August 2, 2018 Advisory Council
Meeting Materials Packet

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Note: Meeting material page numbers are underlined and found at the bottom center of each page.
ADVISORY COUNCIL MEETING
NOTICE & AGENDA
August 2, 2018 | Thursday | 9:00 am
Until the Completion of Business

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

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

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

Advisory Council Members:

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

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

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

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

2. Statistical Overview  
   a. Licensing Categories  
   b. Consumer Complaints  
   c. Enforcement and Investigations  
   d. Laboratory Testing

3. Operations Update  
   a. Budget  
   b. Personnel  
   c. Outreach, Consumer Education  
   d. Legislative/Regulator

Home Furnishings and Thermal Insulation Agenda Items

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

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

Household Movers Agenda Items

6. Update on First Month of Supporting Household Movers

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

8. Adjournment
Agenda Item 2a: Licensing Overview
## LICENSING STATISTICS
### June 2015 – June 2018 Comparison

<table>
<thead>
<tr>
<th>EAR Registrations</th>
<th>June 2015</th>
<th>June 2016</th>
<th>June 2017</th>
<th>June 2018</th>
</tr>
</thead>
<tbody>
<tr>
<td>Appliance Service Dealer</td>
<td>2,466</td>
<td>2,629</td>
<td>2,595</td>
<td>2,695</td>
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<td>Electronic Service Dealer</td>
<td>4,989</td>
<td>5,102</td>
<td>5,005</td>
<td>4,880</td>
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<tr>
<td>Combination Electronic/Appliance Dealer</td>
<td>483</td>
<td>522</td>
<td>586</td>
<td>556</td>
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<td>Service Contract Administrator</td>
<td>43</td>
<td>43</td>
<td>48</td>
<td>51</td>
</tr>
<tr>
<td>Service Contract Seller</td>
<td>10,221</td>
<td>11,215</td>
<td>12,105</td>
<td>13,855</td>
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<tr>
<td><strong>Total EAR Registrations</strong></td>
<td><strong>18,202</strong></td>
<td><strong>19,511</strong></td>
<td><strong>20,339</strong></td>
<td><strong>22,037</strong></td>
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<table>
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<tr>
<th>HFTI Licenses</th>
<th>June 2015</th>
<th>June 2016</th>
<th>June 2017</th>
<th>June 2018</th>
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<tr>
<td>Furniture Retailers</td>
<td>2,245</td>
<td>2,315</td>
<td>2,055</td>
<td>2,073</td>
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<td>Bedding Retailers</td>
<td>1,708</td>
<td>1,592</td>
<td>1,960</td>
<td>2,065</td>
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<tr>
<td>Furniture &amp; Bedding Retailers</td>
<td>11,738</td>
<td>11,715</td>
<td>11,879</td>
<td>11,713</td>
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<td>Custom Upholsterers</td>
<td>491</td>
<td>497</td>
<td>495</td>
<td>487</td>
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<td>Supply Dealers</td>
<td>132</td>
<td>136</td>
<td>122</td>
<td>102</td>
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<tr>
<td>Importers (includes overseas Manufacturers)</td>
<td>4,274</td>
<td>4,695</td>
<td>5,006</td>
<td>5,321</td>
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<tr>
<td>Manufacturers</td>
<td>1,441</td>
<td>1,481</td>
<td>1,540</td>
<td>1,498</td>
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<td>Sanitizers</td>
<td>17</td>
<td>13</td>
<td>12</td>
<td>13</td>
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<td>Wholesalers</td>
<td>150</td>
<td>170</td>
<td>198</td>
<td>184</td>
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<tr>
<td>Thermal Insulation Manufacturers</td>
<td>120</td>
<td>115</td>
<td>111</td>
<td>109</td>
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<tr>
<td><strong>Total HFTI Licenses</strong></td>
<td><strong>22,316</strong></td>
<td><strong>22,729</strong></td>
<td><strong>23,378</strong></td>
<td><strong>23,565</strong></td>
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</table>
Agenda Item 2b and c: Consumer Complaints and Enforcement Overview
• There has been one (1) case forwarded to the Attorney General’s Office in FY 2017/2018, and one (1) case currently pending.
• There are currently 4 licensees on Probation.

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<th>Year</th>
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<th>Total</th>
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<td>2013-14</td>
<td>1,047</td>
<td>488</td>
<td>1,535</td>
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<td>2014-15</td>
<td>1,007</td>
<td>489</td>
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<tr>
<td>2015-16</td>
<td>985</td>
<td>537</td>
<td>1,522</td>
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<tr>
<td>2016-17</td>
<td>684</td>
<td>402</td>
<td>1,086</td>
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<td>2017-18</td>
<td>550</td>
<td>305</td>
<td>855</td>
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<td>2014-15</td>
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<td>4</td>
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<td>2015-16</td>
<td>78</td>
<td>19</td>
<td>97</td>
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<tr>
<td>2016-17</td>
<td>42</td>
<td>16</td>
<td>58</td>
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<tr>
<td>2017-18</td>
<td>48</td>
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<tr>
<td>2013-14</td>
<td>730</td>
<td>272</td>
<td>1,002</td>
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<td>2014-15</td>
<td>739</td>
<td>307</td>
<td>1,046</td>
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<td>2015-16</td>
<td>678</td>
<td>299</td>
<td>977</td>
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<tr>
<td>2016-17</td>
<td>582</td>
<td>237</td>
<td>819</td>
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<tr>
<td>2017-18</td>
<td>1019</td>
<td>288</td>
<td>1307</td>
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<td>670</td>
<td>2,006</td>
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<tr>
<td>2014-15</td>
<td>1,155</td>
<td>622</td>
<td>1,777</td>
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<tr>
<td>2015-16</td>
<td>1,048</td>
<td>584</td>
<td>1,632</td>
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<tr>
<td>2016-17</td>
<td>730</td>
<td>451</td>
<td>1,181</td>
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<tr>
<td>2017-18</td>
<td>624</td>
<td>355</td>
<td>979</td>
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<td>1,301</td>
<td>685</td>
<td>1,986</td>
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<td>2014-15</td>
<td>1,215</td>
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<td>2015-16</td>
<td>1,109</td>
<td>607</td>
<td>1,716</td>
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<td>2016-17</td>
<td>790</td>
<td>418</td>
<td>1,208</td>
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<td>2017-18</td>
<td>705</td>
<td>388</td>
<td>1093</td>
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Agenda Item 2d: Laboratory Testing Overview
LAB STATISTICS

**Workload Analysis: Data for FY 17/18**

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

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

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

<table>
<thead>
<tr>
<th>“NO” Chemicals Checked</th>
<th>Contains Chemicals</th>
<th>No Box Checked</th>
<th>FR Doc Request Sent</th>
<th>DTSC Analysis Conducted</th>
</tr>
</thead>
<tbody>
<tr>
<td>109</td>
<td>21</td>
<td>0</td>
<td>40</td>
<td>40</td>
</tr>
<tr>
<td>84%</td>
<td>16%</td>
<td>0%</td>
<td>37% of those marked “NO”</td>
<td>37% of those marked “NO”</td>
</tr>
</tbody>
</table>

