



**Bureau of Electronic and Appliance Repair,
Home Furnishings and Thermal Insulation**
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**Bureau of Electronic and Appliance Repair,
Home Furnishings and Thermal Insulation
June 23, 2016 – Advisory Council Meeting Minutes**

Attendees:

- Council Members: Sharron Bradley, Industry
Burt Grimes, Industry
Timothy Hawkins, Industry
Judy Levin, Public
Donald Lucas, Public
Joanne Mikami, Public
Leonard Price, Public
David Velazquez, Industry (teleconference)
David Yarbrough, Industry (teleconference)
- Stakeholders: Maria Hernandez, AlcoAlert
Hoyt Isom, AlcoAlert
- Govt. Personnel: Carrie Cathalifaud, Bureau Laboratory Supervisor
Richard DiGirolamo, Bureau Investigations Manager
Nicole Dragoo, Bureau Licensing Technician
Sarah Hiway, Bureau Office Technician
Yeaphana LaMarr, DCA Legislative & Review Division
Michelle Linton-Shedd, Bureau Licensing Analyst
Margie McGavin, Bureau Enforcement Analyst
Justin Paddock, Bureau Chief
Derick Pitman, Bureau Consumer Services Representative
Karen Skelton, Bureau Licensing & Policy Manager
Spencer Walker, Bureau Legal Counsel
Donald Watts, Bureau Licensing Analyst
- Teleconference: Several stakeholders intermittently listening in by phone.

Agenda Item #1 - Welcome and Introductions

Meeting commenced shortly after 9:00 AM.

Chief Paddock opened the meeting, and thanked Advisory Council members for their attendance. He introduced the Bureau of Electronic and Appliance Repair, Home Furnishings and Thermal Insulation's (Bureau) legal counsel, Spencer Walker.

Agenda Item #2 – Administrative Update

Mr. Paddock introduced the topic by stating that the Bureau recently hired a new Investigations Manager, Richard DiGirolamo. He was unable to be present for this meeting, but will be present at the October meeting. Two field representative positions in Northern California will be advertised shortly. Mr. Paddock said the position requires a minimum of four years of experience in the repair industry. He invited anyone meeting the minimum qualifications to give him their business card or call him direct at (916) 999-2080. In addition, Mr. Paddock announced that the Compliant Resolution Program (CRP) is transitioning from the Department into the Bureau in early July as a cost saving measure under Assembly Bill (AB) 2740 report in the pro rata section. He anticipates a large reduction of the overhead of the Bureau. He then introduced Consumer Services Representative Pitman to share more about the CRP.

Mr. Pitman explained that as a Consumer Services Representative (CSR), he is a neutral third party who tries to bring the consumer and business to a resolution they are both satisfied with. He said once a complaint is received, CRP communicates with the consumer in regards to their issue(s). CRP listens to the allegations, and paperwork that the consumer has supplied is reviewed for minor infractions the business may have incurred. CRP attempts to have any unfinished work completed, retrieve refunds, review service contracts, warranties, and communicate with the respondent or business in regards to the consumer's requests to reach a resolution. Mr. Pitman said CRP cannot force either party to comply with their suggestions, but they attempt to lead the consumer and business to a resolution that will keep the parties out of court. If the parties cannot reach a resolution, the consumer may escalate their claim to either small claims or civil court. In turn, if business violations are found, CRP educates the respondent or business and attempts to have them comply with Bureau law. Businesses may make counter-offers in regards to consumer requests, which CRP communicates with the consumer. If a resolution is accepted, the complaint is closed. If major violations are found to be made by the respondent or business, the case is referred to the Bureau's Enforcement Unit.

Mr. Paddock stated that the American Association of Lab Accreditation (A2LA) will be conducting an on-site visit to the Bureau in late June, and the Bureau looks forward to gaining accreditation in September of 2016.

Licensing & Policy Manager Skelton discussed the Bureau's pilot program for accepting online credit card payment for renewals. She said that the pilot program accepted renewal payments for electronic service dealer (E), appliance service dealer (A), and combination service dealer (C) licenses on the Electronic and Appliance Repair (EAR) side, and importer (IMP) and retailer (M, H, A) licenses on the Home Furnishings and Thermal Insulation (HFTI) side. The ability to renew licenses online expedites the license renewal process to 48-72 hours, so long as there are no holds on the license. Ms. Skelton added that the ability to pay online may help smaller businesses who experience financial hardships by allowing them to pay by credit card. The Bureau will expand online renewal payments to include all EAR and HFTI license types by July. She added that online payment is only available for one renewal cycle, and the system cannot accept payments for multiple cycles. Payment can be made with Visa, Mastercard, Discover, or

American Express through www.officialpayments.com, which many government entities use. The fee for the payer is a \$1.00 convenience fee.

Agenda Item #3: - Southern California Enforcement Sweeps

Please reference page 4 of the Meeting Materials Packet.

