



**Bureau of Electronic and Appliance Repair,
Home Furnishings and Thermal Insulation
November 15, 2016 – Advisory Council Meeting Minutes**

Attendees:

- Council Members: Sharron Bradley, Industry
Burt Grimes, Industry
Judy Levin, Public
Donald Lucas, Public
Joanne Mikami, Public
Leonard Price, Public
David Spears, Industry (teleconference)
David Velazquez, Industry
David Yarbrough, Industry
- Stakeholders: Mo Anooshah, Kolcraft Enterprises
Pascal Benyamini, Drinker Biddle
Jimmy Fremgen, CA Asm. Business & Professions Committee
Jim Groulx, BIFMA
Mike Robson, American Chemistry Council
- Govt. Personnel: Carrie Cathalifaud, Bureau Laboratory Supervisor
Dale Chasse, Deputy Bureau Chief
Richard DiGirolamo, Bureau Investigations Manager
Nicole Dragoo, Bureau Enforcement Analyst
Yeaphana LaMarr, DCA Legislative & Review Division
Michelle Linton-Shedd, Bureau Licensing Analyst
Justin Paddock, Bureau Chief
Terri Rice, Bureau Policy Analyst
Karen Skelton, Bureau Licensing & Policy Manager
Avra Wallace-Schoell, Bureau Licensing Technician
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.

Bureau Chief Paddock opened the meeting and thanked everyone for their attendance. He added that David Yarbrough flew across the country to be present, and Tim Hawkins resigned from the Advisory Council due to a conflict issue. He stated that Mr. Hawkins may join the Advisory Council again once the conflict is resolved.

Agenda Item #2 – 2017 Meeting Dates

Mr. Paddock said that he would like to hold an Advisory Council meeting in the Northern California Bay Area in 2017. The Council discussed several different dates and decided on the following tentative schedule:

- February 23, 2017 in Los Angeles, CA.
- July 20, 2017 in Bay Area, CA.
- November 9, 2017 in Sacramento, CA.

Agenda Item #3 – Licensing and Enforcement Update

Please reference pages 3 – 8 of the Materials Packet

Licensing Analyst Linton-Shedd opened the topic by discussing licensing statistics. She referenced the table on page 4 of the materials packet and stated that the Electronic and Appliance Repair (EAR) and Home Furnishings and Thermal Insulation (HFTI) statistics were both steady with slight increases. Mr. Paddock mentioned he had read information that suggested new furniture retail locations will steadily open with new residential construction. Burt Grimes and Sharron Bradley agreed that new construction helps the economy. Ms. Bradley asked if the Bureau issues furniture retail licenses per location or specific retailer. Mr. Paddock clarified by stating each retail store must have an individual license.

Deputy Bureau Chief Chasse reviewed the table on Page 6. He said cases that have been forwarded to the Attorney General's (AG) Office take time to finalize and the number of pending cases should soon be reduced. Mr. Grimes asked if individuals with pending AG cases are still in business, and Mr. Paddock clarified they are still in business until their case is adjudicated. Mr. Chasse added the Bureau attempts to mitigate any potential consumer harm during pending cases. He said once a case is finalized, the Bureau will grant a probationary license to a business that requires special attention to ensure they are compliant.

Mr. Chasse said the \$0 citation has been an invaluable enforcement tool, as has the telephone disconnect process through California Public Utilities Commission (CPUC). He added that disconnecting a business telephone number often produces a quick reaction and compliance from a business.

Joanne Mikami asked if all of the statistics on page 6 were current through September 30, 2016. Mr. Paddock affirmed that the fiscal year for state agencies begins July 1, so the current 2016-2017 statistics are only for the first quarter. He asked if there were any questions regarding statistics for Mr. Chasse.

