, or who has failed to renew its license
38 while it was under suspension.

39 (b) If any member of the partnership, or any officer or director
40 of the corporation, or any officer or person acting in a managerial

1 capacity of the firm or association has had any license issued to
2 them revoked, or whose license is under suspension, or who has
3 failed to renew their license while it was under suspension.

4 (c) If any member of the limited liability company or of the
5 partnership, or any officer or director of the corporation, or any
6 officer or person acting in a managerial capacity of the firm or
7 association, was either a member of any limited liability company
8 or of any partnership, or an officer or director of any corporation,
9 or an officer or person acting in a managerial capacity of any firm
10 or association, whose license has been revoked, or whose license
11 is under suspension, or who failed to renew a license while it was
12 under suspension, and while acting as a member, officer, director,
13 or person acting in a managerial capacity participated in any of
14 the prohibited acts for which any license was revoked or suspended.

15 ~~SEC. 34.~~

16 *SEC. 35.* Section 19094 of the Business and Professions Code
17 is amended to read:

18 19094. (a) For the purposes of this section, the following
19 definitions shall apply:

20 (1) "Component" means the separate constituent parts of
21 upholstered furniture sold in California, as identified in Technical
22 Bulletin 117-2013, specifically cover fabrics, barrier materials,
23 resilient filling materials, and decking materials.

24 (2) "Covered products" means any flexible polyurethane foam
25 or upholstered or reupholstered furniture sold in California that is
26 required to meet the test requirements set forth in Technical
27 Bulletin 117-2013, entitled "Requirements, Test Procedure and
28 Apparatus for Testing the Smolder Resistance of Materials Used
29 in Upholstered Furniture."

30 (3) "Flame-retardant chemical" means any chemical or chemical
31 compound for which a functional use is to resist or inhibit the
32 spread of fire. ~~Flame-retardant~~ *Flame retardant* chemicals include,
33 but are not limited to, halogenated, phosphorous-based,
34 nitrogen-based, and nanoscale flame retardants, flame-retardant
35 chemicals listed as "designated chemicals" pursuant to Section
36 105440 of the Health and Safety Code, and any chemical or
37 chemical compound for which "flame retardant" appears on the
38 substance Safety Data Sheet (SDS) pursuant to Section
39 1910.1200(g) of Title 29 of the Code of Federal Regulations.

40 (4) "Chemical" means either of the following:

1 (A) An organic or inorganic substance of a particular molecular
2 identity, including any combination of those substances occurring,
3 in whole or in part, as a result of a chemical reaction or occurring
4 in nature, and any element, ion, or uncombined radical, and any
5 degradate, metabolite, or reaction product of a substance with a
6 particular molecular identity.

7 (B) A chemical ingredient, which means a substance comprising
8 one or more substances described in subparagraph (A).

9 (5) "Molecular identity" means the substance's properties listed
10 below:

11 (A) Agglomeration state.

12 (B) Bulk density.

13 (C) Chemical composition, including surface coating.

14 (D) Crystal structure.

15 (E) Dispersability.

16 (F) Molecular structure.

17 (G) Particle density.

18 (H) Particle size, size distribution, and surface area.

19 (I) Physical form and shape, at room temperature and pressure.

20 (J) Physicochemical properties.

21 (K) Porosity.

22 (L) Solubility in water and biologically relevant fluids.

23 (M) Surface charge.

24 (N) Surface reactivity.

25 (6) "~~Added flame-retardant~~ *flame retardant* chemicals" means
26 flame-retardant chemicals that are present in any covered product
27 or component thereof at levels above 1,000 parts per million.

28 (7) "Department" means the Department of Toxic Substances
29 Control.

30 (8) "Consumer Price Index" means the Consumer Price Index
31 for All Urban Consumers published by the Bureau of Labor
32 Statistics.

33 (b) (1) A manufacturer of covered products shall indicate
34 whether or not the product contains ~~added flame-retardant~~ *flame*
35 *retardant* chemicals by including the following "flame-retardant
36 chemical statement" on the label described in Section 1374.3 of
37 Title 4 of the California Code of Regulations for covered products:

38

39 "The upholstery materials in this product:

40 _____ contain ~~added flame-retardant~~ *flame retardant* chemicals

1 _____contain NO added~~—flame-retardant~~ *flame retardant*
2 chemicals

3 The State of California has updated the flammability standard
4 and determined that the fire safety requirements for this product
5 can be met without adding~~—flame-retardant~~ *flame retardant*
6 chemicals. The state has identified many~~—flame-retardant~~ *flame*
7 *retardant* chemicals as being known to, or strongly suspected of,
8 adversely impacting human health or development.”

9

10 A manufacturer of covered products shall indicate the absence
11 or presence of added flame-retardant chemicals by placing an “X”
12 in one of the appropriate blanks.

13 (2) This statement shall be included in the label described in
14 Section 1374.3 of Title 4 of the California Code of Regulations in
15 accordance with the bureau’s regulations for that label. The
16 statement need not be in all capital letters, and shall follow the
17 statement required by Section 1374.3 of Title 4 of the California
18 Code of Regulations.

19 (c) (1) The bureau shall ensure compliance with the labeling
20 requirements in this section.

21 (2) (A) The bureau shall provide the Department of Toxic
22 Substances Control with a selection of samples from covered
23 products marked “contain NO added~~—flame-retardant~~ *flame*
24 *retardant* chemicals” for testing for the presence of added
25 ~~flame-retardant~~ *flame retardant* chemicals. The samples shall be
26 from the components identified in paragraph (1) of subdivision
27 (a). The bureau shall select samples based on consultation with
28 the department, taking into account a range of manufacturers and
29 types of covered products. The bureau and the department shall
30 consult on the tests to be conducted by the department. The
31 department shall provide the results of any completed test to the
32 bureau. The bureau shall reimburse the department for the cost of
33 testing for the presence of added~~—flame-retardant~~ *flame retardant*
34 chemicals in covered products marked “contain NO added
35 ~~flame-retardant~~ *flame retardant* chemicals”.

36 (B) No later than August 1 of each fiscal year, the bureau shall
37 assess available resources and determine the number of tests to be
38 conducted in the corresponding fiscal year, pursuant to this
39 subparagraph.

1 (3) (A) If the department's testing shows that a covered product
2 labeled as "contain NO added ~~flame-retardant~~ *flame retardant*
3 chemicals" is mislabeled because it contains added flame-retardant
4 chemicals, the bureau may assess fines for violations against
5 manufacturers of the covered product and component
6 manufacturers to be held jointly and severally liable for the
7 violation.

8 (B) A fine for a violation of this subparagraph relating to
9 mislabeling shall be assessed in accordance with the factors
10 described in subdivision (d) and the following schedule:

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

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

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

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

23 (C) The fines in paragraph (B) shall replace any other fines in
24 this article for a violation of the testing requirements of this section.
25 This clause does not alter or amend any other penalty otherwise
26 imposed by this article.

27 (D) If the department's testing shows that a covered product
28 labeled as "contain NO added ~~flame-retardant~~ *flame retardant*
29 chemicals" is mislabeled because it contains added ~~flame-retardant~~
30 *flame retardant* chemicals, in addition to a fine or any other
31 request, the bureau may request that the label required by
32 subdivision (b) for covered products that belong to the same stock
33 keeping unit (SKU) currently produced by the manufacturer be
34 corrected to reflect that ~~flame-retardant~~ *flame retardant* chemicals
35 are added to the covered product.

36 (E) If the department's testing shows that a covered product
37 labeled as "contain NO added ~~flame-retardant~~ *flame retardant*
38 chemicals" is mislabeled because it contains added ~~flame-retardant~~
39 *flame retardant* chemicals, in addition to a fine or any other
40 request, the bureau may request additional testing of more products

1 belonging to the same stock keeping unit (SKU) at the
2 manufacturer's expense to verify the accuracy of the label required
3 by subdivision (b) for covered products if the manufacturer wishes
4 to retain the "contain NO added flame-retardant chemicals"
5 designation on the label required by subdivision (b).

6 (d) (1) The bureau shall make information about any citation
7 issued pursuant to this section available to the public on its internet
8 website.

9 (2) In determining the amount of the fine for violations of this
10 section, the bureau shall consider the following factors:

11 (A) The nature and severity of the violation.

12 (B) The good or bad faith of the cited person.

13 (C) The history of previous violations.

14 (D) Evidence that the violation was willful.

15 (E) The extent to which the cited person or entity has cooperated
16 with the bureau.

17 (3) (A) The bureau shall adjust all minimum and maximum
18 fines imposed by this section for inflation every five years.

19 (B) The adjustment shall be equivalent to the percentage, if any,
20 that the Consumer Price Index at the time of adjustment exceeds
21 the Consumer Price Index at the time this section goes into effect.
22 Any increase determined under this paragraph shall be rounded as
23 follows:

24 (i) In multiples of ten dollars (\$10) in the case of penalties less
25 than or equal to one hundred dollars (\$100).

26 (ii) In multiples of one hundred dollars (\$100) in the case of
27 penalties greater than one hundred dollars (\$100) but less than or
28 equal to one thousand dollars (\$1,000).

29 (iii) In multiples of one thousand dollars (\$1,000) in the case
30 of penalties greater than one thousand dollars (\$1,000).

31 (4) It shall be the duty of the bureau to receive complaints from
32 consumers concerning covered products sold in California.

33 (e) The bureau may adopt regulations pursuant to the
34 Administrative Procedure Act (Chapter 3.5 (commencing with
35 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
36 Code) to carry out this section.

37 ~~SEC. 35.~~

38 *SEC. 36.* Section 19174 of the Business and Professions Code
39 is amended to read:

1 19174. All fees collected under this chapter shall be reported
2 to the Controller and paid to the Treasurer and credited to the
3 Household Goods and Services Fund, to be expended only for the
4 purposes of the bureau and in carrying out this chapter.

5 ~~SEC. 36.~~

6 *SEC. 37.* Section 19174.5 is added to the Business and
7 Professions Code, to read:

8 19174.5. (a) All moneys in the Home Furnishings and Thermal
9 Insulation Fund ~~on July 1, 2024,~~ shall be transferred to the
10 Household Goods and Services Fund ~~on that date.~~ *by July 1, 2026.*
11 *On July 1, 2026, the Home Furnishing and Thermal Insulation*
12 *Fund shall be abolished.*

13 (b) This section shall remain in effect only until December 31,
14 ~~2024,~~ 2026, and as of that date is repealed.

15 ~~SEC. 37.~~

16 *SEC. 38.* Section 19211 of the Business and Professions Code
17 is amended to read:

18 19211. Any person who has been denied a license, or who has
19 had their license revoked, or whose license is under suspension,
20 or who has failed to renew their license while it was under
21 suspension, or any person who has been a member of any limited
22 liability company or of any partnership, or an officer or director
23 of any corporation, or an officer or person acting in a managerial
24 capacity of any firm or association, whose license has been
25 revoked, or whose license is under suspension, or who has failed
26 to renew a license while it was under suspension, and while acting
27 as a member, officer, director, or person acting in a managerial
28 capacity, participated in any of the prohibited acts for which the
29 license was suspended, or revoked, shall be prohibited from serving
30 as a member of any licensed limited liability company or of any
31 licensed partnership, or as an officer or director of any licensed
32 corporation, or as an officer or person acting in a managerial
33 capacity of any licensed firm or association, and the employment,
34 election, or association of a person in this capacity by a licensee
35 shall constitute grounds for disciplinary action against the licensee.