Mr. Paddock introduced the topic by thanking Donald Erwin for making numerous reports to the Bureau. Specifically, there were 140 unlicensed complaints in the San Diego region. Bureau Field Representatives conducted two sweeps: one from February 8-12, 2016, and the second from May 9-13, 2016. The Bureau was able to close 81 complaints. Sixty service dealers were reported as out of business, and all but five businesses were compliant by the conclusion of the sweep. The Bureau issued \$250 citations to service dealers not desiring to become registered, and the next step will consist of telephone disconnects until compliance is reached. The Bureau plans to conduct two more sweeps prior to the October Advisory Council meeting, and two after. Mr. Paddock added he encourages any tips regarding unlicensed activity to be reported to the Bureau, so the offending businesses can be included in the sweep.

Agenda Item #4: - La Puente Adult Education Program

Mr. Paddock opened the topic by saying he had the pleasure of visiting the La Puente Adult Education Program. He stated he met Mr. Sangupta, head of the Electronic Repair Program, as well as George Cisneros, head of the Appliance Repair Program. Mr. Paddock said the Electronic Repair Program is a two semester program. The first semester focuses on hardware repair, which the Bureau regulates, and the second semester focuses on network building, which the Bureau does not regulate. Individuals can bring in their broken hardware for free assessment by the students. The students will then inform the individuals what items they need to purchase in order to repair their hardware, and the students will provide the repair. Mr. Paddock said he reviewed the Practice Act with the program leaders. He stated that Mr. Cisneros heads a similar Appliance Repair Program, which gives students hands-on experience repairing appliances. If anyone has appliances they're no longer in need of, Mr. Paddock said colleges benefit from the donation of any appliances. He added that if anyone is familiar with similar programs outside of various post-secondary institutions that the Bureau has already visited, he would like to be informed.

Agenda Item #5 – Service Contract Working Group Update

Please reference page 6 of the Meeting Materials Packet.

Ms. Skelton said that on June 8, 2016, the Bureau held a meeting with the Service Contract Working Group. A few weeks prior to the meeting, the Working Group was provided with a draft report. Some topics in the report included the purpose, history of the regulation of California, legal definition of service contract, California requirements, types of service contract offerings, and consumer perception. The Bureau is planning a meeting with the Department of Insurance (DOI) to decipher where the Bureau's regulation and DOI's differ. Ms. Skelton said that some

key elements of discussion included drones, and whether or not their coverage will be under jurisdiction of DOI or the Bureau. In addition, the Bureau has received filings regarding area rugs and water heaters. She added that another topic of discussion included the growth of hybrid contracts and home warranty packages. The Working Group is attempting to streamline the record-keeping process, so consumers and administrators have an open flow of information. Ms. Skelton mentioned that an enforcement issue is that service contracts that have not been filed with the Bureau are being issued and sold. There is focus on developing a plan to track service contracts, so the Bureau field staff can verify the contract against the Bureau's records.

Tim Hawkins asked if the Service Contract Working Group has reached out to other states for information. Ms. Skelton stated that some members of the Working Group are on a national level, including members of the Service Contract Industry Council (SCIC). There is a Model Act that several states use, and the plan is to compare the California and National Model Acts.

Mr. Paddock added that all of the aforementioned materials will be included in the report. Ms. Skelton said that the report is currently a work in progress, but the Working Group anticipates the report to be completed in October. It will be presented to the Advisory Council at this time.

Agenda Item #6: Summary of Professional Services Organization of California 2016 Convention and R-600 Repair Issues

Leonard Price opened the topic by thanking Mr. Paddock for attending the Professional Servicers Organization of California (PSOC) meeting in May. He introduced PSOC as the only state group who meets with and trains appliance and electronic servicers. PSOC educates servicers about new appliances. The industry gives presentations and informs how to service new products. He stated that several national associations do the same, but do not necessarily cover all topics that are pertinent to California. PSOC was founded in 1955, and there are representatives from both Northern and Southern California. Mr. Price said that he is a board member of the Association, which meets once per month to discuss issues and plan training. Mr. Price stated the topic of the last meeting was a new refrigerant named R-600 Isobutane, which is being used in small to mid-sized refrigerators. It is flammable and servicers cannot safely use a torch around it. Up until this point, refrigerant has been non-flammable and non-toxic. R-600 is common on the East Coast, and technicians in that region have been trained in torchless servicing of refrigerators. California has not currently trained its technicians on torchless repair. Mr. Price added that it is inevitable that R-600 will be prevalent in California due to the compound occurring naturally in the atmosphere, and its low price. R-600 is more economical in terms of efficiency, because it is cheaper to operate a refrigerator with R-600.

Mr. Price mentioned that he retired as an instructor from Los Medanos College a few weeks ago, but will still be volunteering at the school. His replacement at Los Medanos College is a prior student named Deborah Winkler. Female technicians are rare in the service dealer field, and she has been a service technician for over 25 years. In addition, the state association elected a new president named Ron Douglas, who is located in Southern California.

Mr. Hawkins asked Mr. Paddock his opinion on the new refrigerant, R-600.

Mr. Paddock stated that he does not have a personal opinion, but the Bureau will ensure identification labels are visible whenever a complaint is received that the refrigerant is being used. He asked Mr. Hawkins if he has seen the labels yet.

Mr. Hawkins said he has only seen the labels on Danby refrigerators, and included that he has sold some of the small refrigerators.