Mr. Paddock mentioned the Bureau has received three Department of Toxic Substances Control (DTSC) failures. He explained in one situation, the listed manufacturer did not manufacture the procured product and the Bureau is attempting to locate the counterfeiter. The Bureau is beginning to utilize the Shared Responsibility statute (Business and Professions Code Section 19079) to implement enforcement and/or disciplinary action on associated importers instead of

solely on the manufacturer. Mr. Paddock said as a result some new citations will be issued, and once their appeal processes have been exhausted, he will report the information. He added that another manufacturer has gone out of business and the Bureau is now securing citations against the manufacturer's owner. He stated the Bureau is anticipating sending another 10 samples to DTSC this year. He added the Bureau will be re-negotiating fees with DTSC in a Memorandum of Understanding. Mr. Paddock said that in the future he will provide percentages of passes versus failures, but will not be releasing specific numbers. Mr. Grimes asked how many failed samples were domestic versus imports. Mr. Paddock stated that one was domestic, and two were imports.

Investigations Manager DiGirolamo joined the Bureau prior to the previous Advisory Council Meeting. He said the Bureau has new standard operating procedures which will be reported during the Sunset Review process to Legislature. He added that moving forward, general consumer complaints will take precedence over complaints of unlicensed activity.

Mr. DiGirolamo referenced the table on page 8. He said that the 2015 Southern California sweep was an effective way to cover a lot of territory, so the Bureau decided to conduct a Northern California sweep in early September to follow-up on complaints, delinquent licenses, and unlicensed businesses. He said the Bureau also attended several outreach events with field staff. Mr. DiGirolamo mentioned that the Bureau is currently down one Field Representative in Northern California and is looking forward to hiring a new full-time employee. He said the examination for the position closes on November 18th, and he anticipates the Bureau will hire a new employee in mid-to late January. Donald Lucas asked how long it takes to conduct 15 site visits. Mr. DiGirolamo said the sweeps took between four and five days, and the time will be reduced once another Field Representative is on board. Mr. Chasse mentioned that he and Mr. DiGirolamo worked four 10-hour days, and that complaints and infractions take more time than delinquent and unlicensed activity. Mr. Paddock clarified that if a potential licensee receives an infraction, they must appear before a judge and explain why they have not applied for a Bureau license. The Bureau Representative must also attend the court date. Judy Levin asked if any of the delinquent businesses had gone out of business at the time of follow-up. Mr. Chasse clarified by stating the Bureau performed a database clean-up and research to confirm whether or not they were still in business prior to conducting a field visit. Ms. Mikami inquired how many Field Representative vacancies the Bureau currently had. Mr. DiGirolamo stated two individuals retired, but the Bureau will currently be hiring one replacement who will cover Northern California to the Oregon border. Mr. Paddock asked if there were any further questions. David Spears asked if most businesses were brick and mortar or residential-based, and Mr. DiGirolamo said there is a mix of both. He added that a lot of EAR businesses are residential based, and it can be difficult to contact business owners at home to issue an infraction. Mr. Spears said it sounds as if many business owners may state they are out of business when, in fact, they are still operating. Mr. DiGirolamo affirmed this, and stated he attempts to obtain a declaration from all business owners who state they are no longer in business. Mr. Paddock said once a declaration is signed, the Bureau will place a cold-call and seek a repair. Mr. Grimes asked if the enforcement sweep was both EAR and HFTI. Mr. DiGirolamo stated that because there are more HFTI Field Representatives, the inspections were primarily EAR.

Mr. Grimes asked how many EAR and HFTI Field Representatives there are. Mr. Chasse said there are three EAR Field Representatives and six HFTI Field Representatives. The Bureau will be fully staffed with five EAR Field Representatives. Mr. Velazquez asked if in the future the number of residential businesses versus brick and mortar can be included in statistics. Mr. Chasse affirmed that the Mr. DiGirolamo will track that statistic in the future.

Agenda Item #4- Legislative Update

Legislative and Policy Analyst LaMarr opened the topic by stating Senate Bill (SB) 1046 authored by Senator Hill was signed and will be effective January 1, 2017. She summarized the bill and explained that it authorizes BEARHFTI and the Bureau of Automotive Repair (BAR) to cite, suspend, revoke, or place on probation the registration of an automotive repair dealer or service dealer who installs, calibrates, services, maintains, or monitors ignition interlock devices (IID) if the automotive repair dealer or service dealer is not in compliance with specified provisions relating to payment for the costs of an IID and would require an automotive repair dealer or a service dealer to provide that information to an individual receiving IID services. She said the Department of Consumer Affairs (DCA) is currently setting a meeting with the Department of Motor Vehicles (DMV), BEARHFTI and BAR to discuss particulars. She stated the bill does not provide much guidance.