36 ~~SEC. 38.~~

37 *SEC. 39.* Section 19212 of the Business and Professions Code
38 is amended to read:

39 19212. The performance by any partnership, limited liability
40 company, corporation, firm, or association of any act or omission

1 constituting a cause for disciplinary action, likewise constitutes a
2 cause for disciplinary action against any licensee who is a member
3 of that partnership or limited liability company, or an officer or
4 director of that corporation, or an officer or person acting in a
5 managerial capacity of that firm or association, if the licensee
6 participated in the prohibited act or omission.

7 ~~SEC. 39.~~

8 *SEC. 40.* Section 19214 of the Business and Professions Code
9 is amended to read:

10 19214. Any person who violates or proposes to violate any
11 provision of this chapter relating to insulation standards may be
12 enjoined by any court of competent jurisdiction. The court may
13 make those orders or judgments, including the appointment of a
14 receiver, as may be necessary to prevent the use or employment
15 by any person of any practices which violate this chapter, or which
16 may be necessary to restore to any person in interest any money
17 or property, real or personal, which may have been acquired by
18 means of any practice which violates any provision of this chapter.

19 Actions for injunction under this section may be prosecuted by
20 the Attorney General or any district attorney, county counsel, city
21 attorney, or city prosecutor in this state in the name of the people
22 of the State of California upon their own motion or upon the
23 complaint of any board, officer, person, corporation, association,
24 partnership, limited liability company, or by any person acting for
25 the interests of itself, its members, or the general public.

26 (a) A person who violates any provision of this chapter shall be
27 liable for a civil penalty not to exceed two thousand five hundred
28 dollars (\$2,500) for each violation, which shall be assessed and
29 recovered in a civil action brought in the name of the people of
30 the State of California by the Attorney General or by any district
31 attorney, county counsel, city attorney, or city prosecutor in any
32 court of competent jurisdiction. The unit for a separate and distinct
33 offense regarding insulation in violation of this chapter is each and
34 every bag, bale, package, roll, or other container sold, offered for
35 sale, or possessed with intent to sell or install contrary to the
36 provisions of this chapter.

37 (b) If the action is brought by the Attorney General, one-half
38 of the penalty collected shall be paid to the treasurer of the county
39 in which the judgment was entered, and one-half to the Treasurer.
40 If brought by a district attorney or county counsel, the entire

1 amount of penalty collected shall be paid to the treasurer of the
2 county in which the judgment was entered. If brought by a city
3 attorney or city prosecutor, one-half of the penalty shall be paid
4 to the treasurer of the county and one-half to the city.

5 (c) If the action is brought at the request of the bureau, the court
6 shall determine the reasonable expenses incurred by the bureau in
7 the investigation and prosecution of the action.

8 Before any penalty collected is paid out pursuant to subdivision
9 (b), the amount of the reasonable expenses incurred by the bureau
10 shall be paid to the Treasurer.

11 ~~SEC. 40.~~

12 *SEC. 41.* Section 19225.5 of the Business and Professions Code
13 is amended to read:

14 19225.5. For purposes of this chapter, unless the context
15 otherwise requires, the following provisions shall apply:

16 (a) "Broker" means a person engaged by others in the act of
17 arranging, for compensation, the intrastate transportation of used
18 household goods by a motor vehicle over the highways of this state
19 for, or on behalf of, a shipper, a consignor, or a consignee.

20 (b) "Bureau" refers to the Bureau of Household Goods and
21 Services, as established in Section 9810.

22 (c) "Chief" refers to the chief of the bureau.

23 (d) "Corporation" includes a corporation, a company, a limited
24 liability company, an association, and a joint stock association.

25 (e) "Department" refers to the Department of Consumer Affairs.

26 (f) "Director" refers to the Director of Consumer Affairs.

27 (g) "Fund" means the Household Goods and Services Fund
28 established pursuant to Section 9870.

29 (h) "Household mover" includes every corporation or person,
30 their lessees, trustee, receivers, or trustees appointed by any court
31 whatsoever, engaged in the permitted or unpermitted transportation
32 for compensation or hire as a business by means of a motor vehicle
33 or motor vehicles being used in the transportation of used
34 household goods and personal effects over any public highway in
35 this state. A broker, as defined in subdivision (a), shall be
36 considered a household mover. The Legislature intends "household
37 mover" to have the same meaning as "household goods carrier"
38 in former Section 5109 of the Public Utilities Code, as that section
39 read on June 30, 2018.

1 (i) "Inspector" refers to an inspector either employed by, or
2 under contract to, the bureau.

3 (j) "Motor vehicle" means every motor truck, tractor, or other
4 self-propelled vehicle used for transportation of property over the
5 public highways, other than upon fixed rails or tracks, and any
6 trailer, semitrailer, dolly, or other vehicle drawn thereby.

7 (k) "Owner," with respect to a motor vehicle used in the
8 transportation of property for compensation by a household mover,
9 means the corporation or person who is registered with the
10 Department of Motor Vehicles as the owner of the vehicle, or who
11 has a legal right to possession of the vehicle pursuant to a lease or
12 rental agreement.

13 (l) "Person" includes an individual, a firm, or a partnership.

14 (m) "Public highway" includes every public street, road, or
15 highway in this state.

16 ~~SEC. 41.~~

17 *SEC. 42.* Section 19229 of the Business and Professions Code
18 is amended to read:

19 19229. (a) Moneys in the fund shall be used, upon
20 appropriation by the Legislature, by the bureau for the
21 administration of this chapter.

22 (b) Except as otherwise provided in this chapter, all moneys,
23 including fines or penalties imposed under this chapter, collected
24 pursuant to this chapter shall be deposited into the fund.

25 ~~SEC. 42.~~

26 *SEC. 43.* Section 19229.5 is added to the Business and
27 Professions Code, to read:

28 19229.5. (a) All moneys in the Household Movers Fund ~~on~~
29 ~~July 1, 2024,~~ shall be transferred to the Household Goods and
30 Services Fund ~~on that date.~~ *by July 1, 2026. On July 1, 2026, the*
31 *Household Movers Fund shall be abolished.*

32 (b) This section shall remain in effect only until December 31,
33 ~~2024, 2026,~~ and as of that date is repealed.

34 ~~SEC. 43.~~

35 *SEC. 44.* Section 19239 of the Business and Professions Code
36 is amended to read:

37 19239. (a) Before a permit is issued, the bureau shall require
38 the applicant to establish ability and reasonable financial
39 responsibility to initiate the proposed operations. The bureau shall
40 require the applicant to establish their knowledge and ability to

1 engage in business as a household mover by examination. The
2 examination may be written or oral, or in the form of a
3 demonstration of skill, or any combination of these, and any
4 investigation of character, experience, and any tests of technical
5 knowledge and manual skill that the bureau determines to be
6 appropriate may be employed. In any examination, the qualification
7 of the applicant shall be determined by an appraisal made by a
8 member of the bureau's staff. The criteria used by the bureau staff
9 in making the required appraisal to determine whether the applicant
10 has met the qualifications shall be established by the bureau by
11 rule or regulation, in accordance with the provisions of Chapter
12 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
13 Title 2 of the Government Code. An applicant who has been
14 determined to be unqualified may establish their qualifications
15 through a subsequent examination, but no subsequent examination
16 shall be taken prior to 30 days from the date when the applicant
17 was found to be unqualified. If the staff member determines that
18 the applicant is not qualified and denies the application, the bureau
19 shall notify the applicant in writing. Within 30 days of service of
20 the notice, the applicant may file a written request with the bureau
21 for a hearing on the denial. Upon receipt of a timely filed request,
22 the bureau shall request that the matter be set for a hearing. The
23 hearing shall be conducted in accordance with Chapter 5
24 (commencing with Section 11500) of Part 1 of Division 3 of Title
25 2 of the Government Code, and the director shall have all the
26 powers granted therein. If the staff member determines that the
27 applicant is qualified, the bureau may issue a permit without a
28 hearing.

29 (b) An applicant may qualify in one of the following ways:

30 (1) If an individual, they may qualify by personal examination
31 or by examination of their responsible managing employee.

32 (2) If a partnership or corporation, or any other type of business
33 organization, it may qualify by examination of the responsible
34 managing officer, an employee who works at least 32 hours per
35 week, or a partner of the applicant firm.

36 (c) If the individual qualified by examination ceases to be
37 connected with the permitholder, the permitholder shall notify the
38 bureau in writing within 30 days after the cessation. If notice is
39 given, the permit shall remain in force a reasonable length of time
40 in order that another representative of the applicant may be

1 qualified before the bureau. If the permit holder fails to notify the
2 bureau of the cessation within a 30-day period, at the end of that
3 period the permit shall be automatically suspended.

4 (d) Each applicant for a permit shall electronically submit to
5 the Department of Justice fingerprint images and related
6 information required by the Department of Justice for each owner,
7 partner, officer, and director as a prerequisite to the issuance of a
8 permit to operate as a household mover. The fingerprint images
9 and related information shall be submitted for the purpose of
10 obtaining information as to the existence and content of a record
11 of state or federal convictions and arrests, and information as to
12 the existence and content of a record of state or federal convictions
13 and arrests for which the Department of Justice establishes that
14 the person is free on bail or on their own recognizance, pending
15 trial or appeal.

16 (1) The Department of Justice shall provide a response to the
17 bureau pursuant to paragraph (1) of subdivision (p) of Section
18 11105 of the Penal Code.

19 (2) The bureau shall request from the Department of Justice
20 subsequent notification service, as provided pursuant to Section
21 11105.2 of the Penal Code, for applicants.

22 (3) The Department of Justice shall charge the applicant a fee
23 sufficient to cover the reasonable cost of processing the requests
24 described in this subdivision.

25 (e) The bureau may require, as a precondition to the issuance
26 of a permit, the procurement of a performance bond sufficient to
27 facilitate the collection of fines, penalties, and restitution related
28 to enforcement actions that can be taken against the applicant.

29 (f) The bureau may refuse to issue a permit if it is shown that
30 an applicant or an officer, director, partner, or associate of an
31 applicant has committed any act constituting dishonesty or fraud;
32 committed any act that, if committed by a permit holder, would be
33 grounds for a suspension or revocation of the permit;
34 misrepresented any material fact on the application; or, was
35 convicted of an offense that is substantially related to the
36 qualifications, functions, or duties of the business or profession,
37 except that if the bureau determines that the applicant is otherwise
38 suitable to be issued a permit, and granting the permit would not
39 compromise public safety, the bureau shall conduct a thorough
40 review of the nature of the crime, conviction, circumstances, and

1 evidence of rehabilitation of the applicant, and shall evaluate the
2 suitability of the applicant to be issued a permit based on the
3 evidence found through the review.

4 (g) A permit shall not be issued unless it has been shown that
5 the applicant meets one of the following residence requirements:

6 (1) For an individual, the applicant shall have resided in the
7 State of California for not less than 90 days next preceding the
8 filing of the application.

9 (2) For a partnership, the partner having the largest percentage
10 interest in the partnership shall have resided in the State of
11 California continuously for not less than 90 days next preceding
12 the filing of the application.

13 (3) For a limited liability company or a corporation, the applicant
14 shall be a domestic limited liability company or a domestic
15 corporation or shall be qualified to transact business in the State
16 of California as a foreign limited liability company or a foreign
17 corporation at the time of filing the application.