**Samples Analyzed with the “NO” Flame Retardant Chemical Statement 07/01/17 – 06/30/18**

<table>
<thead>
<tr>
<th>Type Test</th>
<th>No.</th>
<th>Pass</th>
<th>%</th>
<th>No.</th>
<th>Fail</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>DTSC Analysis (40) *</td>
<td>34</td>
<td>85</td>
<td></td>
<td>3</td>
<td>9</td>
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<tr>
<td>FR Doc Review (40)</td>
<td>34</td>
<td>85</td>
<td></td>
<td>6</td>
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*Testing in progress for three components- quantitative analysis*
Agenda Item 3d: Legislative Update
### JANUARY

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</table>

**DEADLINES**

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

### FEBRUARY

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</tbody>
</table>

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

### MARCH

<table>
<thead>
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<th>Wk.</th>
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</table>

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

### APRIL

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</table>

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

### MAY

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*Holiday schedule subject to final approval by Rules Committee.*

Page 1 of 2
### JUNE

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

### JULY

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

### AUGUST

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

### IMPORTANT DATES OCCURRING DURING FINAL RECESS

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<th>Year</th>
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<td>2018</td>
<td>Sept. 30</td>
<td>Last day for Governor to sign or veto bills passed by the Legislature before Sept. 1 and in the Governor's possession on or after Sept. 1 (Art. IV, Sec.10(b)(2)).</td>
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<td>Oct. 1</td>
<td>Bills enacted on or before this date take effect January 1, 2019 (Art. IV, Sec. 8(c)).</td>
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<td>Nov. 6</td>
<td>General Election.</td>
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<td>Nov. 30</td>
<td>Adjournment sine die at midnight (Art. IV, Sec. 3(a)).</td>
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<td>Dec. 3</td>
<td>2019-20 Regular Session convenes for Organizational Session at 12 noon (Art. IV, Sec. 3(a)).</td>
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<td>2019</td>
<td>Jan. 1</td>
<td>Statutes take effect (Art. IV, Sec. 8(c)).</td>
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*Holiday schedule subject to final approval by Rules Committee.*
An act to amend and renumber the heading of Chapter 8.6 (commencing with Section 42490) of, and to add Chapter 8.6 (commencing with Section 42488) to, Part 3 of Division 30 of the Public Resources Code, relating to public resources.

**legislative counsel's digest**


Existing law, the Electronic Waste Recycling Act of 2003, enacts a comprehensive and innovative system for the reuse, recycling, and proper and legal disposal of covered electronic devices, as defined, and provides incentives to design electronic devices that are less toxic, more recyclable, and that use recycled materials.

Existing law establishes the Bureau of Electronic and Appliance Repair, Home Furnishings, and Thermal Insulation under the supervision and control of the Director of Consumer Affairs. Existing law requires the director to administer and enforce provisions relating to the licensure and regulation of, among others, electronic and appliance repair dealers.

This bill would enact the Right to Repair Act. The bill would, except as provided, require the original equipment manufacturer of electronic equipment or parts sold and used in the state to, among other things, provide to independent repair providers and owners of the equipment certain parts, tools, and information, including diagnostic
and repair information, as specified, for the purpose of providing a fair marketplace for the repair of that equipment. The bill would require compliance with these provisions for equipment or parts that are no longer manufactured for 5 years after the date the original equipment manufacturer ceases to manufacture the equipment or parts. The bill would authorize a city, county, city and county, or the state to impose civil penalties for a violation of these provisions.


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

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

(1) Electronic waste (e-waste) generation globally was approximately 44.7 metric tons in 2016, with an expected annual growth rate of 3 to 4 percent. The United States alone generated 6.3 million tons of e-waste in 2016, but only collected 22 percent of that total amount.

(2) Reducing the cost and difficulty of repairing electronics is critical to reducing the generation of e-waste.

(3) Consumers should have the right to repair at a competitive price every product that they purchase.

(4) Lack of competition in the electronics repair industry creates high costs for consumers, businesses, and governments.

(b) It is therefore the intent of the Legislature to support the adoption of policies that meaningfully address the growing quantity of e-waste that is generated in the state, and to support the reuse, repair, redistribution, and refurbishing of electronics.

SEC. 2. The heading of Chapter 8.7 (commencing with Section 42490) of Part 3 of Division 30 of the Public Resources Code is amended and renumbered to read:

Chapter 8.7. Cell Phone Recycling Act of 2004

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

42488. This act shall be known, and may be cited, as the Right to Repair Act.
42488.1. It is the intent of the Legislature to provide a fair marketplace for the repair of electronic equipment and to prohibit intentional barriers and limitations to third-party repair.
42488.2. For purposes of this chapter, the following definitions apply:
(a) “Authorized repair provider” means either of the following:
   (1) A person or business that has an arrangement for a definite or indefinite period with an OEM in which the OEM grants to the person or business a license to use a trade name, service mark, or related characteristic for purposes of offering repair services under the name of the OEM.
   (2) A person or business retained by the OEM to provide refurbishing services for the OEM’s product or products.
(b) “Documentation” means a manual, schematic diagram, reporting output, or service code description provided to the authorized repair provider for purposes of effecting repair.
(c) “Embedded software” means any programmable instructions provided on firmware delivered with equipment for the purposes of equipment operation, including all relevant patches and fixes made by the OEM for that purpose, including, but not limited to, a basic internal operating system, internal operating system, machine code, assembly code, root code, or microcode.
(d) “Equipment” means electronic equipment, or a part of electronic equipment, originally manufactured for distribution and sale in the United States.
(e) “Fair and reasonable terms” means an equitable price in light of relevant factors. “Fair and reasonable terms,” with regard to diagnostic and repair information, includes, but is not limited to, all of the following:
   (1) The net cost to the authorized repair provider for similar information obtained from the OEM, excluding any discounts, rebates, or other incentive programs.
   (2) The cost to the OEM for preparing and distributing the information, excluding any research and development costs incurred in designing and implementing, upgrading, or altering
the product, but including amortized capital costs for the
preparation and distribution of the information.

(3) The price charged by other OEMs for similar information.

(4) The price charged by other OEMs for similar information
prior to the launch of OEM Internet Web sites.

(5) The ability of aftermarket technicians or shops to afford the
information.

(6) The means by which the information is distributed.

(7) The extent to which the information is used, including the
number of users, and frequency, duration, and volume of use.

(8) Inflation.

(f) “Independent repair provider” means a person or business
operating in the state that is not affiliated with an OEM or an
OEM’s authorized repair provider, that is engaged in the diagnosis,
service, maintenance, or repair of equipment, except that an OEM
shall be considered an “independent repair provider” if the OEM
engages in the diagnosis, service, maintenance, or repair of
equipment that is not affiliated with that OEM.