Agenda Item #7 – Public Comment on Electronic and Appliance Repair Items not on the Agenda

Mr. Hawkins asked Mr. Paddock for more clarification in regards to the enforcement sweep in San Diego, and is curious what the next steps will be. Mr. Paddock said most of the businesses who have not complied with the enforcement sweep have received \$250 citations. The next step is a two-fold enforcement process. The Bureau may seek an infraction and/or work with the California Public Utilities Commission (CPUC) to shut off any telephone numbers that the business advertises. Mr. Paddock added that the Bureau did this in the past, and through recent legislation, was able to restart the process. Telephone disconnects have proven to be successful, and many businesses comply within one week of their telephone being shut off. If there is still difficulty reaching compliance after a telephone disconnect and an infraction citation, the Bureau may work with the Division of Investigation to issue a misdemeanor citation.

Mr. Hawkins asked if the servicers who have ignored the fine were found from Mr. Erwin's list, or through the sting operation. Mr. Paddock said he believed the violating servicers were either from Mr. Erwin's list, by sting, driving through the areas, and common websites. Mr. Hawkins thanked Mr. Paddock for the effort.

Agenda Item #8 – Legislative Update

Legislative Analyst LaMarr stated at this time only two bills impact the Bureau. The first includes Senate Bill (SB) 763, which defines juvenile products, requires manufacturers to attach a label to their product, and requires the Bureau to provide testing. If there is no movement, the bill will be considered dead on July 1, 2016. The other bill impacting the Bureau is SB 1046 which would allow BEARHFTI and the Bureau of Automotive Repair (BAR) to suspend, revoke, or place on probation any licensee to install or maintain an interlock ignition device (IID), for providers who do not adopt an income based fee schedule. Ms. LaMarr said this bill impacts approximately 35 licensees, and if there are any questions or concerns about the bill to please reach out to her.

Agenda Item #9 – Regulatory Update

Please reference page 8-9 of the Meeting Materials Packet.

Ms. Skelton opened the topic by stating that the most significant update since the last Advisory Council meeting is the licensing fee increase, which Mr. Paddock will discuss. Ms. Skelton stated that Mr. Paddock will discuss advertising surveys that the Bureau is still in the process of conducting. The results of the surveys will impact how the Bureau moves forward with the

regulation package. She added that there will be a plan in submission to the Department by July 1st regarding making the Thermal Insulation language current. She said that all other updates are included in the Meeting Materials Packet, but most of the rulemaking files are either in process or in the discussion phase. Ms. Skelton said if there are any questions regarding the items listed in the packet, to please contact her directly.

A teleconference caller asked if the packet was available to view. Mr. Paddock responded that the Meeting Materials Packet is on the website, and the matrix being discussed is on Page 8 and 9. He said the Bureau is small, and two employees are devoted to regulations. A teleconference caller stated he is concerned about law labeling. Mr. Paddock said that law labeling will be discussed in Agenda Item #13, and the Bureau will have stakeholder conversations regarding the issue in early 2017. California has not updated its law label requirements within two decades. He added that Page 10 outlines a summary of how the fee schedule will change. Mr. Lucas asked if the HFTI fee schedule will become annual instead of biennial. Mr. Paddock stated that a report will be released to legislature in November of 2017, and the Bureau anticipates HFTI will transfer to an annual schedule. However, the process requires a statutory change which the Bureau expects to be introduced into the Sunset Bill, which is completed in 2018. If HFTI fees are transferred to an annual schedule, current biennial fees would be split in half.

Mr. Hawkins commented that he believes the service contract seller and service contract administrator fees seem low. He said perhaps there is an opportunity to increase the fees. Mr. Paddock said he will discuss with Bureau staff, however, one of the aspects of a fee analysis is a workload report. Mr. Paddock says the team is audited in terms of how much time they dedicate to different tasks. He said he does foresee, after the Service Contract Working Group report is completed and regulatory and statutory changes are being sought, the workload may change. In the interim, he said he will evaluate the current staff workloads, because he does not want to charge a service contract seller or administrator more than need be.

Agenda Item #10 – Licensing and Enforcement Update

Please reference page 12 - 13 of the Meeting Materials Packet.

Licensing Analyst Linton-Shedd discussed licensing statistics, which are on Page 12 of the Meeting Materials Packet. She stated that between February and May of 2016, there was an increase in Combination Service Dealer licenses, which was the result of an existing retailer expanding in operation. In addition, there was an increase in Service Contract Seller licenses, due to the addition of some new retail chains. The total number of EAR registrations increased by 714. On the HFTI side, there was an increase of 217 licenses, with minimal fluctuation.

Enforcement Analyst McGavin discussed the enforcement statistics on page 13 of the Meeting Materials Packet, which reflects the citation statistics for the past five years. The current fiscal year statistics are only reflected through May 31, which is why they look smaller. She said that in January of 2013, the Bureau began a \$0 “abatement only” citation program for EAR, and this program began at the end of the fiscal year for HFTI. \$0 citations are usually issued for

educational purposes. Many service dealers or operators do not know that the Bureau exists or are not aware that they are supposed to hold a license or registration. The issuance of a \$0 citation includes educating the business to help them understand the law, give the business copies of a law book, and to answer questions. She added that if the business does not comply with the \$0 abatement only citation, the Bureau will issue a \$250 (EAR) or \$500 (HFTI) citation. If compliance is still not obtained, the Bureau will disconnect the businesses' telephone number. Ms. McGavin continued by stating in the latter part of 2013 through January 2015, there was a moratorium on the issuance of telephone disconnects. She said it is very advantageous to gain compliance through this program, and is becoming more effective as time progresses. She concluded by saying that consumer complaints and internal cases have been steady. The Bureau processes consumer and internal complaints and investigates based on tips and complaints received. CRP mediates as much as possible, and then cases move to the enforcement and field units until closure can be obtained.