18 (h) The bureau shall prescribe, amend, and repeal rules in
19 accordance with law for the administration of this section.

20 (i) If the bureau denies an application, the bureau shall notify
21 the applicant in writing. Within 30 days of service of the notice,
22 the applicant may file a written request with the bureau for a
23 hearing on the denial. Upon receipt of a timely filed request, the
24 bureau shall request that the matter be set for hearing. The hearing
25 shall be conducted in accordance with Chapter 5 (commencing
26 with Section 11500) of Part 1 of Division 3 of Title 2 of the
27 Government Code, and the director shall have all the powers
28 granted therein.

29 ~~SEC. 44.~~

30 *SEC. 45.* No reimbursement is required by this act pursuant to
31 Section 6 of Article XIII B of the California Constitution because
32 the only costs that may be incurred by a local agency or school
33 district will be incurred because this act creates a new crime or
34 infraction, eliminates a crime or infraction, or changes the penalty
35 for a crime or infraction, within the meaning of Section 17556 of
36 the Government Code, or changes the definition of a crime within
37 the meaning of Section 6 of Article XIII B of the California
38 Constitution.

O

AGENDA ITEM 10d

AB 1059 (Friedman, 2023) - Product
Safety: Consumer Products: Fiberglass

AMENDED IN SENATE SEPTEMBER 1, 2023

AMENDED IN SENATE JUNE 14, 2023

AMENDED IN ASSEMBLY APRIL 11, 2023

AMENDED IN ASSEMBLY APRIL 10, 2023

CALIFORNIA LEGISLATURE—2023–24 REGULAR SESSION

ASSEMBLY BILL

No. 1059

Introduced by Assembly Member Friedman

February 15, 2023

An act to amend Sections 19101 and 19103 of, and to add Section 19101.5 to, the Business and Professions Code, relating to product safety.

LEGISLATIVE COUNSEL'S DIGEST

AB 1059, as amended, Friedman. Product safety: consumer products: textile fiberglass and covered ~~flame-retardant~~ *flame retardant* chemicals.

Existing law, the Home Furnishings and Thermal Insulation Act, establishes the Bureau of Household Goods and Services to license and regulate persons engaged in businesses relating to upholstered furniture, bedding and filling materials, and insulation, including juvenile products and mattresses. A violation of the act is a misdemeanor.

Existing law prohibits a person from selling or distributing in commerce in this state any new, not previously owned juvenile products, mattresses, or upholstered furniture that contains covered ~~flame-retardant~~ *flame retardant* chemicals at specified levels, and prohibits a custom upholsterer from repairing, reupholstering, recovering, restoring, or renewing upholstered or reupholstered furniture using replacement components that contain covered ~~flame-retardant~~ *flame retardant*

chemicals at specified levels. Existing law exempts from those requirements, among other things, components of adult mattresses other than foam.

This bill would make that exemption inoperative on January 1, 2027. The bill would exempt from the above-described requirements aramid fabric when used in the interior of a mattress or on a nonsleep surface of a mattress, as specified. The bill would additionally ~~exempt, until January 1, 2027,~~ exempt modacrylic fiber without antimony trioxide or other ~~flame-retardant~~ covered flame retardant chemicals. *The bill would require the International Sleep Products Association, on or before October 1, 2025, to submit to the bureau a quantitative health risk assessment of modacrylic fiber without antimony trioxide, as specified, and would require the bureau to post the assessment on its internet website.*

Existing law, known as the Green Chemistry program, requires the Department of Toxic Substances Control to adopt regulations to establish a process to identify and prioritize chemicals or chemical ingredients in consumer products that may be considered as being chemicals of concern. Existing law provides that the Green Chemistry program does not authorize the department to supersede the regulatory authority of any other department or agency or duplicate or adopt conflicting regulations for product categories already regulated or subject to pending regulation, as provided. Existing law, the Safer Consumer Products Program, implements the Green Chemistry program pursuant to regulations adopted by the department.

This bill would authorize the department to prioritize or take action on a product containing a covered flame retardant chemical and would provide that if the department adopts regulations governing the use of a flame retardant chemical in a juvenile product, mattress, or upholstered furniture that those regulations adopted by the department shall prevail.

Existing law authorizes the bureau to assess a fine if a person continues to sell or distribute products in commerce in this state belonging to the same stock keeping unit as noncompliant products, as specified. Existing law requires the bureau to take specified other actions in that regard, including posting citations issued on the bureau's internet website and receiving complaints from consumers concerning juvenile products, upholstered furniture, or reupholstered furniture regulated under the act.

This bill would, on and after January 1, 2027, prohibit a person from manufacturing, selling, offering, or distributing in commerce in the state any new, not previously owned juvenile product, mattress, or upholstered furniture that contains, or a constituent component of which contains, textile fiberglass. The bill would, on and after January 1, 2027, prohibit a custom upholsterer from repairing, reupholstering, recovering, restoring, or renewing any mattress, juvenile product, upholstered furniture, or reupholstered furniture using a replacement component that contains, or a constituent component of which contains, textile fiberglass. The bill would authorize the bureau to assess a fine against a person who continues to sell or distribute noncompliant products and to take specified other actions in that regard, including posting citations issued on the bureau's internet website and receiving complaints from consumers.

Because the bill would expand the scope of a crime under the act, the bill would impose a state-mandated local program.

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

This bill would provide that, 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.

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

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

1 SECTION 1. Section 19101 of the Business and Professions
2 Code is amended to read:
3 19101. (a) On or after January 1, 2020, a person, including a
4 manufacturer, shall not sell or distribute in commerce in this state
5 any new, not previously owned juvenile products, mattresses, or
6 upholstered furniture that contains, or a constituent component of
7 which contains, covered ~~flame-retardant~~ *flame retardant* chemicals
8 at levels above 1,000 parts per million.
9 (b) On or after January 1, 2020, a custom upholsterer shall not
10 repair, reupholster, recover, restore, or renew upholstered furniture
11 or reupholstered furniture using replacement components that

1 contain covered ~~flame-retardant~~ *flame retardant* chemicals at levels
2 above 1,000 parts per million.

3 (c) The prohibitions in subdivisions (a) and (b) do not apply to
4 the following:

5 (1) Electronic components of juvenile products, mattresses,
6 reupholstered furniture, upholstered furniture, or any associated
7 casing for those electronic components.

8 (2) Upholstered or reupholstered furniture components other
9 than those identified in paragraph (1) of subdivision (a) of Section
10 19094.

11 (3) Thread or fiber when used for stitching mattress components
12 together.

13 (4) Aramid fiber when used in fabric in the interior of a mattress
14 or in fabric that covers the bottom (nonsleep surface) of a mattress
15 that has a sleeping surface on only one side of the mattress.

16 (5) ~~Until January 1, 2027, modacrylic~~ *Modacrylic* fiber without
17 antimony trioxide or other ~~flame-retardant~~ *covered flame retardant*
18 chemicals.

19 (6) Until January 1, 2027, components of adult mattresses other
20 than foam. As used in this paragraph, “adult mattresses” means
21 mattresses other than toddler mattresses, crib mattresses, and other
22 infant sleep products.

23 (d) (1) *On or before October 1, 2025, the International Sleep*
24 *Products Association shall submit to the bureau a quantitative*
25 *health risk assessment of modacrylic fiber without antimony*
26 *trioxide that was performed by an independent toxicologist who*
27 *is board-certified by the American Board of Toxicology.*

28 (2) *The bureau shall post the assessment conducted pursuant*
29 *to subdivision (a) on its internet website.*

30 (⊕)

31 (e) (1) Notwithstanding subdivisions (b) and (c) of Section
32 25257.1 of the Health and Safety Code, this section shall not be
33 construed to prohibit or restrict the authority of the Department of
34 Toxic Substances Control to prioritize or take action on any
35 products containing a covered ~~flame-retardant~~ *flame retardant*
36 chemical in order to limit exposure to or reduce the level of hazard
37 posed by these covered ~~flame-retardant~~ *flame retardant* chemicals.

38 (2) *If the Department of Toxic Substances Control adopts a*
39 *regulatory response described in the Safer Consumer Products*
40 *Program (Chapter 55 (commencing with Section 69501) of Division*

1 4.5 of Title 22 of the California Code of Regulations) governing
2 the use of a flame retardant chemical in a product covered by this
3 section, this section shall not apply to the use of that chemical
4 upon the date that the department posts a notice on its internet
5 website that it has adopted the regulatory response.

6 SEC. 2. Section 19101.5 is added to the Business and
7 Professions Code, to read:

8 19101.5. (a) On and after January 1, 2027, a person, including,
9 but not limited to, a manufacturer, retailer, importer, or online
10 seller, shall not manufacture, sell, offer, or distribute in commerce
11 in this state any new, not previously owned juvenile product,
12 mattress, or upholstered furniture that contains, or a constituent
13 component of which contains, textile fiberglass.

14 (b) On and after January 1, 2027, a custom upholsterer shall not
15 repair, reupholster, recover, restore, or renew any mattress, juvenile
16 product, upholstered furniture, or reupholstered furniture using a
17 replacement component that contains, or a constituent component
18 of which contains, textile fiberglass.

19 (c) For purposes of this section, “textile fiberglass” means textile
20 yarns whose composition includes one or more continuous glass
21 filaments in a form suitable for knitting, weaving, or otherwise
22 intertwining to form a textile fabric, but excludes the following:

23 (1) Thread or fiber when used for stitching mattress components
24 together.

25 (2) Yarns in which the glass filaments are corespun or sheathed
26 by another fiber.

27 SEC. 3. Section 19103 of the Business and Professions Code
28 is amended to read:

29 19103. (a) The bureau shall enforce and ensure compliance
30 with Sections 19101 and 19101.5.

31 (b) (1) The bureau shall provide the Department of Toxic
32 Substances Control with a selection of samples from products
33 regulated under this article to test for compliance with Section
34 19101. The bureau shall select samples based on consultation with
35 the Department of Toxic Substances Control, taking into account
36 a range of manufacturers and types of products regulated under
37 this article. The bureau shall integrate these testing requirements
38 into the existing testing program described in subdivision (c) of
39 Section 19094.

1 (2) (A) If the Department of Toxic Substances Control's testing
2 shows that any reupholstered furniture or new, not previously
3 owned juvenile products, mattresses, or upholstered furniture is
4 in violation of Section 19101, the bureau may assess fines for
5 violations against manufacturers of the product for the violation.
6 The bureau shall reimburse the Department of Toxic Substances
7 Control for the cost of testing for the presence of covered
8 ~~flame-retardant~~ *flame retardant* chemicals pursuant to this article.

9 (B) If a person continues to sell or distribute products in
10 commerce in this state belonging to the same stock keeping unit
11 (SKU) as products that do not comply with Sections 19101 and
12 19101.5, after notice of the violation is posted on the bureau's
13 internet website, the bureau may assess fines against the person
14 for the continued sale or distribution of those products. The bureau
15 shall make information about any citation issued pursuant to this
16 section available to the public on its internet website, and shall
17 develop a process for keeping interested persons informed about
18 updates to notices of violation posted on the bureau's internet
19 website.

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

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

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

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

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

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

36 (1) The nature and severity of the violation.

37 (2) The good or bad faith of the cited person.

38 (3) The history of previous violations.

39 (4) Evidence that the violation was willful.