(g) “Medical device” has the same definition as provided in the
federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 321(h)).

(h) “Motor vehicle” has the same definition as provided in
Section 415 of the Vehicle Code, except that “motor vehicle” does
not include a motorcycle or a recreational vehicle or manufactured
home equipped for habitation.

(i) “Motor vehicle dealer” has the same definition as provided
in Section 285 of the Vehicle Code.

(j) “Motor vehicle manufacturer” has the same definition as
provided in Section 672 of the Vehicle Code.

(k) “Original equipment manufacturer” or “OEM” means a
person or business that, in the ordinary course of business, is
engaged in the business of selling or leasing new equipment or
parts of equipment to any person or business, and is engaged in
the diagnosis, service, maintenance, or repair of equipment or parts
of that equipment. “Original equipment manufacturer” does not
include a motor vehicle dealer or the manufacturer of a motor
vehicle or a motor vehicle part.

(l) “Owner” means a person or business that owns or leases
equipment purchased or used in the state.
(m) “Part” or “service part” means a replacement part, either new or used, made available by the OEM to the authorized repair provider for purposes of effecting repair.

(n) “Remote diagnostics” means a remote data transfer function between equipment and the provider of repair services, including settings controls and location identification.

42488.3. (a) The original equipment manufacturer of equipment or parts sold and used in the state shall do both of the following:

1. Make available, in a timely manner, to independent repair providers or owners of equipment manufactured by the OEM the same diagnostic and repair information that the OEM provides to authorized repair providers, including to refurbishment facilities for subcontract repairs. The information shall be provided at no charge or for the same charge that the OEM charges to, and in the same format that the OEM makes the information available to, authorized repair providers and refurbishment facilities for subcontract repair. The information shall include repair technical updates, schematic diagrams, updates, corrections to embedded software, and safety and security patches.

2. (A) Except as provided in subparagraph (B), make available for purchase by the owner, the owner’s authorized agent, or an independent repair provider, equipment or service parts, including any updates to the embedded software of the equipment or parts, subject to fair and reasonable terms.

(B) Nothing in this chapter requires an OEM to sell equipment or service parts if the parts are no longer available to the OEM or the authorized repair provider of the OEM.

(b) An OEM that sells diagnostic, service, or repair documentation to an independent repair provider or to an owner in a format that is standardized with other OEMs, and on terms and conditions more favorable than the manner, terms, and conditions that an authorized repair provider receives for the same diagnostic, service, or repair documentation, shall be prohibited from requiring an authorized repair provider to continue purchasing diagnostic, service, or repair documentation in a proprietary format, unless the proprietary format includes diagnostic, service, or repair documentation or functionality that is not available in the standardized format.
(c) (1) An OEM of equipment sold or used in this state shall make available for purchase by owners and independent repair providers, subject to fair and reasonable terms, all diagnostic repair tools incorporating the same diagnostic, repair, and remote communications capabilities that the OEM makes available to its own repair or engineering staff or an authorized repair provider.

(2) An OEM that provides diagnostic repair documentation to aftermarket diagnostic tool manufacturers, diagnostics providers, and third-party service information publications and systems shall have fully satisfied its obligations under this chapter and shall not be responsible for the content and functionality of those aftermarket diagnostic tools, diagnostics, or service information publications or systems.

(d) OEM equipment or parts sold or used in this state for the purpose of providing security-related functions shall include diagnostic, service, and repair information necessary to reset a security-related electronic function from information provided to owners and independent repair facilities. If not required to be included under this subdivision, the information necessary to reset an immobilizer system or security-related electronic module shall be obtained by owners and independent repair facilities through the appropriate secure data release systems.

42488.4. (a) Notwithstanding any other law, nothing in this chapter shall be construed to affect the terms of any agreement executed and in force between an authorized repair provider and an original equipment manufacturer, including, but not limited to, the performance or provision of warranty or recall repair work by an authorized repair provider on behalf of an OEM pursuant to an authorized repair agreement, except that a provision in an agreement that purports to waive, avoid, restrict, or limit an OEM’s compliance with this chapter shall be void and unenforceable.

(b) Nothing in this chapter shall be construed to require an OEM or authorized repair provider to provide an owner or independent repair provider access to information that is not diagnostic and repair information that an OEM provides to an authorized repair provider pursuant to the terms of the agreement between the OEM and authorized repair provider.

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

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

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

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

42488.6. This chapter shall apply for equipment or parts that are no longer manufactured for five years after the date the OEM ceased to manufacture the equipment or parts. An OEM may continue to comply with this chapter beyond five years for equipment or parts the OEM no longer manufactures, at the discretion of the OEM.
An act to add Article 5.5 (commencing with Section 19100) to Chapter 3 of Division 8 of the Business and Professions Code, relating to business.

legislative counsel’s digest

Existing law, the Home Furnishings and Thermal Insulation Act, a violation of which is a misdemeanor, provides for the regulation of persons engaged in businesses relating to upholstered furniture, bedding and filling materials, and insulation, and provides for the enforcement and administration of those provisions by a chief under the Director of Consumer Affairs. Existing law authorizes the Bureau of Electronic and Appliance Repair, Home Furnishings, and Thermal Insulation to establish grades, specifications, and tolerances for materials used in upholstered furniture and bedding or filling materials and requires a manufacturer of upholstered furniture to indicate whether a product contains flame retardant chemicals.
This bill, on and after January 1, 2020, would prohibit a person, including a manufacturer, from selling or distributing in commerce in this state new, not previously owned juvenile products, mattresses, or upholstered furniture that contains, or a constituent component of which contains, flame retardant chemicals at levels above 1,000 parts per million, except as specified, and would prohibit a custom upholsterer from, among other things, repairing upholstered furniture or reupholstered furniture using replacement components that contain flame retardant chemicals at levels above 1,000 parts per million, except as specified. The bill would authorize the director to adopt regulations and rules to implement and enforce the act’s provisions. The bill would require the bureau to (1) enforce and ensure compliance with these requirements, (2) reimburse the Department of Toxic Substances Control for certain testing costs, and (3) provide the Department of Toxic Substances Control with a selection of samples from products regulated by the act’s provisions. The bill would also authorize the bureau to assess fines against manufacturers for a violation of the act’s provisions, as specified. The bill would require the bureau to receive complaints from consumers concerning these regulated products that are sold in this state. The bill would define various terms for these purposes. The bill would also make various findings and declarations in this regard.

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

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

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


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

1. SECTION 1. The Legislature finds and declares all of the following:
2. (a) The State of California has found that flame retardant chemicals are not needed to provide fire safety. The Bureau of Electronic and Appliance Repair, Home Furnishings, and Thermal Insulation (hereafter bureau) is charged with developing state flammability standards for adoption via regulation. From 1975 to
2013, flame retardant chemicals were commonly used in upholstered furniture to meet flammability standard, Technical Bulletin 117 (TB-117). In 2013, California updated its flammability standard with the adoption of Technical Bulletin 117-2013 (TB 117-2 but it is 520 013). Compliance with TB 117-2013 is widely being achieved without the use of flame retardant chemicals. However, some product manufacturers still use flame retardant chemicals in upholstered furniture and juvenile products, even though these chemicals are not necessary for fire safety or compliance with TB 117-2013.