Joanne Mikami asked if the Bureau has had issues with businesses trying to port their telephone numbers from one carrier to another in order to avoid a telephone disconnect. Ms. McGavin responded by saying that it has happened in the past, and she added that often the name on the business account is not the same name as the recognized owner of the business. She said the Bureau is working with CPUC on both issues.

Agenda Item #11: Bureau Outreach Update

Please reference pages 15 - 22 of the Meeting Materials Packet.

Licensing Analyst Watts opened the topic by discussing the Bureau's website. The Bureau redesigned the website from scratch. Mr. Watts said the design has shifted from a separated website to one integrated Bureau website, and screenshots can be found on pages 15 and 16. Obsolete information has been removed from the new website. The new translator feature is located at the bottom of the website to assist consumers who speak a foreign language. Mr. Watts emphasized that changes can always be made to the website, and the Bureau encourages comments or complaints. He said that to date, there have been no major complaints on the new format.

Mr. Watts then mentioned that the Bureau will be launching a Facebook page in early July. Two articles have been written and are under review with the Department's Public Relations office. Once the articles are approved, they will be posted to the DCA Blog (<https://thedcapage.wordpress.com/>), at a frequency of approximately one article per month. The subject of articles will fluctuate depending upon happenings within the Bureau. Mr. Watts said that the Bureau is more than willing to entertain suggestions regarding future articles or posts. Mr. Paddock added that some pending article topics are bed bugs, the organic industry, and mattress recycling.

Mr. Watts discussed a series of informational videos that the Bureau will be publishing. The script for the first video has been written, and is currently under review. Once it is approved, filming will be scheduled. There are four videos set to be released this year.

He said the Bureau is working on an experiment regarding compliance visits, which is modeled after the inspection format that is currently utilized by the Funeral Board. The field staff will alert the business of the time, date, and purpose of the inspection. The goal is to form a stronger bond between the industry and Bureau and to allow the industry to prepare for the visit. The Bureau anticipates these to be ramped up to 15 percent of field visits. The remaining visits will be unannounced spot inspections.

Mr. Watts said the Bureau has been partnering with trade shows, and other boards and bureaus. The Bureau has visited seven trade shows so far in 2016, and there are plans to visit 16 trade shows by the end of the year. He mentioned that the Bureau considered attending larger trade shows, but most required booth fees, which is not in the budget at this time. The Bureau has visited two appliance repair schools, and anticipates visiting six electronic repair schools before year's end. He asked if there were any further questions.

Since no questions were asked, Mr. Watts said that the lower right hand side of the Bureau's web page leads to two dedicated language lines. The lines are not staffed, but are linked to voicemail recordings in both Spanish and Mandarin. Examples of business cards that the field staff can hand out to any consumer or licensee who speaks foreign languages are on pages 17-20 of the Meeting Materials Packet. When the Bureau receives a voicemail, the consumer or licensee is called back by someone who speaks the appropriate language. To date, a few calls have come in on these designated lines and they are working well. The Bureau is looking to expend further into more languages, such as Russian, which is a predominant language on the EAR side. He stated that pages 21-22 display examples of brochures the Bureau will be handing out at community activities.

Agenda Item #12: Public Comment on Items not on the Agenda

Mr. Paddock asked if there were any questions or comments regarding business items not listed on the agenda. There were no questions or comments, so Mr. Paddock dismissed the meeting and stated that it would reconvene at 1:00 PM.

The meeting commenced shortly under 1:00 PM. Mr. Paddock stated that he would be opening the meeting with Agenda Item #15 and Agenda Item #20, and then continue in order. He asked the Advisory Council members if they would prefer a combined meeting as opposed to a morning and an afternoon session. All Advisory Council members present in person and via teleconference stated they would prefer a combined session. Mr. Paddock confirmed that the next meeting would be conducted in one session due to the majority vote. Mr. Paddock asked any members who were not present via teleconference in the morning to introduce themselves. Several teleconference members introduced themselves.

Agenda Item #15: Furniture Reimbursement Statistics and Goals

Please reference page 29 of the Meeting Materials Packet.

Mr. Paddock mentioned that Mr. Grimes has stated that product reimbursement takes the Bureau too long. He said that current average time is five months and 15 days. The Bureau goal is to lessen the turn-around time to three or four months. Mr. Paddock said from the time the laboratory receives the product to test, to receive the final report should take two months. It currently takes three months for this process, which is due to workload issues and the accreditation the Bureau is pursuing. Mr. Paddock said he wants to ensure the back-end processing time is reduced to one month. He added that on top of the Bureau's timeline, there are functions at the Department and State Controller's Office which are out of the Bureau's control and take approximately one and a half months. Mr. Paddock stated he will hopefully be able to report the new projected times at the October meeting. He added that if a sample needs to be sent to the Department of Toxic Substances Control (DTSC), the reimbursement will take an additional 30-45 days processing time. He then asked Office Technician Hiway to discuss what the Bureau is doing to improve the flow of paperwork.