1 (5) The extent to which the cited person or entity has cooperated
2 with the bureau.

3 (e) (1) The bureau shall adjust all minimum and maximum
4 fines imposed by this section for inflation every five years.

5 (2) The adjustment shall be equivalent to the percentage, if any,
6 that the Consumer Price Index at the time of adjustment exceeds
7 the Consumer Price Index at the time this section goes into effect.
8 Any increase determined under this paragraph shall be rounded as
9 follows:

10 (A) In multiples of ten dollars (\$10) in the case of penalties less
11 than or equal to one hundred dollars (\$100).

12 (B) In multiples of one hundred dollars (\$100) in the case of
13 penalties greater than one hundred dollars (\$100), but less than or
14 equal to one thousand dollars (\$1,000).

15 (C) In multiples of one thousand dollars (\$1,000) in the case of
16 penalties greater than one thousand dollars (\$1,000).

17 (f) The bureau shall receive complaints from consumers
18 concerning products regulated by this article sold in this state.

19 SEC. 4. If the Commission on State Mandates determines that
20 this act contains costs mandated by the state, reimbursement to
21 local agencies and school districts for those costs shall be made
22 pursuant to Part 7 (commencing with Section 17500) of Division
23 4 of Title 2 of the Government Code.

AGENDA ITEM 10e

SB 244 (Eggman) - Right to Repair Act



AMENDED IN ASSEMBLY SEPTEMBER 7, 2023

AMENDED IN ASSEMBLY SEPTEMBER 1, 2023

AMENDED IN ASSEMBLY JUNE 29, 2023

AMENDED IN ASSEMBLY JUNE 21, 2023

AMENDED IN ASSEMBLY JUNE 15, 2023

AMENDED IN SENATE MAY 18, 2023

AMENDED IN SENATE APRIL 13, 2023

AMENDED IN SENATE MARCH 27, 2023

SENATE BILL

No. 244

Introduced by Senator Eggman

(Coauthors: Senators Dodd and Skinner)

(Coauthors: Assembly Members Haney, Bennett, Wicks, Kalra, and
Lowenthal)

January 25, 2023

An act to amend and renumber the heading of Chapter 8.6 (commencing with Section 42490) of, and to add Chapter 8.6 (commencing with Section 42488) to, Part 3 of Division 30 of, the Public Resources Code, relating to solid waste management.

LEGISLATIVE COUNSEL'S DIGEST

SB 244, as amended, Eggman. Right to Repair Act.

Existing law, the Song-Beverly Consumer Warranty Act, provides a comprehensive set of procedures for the enforcement of express and implied warranties on consumer goods, as defined. Under existing law, every manufacturer making an express warranty with respect to an

electronic or appliance product, including televisions, radios, audio or video recording equipment, major home appliances, antennas, and rotators, with a wholesale price to the retailer of not less than \$50 nor more than \$99.99 is required to make available to service and repair facilities sufficient service literature and functional parts to effect the repair of the product for at least 3 years after the date a product model or type was manufactured, regardless of whether the 3-year period exceeds the warranty period for the product. Existing law also requires every manufacturer making an express warranty with respect to an electronic or appliance product, as described above, with a wholesale price to the retailer of \$100 or more, to make available to service and repair facilities sufficient service literature and functional parts to effect the repair of the product for at least 7 years after the date a product model or type was manufactured, regardless of whether the 7-year period exceeds the warranty period for the product.

This bill would enact the Right to Repair Act. The bill would require, except as specified and regardless of whether any express warranty is made, the manufacturer of an above-described electronic or appliance product, in the above-described circumstances, and in those same circumstances but sold to others outside of direct retail sales, to make available, on fair and reasonable terms, to product owners, service and repair facilities, and service dealers, the means, as described, to effect the diagnosis, maintenance, or repair of the product, as provided. The bill would also require a service and repair facility or service dealer that is not an authorized repair provider, as defined, of a manufacturer to provide a written notice of that fact to any customer seeking repair of an electronic or appliance product before the repair facility or service dealer repairs the product, and to disclose if it uses replacement parts that are used or from a supplier that is not the manufacturer. The bill would also authorize a city, a county, a city and county, or the state to bring an action in superior court to impose civil penalties on a person or entity for violating the Right to Repair Act, as provided. *The bill would make these requirements and enforcement provisions operative on July 1, 2024.*

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

4
5 CHAPTER 8.6. RIGHT TO REPAIR ACT
6

7 42488. This chapter shall be known, and may be cited, as the
8 Right to Repair Act.

9 42488.1. It is the intent of the Legislature to provide a fair
10 marketplace for the repair of electronic and appliance products
11 and to prohibit intentional barriers and limitations to third-party
12 repair.

13 42488.2. (a) Notwithstanding any other law, every
14 manufacturer of an electronic or appliance product with a wholesale
15 price to the retailer, or to others outside of direct retail sale, of not
16 less than fifty dollars (\$50) and not more than ninety-nine dollars
17 and ninety-nine cents (\$99.99), shall make available to owners of
18 the product, service and repair facilities, and service dealers,
19 sufficient documentation and functional parts and tools, inclusive
20 of any updates, on fair and reasonable terms, to effect the diagnosis,
21 maintenance, or repair of a product for at least three years after
22 the last date a product model or type was manufactured, regardless
23 of whether the three-year period exceeds the warranty period for
24 the product.

25 (b) Notwithstanding any other law, every manufacturer of an
26 electronic or appliance product with a wholesale price to the
27 retailer, or to others outside of direct retail sale, of one hundred
28 dollars (\$100) or more, shall make available to owners of the
29 product, service and repair facilities, and service dealers sufficient
30 documentation and functional parts and tools, inclusive of any
31 updates, on fair and reasonable terms, to effect the diagnosis,
32 maintenance, or repair of a product for at least seven years after
33 the last date a product model or type was manufactured, regardless
34 of whether the seven-year period exceeds the warranty period for
35 the product.

36 (c) Except as necessary to comply with this section, this section
37 does not require a manufacturer to divulge a trade secret or license
38 any intellectual property, including copyrights or patents.

1 (d) This section does not require the distribution of a product's
2 source code.

3 (e) A service and repair facility or service dealer that is not an
4 authorized repair provider of a manufacturer shall provide a written
5 notice to any customer seeking repair of an electronic or appliance
6 product before the repair facility or service dealer repairs the
7 product that informs the customer that it is not an authorized repair
8 provider for the product, and shall disclose if it uses any used
9 replacement parts or replacement parts provided by a supplier other
10 than the manufacturer of the product.

11 (f) Nothing in this section shall be construed to require a
12 manufacturer to make available special documentation, tools, and
13 parts that would disable or override antitheft security measures set
14 by the owner of the product without the owner's authorization.

15 (g) Nothing in this section shall be construed to require a
16 manufacturer to sell service parts if the service parts are no longer
17 provided by the manufacturer or made available to an authorized
18 repair provider.

19 (h) (1) No manufacturer or authorized repair provider shall be
20 liable for any damage or injury caused to any electronic or
21 appliance product, person, or property that occurs as a result of
22 repair, diagnosis, maintenance, or modification performed by a
23 service dealer or owner, including, but not limited to, any of the
24 following:

25 (A) Any indirect, incidental, special, or consequential damages.

26 (B) Any loss of data, privacy, or profits.

27 (C) Any inability to use, or reduced functionality of, the
28 ~~electronic product or appliance.~~ *or appliance product.*

29 (2) Paragraph (1) does not apply to a design defect or
30 manufacturing flaw that existed prior to, or independent of, the
31 repair, diagnosis, maintenance, or modification performed pursuant
32 to this section.

33 *(i) If a manufacturer is considered an authorized repair provider*
34 *under subparagraph (B) of paragraph (1) of subdivision (j), this*
35 *section shall not require the manufacturer to make available either*
36 *of the following:*

37 *(1) Documentation or tools that the manufacturer itself uses*
38 *only to perform, at no cost, diagnostic services virtually through*
39 *telephone, internet, chat, email, or other similar means that do*
40 *not involve the manufacturer physically handling the customer's*

1 *electronic or appliance product, unless the manufacturer also*
2 *makes the documentation or tools available to an individual or*
3 *business that is unaffiliated with the manufacturer.*

4 (2) *Documentation or tools used exclusively for repairs*
5 *completed by machines that operate on several electronic or*
6 *appliance products simultaneously, if the manufacturer makes*
7 *available to owners of the product, service and repair facilities,*
8 *and service dealers sufficient alternative documentation and tools*
9 *to effect the diagnosis, maintenance, or repair of the electronic or*
10 *appliance product.*

11 (i)

12 (j) For purposes of this section, the following definitions apply:

13 (1) (A) “Authorized repair provider” means an individual or
14 business that is unaffiliated with a manufacturer and that has an
15 arrangement with the manufacturer, for a definite or indefinite
16 period, under which the manufacturer grants to the individual or
17 business a license to use a trade name, service mark, or other
18 proprietary identifier to offer diagnostic, maintenance, or repair
19 services for electronic or appliance products under the name of
20 the manufacturer or an arrangement with the manufacturer to offer
21 diagnostic, maintenance, or repair services for electronic or
22 appliance products on behalf of the manufacturer. ~~A~~

23 (B) A manufacturer that offers diagnostic, maintenance, or repair
24 services for the manufacturer’s electronic or appliance products
25 is considered an authorized repair provider with respect to the
26 electronic or appliance products if the manufacturer does not have
27 an arrangement described in ~~this paragraph~~ *subparagraph (A)* with
28 an unaffiliated individual or business.

29 (2) “Documentation” means any electronic or appliance product
30 manual, diagram, reporting output, service code description,
31 schematic, or similar information that is provided by a
32 manufacturer to an authorized repair provider, or that is for use by
33 the manufacturer if the manufacturer does not have any authorized
34 repair providers, for purposes of effecting the services of diagnosis,
35 maintenance, or repair of the electronic or appliance product.

36 (3) (A) “Electronic or appliance product” or “product” means
37 a product, manufactured for the first time, and first sold or used
38 in California, on or after July 1, 2021, described in subdivision
39 (h), (i), (j), or (k) of Section 9801 of the Business and Professions
40 Code for which the manufacturer makes available tools, parts, and

1 documentation to authorized repair providers, and includes products
2 described in those subdivisions that are sold to schools, businesses,
3 local governments, or in other methods outside of direct retail sale.

4 (B) “Electronic or appliance product” or “product” does not
5 include any of the following:

6 (i) Equipment or repair parts as defined in Chapter 28
7 (commencing with Section 22900) of Division 8 of the Business
8 and Professions Code.

9 (ii) A product or component of an “alarm system” as defined
10 in subdivision (c) of Section 7590.1 of the Business and Professions
11 Code, including a fire protection system, as defined in the
12 California Fire Code.

13 (iii) A video game console.

14 (4) ~~(A)~~ “Fair and reasonable terms” means ~~at costs~~ *each of the*
15 *following, as applicable:*

16 (A) *At costs* and terms that are equivalent to the most favorable
17 costs and terms under which the manufacturer offers the part, tool,
18 or documentation to an authorized repair provider, accounting for
19 any discount, rebate, convenient and timely means of delivery,
20 means of enabling fully restored and updated functionality, rights
21 of use, or other incentive or preference the manufacturer offers to
22 an authorized repair provider.