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

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

(d) Scientists have found that many of the flame retardant chemicals commonly used in furniture exhibit one or more of the key characteristics of a class of synthetic chemicals commonly referred to as Persistent Organic Pollutants (POPs). These chemicals accumulate in our bodies and in the environment, persist in the environment for long periods of time; time, are capable of long-range transport, and are toxic to humans and animals. Flame retardant chemicals have been found in remote
regions such as the Arctic and in deep sea life. Flame retardant chemicals have been detected in the atmosphere, seawater, freshwater, sediments, and a variety of wildlife. (e) Firefighters are at particular risk from flame retardant chemicals. Numerous studies document increased cancer rates and deaths amongst firefighters due to occupational exposures. The cancers that are elevated in firefighters include four types (multiple myeloma, non-Hodgkin’s lymphoma, prostate, and testicular) that are potentially related to exposure to cancer-causing chemicals called dioxins. Dioxins are formed when products burn in a fire and the presence of flame retardant chemicals can result in more toxic smoke containing dioxins and furans to which firefighters are exposed. Studies have found firefighters’ blood levels of certain flame retardants to be three times higher than levels in other Americans, and twice as high as levels among California residents. (f) Children living in California have some of the highest documented blood concentrations of certain flame retardant chemicals compared to other children in the United States. Scientists recognize the urgency of reducing the exposure of vulnerable populations, particularly young children, to flame retardant chemicals. A consensus statement issued by the Project Targeting Environmental Neuro-Developmental Risks (Project TENDR) found that certain flame retardant chemicals are associated with loss of IQ, attention problems, and other developmental problems in children, and called for action to reduce exposures to toxic chemicals, such as flame retardants, that contribute to the prevalence of neurodevelopmental disabilities in children. (g) Flame retardant chemicals migrate out of products over their lifetime and end up in household dust. Inhalation and ingestion of indoor dust, often from hand to mouth behaviors, is a common route of human exposure to flame retardant chemicals. Studies have shown that indoor dust contains anywhere from 1.5 to 50 times greater concentration of flame retardant chemicals than the outdoor environment. Given that humans spend 90 percent of their time indoors, human exposure to flame retardant chemicals can be significant. Children have been found to have three to five times higher levels of certain flame retardant chemicals than their mothers.
(h) The federal government has failed to adequately regulate
the use of flame retardant chemicals. In 2016, Congress passed
the Frank R. Launtenberg Chemical Safety for the 21st Century Act
(Public Law 114-182), which adds to the responsibilities of the
United States Environmental Protection Agency (EPA) under the
federal Toxic Substances Control Act (15 U.S.C. Sec. 2601 et seq.)
to assess and regulate chemicals. The EPA has yet to restrict use
of any flame retardant chemicals under this enactment.
(i) In the absence of federal action, California and other states
have taken steps to limit or ban the use of certain flame retardant
chemicals. In 2017, the State of Maine passed legislation that
prohibits the sale of residential upholstered furniture containing
flame retardants. In fall of 2017, the City and County of San
Francisco passed an ordinance that prohibits the sale of upholstered
and reupholstered furniture as well as children’s products
containing flame retardant chemicals. The State of Rhode Island
also passed legislation that will ban the sale of furniture or
residential upholstered bedding with any added organohalogen
flame retardants.
(j) Studies demonstrate that mattresses also contribute
significantly to the flame retardant levels in indoor air and dust.
Studies also find that removing flame-retarded products from
indoor environments reduces air and dust contamination. Therefore,
decreasing the amount of flame-retarded products in buildings
would result in decreased human exposures.
(k) While many categories of products and materials that are
not covered by this act contain flame retardant chemicals, which
pose health risks—as the United States Consumer Product Safety
Commission has recognized, for example—this act takes an
incremental approach to addressing these health risks and focuses
on those categories of products and materials with which the bureau
has prior experience in addressing the presence of flame retardant
chemicals.
SEC. 2. Article 5.5 (commencing with Section 19100) is added
to Chapter 3 of Division 8 of the Business and Professions Code,
to read:
Article 5.5. Juvenile Products, Upholstered Furniture, and Mattresses

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

(a) “Chemical” has the same meaning as in subdivision (a) of Section 19094.

(b) “Consumer price index” has the same meaning as in subdivision (a) of Section 19094.

(b) “Flame retardant chemical” has the same meaning as in subdivision (a) of Section 19094.

(c) (1) “Flame retardant chemical” means any chemical that is both of the following:

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

(B) Is one of the following:

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

(ii) A chemical defined as a “designated chemical” in Section 105440 of the Health and Safety Code.


(2) As used in this subdivision:

(A) “Halogenated chemical” means any chemical that contains one or more halogen elements, including fluorine, chlorine, bromine, or iodine.

(B) “Organophosphorus chemical” is any chemical that contains one or more carbon elements and one or more phosphorus elements.

(C) “Organonitrogen chemical” is any chemical that contains one or more carbon elements and one or more nitrogen elements.

(\(\text{\$}\))
(d) “Juvenile product” means a product subject to this chapter and designed for residential use by infants and children under 12 years of age, including, but not limited to, a bassinet, booster seat, changing pad, floor playmat, playmats, highchair, highchair pad, infant bouncer, infant carrier, infant seat, infant swing, infant walker, nursing pad, nursing pillow, playpen side pad, playard, portable hook-on chair, stroller, and children’s nap mat.

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

1. Products that are not primarily intended for use in the home, such as products or components for motor vehicles, watercraft, aircraft, or other vehicles.
2. Products subject to Part 571 of Title 49 of the Code of Federal Regulations regarding parts and products used in vehicles and aircraft.
4. Consumer electronic products that do not fall under the bureau’s jurisdiction for flammability standards.

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

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

(h) “Upholstered furniture” has the same meaning as “covered products” does in subdivision (a) of Section 19094. 19101. (a) On or after January 1, 2020, a person, including a manufacturer, shall not sell or distribute in commerce in this state any new, not previously owned juvenile products, mattresses, or upholstered furniture that contains, or a constituent component of
which contains, flame retardant chemicals at levels above 1,000 parts per million.

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

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

1. Electronic components of juvenile products, mattresses, reupholstered furniture, upholstered furniture, or any associated casing for those electronic components.
2. Upholstered or reupholstered furniture components other than those identified in paragraph (1) of subdivision (a) of Section 19094.
3. Thread or fiber when used for stitching mattress components together.