Ms. Hiway said that the administrative processing time at the Bureau is currently one month due to communication with business owners. She said there was a misunderstanding regarding what needed to be put on forms to send to accounting. In order to expedite the processing time, the Bureau is working on standardizing its forms. She added that the most misunderstood portion of the packet is the invoice, and the new standardized forms should reduce processing time from one month to one week based on the workload of the office.

There were no questions.

Agenda Item #20: Thermal Insulation Regulatory Update

Mr. Paddock stated that the Bureau received comments regarding how to improve the Thermal Insulation Regulatory package. He thanked David Yarbrough for providing critique. He said there were no substantive changes other than ensuring citations and cross-references were improved. The Energy Commission performed a review, and the Bureau incorporated their proposed changes. Mr. Paddock stated that the Regulatory package is in the finalization phase, and should appear in the Department's review in July, with plans of submission to the Building Standards Commission (BSC) by December 30th. Title 24 changes are different than other regulatory changes. Rather than working with the Offices of Administrative Law, the BSC is the regulation adopter. The entire process takes one and a half years.

Agenda Item #13: Summary of 2016 IABFLO Conference and National and International Furniture News

Mr. Paddock introduced the topic by stating that IABFLO, an entity that organizes all state regulatory agencies that are in charge of furniture and bedding products, is attempting to consolidate labeling requirements and advise labeling experts on how to draft their labels. He said he learned of several updates at the most recent meeting: Ohio is updating their terminology to be more consistent with IABFLO's recommendations, Utah is writing sterilization rules, and Pennsylvania is experiencing a major revision which includes adding staff to review their furniture and bedding products. Mr. Paddock stated that he announced that in 2017,

California will be updating its law label requirements. He said many questions were posed by the industry and labeling experts regarding labeling font sizes and amenability. Mr. Paddock said that the IABFLO draft will be available within the coming weeks. The 2017 IABFLO conference will be held in Rhode Island, and in 2018 the conference will take place in North Carolina. He added that as of June 1st, 2016, Massachusetts Senate passed SB 2302, which bans ten types of flame retardant (FR) chemicals in child bedding products, carpets, window treatments, and furniture. The bill is now in the House of Representatives and will proceed to the Governor. Utah adopted percentage requirements in House Bill 314 which will go into effect in late 2016, and the President Obama recently signed a bill which changed the Toxic Substances Chemical Act.

Mr. Paddock stated that in 2017, the Bureau will begin the stakeholder process to discuss items which are present on the law label. He said the goal is to update terms of filling materials in order to be more consistent with the rest of the nation, and an update has not taken place in several decades. In addition, the Bureau will be discussing plumage and feather requirements, and essential items that will help California become more consistent with other states. Some of these items include how thick a bold line should be, and whether or not a line has to cross the entire label. Mr. Paddock asked if there were any questions.

Mr. Grimes requested to discuss percentage requirements on law labels. He said that his association would like to eliminate percentage requirements on the current law label, but still keep the “New Materials” section which lists materials in order of predominance based on weight. He added that over the past several years, the Bureau has discussed whether or not to eliminate the percentage requirements, and it was included in the 2014 Sunset review. He clarified that he does not want to change plumage requirements, because they are directly related to product cost and if incorrect it could result in economic harm. He said he is proposing the elimination based on the following items:

1. Percentages do not equate to quality or comfort of a product.
2. The law label should not be a marketing tool. The consumer does not have a reference for comparison, because different products have a different size/weight ratio.
3. Consumers often want to know components for allergy reasons, which does not require them knowing how much of the material is in the product. A consumer attempting to calculate different percentages may lead to more confusion.
4. Listings effect the entire supply chain. Labeling leads to a high cost as a manufacturer and it is a cost issue to offset processes and enforcement. This would save the Bureau time.
5. The current law label is antiquated, burdensome, and costly to manufacturers. He said any style or component change will skew the percentages, and perhaps make the label inaccurate.
6. Each time percentages change, a new label has to be printed.
7. Manufacturers must have several labels on hand to show variances in percentages. If percentages are eliminated, the amount of labels would decrease drastically and processes would be standardized.

8. The food industry does not list ingredient percentages, but instead lists ingredients in order of predominance.
9. Only five states of 50 require a percentage listing.

Mr. Paddock asked if there was a way to estimate cost savings if the removal of percentages went into effect. Mr. Grimes responded by stating that cost savings isn't the largest factor, time is. He said the percentage requirement opens manufacturers up to enforcement penalties, and if they are removed that the Bureau would save time. He added that he has contacted four consumer groups to ask their opinion. He said AARP, Consumers Union, and Consumer Attorneys of California are all neutral. He stated that the Consumer Federation of California did not reply. He said he called the Manufacturers Association office, who showed no interest. He stated that he has received letters of support from major industry groups including the California Furniture Manufacturers Association, American Home Furnishings Alliance, Home Furnishings Association, and the Business and Institutional Furniture Manufacturers Association. Mr. Grimes summarized his point by stating the elimination of percentage requirements would cause no harm to the consumer, reduce the burden to the manufacturer, and create a more accurate law label.