Ms. LaMarr then discussed SB 763 which defines juvenile products, and requires the same testing and labeling requirements as SB 1019. She said she was contacted by Senator Hill's office and the bill may be reintroduced in the upcoming legislative session, which reconvenes on December 5, 2016. She said Senator Hill's office questioned the history of the bill, and if the bill would be effective. She said she informed the office it is a policy issue and the Department does not currently have an approved position from the Governor's Office.

Agenda Item #5 – Regulatory Update

Please reference page 9 of the Materials Packet.

Policy Analyst Rice summarized the table presented on Page 9. There were no further questions.

Agenda Item #6 – Budget Update

Mr. Paddock opened the topic by stating that the Bureau was in danger of becoming insolvent when he was first appointed as Chief. The Bureau's "months in reserve" have since increased to five months for both EAR and HFTI. The "months in reserve" is equal to the amount of months the Bureau can operate on a day-to-day basis without additional revenue. He said he would prefer to increase the Bureau's reserve to nine months. Mr. Paddock stated the Bureau was able to work with the Department to bring the Complaint Resolution Program to the Bureau as an in-house unit. The addition of the Complaint Resolution Unit and an increase in licensing fees are improving the Bureau's fiscal outlook. Mr. Paddock added he plans to provide a budget update at future Advisory Council Meetings. He asked if there were any questions, and Ms. Mikami asked the annual budget amount for both HFTI and EAR. Mr. Paddock stated that

the annual budget for HFTI is approximately six million dollars, and the annual budget for EAR is approximately three million dollars. There were no further questions.

Agenda Item #7 – Bureau Outreach Update

Please reference pages 13-15 of the Materials Packet

Mr. Chasse discussed the table presented in the materials packet with the exception of social media development, which Enforcement Analyst Dragoo discussed. Mr. Chasse stated that the Bureau attended at least 20 different functions in 2016. Bureau representatives talked to students at community colleges and vocational schools, which he said was very well received. Ms. Bradley asked if she could have some brochures to distribute, and Mr. Chasse stated he will order some more brochures in the near future. Ms. Levin said that the flammability label in the brochure should have the box “Does Not Contain Flame Retardants” checked.

Mr. Paddock stated that in regard to Thermal Insulation, the Bureau typically corresponds with manufacturers. He said that Chemist Fischer is able to answer most questions that licensees have, and asked Mr. Grimes if he believes there needs additional outreach. Mr. Yarbrough said there are new product concepts and ways of taking measurements. Mr. Paddock agreed that new roofing shingles are a good example and the laboratory is currently trying to determine the appropriate tests in order to certify it in the Bureau registry. He acknowledged that testing standards do not keep up with innovation, and that he would like to chat with Dr. Fischer and Mr. Yarbrough after the meeting.

Agenda Item #8 – Bureau Operations Update

Please reference page 17 of the Materials Packet

Mr. Chasse introduced the topic by reviewing the bullets in the Bureau Operation Update. He elaborated by stating that a lot of Bureau enforcement is able to be accomplished at headquarters in order to keep costs down. Mr. Paddock mentioned that in the past, field reports were faxed to the Bureau, but they are now scanned by the purchased combination units and e-mailed to the Bureau. This enables enforcement analysts to receive paperwork regarding cases in a more timely fashion.

Mr. Paddock stated the Bureau has signed many contracts to enable laboratory instrument calibration to be performed on-site by contractors. He also said the laboratory should be accredited by the American Association for Laboratory Accreditation (A2LA) within the next week. Ms. Mikami mentioned that the laboratory had already been certified for insulation, and asked if this new accreditation would differ. Mr. Paddock stated as a part of Title 24, the laboratory must be accredited. He elaborated by saying that A2LA accreditation across-the-board will save money, and the laboratory has reformed all of its standard operations procedures. There were no further questions.