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

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

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

(2) (A) If the Department of Toxic Substances Control’s testing shows that any reupholstered furniture or new, not previously owned juvenile products, mattresses, or upholstered furniture is in violation of Section 19101, the bureau may assess fines for violations against manufacturers of the product for the violation. The bureau shall reimburse the Department of Toxic Substances Control for the cost of testing for the presence of flame retardant chemicals pursuant to this article.
(B) If a person continues to sell or distribute products in
commerce in this state belonging to the same stock keeping unit
(SKU) as products that do not comply with Section 19101, after
notice of the violation is posted on the bureau’s Internet Web site,
the bureau may assess fines against the person for the continued
sale or distribution of those products. The bureau shall make
information about any citation issued pursuant to this section
available to the public on its Internet Web site, and shall develop
a process for keeping interested persons informed about updates
to notices of violation posted on the bureau’s Internet Web site.
(c) A fine for a violation of this section shall be assessed in
accordance with the following schedule:
(1) The fine for the first violation shall be not less than one
thousand dollars ($1,000), but not more than two thousand five
hundred dollars ($2,500).
(2) The fine for the second violation shall be not less than two
thousand five hundred dollars ($2,500), but not more than five
thousand dollars ($5,000).
(3) The fine for the third violation shall be not less than five
thousand dollars ($5,000), but not more than seven thousand five
hundred dollars ($7,500).
(4) The fine for any subsequent violation shall be not less than
seven thousand five hundred dollars ($7,500), but not more than
ten thousand dollars ($10,000).
(d) In determining the amount of the fine for a violation of this
section, the bureau shall consider the following factors:
(1) The nature and severity of the violation.
(2) The good or bad faith of the cited person.
(3) The history of previous violations.
(4) Evidence that the violation was willful.
(5) The extent to which the cited person or entity has cooperated
with the bureau.
(e) (1) The bureau shall adjust all minimum and maximum
fines imposed by this section for inflation every five years.
(2) The adjustment shall be equivalent to the percentage, if any,
that the Consumer Price Index at the time of adjustment exceeds
the Consumer Price Index at the time this section goes into effect.
Any increase determined under this paragraph shall be rounded as
follows:
(A) In multiples of ten dollars ($10) in the case of penalties less
than or equal to one hundred dollars ($100).
(B) In multiples of one hundred dollars ($100) in the case of
penalties greater than one hundred dollars ($100), but less than or
equal to one thousand dollars ($1,000).
(C) In multiples of one thousand dollars ($1,000) in the case of
penalties greater than one thousand dollars ($1,000).
(f) The bureau shall receive complaints from consumers
concerning products regulated by this article sold in this state.

SEC. 3. No reimbursement is required by this act pursuant to
Section 6 of Article XIII B of the California Constitution because
the only costs that may be incurred by a local agency or school
district will be incurred because this act creates a new crime or
infraction, eliminates a crime or infraction, or changes the penalty
for a crime or infraction, within the meaning of Section 17556 of
the Government Code, or changes the definition of a crime within
the meaning of Section 6 of Article XIII B of the California
Constitution.
An act to amend Sections 9810, 9812.5, 9830.5, 9832.5, 9842, 9844, 9847.5, 9849, 9851, 9853, 9855.3, 9855.9, 9860, 9862.5, 9863, 19032, 19162, and 19163 of, and to amend, repeal, and add Section 9855.3 to, the Business and Professions Code, relating to professions and vocations.

legislative counsel’s digest


(1) Existing law establishes the Bureau of Electronic and Appliance Repair, Home Furnishings, and Thermal Insulation, under the direction of a chief who is responsible to the Director of Consumer Affairs, and specifies that the powers and duties of the bureau shall be subject to review by the appropriate policy committees of the Legislature as if the provisions were scheduled to be repealed on January 1, 2019.

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

(2) Existing law authorizes the director, in accordance with the State Civil Service Act, to appoint and fix the compensation of inspectors and other personnel as may be necessary for the administration of the Home Furnishings and Thermal Insulation Act. Existing law also establishes the Division of Investigation within the Department of
Consumer Affairs, comprised of investigators who have the authority of peace officers and the division is headed by the Chief of the Division of Investigation.

This bill would specify that the director, in accordance with the State Civil Service Act and the provisions establishing the Division of Investigation, is authorized to appoint and fix the compensation of such clerical, inspection, investigation, and auditing personnel as well as a deputy chief as may be necessary to carry out the Home Furnishings and Thermal Insulation Act, and would require such personnel to perform their respective duties under the supervision and the direction of the chief.

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

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

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

This bill would require a service dealer who provides a copy of the invoice to a customer in electronic format to retain an electronic copy for at least 3 years, as provided. The bill would specify that the
provisions pertaining to a written estimate shall not prohibit the use of a written estimate in electronic format.

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

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

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

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


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

1. SECTION 1. Section 9810 of the Business and Professions Code is amended to read:
2. 9810. (a) (1) There is in the Department of Consumer Affairs a Bureau of Electronic and Appliance Repair, Home Furnishings, and Thermal Insulation, under the supervision and control of the director. The director shall administer and enforce the provisions of this chapter and Chapter 3 (commencing with Section 19000) and Chapter 3.1 (commencing with Section 19225) of Division 8.
(2) There is a Division of Household Movers within the bureau for purposes of administering Chapter 3.1 (commencing with Section 19225) of Division 8. The Division of Household Movers shall be overseen by the chief of the bureau.

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

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

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

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

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

9812.5. The director shall gather evidence of violations of this chapter and of any regulation established hereunder by any service contractor, whether registered or not, and by any employee, partner, officer, or member of any service contractor. The director shall, on his or her own initiative, conduct spot check investigations of service contractors throughout the state on a continuous basis. This section shall remain in effect only until January 1, 2023, and as of that date is repealed.
SEC. 3. Section 9830.5 of the Business and Professions Code is amended to read:

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

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

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

SEC. 4. Section 9832.5 of the Business and Professions Code is amended to read:

9832.5. (a) Registrations issued under this chapter shall expire no more than 12 months after the issue date. The expiration date
of registrations shall be set by the director in a manner to best
distribute renewal procedures throughout the year.
(b) To renew an unexpired registration, the service contractor
shall, on or before the expiration date of the registration, apply for
renewal on a form prescribed by the director, and pay the renewal
fee prescribed by this chapter.
(c) To renew an expired registration, the service contractor shall
apply for renewal on a form prescribed by the director, pay the
renewal fee in effect on the last regular renewal date, and pay all
accrued and unpaid delinquency and renewal fees.
(d) Renewal is effective on the date that the application is filed,
the renewal fee is paid, and all delinquency fees are paid.
(e) For purposes of implementing the distribution of the renewal
of registrations throughout the year, the director may extend, by
not more than six months, the date fixed by law for renewal of a
registration, except that, in that event, any renewal fee that may
be involved shall be prorated in such a manner that no person shall
be required to pay a greater or lesser fee than would have been
required had the change in renewal dates not occurred.
(f) This section shall remain in effect only until January 1, 2023,
and as of that date is repealed.
SEC. 5. Section 9842 of the Business and Professions Code is
amended to read:
9842. All work done by a service dealer shall be recorded on
an invoice in such detail as is required by regulations issued by
the director and shall describe all service work done and all parts
supplied. If any used parts are supplied, the invoice shall clearly
state that fact. One copy shall be given to the customer and one
copy shall be retained by the service dealer for a period of at least
three years. If a copy of the invoice is provided to the customer in
an electronic format, an electronic copy of the invoice shall be
retained by the service dealer for the same retention period.
SEC. 6. Section 9844 of the Business and Professions Code is
amended to read:
9844. An initial written estimate for the cost of repair shall be
given to the customer before performing any repairs. The written
estimate shall include all costs for parts and labor, and the service
dealer may not charge for work done or parts supplied in excess
of the estimate without the previous consent of the customer. The
service dealer may charge a reasonable fee for services provided
in determining the nature of the malfunction in preparation of a
written estimate for repair. The service dealer shall advise the
customer in writing of the amount of the fee prior to a repair made
in the residence, before removal of the consumer goods from the
customer’s residence, or upon acceptance of the goods at the repair
facility or registered location. This section shall not prohibit the
use of a written estimate in an electronic format.
SEC. 7. Section 9847.5 of the Business and Professions Code
is amended to read:
9847.5. (a) Each service contractor shall maintain those records
as are required by the regulations adopted to carry out the
provisions of this chapter for a period of at least three years. These
records shall be open for reasonable inspection by the director or
other law enforcement officials.
(b) This section shall remain in effect only until January 1, 2023,
and as of that date is repealed.
SEC. 8. Section 9849 of the Business and Professions Code,
as amended by Section 7 of Chapter 428 of the Statutes of 2014,
is amended to read:
9849. (a) The expiration of a valid registration shall not deprive
the director of jurisdiction to proceed with any investigation or
hearing on a cease and desist order against a service dealer or
service contractor or to render a decision to suspend, revoke, or
place on probation a registration.
(b) This section shall remain in effect only until January 1, 2023,
and as of that date is repealed.
SEC. 9. Section 9849 of the Business and Professions Code,
as amended by Section 8 of Chapter 428 of the Statutes of 2014,
is amended to read:
9849. (a) The expiration of a valid registration shall not deprive
the director of jurisdiction to proceed with any investigation or
hearing on a cease and desist order against a service dealer or to
render a decision to suspend, revoke, or place on probation a
registration.
(b) This section shall become operative on January 1, 2023.
SEC. 10. Section 9851 of the Business and Professions Code,
as amended by Section 9 of Chapter 428 of the Statutes of 2014,
is amended to read:
9851. (a) The superior court in and for the county wherein any
person carries on, or attempts to carry on, business as a service
dealer or service contractor in violation of the provisions of this chapter, or any regulation thereunder, shall, on application of the
director, issue an injunction or other appropriate order restraining
that conduct.
(b) The proceedings under this section shall be governed by
Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of
the Code of Civil Procedure, except that the director shall not be
required to allege facts necessary to show or tending to show lack
of an adequate remedy at law or irreparable injury.
(c) This section shall remain in effect only until January 1, 2023,
and as of that date is repealed.
SEC. 11. Section 9851 of the Business and Professions Code,
as amended by Section 10 of Chapter 428 of the Statutes of 2014,
is amended to read:
9851. (a) The superior court in and for the county wherein any
person carries on, or attempts to carry on, business as a service
dealer in violation of the provisions of this chapter, or any
regulation thereunder, shall, on application of the director, issue
an injunction or other appropriate order restraining that conduct.
(b) The proceedings under this section shall be governed by
Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of
the Code of Civil Procedure, except that the director shall not be
required to allege facts necessary to show or tending to show lack
of an adequate remedy at law or irreparable injury.
(c) This section shall become operative on January 1, 2023.
SEC. 12. Section 9853 of the Business and Professions Code,
as amended by Section 11 of Chapter 428 of the Statutes of 2014,
is amended to read:
9853. (a) A plea or verdict of guilty or a conviction following
a plea of nolo contendere made to a charge substantially related
to the qualifications, functions, and duties of a service dealer or
service contractor is deemed to be a conviction within the meaning
of this article. The director may suspend, revoke, or place on
probation a registration, or may deny registration, when the time
for appeal has elapsed, or the judgment of conviction has been
affirmed on appeal or when an order granting probation is made
suspending the imposition of sentence, irrespective of a subsequent
order under Section 1203.4 of the Penal Code, allowing that person
to withdraw his or her plea of guilty and to enter a plea of not
guilty, or setting aside the verdict of guilty, or dismissing the
accusation, information, or indictment.
(b) This section shall remain in effect only until January 1, 2023,
and as of that date is repealed.
SEC. 13. Section 9853 of the Business and Professions Code,
as amended by Section 12 of Chapter 428 of the Statutes of 2014,
is amended to read:
9853. (a) A plea or verdict of guilty or a conviction following
a plea of nolo contendere made to a charge substantially related
to the qualifications, functions, and duties of a service dealer is
deemed to be a conviction within the meaning of this article. The
director may suspend, revoke, or place on probation a registration,
or may deny registration, when the time for appeal has elapsed, or
the judgment of conviction has been affirmed on appeal or when
an order granting probation is made suspending the imposition of
sentence, irrespective of a subsequent order under Section 1203.4
of the Penal Code allowing that person to withdraw his or her plea
of guilty and to enter a plea of not guilty, or setting aside the verdict
of guilty, or dismissing the accusation, information, or indictment.
(b) This section shall become operative on January 1, 2023.
SEC. 14. Section 9855 of the Business and Professions Code
is amended to read:
9855. The definitions used in this section shall govern the
construction and terms as used in this chapter:
(a) “Service contract” means a contract in writing to perform,
over a fixed period of time or for a specified duration, services
relating to the maintenance, replacement, or repair of an electronic
set or appliance, as defined by this chapter, and their accessories
or of furniture, jewelry, lawn and garden equipment, power tools,
fitness equipment, telephone equipment, small kitchen appliances
and tools, optical products, or home health care products, and may
include provisions for incidental payment of indemnity under
limited circumstances, including, but not limited to, power surges,
food spoilage, or accidental damage from handling. “Service
contract” shall not include a contract in writing to maintain
structural wiring associated with the delivery of cable, telephone,
or other broadband communications services. “Service contract”
shall not include a contract in which a consumer agrees to pay a
provider of vision care services for a discount on optical products
or contact lenses for a specified duration.
(b) “Service contract administrator” or “administrator” means a person who performs or arranges the collection, maintenance, or disbursement of moneys to compensate any party for claims or repairs pursuant to a service contract, and who also performs or arranges any of the following activities on behalf of service contract sellers:

(1) Providing service contract sellers with service contract forms.
(2) Participating in the adjustment of claims arising from service contracts.
(3) Arranging on behalf of service contract sellers the insurance required by Section 9855.2.