Ms. Mikami inquired what would happen if one filling material has more than one component, such as a decking material. Mr. Grimes replied that most all use polyester, and that decking material consists of reconstituted fibers. Ms. Mikami asked about a cotton-poly blend futon. He said he does not think the consumer would care if the futon was 50 percent polyester and 50 percent cotton.

Laboratory Supervisor Cathalifaud stated that she believes Mr. Grimes is not suggesting the terminology be changed, but to drop the percentages. She added that a futon with blended fibers would be referred to as a textile fiber batting of an unknown kind. She also stated that if there were several components included, it would be called a polyurethane foam pad based on the weight. Ms. Cathalifaud said that the laboratory would not save time, because the chemists still needs to break down and weigh the components and obtain percentages to verify the materials are listed in the correct order.

Mr. Grimes asked if the order of material would be specified in a cotton-polyester blend. Mr. Paddock answered by stating that since law label terminology will soon be amended, the Bureau will research IABFLO recommended terminology as well as reusable fibers. He mentioned to Mr. Grimes that it will be necessary to calculate potential savings of removing percentages from law labels before posing an argument. Mr. Paddock said the topic is an argument of consumer information versus how onerous of a task adding percentages is for a business, and asked Mr. Grimes if an economist would see a large savings if percentages were removed from law labels. Mr. Grimes stated that there would be savings on printing since only two law labels would be required versus 20-30 labels.

Judy Levin asked if there is a similarity with textile labeling. She mentioned a Federal law regarding labeling, which requires manufacturers to label all contents, percentages, fiber names, and their origin. She stated if the amount of fiber is under five percent, the verbiage

“other fibers” is acceptable. Ms. Levin said that as a consumer, she prefers to be informed of percentages. She said a 55 percent cotton, 45 percent polyester product is different than a 95 percent cotton, 5 percent polyester product.

Mr. Grimes brought up the point that it is difficult to compare percentages of different materials. He used the example of 50 percent polyester is the size of half of a desk, whereas foam would be 1x1 cubic feet. He said there is no reference for the consumer. Ms. Levin said that she would prefer to talk more regarding the issue.

Mr. Paddock mentioned that Ms. Cathalifaud conducted a brief review of the Federal Trade Commission (FTC). Ms. Cathalifaud stated that FTC regulates outside cover fabrics. She said that all components within a fabric must be listed; however, if a fiber is less than five percent prevalent in a fabric, it does not need to be disclosed. Mr. Paddock asked if the Bureau’s variance of error is five percent, and she stated that it is, but a suggestion is to allow a ten percent variance. Ms. Cathalifaud said that Ms. Levin brought up good points regarding why percentages are important, and products such as shredded foam may be less expensive and the label may not portray the components correctly if percentages are dropped. Mr. Grimes added the point that there are expensive foams on the market such as latex and memory foam. Ms. Levin said she recently spoke with Richard Holober of the Consumer Federation of California, and he expressed reluctance to percentages being removed from labels. She added that she will put Mr. Grimes in touch with Mr. Holober.

Agenda Item #14: Summary of Home Furnishings Shared Responsibility Laws (Business and Professions Code sections 19072 & 19072.5) and Red Tags (section 19202)

Please reference page 29 of the Meeting Materials Packet.

Ms. McGavin opened the topic by reading Business and Professions (B&P) Code Section 19072. She stated the Bureau has experienced confusion or lack of knowledge from large corporation retailers. When field inspectors visit stores, quite often the management is not aware of the Bureau laws, nor do they know what their responsibilities are. She said the Bureau is trying to educate, especially on corporate levels, what the responsibility of the manufacturer, importer, wholesaler, and retailer are.

Ms. McGavin then read B&P Code Section 19072.5. She said most companies will acknowledge a label violation, and fully cooperate with the Bureau to amend their label. However, she said there is a misunderstanding and perhaps lack of education, because retailers do not always ensure products are properly labeled before they reach the sales floor. The Bureau is dedicated to educating retailers, offering a compliance plan, and the ability to put the compliance plan to use. Mr. Paddock added that he has noticed businesses will often remedy the label in question, but they will not remedy all of their other products’ labels. He added that the goal of the compliance plan is to enforce through education before taking punitive action.

Ms. McGavin referenced slide number three, read the Withhold From Sale tag, and explained that the next few slides illustrate the forms that businesses are given by field inspectors when a location is visited. The Inspection Report is issued to a business. The manufacturer of the product which has a label violation is listed, along with the name of the business. In most cases, the manufacturer and business name are different. A copy of the Inspection Report is given to the retailer, and another copy is sent to the manufacturer to inform them that California labeling requirements have not been met. She said that the next form is a Contact Report, which is given to the retailer. This form is used for the inspector to identify what violation(s) occurred of the practice act. The inspector will write a narrative of the articles found in violation, and give instructions regarding future steps the retailer must take in order to gain compliance. Slide six is a notice of Red Tag Withhold From Sale. The inspector will complete the top portion of the form; give a description of the items that are withheld, quantity, and reason for the Withhold From Sale tag. When a product is withheld from sale, the retailer can either destroy the product, ship it out of state, or properly re-label it. Quite often, the retailer will attempt to remedy the situation and neglect to notify the Bureau of its course of action. Ms. McGavin stated that the correct step is to contact the Bureau to arrange for an inspector to visibly witness the retailer either destroy, ship the product out of state, or re-label the product. Mr. Paddock added that the Bureau can have a field inspector visit a retail location within one week of notification from a manufacturer or retailer.