Agenda Item #9 – Service Contract Working Group Report

Please reference the following link for the full Service Contract Working Group Report:

http://bearhfti.ca.gov/forms_pubs/service_contract_working_group_r1.pdf

Ms. Skelton opened the topic by stating that the purpose of the Service Contract Working Group is to help overhaul laws and regulations which have not been updated since 1999. She gave recognition to all members, attorneys, retailers, colleagues at the Department of Insurance, and the Department's legal counsel Spencer Walker for the extensive amount of time and effort put forth toward the report. Ms. Skelton then discussed the timeline of service contract history in California. She said the Service Contract Working Group discussed whether or not current regulations are relevant, up to date, and capturing issues in today's market. Consumer surveys were conducted to gauge whether or not consumers know what they're paying for when they purchase service contracts, and whether or not they believe service contracts are worthwhile. Ms. Skelton said the consensus was formed that consumers still believe service contracts are valuable, and the Bureau must ensure consumer protection. Taking all of the above into consideration, the Service Contract Working Group developed a number of recommendations which can be referenced on pages 19-33 of the Report.

Licensing Analyst Watts discussed the first five recommendations of the Service Contract Working Group. The second recommendation mentioned that Song-Beverly has two separate cancellation "free-look" periods. The "free-look" period for electronics, appliances, and vehicles is 30 days, whereas all other consumer products have a 60 day "free-look" period. Mr. Watts stated the Service Contract Working Group recommends making the "free-look" period uniform throughout coverage and reduce it to 30 days. Judy Levin asked why the Service Contract Working Group recommends to reduce the "free-look" period instead of increasing it to 60 days. Mr. Paddock explained the Bureau does not have an official position on the report, other than potentially providing technical expertise to the legislature. Ms. Levin reiterated that a reduction in the "free-look" period is concerning, and Mr. Paddock stated he believes the concern is shared. He added that the Report will be prepared and submitted in November of 2017 and he will collect comments from the Council in July.

Mr. Watts finished reviewing the first five recommendations, and Ms. Skelton reviewed the final five. There were no further questions or comments.

Agenda Item # 10 – 2016 Vocational School Report

Mr. Paddock opened the topic by stating that once the Bureau visited Los Medanos College in Pittsburg, California and became acquainted with Leonard Price, an interest was sparked in vocational schools providing appliance and electronic repair programs. Mr. Paddock said in addition to Mr. Chasse and Mr. DiGirolamo visiting Los Medanos College, he visited Hacienda La Puente Adult Education in Southern California and became acquainted with Mr. Sengupta

and Mr. Cenicerros who lead the appliance and electronic programs, respectively. He mentioned the only two colleges that offer an appliance repair program are Los Medanos and Hacienda La Puente Adult Education.

Ms. Mikami inquired about correctional facilities offering appliance or electronic repair programs. Mr. Paddock said he contacted Folsom Prison and confirmed they do not offer appliance or electronic repair programs. Mr. Price mentioned a lot of manufacturers require criminal background checks which may limit the size of the industry. He added that when he first became employed with Los Medanos College, about 12 community colleges offered appliance training, but it is a challenging and expensive program for schools to maintain with a dwindling job market and the programs have been cut. Mr. Velazquez stated the growth for appliance retail sales has climbed 25% the past few years, and the industry is challenged for the capacity of those who can perform timely service. He used a broken refrigerator as an example; food can last for three or four days, but food loss will occur after that timeframe.

Mr. Paddock said he believes promoting that educational institutions offer an appliance program may help increase the number of available technicians as retail sales of appliances increase. He said he visited a few other campuses in Southern California, and would like to revisit advocating the addition of appliance programs to these schools in the future. He added that a criminal conviction does not necessarily mean an applicant will be denied licensure by the Bureau. Mr. Paddock stated that the Bureau reviews an applicant's rehabilitation record prior to denial, and considers probationary terms as an alternative to a license denial whenever possible. He said the Bureau takes criminal reviews seriously and wants to help individuals rehabilitate.