23 (B) For documentation, including any relevant updates, ~~“fair~~
24 ~~and reasonable terms” also means that the documentation is made~~
25 *available* at no charge, except that, when the documentation is
26 requested in physical printed form, a charge may be included for
27 the reasonable actual costs of preparing and sending the copy.

28 (C) ~~“Fair and reasonable” also means~~ *For tools, that the tools*
29 ~~shall be~~ *are* made available by the manufacturer at no charge and
30 without imposing impediments to access or use of the tools to
31 diagnose, maintain, or repair and enable full functionality of the
32 product, or in a manner that impairs the efficient and cost-effective
33 performance of any such diagnosis, maintenance, or repair, except
34 that, when a tool is requested in physical form, a charge may be
35 included for the reasonable, actual costs of preparing and sending
36 the tool.

37 (D) If a manufacturer does not use an authorized repair provider,
38 “fair and reasonable terms” means at a price that reflects the actual
39 cost to the manufacturer to prepare and deliver the part, tool, or

1 documentation, exclusive of any research and development costs
2 incurred.

3 (5) “Part” means any replacement part or assembly of parts,
4 either new or used, made available by a manufacturer of an
5 electronic or appliance product to an authorized repair provider to
6 facilitate the maintenance or repair of a product sold by the
7 manufacturer.

8 (6) “Service dealer” has the same meaning as defined in Section
9 9801 of the Business and Professions Code.

10 (7) “Tool” means any software program, hardware implement,
11 or other apparatus made available by a manufacturer of an
12 electronic or appliance product to an authorized repair provider
13 for the diagnosis, maintenance, or repair of the product, including
14 software or other mechanisms that provision, program, pair a part,
15 provide or calibrate functionality, or perform any other function
16 required to repair the product or part back to fully functional
17 condition, including any updates.

18 (8) “Trade secret” has the same meaning as set forth in
19 subdivision (d) of Section 3426.1 of the Civil Code, or paragraph
20 (9) of subdivision (a) of Section 499c of the Penal Code.

21 (9) “Video game console” means a computing device, including
22 its components and peripherals, that is primarily used by consumers
23 for playing video games, such as a console machine, a handheld
24 console device, or another device or system. “Video game console”
25 does not include a general or an all-purpose computer, which
26 includes, but is not limited to, a desktop computer, laptop, tablet,
27 or cell phone.

28 (k) *This section shall not apply if the manufacturer provides an*
29 *equivalent or better, readily available replacement electronic or*
30 *appliance product at no charge to the customer.*

31 (l) *This section shall become operative on July 1, 2024.*

32 42488.3. (a) (1) A city, a county, a city and county, or the
33 state may bring an action in superior court to impose civil liability
34 on a person or entity that knowingly violated this chapter, or
35 reasonably should have known that it violated this chapter, in the
36 amount of one thousand dollars (\$1,000) per day for the first
37 violation of this chapter, two thousand dollars (\$2,000) per day
38 for the second violation, and five thousand dollars (\$5,000) per day
39 day for the third and subsequent violations.

1 (2) Any action described in paragraph (1) shall be commenced
2 within three years from the date of the alleged violation.

3 (b) Any civil penalties collected pursuant to subdivision (a)
4 shall be paid to the office of the city attorney, county counsel,
5 district attorney, or Attorney General, whichever office brought
6 the action. The penalties collected pursuant to this section by the
7 Attorney General shall be deposited into the Public Rights Law
8 Enforcement Special Fund.

9 (c) *This section shall become operative on July 1, 2024.*

10 SEC. 2. The heading of Chapter 8.6 (commencing with Section
11 42490) of Part 3 of Division 30 of the Public Resources Code is
12 amended and renumbered to read:

13

14 CHAPTER 8.7. CELL PHONE RECYCLING ACT OF 2004

15

AGENDA ITEM 10f

SB 271 (Dodd) - Powered Wheelchairs:
Right to Repair

AMENDED IN ASSEMBLY SEPTEMBER 8, 2023

AMENDED IN ASSEMBLY SEPTEMBER 1, 2023

AMENDED IN ASSEMBLY JULY 10, 2023

AMENDED IN ASSEMBLY JUNE 19, 2023

AMENDED IN SENATE APRIL 12, 2023

SENATE BILL

No. 271

**Introduced by Senator Dodd
(Coauthor: Senator Eggman)**

January 31, 2023

An act to add Chapter 8.5 (commencing with Section 21300) to Division 8 of the Business and Professions Code, and to ~~amend~~ *amend, repeal, and add* Section 14132.85 of the Welfare and Institutions Code, relating to powered wheelchairs.

LEGISLATIVE COUNSEL'S DIGEST

SB 271, as amended, Dodd. Powered wheelchairs: repair.

Existing law, the Sherman Food, Drug, and Cosmetic Law, regulates the packaging, labeling, and advertising of drugs and devices, and is administered by the State Department of Public Health. Among other things, existing law prohibits a person from conducting a home medical device retail facility business in this state unless the person has obtained a license from the department and sets forth standards for operating that facility.

Existing law authorizes the department to waive any licensing requirements for a medical device retail facility when, in the opinion of the department, a high standard of patient safety, consistent with good patient care, can be provided by the licensure of a home medical

device retail facility that does not meet all of the requirements for licensure.

This bill would, except as specified, require an original manufacturer of a powered wheelchair, as those terms are defined, to provide documentation, parts, embedded software, firmware, and tools used to inspect, diagnose, maintain, and repair the wheelchair to an owner or an independent repair provider for the purposes of providing service on the equipment in the state, on fair and reasonable terms and costs, as defined. The bill would also require an original manufacturer, for a powered wheelchair that contains an electronic security lock or other security-related function, to provide any documentation, parts, embedded software, firmware, or tools needed to reset the lock or function when disabled in the course of providing services, as specified. The bill would require an independent repair provider to provide a written notice to a customer before providing repair services, as specified.

This bill would exempt from these requirements any trade secret information, as specified. The bill would subject an original equipment manufacturer who knowingly violates, or who should have reasonably known that they violated, these provisions to specified civil penalties. The bill would, in the case of a first violation, give an original equipment manufacturer who did not knowingly violate these provisions a 3-day right to cure the violation before a civil penalty is imposed. The bill would authorize a person injured by a violation of these provisions and the Attorney General or a district attorney to bring a civil action for this purpose, as specified. *If the action is brought by the Attorney General or district attorney, the bill would require the penalty to be paid to specified entities or individuals, as provided.*

Existing law establishes the Medi-Cal program, which is administered by the State Department of Health Care Services, under which qualified low-income individuals receive health care services pursuant to a schedule of benefits. Existing law imposes requirements relating to complex rehabilitation technology services, including the repair of equipment and parts. Existing law authorizes the department to adopt utilization controls, as specified.

This bill ~~would~~ *would, beginning on January 1, 2025, and until January 1, 2029, prohibit the department from requiring prior authorization for the repair of a complex rehabilitation technology powered wheelchair. wheelchair if the cost of the repair does not exceed \$1,250.* The bill would ~~also~~ *also, beginning on January 1, 2025, and until January 1, 2029, prohibit a treatment authorization request for*

repair or replacement of a complex rehabilitation technology powered wheelchair from requiring a prescription or documentation of medical necessity from the treating practitioner for repairs or replacement if the complex rehabilitation technology powered wheelchair has already been approved for use by the patient, as specified.

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. Chapter 8.5 (commencing with Section 21300)
2 is added to Division 8 of the Business and Professions Code, to
3 read:

4
5 CHAPTER 8.5. CONSUMER WHEELCHAIR RIGHT TO REPAIR

6
7 21300. For the purposes of this chapter, the following
8 definitions apply:

9 (a) "Authorized repair provider" means an individual or business
10 who is unaffiliated with an original equipment manufacturer and
11 who has an arrangement with the original equipment manufacturer,
12 for a definite or indefinite period, under which the original
13 equipment manufacturer grants to the individual or business a
14 license to use a trade name, service mark, or other proprietary
15 identifier for the purposes of offering the services of inspection,
16 diagnosis, maintenance, or repair of powered wheelchairs under
17 the name of the original equipment manufacturer, or other
18 arrangement with the original equipment manufacturer to offer
19 those services on behalf of the original equipment manufacturer.
20 An original equipment manufacturer who offers the services of
21 inspection, diagnosis, maintenance, or repair of its own powered
22 wheelchairs, and who does not have an arrangement described in
23 this subdivision with an unaffiliated individual or business, shall
24 be considered an authorized repair provider with respect to that
25 equipment.

26 (b) "Documentation" means any manual, diagram, reporting
27 output, service code description, schematic, or other guidance or
28 information used in effecting the services of inspection, diagnosis,
29 maintenance, or repair of powered wheelchairs.

1 (c) “Embedded software” means any programmable instructions
2 provided on firmware delivered with an electronic component of
3 equipment, or with a part for that equipment, for purposes of
4 equipment operation, including all relevant patches and fixes made
5 by the manufacturer of the equipment or part for these purposes.

6 (d) “Equipment” means a powered wheelchair.

7 (e) (1) “Fair and reasonable terms and costs,” with respect to
8 obtaining documentation, parts, embedded software, firmware, or
9 tools from a manufacturer to provide services, means terms that
10 are equivalent to the most favorable terms that the manufacturer
11 offers to an authorized repair provider and costs that are no greater
12 than the manufacturer’s suggested retail price.

13 (2) For documentation, including any relevant updates, “fair
14 and reasonable terms” also means at no charge, except that, when
15 the documentation is requested in physical printed form, a charge
16 may be included for the reasonable actual costs of preparing and
17 sending the copy.

18 (3) For software tools, “fair and reasonable terms” also means
19 all of the following:

20 (A) Provided at no charge and without requiring authorization
21 or internet access.

22 (B) Without imposing impediments to access or use, in the
23 course of effecting the diagnosis, maintenance, or repair and
24 without impairing the efficient and cost-effective performance of
25 the diagnosis, maintenance, or repair.

26 (C) Enables full functionality.

27 (4) If an original equipment manufacturer does not utilize an
28 authorized repair provider, “fair and reasonable terms” means an
29 equitable price in consideration of the actual cost to the original
30 equipment manufacturer to prepare and distribute the part, tool,
31 service access method, or documentation, exclusive of any research
32 and development costs incurred.

33 (f) “Firmware” means a software program or set of instructions
34 programmed on equipment, or on a part for that equipment, to
35 allow the equipment or part to communicate within itself or with
36 other computer hardware.

37 (g) “Independent repair provider” means an individual or
38 business, other than the manufacturer, that is engaged in the
39 services of inspection, diagnosis, maintenance, or repair of
40 equipment for purposes of returning it to the safety and

1 performance specifications established by the manufacturer and
2 to meet its original intended use.

3 (h) “Original equipment manufacturer” means a business
4 engaged in the business of selling, leasing, or otherwise supplying
5 new equipment or parts manufactured by, or on behalf of, itself,
6 to any individual or business.

7 (i) “Part” means any replacement part, either new or used, made
8 available by an original equipment manufacturer for purposes of
9 effecting the services of inspection, diagnosis, maintenance, or
10 repair of powered wheelchairs manufactured by, or on behalf of,
11 sold, or otherwise supplied by the original equipment manufacturer.

12 (j) “Powered wheelchair” means a motorized wheeled device
13 designed for use by a person with a physical disability.