Ms. Bradley asked if a retailer can ship a product back to their manufacturer. Ms. McGavin stated that product can be shipped out of California to a distribution center in another state. Mr. Paddock added the Bureau needs to be aware of what action will be taken by the retailer or manufacturer, and gather proper evidence to ensure it took place. Ms. McGavin said unfortunately, quite often, retail management is disconnected from their corporate entity. The Bureau's goal is to educate corporate entities to ensure processes are set in place, so retail management is aware of how to handle a future field inspector visit and maintain compliance with the Bureau. Mr. Paddock added that a red tag violation is the worst violation under the Home Furnishings Act, which could result in revocation of a license. Ms. Bradley asked if a product is brought to the Bureau for testing if it's not labeled. Mr. Paddock stated that if a red tag has been placed, the product is not to be removed from the premises until a resolution is met. Ms. Bradley asked if there is a simplistic written process that could be shared with retailers. Mr. Paddock said that he is happy to provide more education materials, and will compose a brochure to distribute to retailers.

Agenda Item #16: TB 117-2013 and SB 1019 Compliance

Please reference page 30 of the Meeting Materials Packet.

Ms. Cathalifaud opened the topic stating that the laboratory has been extremely busy with accreditation and various projects in the past few months. She stated that the laboratory statistics can be found on page 31 of the Meeting Materials Packet. She briefly discussed each statistic, and said that DTSC analysis started as of January 1, 2016.

Mr. Paddock added that if there are questions regarding laboratory failures, he can give some details but cannot discuss specifics since the appeals timeframe has not yet been exhausted. A teleconference caller asked if the Bureau is looking for specific flame retardants, and stated that the definition is broad. Mr. Paddock agreed the definition is broad and added that there is a testing protocol on the DTSC website, and a link to it on the Bureau website. He said that just because DTSC doesn't find a violation, that does not necessarily mean there isn't a violation. DTSC will be periodically updating their testing procedure.

A teleconference caller asked if the laboratory failures were major or small failures. Mr. Paddock confirmed that the failures were major. Ms. Levin asked whether the failures were foam or fabric, and Mr. Paddock confirmed that the failures were shredded foam and bonded foam.

Ms. Cathalifaud added that statistics regarding testing can be found on page 32 of the Meeting Materials Packet. She said that enforcement actions are implemented when major labeling violations are found. Major label violations include: plumage, lack of percentages or components listed, lack of or an incorrect Uniform Registry Number (URN) on law label, and an illegible law and flammability label. She said that another major issue includes no box checked on SB 1019 statement.

Mr. Paddock stated that he is bothered by the large label failure rate. He added that if a label violation occurs, the manufacturer or retailer will not be eligible for reimbursement for the product that has been taken from the showroom floor. He said that when the Bureau notices a violation, a detailed report is mailed to both the retailer and manufacturer. Ms. Bradley said retailers are educated to ensure there is a label and the box is checked, but not that retailers need to be aware of all the specifics a label must have. Retailers will need to know exactly what they are responsible for knowing and how to handle any concerns so they are not penalized if there is a minor issue such as font-size or other particular issues regarding labeling. Responsibility for correct labeling should lie in the manufacturers' hands. She added that education is important.

Mr. Paddock continued by saying the Bureau met with DTSC, and there will be no testing changes in fiscal year 2016-2017, but there are anticipated changes for testing protocol in fiscal year 2017-2018. He said that the Bureau will announce what changes will be made in February of 2017, and they will be available in writing by May 1, 2017.

Mr. Paddock said that the Business & Institutional Furniture Manufacturers Association (BIFMA) and Ikea have asked the Bureau about whether or not several substances meet the definition of an FR chemical. He said that in statute, all inquired substances met the definition of an FR chemical. He said by statute an FR chemical can be defined as any compound for which the functional use is to resist or inhibit the spread of fire. If those products are used in covered materials, the box must be checked "yes."

Mr. Paddock stated that the Bureau will be changing the reporting of enforcement statistics in the October 2017 advisory council meeting. He said there will be a section regarding manufacturers violating SB 1019. Mr. Paddock added that he would like to ensure that SB 1019

and TB 117-2013 violations are extracted so the problems can be identified. He added there may or may not be enforcement action due to culpability with the retailer, which would be a separate action.

Agenda Item #17: Technical Bulletin 133 Status

Mr. Paddock said that several organizations have expressed interest in the repeal of TB 133 and 116. TB 133 is the Bureau's most stringent upholstered furniture flammability test, and is designed for specific areas of high occupancy. If a high occupancy building meets certain sprinkler requirements, upholstered furniture that resides inside of the building will not have to meet TB 133. However, if the building does not meet sprinkler requirements, all upholstered furniture must meet TB 133. The two ways to meet the standard are to either include a fire barrier within a product, or to treat the product with added FR chemicals. Mr. Paddock said BIFMA, AHFA, along with several other entities have asked the Bureau to repeal the TB 133. Mr. Paddock has asked for follow-ups on healthcare and education facility statistics. The Bureau will begin compiling its own data, and Mr. Paddock will present a rule-making package to repeal TB 133 requirements for areas of high occupancy. More data will be collected and presented to the advisory council at the October meeting. He added the Bureau has control over Title 4 CCR 1374, but does not have control over Title 24 Part 9, which would remain in effect. Mr. Paddock clarified that if the Bureau proceeds and repeals the provisions set in its own code, it would be the first step of many. He said there remains an ASTM standard which will continue to exist, alongside the Business and Professions Code standards.