Mr. Spears added that there used to be 70 appliance repair programs in California, but funding was taken away from vocational programs and given to the public school system. This, in turn, caused many vocational school programs to close their doors. He said local school counselors did not recognize the importance of appliance courses and referred students to automotive and plumbing programs. He added he has read the annual wage reports for appliance repair technicians are extremely low compared to other industries. Mr. Paddock asked the appropriate annual wage of an appliance service dealer. Mr. Spears and Mr. Velazquez concurred that the average wage should be within \$70,000-\$90,000 per year depending on the location in California.

There were no further questions or comments.

Agenda Item # 11 – Law Label Update

Please reference pages 19-21 of the Materials Packet

Laboratory Supervisor Cathalifaud stated that the Bureau is planning on implementing overdue updates to its law label requirements in order to make them more consistent with the rest of the country. She reviewed the points that are outlined in the materials packet. A Business and Institutional Furniture Manufacturers Association (BIFMA) representative questioned the printing of text on the SB 1019 label. He said according to specifications, the spacing between words

may be the same as between letters. Ms. Cathalifaud agreed she has seen labels with print spaced in this manner. She elaborated by stating California regulation states print must be 1/8” in either lower case or capital letters.

The BIFMA representative also mentioned that seating product may have a plywood base of fiberboard and everything may be printed on a cover stapled to the fiberboard. He stated the material does tear, and questioned whether or not California regulation allows the specific cover material. Ms. Cathalifaud clarified by stating that California regulation does allow the printing of labels on slip seats, but it must be a white background with black print and be difficult to tear.

Mr. Yarbrough said informing a word processor that print must be 1/8” in height is confusing. Ms. Cathalifaud mentioned the California regulation does not specify the font or print type, just that it be 1/8” in height. She agreed that labels may be printed in creative fashion to meet the required specifications. Mr. Paddock stated the Bureau is attempting to make California regulation similar to sister state agencies across the nation, so long as there is not a consumer protection issue. Ms. Mikami added that at the time of the implementation of law labels, computers were not yet in use and the print needed to be specified by measurement. Mr. Paddock mentioned that he can suggest a specific font type and size at the International Association of Bedding and Furniture Law Officials (IABFLO) Conference.

A teleconference participant inquired whether or not product had been purchased online for laboratory evaluation. Mr. Paddock stated that the Bureau will start making online purchasing in 2017. Ms. Levin asked if the law states the label print must be a minimum of 1/8”, or exactly 1/8”. Ms. Cathalifaud stated that it is a minimum regulation and the print can be larger. Mr. Grimes mentioned he is glad the Bureau is updating its law label regulations, and added a friend who has been a manufacturer for 30 years was unaware that there are both Type 1 and Type 2 labels.

Agenda Item # 12 – Furniture Reimbursement

Mr. Paddock stated that the Bureau is currently at a five month turn-around for furniture reimbursement, which he prefers to be reduced to just under four months. He stated that the Bureau laboratory accreditation has slowed down the furniture reimbursement process, but he anticipates the laboratory will earn full accreditation and be fully functional by January 1, 2017. Mr. Grimes asked how long it currently takes the Bureau to report laboratory testing results, and Mr. Paddock stated it takes approximately 60 days but hopes to reduce in-house reports to 45 days. He mentioned that it will take longer to obtain test results of furniture that is sent to Department of Toxic Substances Control (DTSC).

Agenda Item 13 – TB 117-2013 and SB 1019 Compliance

Please reference page 23 of the Meeting Materials packet.

Mr. Paddock opened the topic by stating the Bureau is trying to reduce DTSC failures and has been learning through investigation. He said when the Bureau cannot make contact with

overseas manufacturers through enforcement action, once the citation appeal process has expired, the Bureau will contact the furniture retailer. He stated the Bureau usually receives a positive response which results in the retailer removing the non-compliant product from their inventory. Mr. Paddock said Cost Plus recently removed a product from their sales floors in California immediately after they were notified that it was non-compliant.