14 (k) “Tools” means any software program, hardware implement,
15 or other apparatus used in inspection, diagnosis, maintenance, or
16 repair of powered wheelchairs, including software or other
17 mechanisms that provision, program, or pair a new part, calibrate
18 functionality, or perform any other function required to bring the
19 product back to fully functional condition.

20 (l) “Trade secret” has the same meaning as in subdivision (d)
21 of Section 3426.1 of the Civil Code.

22 21301. (a) For the purpose of providing services for equipment
23 in the state, an original equipment manufacturer shall, with fair
24 and reasonable terms and costs, make available to an independent
25 repair provider or owner of the manufacturer’s equipment, any
26 documentation, parts, embedded software, firmware, or tools that
27 are intended for use with the equipment or any part, including
28 updates to documentation, parts, embedded software, firmware,
29 or tools.

30 (b) With respect to equipment that contains an electronic security
31 lock or other security-related function, an original equipment
32 manufacturer shall, with fair and reasonable terms and costs, make
33 available to independent repair providers and owners any
34 documentation, parts, embedded software, firmware, or tools
35 needed to reset the lock or function when disabled in the course
36 of providing services. The manufacturer may make the
37 documentation, parts, embedded software, firmware, or tools
38 available to independent repair providers and owners through
39 appropriate secure release systems.

1 (c) For powered wheelchairs subject to Section 14132.8 of the
2 Welfare and Institutions Code, this section shall not apply to any
3 part that would require programmability, calibration, or clinical
4 involvement to ensure appropriate patient seating and positioning.
5 Items included in this section for powered wheelchairs subject to
6 Section 14132.8 of the Welfare and Institutions Code shall include:

- 7 (1) Batteries.
- 8 (2) Battery chargers.
- 9 (3) Nonprogrammable joysticks.
- 10 (4) Joystick housings or brackets.
- 11 (5) Wheel assembly.
- 12 (6) Nonpositioning accessories.
- 13 (7) Antitip devices.
- 14 (8) Armrests, excluding positioning components designed for
15 adjustment by a therapist or assistive technology professional.
- 16 (9) Caster spheres.
- 17 (10) Cosmetic shrouding.
- 18 (11) Floor mats.
- 19 (12) Floor plates.
- 20 (13) Nonpowered leg lowerers.

21 21302. (a) (1) An original equipment manufacturer who
22 knowingly violates any provision of this chapter, or who reasonably
23 should have known that they violated any provision of this chapter,
24 may be liable for a civil penalty of up to two thousand five hundred
25 dollars (\$2,500) per powered wheelchair, not exceeding two
26 hundred fifty thousand dollars (\$250,000), for a first violation.

27 (2) In the case of a first violation, an original equipment
28 manufacturer who does not knowingly violate this chapter may be
29 provided a three-day right to cure the violation before a civil
30 penalty is imposed.

31 (3) An original equipment manufacturer who commits a second
32 or subsequent violation of this chapter shall be liable for a civil
33 penalty of up to ten thousand dollars (\$10,000) per powered
34 wheelchair, not exceeding two hundred fifty thousand dollars
35 (\$250,000) for each series of related violations.

36 (4) An original equipment manufacturer who fails to provide a
37 part because it is out of stock and they are unable to obtain the part
38 shall not be subject to the fines described in this subdivision if the
39 original equipment manufacturer does both of the following:

1 (A) They inform the customer or independent repair provider
2 that the part is out of stock, and, consequently, they are unable to
3 obtain the part.

4 (B) They make the part available to the consumer or independent
5 repair provider within three business days of when that part
6 becomes available.

7 (b) An original equipment manufacturer who violates a court
8 order or injunction issued pursuant to this chapter shall be liable
9 for a civil penalty not to exceed ten thousand dollars (\$10,000)
10 per violation.

11 (c) (1) Any person injured by violation of this chapter may
12 bring a civil action for damages or other appropriate relief.

13 (2) The Attorney General or district attorney may bring a civil
14 action in the name of the state for violation of this chapter.

15 (3) An action brought pursuant to this chapter shall be
16 commenced within three years from the date of the alleged
17 violation.

18 (d) If the action is brought by the Attorney General, ~~one-half~~
19 ~~of the penalty collected shall be paid to the treasurer of the county~~
20 ~~in which the judgment was entered, and one-half~~ *Office of the*
21 *Attorney General to offset the reasonable expenses incurred in*
22 *conducting that action, and any remainder thereafter shall be paid*
23 *to the State Treasurer. If brought by a district attorney, the entire*
24 *amount of penalty collected shall be paid to the treasurer of the*
25 *county in which the judgment was entered.*

26 ~~(e) The penalties collected pursuant to this section by the~~
27 ~~Attorney General may be expended by the Attorney General, upon~~
28 ~~appropriation by the Legislature, to enforce this chapter.~~

29 21303. An independent repair provider that is not an authorized
30 repair provider shall provide a written notice to any customer
31 before providing repairs that contains the following information:

32 (a) The independent repair provider is not an authorized repair
33 provider for the product.

34 (b) The consumer may wish to review the terms and conditions
35 of any warranty for the equipment, as repairs not performed by a
36 designated authorized repair provider could potentially affect the
37 warranty.

38 (c) Warranties for consumer products are governed by the
39 federal Magnuson-Moss Warranty Act (Chapter 50 (commencing
40 with Section 2301) of Title 15 of the United States Code), which

1 gives consumers rights and protections that apply over any
2 conflicting provisions in the warranty.

3 (d) Under Magnuson-Moss, a warranty cannot generally require
4 that maintenance repairs be performed only by an authorized repair
5 provider, unless the Federal Trade Commission waives this
6 prohibition, or the repair is provided free of charge, pursuant to
7 that warranty.

8 (e) Under Magnuson-Moss, if damage to equipment is shown
9 to be caused by faulty nonbrand equipment or by faulty repair by
10 a nonauthorized repair provider, that damage may not be covered
11 by the warranty, but the warranty may otherwise remain in effect.

12 (f) Under Section 14019.4 of the Welfare and Institutions Code,
13 an independent repair provider that is a Medi-Cal enrolled provider
14 is prohibited from seeking reimbursement or attempting to obtain
15 payment for the cost of covered services from a Medi-Cal applicant
16 or recipient, unless the beneficiary owes a share of the cost, as
17 described in subdivision (g) of that section.

18 21304. (a) This chapter does not require an original equipment
19 manufacturer to divulge a trade secret, except as necessary to
20 provide documentation, parts, tools, service access methods, and
21 training courses and materials on fair and reasonable terms.

22 (1) An original equipment manufacturer may redact
23 documentation to remove trade secrets from the documentation
24 before providing access to the documentation if the usability of
25 the redacted documentation for the purpose of providing services
26 is not diminished.

27 (2) An original equipment manufacturer may withhold
28 information regarding a component of, design of, functionality of,
29 or process of developing a part, embedded software, firmware, or
30 a tool if the information is a trade secret and the usability of the
31 part, embedded software, firmware, or tool for the purpose of
32 providing services is not diminished.

33 (b) This chapter does not require an original equipment
34 manufacturer to make available a part if the part is no longer
35 available to the original equipment manufacturer.

36 (c) An original equipment manufacturer is not liable for faulty
37 or otherwise improper repairs provided by independent repair
38 providers or owners, including faulty or otherwise improper repairs
39 that cause any of the following:

1 (1) Damage to a powered wheelchair that occurs during the
2 repairs.

3 (2) Any indirect, incidental, or consequential damages.

4 (3) An inability to use, or a reduced functionality of, a powered
5 wheelchair resulting from faulty or otherwise improper repair.

6 (d) This chapter shall not be construed to alter the terms of any
7 arrangement described in subdivision (a) of Section 21300 in force
8 between an authorized repair provider and an original equipment
9 manufacturer, including, but not limited to, the performance or
10 provision of warranty or recall repair work by an authorized repair
11 provider on behalf of an original equipment manufacturer pursuant
12 to an arrangement described in subdivision (a) of Section 21300,
13 except that any provision that purports to waive, avoid, restrict, or
14 limit the original equipment manufacturer's obligations to comply
15 with this chapter shall be void and unenforceable.

16 (e) This chapter shall not be construed to exempt an original
17 equipment manufacturer from a products liability claim that is
18 otherwise authorized by law.

19 21305. This chapter applies with respect to equipment sold or
20 in use on or after January 1, 2024.

21 ~~SEC. 2. Section 14132.85 of the Welfare and Institutions Code~~
22 ~~is amended to read:~~

23 ~~14132.85. (a) For purposes of this section, the following~~
24 ~~definitions apply:~~

25 ~~(1) "Complex needs patient" means an individual with a~~
26 ~~diagnosis or medical condition that results in significant physical~~
27 ~~impairment or functional limitation. "Complex needs patient"~~
28 ~~includes, but is not limited to, individuals with spinal cord injury,~~
29 ~~traumatic brain injury, cerebral palsy, muscular dystrophy, spina~~
30 ~~bifida, osteogenesis imperfecta, arthrogryposis, amyotrophic lateral~~
31 ~~sclerosis, multiple sclerosis, demyelinating disease, myelopathy,~~
32 ~~myopathy, progressive muscular atrophy, anterior horn cell disease,~~
33 ~~post-polio syndrome, cerebellar degeneration, dystonia,~~
34 ~~Huntington's disease, spinocerebellar disease, and the types of~~
35 ~~amputation, paralysis, or paresis that result in significant physical~~
36 ~~impairment or functional limitation. "Complex needs patient" does~~
37 ~~not negate the requirement that an individual meet medical~~
38 ~~necessity requirements under authority rules to qualify for receiving~~
39 ~~complex rehabilitation technology.~~

1 (2) “Complex rehabilitation technology” means items classified
2 within the federal Medicare Program as of January 1, 2021, as
3 durable medical equipment that are individually configured for
4 individuals to meet their specific and unique medical, physical,
5 and functional needs and capacities for basic activities of daily
6 living and instrumental activities of daily living identified as
7 medically necessary. These items include, but are not limited to,
8 complex rehabilitation manual and power wheelchairs, power seat
9 elevation or power standing components of power wheelchairs,
10 seating and positioning items, other specialized equipment such
11 as adaptive bath equipment, standing frames, gait trainers, and
12 specialized strollers, and related options and accessories.

13 (3) “Complex rehabilitation technology services” includes the
14 application of enabling systems designed and assembled to meet
15 the needs of a patient experiencing any permanent or long-term
16 loss or abnormality of physical or anatomical structure or function
17 with respect to mobility or other function or need. These services
18 include, but are not limited to, all of the following:

19 (A) Evaluating the needs of a patient with a disability, including
20 an assessment of the patient for the purpose of ensuring that the
21 proposed equipment is appropriate.

22 (B) Documenting medical necessity.

23 (C) Selecting, fitting, customizing, maintaining, assembling,
24 repairing, replacing, picking up and delivering, and testing
25 equipment and parts.

26 (D) Training the patient who will use the technology or any
27 individual who assists the patient in using the complex
28 rehabilitation technology.

29 (4) “Qualified health care professional” means an individual
30 who has no financial relationship to the provider of complex
31 rehabilitation technology and is any of the following:

32 (A) A physical therapist licensed pursuant to Chapter 5.7
33 (commencing with Section 2600) of Division 2 of the Business
34 and Professions Code.

35 (B) An occupational therapist licensed pursuant to Chapter 5.6
36 (commencing with Section 2570) of Division 2 of the Business
37 and Professions Code.