A teleconference member asked if either BIFMA or AFHA said anything specifically about going to ASTM, and Mr. Paddock said he does not think so. He added that there is an effort in Canada to implement a standard similar to TB 133, and he will be writing a letter for release next month informing the country that the Bureau is looking into the repeal of TB 133. He stated that DTSC is working on a briefing document that is due to the Commission in September. He added that even if TB 133 is repealed, if a company advertises that they meet TB 133 the Bureau will still test to confirm that is a truthful statement.

Agenda Item 18: Barrier Research Study Update

Mr. Paddock stated that the Bureau is well underway on its Barrier Research Study, which he hopes to have finalized by the end of 2016. The small scale testing is complete on all 25 barriers, and a large scale validation test has been proposed to the Phase Two group. Several comments have been received, and a revised version of the large scale validation test is located on Page 34 of the Meeting Materials Packet.

Mr. Paddock reviewed some highlights regarding changes from the Phase Two group:

- Clarified the back cushion on mockup will rest on top of seat cushion, and drawings have been changed to reflect this.
- Sentence added stating all sides of cushion will be sewn, and no zippers will be used due to concerns that zippers would produce false results.

- Added a photograph of a metal test frame the Bureau will use to produce mockup tests.

He said he will accept comments regarding the new protocol for one more week, and will then give any comments to the Phase Two group for final revisions. The Bureau is seeking comments on validation protocol by the end of July, so testing can begin shortly thereafter. In the meantime, Mr. Paddock stated that the Bureau will be obtaining all needed materials to run the tests.

Mr. Paddock added that Dr. Heather Stapleton has been extremely generous and charged the Bureau a minimal cost to conduct a flame retardant analysis on all 25 barriers. The Bureau is currently finalizing the contract with Duke University, and then will be shipping samples to the University for the flame retardant analysis.

He stated that a cost benefit analysis and literature review have been proposed in the Bureau's Phase Three costs. Mr. Paddock has been in conversation with two economists who are interested in conducting a cost effectiveness study. He said both economists feel the number will be substantial, and they feel confident the work will be completed within three to four months since they are members of the public university system. He added that he hopes to have a contract in place shortly.

Donald Lucas referred to a previous phone call, and asked Mr. Paddock if the National Institute of Standards and Technology (NIST) had provided their testing results. Mr. Paddock said he has not had success obtaining results yet, but he will reach out again.

Agenda Item 19: Home Furnishings Retail Advertisement Survey Update

Please reference page 38 of the Meeting Materials Packet.

Mr. Paddock stated that this agenda item is in reference of how sales are advertised in the state of California. He said that his findings will likely result in a regulation on commercial speech, and it is imperative that commercial benefit is balanced with business. Mr. Paddock said that according to his findings, with the exception of mattresses there were no markups over 225 percent. He added that most of the higher priced items were priced according to high freight cost to transport a product to a showroom floor. He said that freight costs in larger metropolitan area are consistent, but they vary in locations that are further away from trade centers.

Mr. Paddock said he does not understand the variance in mattress markups, because mark-ups vary anywhere from 100-300 percent. He said he needs to conduct additional research, and if anyone knows who he can speak with, he would like contact information. However, furniture markup is much lower. He said in economically depressed neighborhoods, furniture may only be marked up 30-40 percent.

Mr. Paddock stated that retailers often neglect to inform the Bureau when they are going out of business. Some retailers feel the task is too tedious, and others do not. The Bureau is currently

working with the Office of Information Services to develop “click-and-send” notification models to help promote the ease of reporting a closed location.

He added that 90 percent of retailers do not feel that reporting their inventory during a liquidation sale is onerous, but would prefer ten days to send an inventory report. Mr. Paddock said once the Bureau receives an inventory report, he wants to send an inspector to the business location to confirm the veracity of the inventory. The purpose of confirming the inventory is to ensure that it is, indeed, shrinking.

Mr. Hawkins inquired why the Bureau would like to know the markup on bedding. Mr. Paddock stated that the reason he wants to know the average markup price is to ensure that businesses are being as truthful as possible in their advertising.

Agenda Item 21: Public Comment on Home Furnishings and Thermal Insulation Items not on the Agenda

There was no additional public comment. Mr. Paddock stated the next meeting will be on October 13, 2016.

Agenda Item 22: Adjournment

Mr. Paddock briefly introduced Mr. DiGirolamo, who was able to attend the afternoon portion of the meeting. Mr. DiGirolamo greeted the council and stakeholders, and said he is new to the Bureau and state service. He has extensive experience in management of people, organizations, and call centers in the software and technology industry sector. He has received his Masters of Public Administration. He said to feel free to call him, especially with tips.

The meeting adjourned shortly after 2:00 PM.