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

(c) (1) “Service contract seller” or “seller” means a person who sells or offers to sell a service contract to a service contract holder, including a person who is the obligor under a service contract sold by the seller, manufacturer, or repairer of the product covered by the service contract.
(2) “Service contract seller” or “seller” also means a third party, including an obligor, who is not the seller, manufacturer, or repairer of the product. However, a third party shall not be an obligor on a service contract unless the obligor obtains a service contract reimbursement insurance policy for all service contracts under which the third party is obligated under the terms of a service contract.
(3) “Service contract seller” or “seller” shall not include the following:

(A) A bank or bank holding company, or the subsidiary or affiliate of either, or a financial institution, licensed under state or federal law, selling or offering to sell a service contract unless that entity is financially and legally obligated under the terms of a service contract.
(B) An electrical device manufacturer or electrical contractor who constructs, installs, or services electrical devices, which include any unit of an electrical system intended to carry electrical energy as part of a building’s electrical system, including raceways, conductors, inverters, conduit, wires, switches, or other similar devices.
(d) “Service contractholder” means a person who purchases or receives a service contract from a service contract seller.

(e) “Service contractor” means a service contract administrator or a service contract seller.

(f) “Service contract reimbursement insurance policy” means a policy of insurance issued by an insurer admitted to do business in this state providing coverage for all obligations and liabilities incurred by a service contract seller under the terms of the service contracts sold in this state by the service contract seller to a service contractholder. The service contract reimbursement insurance policy shall either cover all service contracts sold or specifically cover those contracts sold to residents of the State of California.

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

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

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

(j) This section shall remain in effect only until January 1, 2020, and as of that date is repealed.

SEC. 15. Section 9855 is added to the Business and Professions Code, to read:
9855. The definitions used in this section shall govern the construction and terms as used in this chapter:

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

(b) “Service contract administrator” or “administrator” means a person who performs or arranges the collection, maintenance,
or disbursement of moneys to compensate any party for claims or
repairs pursuant to a service contract, and who also performs or
arranges any of the following activities on behalf of service contract
sellers:
(1) Providing service contract sellers with service contract forms.
(2) Participating in the adjustment of claims arising from service
contracts.
(3) Arranging on behalf of service contract sellers the insurance
required by Section 9855.2.
A service contract administrator shall not be an obligor on a
service contract unless all service contracts under which the service
contract administrator is obligated to perform are insured under a
service contract reimbursement insurance policy.
(c) (1) “Service contract seller” or “seller” means a person who
sells or offers to sell a service contract to a service contractholder,
including a person who is the obligor under a service contract sold
by the seller, manufacturer, or repairer of the product covered by
the service contract.
(2) “Service contract seller” or “seller” also means a third party,
including an obligor, who is not the seller, manufacturer, or repairer
of the product. However, a third party shall not be an obligor on
a service contract unless the obligor obtains a service contract
reimbursement insurance policy for all service contracts under
which the third party is obligated under the terms of a service
contract.
(3) “Service contract seller” or “seller” shall not include the
following:
(A) A bank or bank holding company, or the subsidiary or
affiliate of either, or a financial institution, licensed under state or
federal law, selling or offering to sell a service contract unless that
entity is financially and legally obligated under the terms of a
service contract.
(B) An electrical device manufacturer or electrical contractor
who constructs, installs, or services electrical devices, which
include any unit of an electrical system intended to carry electrical
energy as part of a building’s electrical system, including raceways,
conductors, invertors, conduit, wires, switches, or other similar
devices.
(d) “Service contractholder” means a person who purchases or
receives a service contract from a service contract seller.
(e) “Service contractor” means a service contract administrator or a service contract seller.

(f) “Service contract reimbursement insurance policy” means a policy of insurance issued by an insurer admitted to do business in this state providing coverage for all obligations and liabilities incurred by a service contract seller under the terms of the service contracts sold in this state by the service contract seller to a service contractholder. The service contract reimbursement insurance policy shall either cover all service contracts sold or specifically cover those contracts sold to residents of the State of California.

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

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

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

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

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

SEC. 16. Section 9855.3 of the Business and Professions Code is amended to read:

9855.3. (a) (1) The service contract form, along with all documents incorporated by reference into a service contract per the contract form, to be issued by the service contractor shall be filed with the director by the service contractor no later than 30 days prior to its use.

(2) The term “documents incorporated by reference” shall mean all documents referred to in the contract that are expressly made a part of the contract but that are not a part of the body of the contract. These documents may include, but are not limited to, invoices, declaration pages, and sales receipts.

(3) Each service contract form shall be identified by a unique form number and date of last revision.

(4) Once a service contract form is filed with the director under paragraph (1), no further changes shall be made to the text of the
contract form without resubmission of the contract form to the director, unless the text was indicated as variable text when the contract is initially filed with the director.

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

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

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

(2) A service contract reimbursement insurance policy.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19163. All work to be performed by a custom upholsterer shall be recorded on a work order containing information required by rules and regulations adopted by the bureau and shall describe all work to be performed, all materials to be supplied, and the period within which the estimate shall remain effective. If any secondhand materials are to be supplied, the work order shall clearly identify
them as secondhand. No work shall be performed and no charges shall accrue before authorization for the work and materials is obtained from the customer, and no charge shall be made for work performed or materials supplied different from those specified in the work order without the oral or written consent of the customer. One copy of the work order shall be given to the customer before any work is performed and one copy shall be retained by the custom upholsterer for at least one year. As used in this section, “materials” includes structural units, filling materials, containers, and coverings. If a copy of the work order is provided to the customer in an electronic format, an electronic copy of the work order shall be retained by the service dealer for the same retention period.

SEC. 26. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.
Agenda Item 4: Barrier Study Cost Benefit Analysis
### A Cost-Benefit Analysis Worksheet on the Use of Fire Barriers in Upholstered Furniture

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

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

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<th>Percent Households Purchasing Furniture</th>
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#### Benefit Side of Upholstered Furniture Regulation

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<td>Total Value of Civilian Injuries</td>
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<td>House Content Losses by Upholstered Furniture Fire</td>
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<td>Total Cost of Upholstered Furniture Fire</td>
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#### Benefit of Upholstered Furniture Regulation to CA

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<td>Per Sofa Manufacturing Cost for Furniture Liner</td>
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<td>Chairs Per Household</td>
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<td>Chair &amp; Sofa Manuf Costs for Furniture Liner Per Household</td>
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#### Net Present Value

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#### Fire Barrier Benefits Exceed Costs?

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

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Agenda Item 5: Regulatory Change Proposal
NOTICE IS HEREBY GIVEN that the Bureau of Electronic and Appliance Repair, Home Furnishings and Thermal Insulation (Bureau) is proposing to take the action described in the Informative Digest. Any interested person may present statements or arguments relevant to the action proposed, orally or in writing, at a hearing to be held at 1747 N. Market Blvd, room # 186, Sacramento, CA 95834, at 9:00 A.M., on September 17, 2018. Webcasting is available at https://thedcapage.blog/webcasts/. Participants may also teleconference at (866) 842-2981 (passcode # 4598662).