38 (C) Other licensed health care professional, approved by the
39 department, and who performs specialty evaluations within the
40 professional’s scope of practice.

- 1 ~~(5) “Qualified rehabilitation technology professional” means~~
2 ~~an individual who meets either of the following:~~
- 3 ~~(A) Holds the credential of Assistive Technology Professional~~
4 ~~(ATP) from the Rehabilitation Engineering and Assistive~~
5 ~~Technology Society of North America.~~
- 6 ~~(B) Holds the credential of Certified Complex Rehabilitation~~
7 ~~Technology Supplier (CRTS) from the National Registry of~~
8 ~~Rehabilitation Technology Suppliers.~~
- 9 ~~(b) A provider of complex rehabilitation technology to a~~
10 ~~Medi-Cal beneficiary shall comply with all of the following:~~
- 11 ~~(1) Meet the supplier and quality standards established for a~~
12 ~~durable medical equipment supplier under the federal Medicare~~
13 ~~Program and be enrolled as a provider in the Medi-Cal program.~~
- 14 ~~(2) Be accredited by a recognized accrediting organization as~~
15 ~~a supplier of complex rehabilitation technology.~~
- 16 ~~(3) Employ at least one qualified rehabilitation technology~~
17 ~~professional as a W-2 employee (receiving a W-2 tax form from~~
18 ~~the provider) for each distribution location.~~
- 19 ~~(4) Have the qualified rehabilitation technology professional~~
20 ~~physically present for the evaluation, either in person or remotely~~
21 ~~if necessary, directly involved in determining the specific complex~~
22 ~~rehabilitation technology appropriate for the patient, and directly~~
23 ~~involved with, or closely supervised in, the final fitting and delivery~~
24 ~~of the complex rehabilitation technology.~~
- 25 ~~(5) Maintain a reasonable supply of parts, adequate physical~~
26 ~~facilities, and qualified service or repair technicians, and provide~~
27 ~~patients with prompt services and repair for all complex~~
28 ~~rehabilitation technology supplied.~~
- 29 ~~(6) Provide written information at the time of delivery of~~
30 ~~complex rehabilitation technology regarding how the patient may~~
31 ~~receive services and repair.~~
- 32 ~~(e) For complex needs patients receiving a complex~~
33 ~~rehabilitation manual wheelchair, power wheelchair, or seating~~
34 ~~component, the patient shall be evaluated, either in person or~~
35 ~~remotely if necessary, by both of the following:~~
- 36 ~~(1) A qualified health care professional.~~
- 37 ~~(2) A qualified rehabilitation technology professional.~~
- 38 ~~(d) A medical provider shall conduct a physical examination of~~
39 ~~an individual, either in person or remotely if necessary, before~~
40 ~~prescribing a power wheelchair or scooter for a Medi-Cal~~

1 beneficiary. The medical provider shall complete a certificate of
2 medical necessity that documents the medical condition that
3 necessitates the power wheelchair or scooter, and verifies that the
4 patient is capable of using the wheelchair or scooter safely.

5 (e) (1) The department may adopt utilization controls, including
6 a specialty evaluation by a qualified health care professional, as
7 defined in paragraph (4) of subdivision (a). Except as provided in
8 paragraph (2), the department may adopt any other additional
9 utilization controls for complex rehabilitation technology, as
10 appropriate.

11 (2) (A) The department shall not require prior authorization for
12 the repair of a complex rehabilitation technology powered
13 wheelchair.

14 (B) A treatment authorization request for repair or replacement
15 of a complex rehabilitation technology powered wheelchair shall
16 not require a prescription or documentation of medical necessity
17 from the treating practitioner for repairs or replacement if the
18 complex rehabilitation technology powered wheelchair has already
19 been approved for use by the patient.

20 (f) The department shall seek any necessary federal approvals
21 for the implementation of this section. This section shall be
22 implemented only to the extent that any necessary federal approvals
23 are obtained and federal financial participation is available and is
24 not otherwise jeopardized.

25 *SEC. 2. Section 14132.85 of the Welfare and Institutions Code*
26 *is amended to read:*

27 14132.85. (a) For purposes of this section, the following
28 definitions apply:

29 (1) "Complex needs patient" means an individual with a
30 diagnosis or medical condition that results in significant physical
31 impairment or functional limitation. "Complex needs patient"
32 includes, but is not limited to, individuals with spinal cord injury,
33 traumatic brain injury, cerebral palsy, muscular dystrophy, spina
34 bifida, osteogenesis imperfecta, arthrogryposis, amyotrophic lateral
35 sclerosis, multiple sclerosis, demyelinating disease, myelopathy,
36 myopathy, progressive muscular atrophy, anterior horn cell disease,
37 post-polio syndrome, cerebellar degeneration, dystonia,
38 Huntington's disease, spinocerebellar disease, and the types of
39 amputation, paralysis, or paresis that result in significant physical
40 impairment or functional limitation. "Complex needs patient" does

1 not negate the requirement that an individual meet medical
2 necessity requirements under authority rules to qualify for receiving
3 complex rehabilitation technology.

4 (2) “Complex rehabilitation technology” means items classified
5 within the federal Medicare Program as of January 1, 2021, as
6 durable medical equipment that are individually configured for
7 individuals to meet their specific and unique medical, physical,
8 and functional needs and capacities for basic activities of daily
9 living and instrumental activities of daily living identified as
10 medically necessary. These items include, but are not limited to,
11 complex rehabilitation manual and power wheelchairs, power seat
12 elevation or power standing components of power wheelchairs,
13 seating and positioning items, other specialized equipment such
14 as adaptive bath equipment, standing frames, gait trainers, and
15 specialized strollers, and related options and accessories.

16 (3) “Complex rehabilitation technology services” includes the
17 application of enabling systems designed and assembled to meet
18 the needs of a patient experiencing any permanent or long-term
19 loss or abnormality of physical or anatomical structure or function
20 with respect to mobility or other function or need. These services
21 include, but are not limited to, all of the following:

22 (A) Evaluating the needs of a patient with a disability, including
23 an assessment of the patient for the purpose of ensuring that the
24 proposed equipment is appropriate.

25 (B) Documenting medical necessity.

26 (C) Selecting, fitting, customizing, maintaining, assembling,
27 repairing, replacing, picking up and delivering, and testing
28 equipment and parts.

29 (D) Training the patient who will use the technology or any
30 individual who assists the patient in using the complex
31 rehabilitation technology.

32 (4) “Qualified health care professional” means an individual
33 who has no financial relationship to the provider of complex
34 rehabilitation technology and is any of the following:

35 (A) A physical therapist licensed pursuant to Chapter 5.7
36 (commencing with Section 2600) of Division 2 of the Business
37 and Professions Code.

38 (B) An occupational therapist licensed pursuant to Chapter 5.6
39 (commencing with Section 2570) of Division 2 of the Business
40 and Professions Code.

1 (C) Other licensed health care professional, approved by the
2 department, and who performs specialty evaluations within the
3 professional's scope of practice.

4 (5) "Qualified rehabilitation technology professional" means
5 an individual who meets either of the following:

6 (A) Holds the credential of Assistive Technology Professional
7 (ATP) from the Rehabilitation Engineering and Assistive
8 Technology Society of North America.

9 (B) Holds the credential of Certified Complex Rehabilitation
10 Technology Supplier (CRTS) from the National Registry of
11 Rehabilitation Technology Suppliers.

12 (b) A provider of complex rehabilitation technology to a
13 Medi-Cal beneficiary shall comply with all of the following:

14 (1) Meet the supplier and quality standards established for a
15 durable medical equipment supplier under the federal Medicare
16 Program and be enrolled as a provider in the Medi-Cal program.

17 (2) Be accredited by a recognized accrediting organization as
18 a supplier of complex rehabilitation technology.

19 (3) Employ at least one qualified rehabilitation technology
20 professional as a W-2 employee (receiving a W-2 tax form from
21 the provider) for each distribution location.

22 (4) Have the qualified rehabilitation technology professional
23 physically present for the evaluation, either in person or remotely
24 if necessary, directly involved in determining the specific complex
25 rehabilitation technology appropriate for the patient, and directly
26 involved with, or closely supervised in, the final fitting and delivery
27 of the complex rehabilitation technology.

28 (5) Maintain a reasonable supply of parts, adequate physical
29 facilities, and qualified service or repair technicians, and provide
30 patients with prompt services and repair for all complex
31 rehabilitation technology supplied.

32 (6) Provide written information at the time of delivery of
33 complex rehabilitation technology regarding how the patient may
34 receive services and repair.

35 (c) For complex needs patients receiving a complex
36 rehabilitation manual wheelchair, power wheelchair, or seating
37 component, the patient shall be evaluated, either in person or
38 remotely if necessary, by both of the following:

39 (1) A qualified health care professional.

40 (2) A qualified rehabilitation technology professional.

1 (d) A medical provider shall conduct a physical examination of
2 an individual, either in person or remotely if necessary, before
3 prescribing a power wheelchair or scooter for a Medi-Cal
4 beneficiary. The medical provider shall complete a certificate of
5 medical necessity that documents the medical condition that
6 necessitates the power wheelchair or scooter, and verifies that the
7 patient is capable of using the wheelchair or scooter safely.

8 (e) The department may adopt utilization controls, including a
9 specialty evaluation by a qualified health care professional, as
10 defined in paragraph (4) of subdivision (a). The department may
11 adopt any other additional utilization controls for complex
12 rehabilitation technology, as appropriate.

13 (f) The department shall seek any necessary federal approvals
14 for the implementation of this section. This section shall be
15 implemented only to the extent that any necessary federal approvals
16 are obtained and federal financial participation is available and is
17 not otherwise jeopardized.

18 (g) *This section shall remain in effect only until January 1, 2025,*
19 *and as of that date is repealed.*

20 *SEC. 3. Section 14132.85 is added to the Welfare and*
21 *Institutions Code, to read:*

22 *14132.85. (a) For purposes of this section, the following*
23 *definitions apply:*

24 (1) *“Complex needs patient” means an individual with a*
25 *diagnosis or medical condition that results in significant physical*
26 *impairment or functional limitation. “Complex needs patient”*
27 *includes, but is not limited to, individuals with spinal cord injury,*
28 *traumatic brain injury, cerebral palsy, muscular dystrophy, spina*
29 *bifida, osteogenesis imperfecta, arthrogryposis, amyotrophic*
30 *lateral sclerosis, multiple sclerosis, demyelinating disease,*
31 *myelopathy, myopathy, progressive muscular atrophy, anterior*
32 *horn cell disease, post-polio syndrome, cerebellar degeneration,*
33 *dystonia, Huntington’s disease, spinocerebellar disease, and the*
34 *types of amputation, paralysis, or paresis that result in significant*
35 *physical impairment or functional limitation. “Complex needs*
36 *patient” does not negate the requirement that an individual meet*
37 *medical necessity requirements under authority rules to qualify*
38 *for receiving complex rehabilitation technology.*

39 (2) *“Complex rehabilitation technology” means items classified*
40 *within the federal Medicare Program as of January 1, 2021, as*

1 durable medical equipment that are individually configured for
2 individuals to meet their specific and unique medical, physical,
3 and functional needs and capacities for basic activities of daily
4 living and instrumental activities of daily living identified as
5 medically necessary. These items include, but are not limited to,
6 complex rehabilitation manual and power wheelchairs, power seat
7 elevation or power standing components of power wheelchairs,
8 seating and positioning items, other specialized equipment such
9 as adaptive bath equipment, standing frames, gait trainers, and
10 specialized strollers, and related options and accessories.

11 (3) “Complex rehabilitation technology services” includes the
12 application of enabling systems designed and assembled to meet
13 the needs of a patient experiencing any permanent or long-term
14 loss or abnormality of physical or anatomical structure or function
15 with respect to mobility or other function or need. These services
16 include, but are not limited to, all of the following:

17 (A) Evaluating the needs of a patient with a disability, including
18 an assessment of the patient for the purpose of ensuring that the
19 proposed equipment is appropriate.

20 (B) Documenting medical necessity.

21 (C) Selecting, fitting, customizing, maintaining, assembling,
22 repairing, replacing, picking up and delivering, and testing
23 equipment and parts.

24 (D) Training the patient who will use the technology or any
25 individual who assists the patient in using the complex
26 rehabilitation technology.

27 (4) “Qualified health care professional” means an individual
28 who has no financial relationship to the provider of complex
29 rehabilitation technology and is any of the following:

30 (A) A physical therapist licensed pursuant to Chapter 5.7
31 (commencing with Section 2600) of Division 2 of the Business and
32 Professions Code.

33 (B) An occupational therapist licensed pursuant to Chapter 5.6
34 (commencing with Section 2570) of Division 2 of the Business and
35 Professions Code.

36 (C) Other licensed health care professional, approved by the
37 department, and who performs specialty evaluations within the
38 professional’s scope of practice.

39 (5) “Qualified rehabilitation technology professional” means
40 an individual who meets either of the following:

1 (A) Holds the credential of Assistive Technology Professional
2 (ATP) from the Rehabilitation Engineering and Assistive
3 Technology Society of North America.

4 (B) Holds the credential of Certified Complex Rehabilitation
5 Technology Supplier (CRTS) from the National Registry of
6 Rehabilitation Technology Suppliers.

7 (b) A provider of complex rehabilitation technology to a
8 Medi-Cal beneficiary shall comply with all of the following:

9 (1) Meet the supplier and quality standards established for a
10 durable medical equipment supplier under the federal Medicare
11 Program and be enrolled as a provider in the Medi-Cal program.

12 (2) Be accredited by a recognized accrediting organization as
13 a supplier of complex rehabilitation technology.

14 (3) Employ at least one qualified rehabilitation technology
15 professional as a W-2 employee (receiving a W-2 tax form from
16 the provider) for each distribution location.

17 (4) Have the qualified rehabilitation technology professional
18 physically present for the evaluation, either in person or remotely
19 if necessary, directly involved in determining the specific complex
20 rehabilitation technology appropriate for the patient, and directly
21 involved with, or closely supervised in, the final fitting and delivery
22 of the complex rehabilitation technology.

23 (5) Maintain a reasonable supply of parts, adequate physical
24 facilities, and qualified service or repair technicians, and provide
25 patients with prompt services and repair for all complex
26 rehabilitation technology supplied.

27 (6) Provide written information at the time of delivery of
28 complex rehabilitation technology regarding how the patient may
29 receive services and repair.

30 (c) For complex needs patients receiving a complex
31 rehabilitation manual wheelchair, power wheelchair, or seating
32 component, the patient shall be evaluated, either in person or
33 remotely if necessary, by both of the following:

34 (1) A qualified health care professional.

35 (2) A qualified rehabilitation technology professional.

36 (d) A medical provider shall conduct a physical examination of
37 an individual, either in person or remotely if necessary, before
38 prescribing a power wheelchair or scooter for a Medi-Cal
39 beneficiary. The medical provider shall complete a certificate of
40 medical necessity that documents the medical condition that

1 *necessitates the power wheelchair or scooter, and verifies that the*
 2 *patient is capable of using the wheelchair or scooter safely.*

3 *(e) (1) The department may adopt utilization controls, including*
 4 *a specialty evaluation by a qualified health care professional, as*
 5 *defined in paragraph (4) of subdivision (a). Except as provided in*
 6 *paragraph (2), the department may adopt any other additional*
 7 *utilization controls for complex rehabilitation technology, as*
 8 *appropriate.*

9 *(2) (A) The department shall not require prior authorization*
 10 *for the repair of a complex rehabilitation technology powered*
 11 *wheelchair if the cost of the repair does not exceed one thousand*
 12 *two hundred fifty dollars (\$1,250).*

13 *(B) A treatment authorization request for repair or replacement*
 14 *of a complex rehabilitation technology powered wheelchair shall*
 15 *not require a prescription or documentation of medical necessity*
 16 *from the treating practitioner for repairs or replacement if the*
 17 *complex rehabilitation technology powered wheelchair has already*
 18 *been approved for use by the patient.*

19 *(f) The department shall seek any necessary federal approvals*
 20 *for the implementation of this section. This section shall be*
 21 *implemented only to the extent that any necessary federal approvals*
 22 *are obtained and federal financial participation is available and*
 23 *is not otherwise jeopardized.*

24 *(g) This section shall become operative on January 1, 2025.*

25 *(h) This section shall remain in effect only until January 1, 2029,*
 26 *and as of that date is repealed.*

27 *SEC. 4. Section 14321.85 is added to the Welfare and*
 28 *Institutions Code, to read:*

29 *14321.85. (a) For purposes of this section, the following*
 30 *definitions apply:*

31 *(1) "Complex needs patient" means an individual with a*
 32 *diagnosis or medical condition that results in significant physical*
 33 *impairment or functional limitation. "Complex needs patient"*
 34 *includes, but is not limited to, individuals with spinal cord injury,*
 35 *traumatic brain injury, cerebral palsy, muscular dystrophy, spina*
 36 *bifida, osteogenesis imperfecta, arthrogryposis, amyotrophic*
 37 *lateral sclerosis, multiple sclerosis, demyelinating disease,*
 38 *myelopathy, myopathy, progressive muscular atrophy, anterior*
 39 *horn cell disease, post-polio syndrome, cerebellar degeneration,*
 40 *dystonia, Huntington's disease, spinocerebellar disease, and the*

1 types of amputation, paralysis, or paresis that result in significant
2 physical impairment or functional limitation. “Complex needs
3 patient” does not negate the requirement that an individual meet
4 medical necessity requirements under authority rules to qualify
5 for receiving complex rehabilitation technology.

6 (2) “Complex rehabilitation technology” means items classified
7 within the federal Medicare Program as of January 1, 2021, as
8 durable medical equipment that are individually configured for
9 individuals to meet their specific and unique medical, physical,
10 and functional needs and capacities for basic activities of daily
11 living and instrumental activities of daily living identified as
12 medically necessary. These items include, but are not limited to,
13 complex rehabilitation manual and power wheelchairs, power seat
14 elevation or power standing components of power wheelchairs,
15 seating and positioning items, other specialized equipment such
16 as adaptive bath equipment, standing frames, gait trainers, and
17 specialized strollers, and related options and accessories.

18 (3) “Complex rehabilitation technology services” includes the
19 application of enabling systems designed and assembled to meet
20 the needs of a patient experiencing any permanent or long-term
21 loss or abnormality of physical or anatomical structure or function
22 with respect to mobility or other function or need. These services
23 include, but are not limited to, all of the following:

24 (A) Evaluating the needs of a patient with a disability, including
25 an assessment of the patient for the purpose of ensuring that the
26 proposed equipment is appropriate.

27 (B) Documenting medical necessity.

28 (C) Selecting, fitting, customizing, maintaining, assembling,
29 repairing, replacing, picking up and delivering, and testing
30 equipment and parts.

31 (D) Training the patient who will use the technology or any
32 individual who assists the patient in using the complex
33 rehabilitation technology.

34 (4) “Qualified health care professional” means an individual
35 who has no financial relationship to the provider of complex
36 rehabilitation technology and is any of the following:

37 (A) A physical therapist licensed pursuant to Chapter 5.7
38 (commencing with Section 2600) of Division 2 of the Business and
39 Professions Code.

1 (B) An occupational therapist licensed pursuant to Chapter 5.6
2 (commencing with Section 2570) of Division 2 of the Business and
3 Professions Code.

4 (C) Other licensed health care professional, approved by the
5 department, and who performs specialty evaluations within the
6 professional's scope of practice.

7 (5) "Qualified rehabilitation technology professional" means
8 an individual who meets either of the following:

9 (A) Holds the credential of Assistive Technology Professional
10 (ATP) from the Rehabilitation Engineering and Assistive
11 Technology Society of North America.

12 (B) Holds the credential of Certified Complex Rehabilitation
13 Technology Supplier (CRTS) from the National Registry of
14 Rehabilitation Technology Suppliers.

15 (b) A provider of complex rehabilitation technology to a
16 Medi-Cal beneficiary shall comply with all of the following:

17 (1) Meet the supplier and quality standards established for a
18 durable medical equipment supplier under the federal Medicare
19 Program and be enrolled as a provider in the Medi-Cal program.

20 (2) Be accredited by a recognized accrediting organization as
21 a supplier of complex rehabilitation technology.

22 (3) Employ at least one qualified rehabilitation technology
23 professional as a W-2 employee (receiving a W-2 tax form from
24 the provider) for each distribution location.

25 (4) Have the qualified rehabilitation technology professional
26 physically present for the evaluation, either in person or remotely
27 if necessary, directly involved in determining the specific complex
28 rehabilitation technology appropriate for the patient, and directly
29 involved with, or closely supervised in, the final fitting and delivery
30 of the complex rehabilitation technology.

31 (5) Maintain a reasonable supply of parts, adequate physical
32 facilities, and qualified service or repair technicians, and provide
33 patients with prompt services and repair for all complex
34 rehabilitation technology supplied.

35 (6) Provide written information at the time of delivery of
36 complex rehabilitation technology regarding how the patient may
37 receive services and repair.

38 (c) For complex needs patients receiving a complex
39 rehabilitation manual wheelchair, power wheelchair, or seating

1 *component, the patient shall be evaluated, either in person or*
2 *remotely if necessary, by both of the following:*

3 *(1) A qualified health care professional.*

4 *(2) A qualified rehabilitation technology professional.*

5 *(d) A medical provider shall conduct a physical examination of*
6 *an individual, either in person or remotely if necessary, before*
7 *prescribing a power wheelchair or scooter for a Medi-Cal*
8 *beneficiary. The medical provider shall complete a certificate of*
9 *medical necessity that documents the medical condition that*
10 *necessitates the power wheelchair or scooter, and verifies that the*
11 *patient is capable of using the wheelchair or scooter safely.*

12 *(e) The department may adopt utilization controls, including a*
13 *specialty evaluation by a qualified health care professional, as*
14 *defined in paragraph (4) of subdivision (a). The department may*
15 *adopt any other additional utilization controls for complex*
16 *rehabilitation technology, as appropriate.*

17 *(f) The department shall seek any necessary federal approvals*
18 *for the implementation of this section. This section shall be*
19 *implemented only to the extent that any necessary federal approvals*
20 *are obtained and federal financial participation is available and*
21 *is not otherwise jeopardized.*

22 *(g) This section shall become operative on January 1, 2029.*

AGENDA ITEM 11

Confirm Future Meeting Dates for 2024

2024

January

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

February

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

March

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

April

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

May

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

June

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

July

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

August

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

September

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

October

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

November

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

December

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