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

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

INFORMATIVE DIGEST

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

Existing regulations require that filling materials in upholstered furniture used in public-occupied buildings must comply with the California upholstered furniture flammability standard, Technical Bulletin (TB) 117-2013. TB 133 is also a recognized fire-retardant flammability test standard for upholstered furniture used in publicly-occupied buildings. This proposal would eliminate the TB 133 test standard and accompanying label requirements because TB 133 is a redundant test standard that causes confusion within the industry and presents unnecessary health risks. Therefore, the Bureau is proposing the following amendments:
Amend section 1374:
The proposed amendment to this section removes the reference to TB 133 and its requirements that all upholstered seating furniture sold for use in publicly-occupied buildings shall meet the flammability test requirements set forth in TB 133.

Amend Section 1374.3:
The proposed amendment to this section removes the requirement to have labels on upholstered seating furniture that state the product meets TB 133 flammability requirements.

B. Anticipated Benefits of Proposal

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

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

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

C. Consistency and Compatibility with Existing State Regulations

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

INCORPORATION BY REFERENCE

None

FISCAL IMPACT ESTIMATES

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

Local Mandate: None

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

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

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

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

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

Effect on Housing Costs: None

EFFECT ON SMALL BUSINESS

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

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

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

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

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

CONSIDERATION OF ALTERNATIVES

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

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

INITIAL STATEMENT OF REASONS AND INFORMATION

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

TEXT OF PROPOSAL

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

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

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

CONTACT PERSON

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

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

The backup contact person is:

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

Website Access: Materials regarding this proposal can be found at www.bearhfti.ca.gov.
Amend section 1374 of Article 13 to read as follows:

1374. Flammability; Upholstered and Reupholstered Furniture.
This section operative on and after January 1, 2015. See preceding Section 1374, operative until December 31, 2014 and inoperative as of January 1, 2015.

(a) On and after January 1, 2015, all filling materials and cover fabrics contained in any article of upholstered furniture and added to reupholstered furniture shall meet the fire retardant requirements as set forth in the State of California, Bureau of Electronic and Appliance Repair, Home Furnishings and Thermal Insulation Technical Bulletin Number 117-2013, entitled "Requirements, Test Procedure and Apparatus for Testing the Smolder Resistance of Materials Used in Upholstered Furniture," dated June 2013 and be labeled in accordance with Section 1374.3. This section incorporates by reference Technical Bulletin 117-2013 and shall not apply to filling materials and cover fabric manufactured prior to January 1, 2015.

(b) In addition to the requirements of subsection (a) above, finished articles of upholstered furniture may also be tested in accordance with the State of California, Bureau of Electronic and Appliance Repair, Home Furnishings and Thermal Insulation Technical Bulletin Number 116 entitled "Test Procedures and Apparatus for Testing the Flame Retardance of Upholstered Furniture," dated January 1980.

(c) All upholstered seating furniture sold for use in public occupancies, as defined in subsection (d) below, shall meet the test requirements set forth in the State of California, Bureau of Electronic and Appliance Repair, Home Furnishings and Thermal Insulation Technical Bulletin Number 133, entitled "Flammability Test Procedure For Seating Furniture For Use in Public Occupancies," dated January 1991.

(d) For purposes of this section, the term "public occupancies" shall mean:
(1) Jails, prisons, and penal institutions, as defined in Chapter 3 of the California State Building Standards Code.
(2) Hospitals, mental health facilities, and similar health care facilities, as defined in Chapter 3 of the California State Building Standards Code.
(3) Nursing homes, board and care facilities, and convalescent homes, as defined in Chapter 3 of the California State Building Standards Code.
(4) Child day care centers, as defined in Chapter 3 of the California State Building Standards Code.
(5) Public auditoriums and stadiums, as defined in Chapter 3 of the California State Building Standards Code.
(6) Public assembly areas, as defined in Chapter 3 of the California State Building Standards Code, containing ten (10) or more articles of seating furniture and located in hotels, motels and lodging houses.

(e) Public occupancies and public assembly areas, as defined in Section 1374(d), which are fully sprinklered in accordance with either National Fire Protection Association (NFPA) Standard NFPA 13-1996 or Uniform Building Code Standard No. 38-1, dated 1988 shall either comply with the requirements of Section 1374(a) or the requirements of Section 1374(c).

(fc) The flammability requirements contained in this section are considered to be flammability performance standards. Testing under these standards shall be at the discretion of the licensee; however, products and materials offered for sale in this state shall meet all applicable flammability requirements established in these regulations.


Amend section 1374.3 of Article 13 to read as follows:

1374.3. Labeling.
This section operative on and after January 1, 2015. See preceding Section 1374.3, operative until December 31, 2014 and inoperative as of January 1, 2015.

(a) Upholstered furniture conforming to the requirements of Section 1374(a) and 1374(b) of these regulations shall have a label permanently attached to the article, in plain view, stating the following:

NOTICE
THIS ARTICLE MEETS ALL FLAMMABILITY REQUIREMENTS OF CALIFORNIA BUREAU OF ELECTRONIC AND APPLIANCE REPAIR, HOME FURNISHINGS AND THERMAL INSULATION TECHNICAL BULLETINS 116 AND 117-2013. CARE SHOULD BE EXERCISED NEAR OPEN FLAME OR WITH BURNING CIGARETTES.

(b) Upholstered articles conforming to Section 1374(a) but which may not conform to Section 1374(b) shall have a label permanently attached to the article, in plain view, stating the following:

NOTICE
THIS ARTICLE MEETS THE FLAMMABILITY REQUIREMENTS OF CALIFORNIA BUREAU OF ELECTRONIC AND APPLIANCE REPAIR, HOME FURNISHINGS AND THERMAL INSULATION TECHNICAL BULLETIN 117-2013. CARE SHOULD BE EXERCISED NEAR OPEN FLAME OR WITH BURNING CIGARETTES.

(c) Articles of furniture conforming to the requirements of section 1374(c) shall have a label permanently attached to the article, in plain view, stating the following:

NOTICE
THIS ARTICLE IS MANUFACTURED FOR USE IN PUBLIC OCCUPANCIES AND MEETS THE FLAMMABILITY REQUIREMENTS OF CALIFORNIA BUREAU OF ELECTRONIC AND APPLIANCE REPAIR, HOME FURNISHINGS AND THERMAL INSULATION TECHNICAL BULLETIN 133. CARE SHOULD BE EXERCISED NEAR OPEN FLAME OR WITH BURNING CIGARETTES.
(d) Minimum size of the label for subsections (a), and (b) and (c) shall be 2 x 3 inches and the minimum size of the type shall be one-eighth inch in height. All type shall be in capital letters.
(e) All flammability labels described in sections 1373.1, and 1374.3 shall also comply with the labeling requirements of sections 1126(a) and (b).

Agenda Item 6: Update on First Month of Supporting Household Movers
Online Access to Max Rate Tariff 4 and Distance Table 8

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

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

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

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

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