Mr. Paddock said the Bureau laboratory lists the components layer-by-layer in an upholstered furniture product in its reports. He said when he requests formal documentation from a manufacturer, the company will often send in declarations from their component suppliers or test documentation stating their components contain no flame retardant chemicals. He added that test reports need to be very specific, and if they are not then he also requires a signed declaration. He stated the declaration must specify both density of the foam and/or color of the cover fabric. Jim asked if the color of fabric is tied into pattern, and Mr. Paddock clarified that cover fabrics with patterns are more difficult to delineate than foams. He said they may have several different suppliers who use a code to specify what is treated with flame retardant chemicals vs. what is not.

There were no additional questions.

Agenda Item 14 – Technical Bulletin 133 Proposal Review

Mr. Paddock stated after the Bureau reviewed data from multiple sources and concluded the current standard of TB 133 is not necessary. He is still reviewing information pertaining to national standards, and would like to gather more information from field experts in regards correctional facilities, mental institutions, nursing homes, board and care, convalescent hospitals, stadiums, etc.

Mr. Paddock said he recognizes that a phasing-in period was necessary for the adoption of TB 117-2013 to ensure manufactured product was meeting the new flammability test, and asked if there are any industry concerns in regards to the repeal of TB 133.

A teleconference participant asked if a final adoption of TB 133 would be available within three to four months. Mr. Paddock stated that the formal part of the process will begin in May or June of 2017, and a 45 day comment period will follow. He stated that if the repeal moves forth, it would likely go into effect January 1, 2018.

Agenda Item 15 – Barrier Research Study

Mr. Paddock opened the topic by stating that the Bureau's contract has been finalized with Duke University, and Ms. Cathalifaud is currently packaging barriers to be sent to the University for testing. He stated that the Bureau should receive flame retardant results on the barriers by early 2017. Mr. Paddock added he is finalizing the scope of a recent project with a professor at California State University, Sacramento who works with state agencies of cost effectiveness studies. He said he hopes to move into a contract process in early December and projects the study will be completed by spring of 2017.

Agenda Item #16 – Home Furnishings Retail Advertisement Survey

Please reference page 25 of the Materials Packet.

Licensing Technician Wallace-Schoell reviewed the points outlined on page 25. Ms. Bradley stated she agrees that retailers should be allowed to ask for a request for extension for a “special sale” to last more than three months. Mr. Paddock agreed, and added that the three-month rule is a baseline. Ms. Bradley inquired if the definition for special sale would be changed, and Mr. Paddock stated it will be updated. Mr. Paddock said the Bureau will create a form that allows retailers to inform the Bureau when they are holding a special sale. Ms. Wallace-Schoell specified that special sales will include long term sales and not yearly holiday sales. Mr. Spears asked if this topic included both appliances and furniture, and Mr. Paddock clarified that it is only applicable to home furnishings.

Mr. Paddock added this is to help ensure there is truth in advertising, and the Bureau will confirm the truth in advertisement by assessing the store’s inventory.

Mr. Grimes asked how many survey responses had been obtained, and Mr. Paddock said that 26 responses were included in the results, but 9 more will be added.

Agenda Item #17 – Bureau Work Plan

Mr. Paddock stated the Bureau had been working with the Consumer Product Safety Commission (CPSC) based on TB 117-2013 smolder standards. He added that experts questioned several technical concerns, and a lot of those concerns can be alleviated by having staff visit the Bureau and to run tests. Mr. Paddock said in the early part of 2017 a few cubicles will be placed in the laboratory for this purpose.

Mr. Paddock mentioned that DTSC will be modifying current SB 1019 test procedures. He added in March the Bureau will ensure test protocol is published to allow time for feedback. He said as the Bureau enters summer and fall of 2017, his attention will be directed toward the Bureau’s Sunset Review Report which must be submitted by November of 2017. Mr. Paddock added one of the topics addressed in the Sunset Review Report will be transitioning to an annual licensing fee schedule. Current licensing fees would be halved. Mr. Spears asked if advertising and handyman services would be covered in the Report, and Mr. Paddock said they will be. Mr. Spears also asked if advertisement in a web domain will be addressed, and Mr. Paddock said the Bureau does not have jurisdiction on the issue, but he will be able to include the Bureau license number being present on business cards and advertisements.

There were no further questions.

Agenda Item 18 – Public Comment on Any Items not on the Agenda

Ms. Bradley asked if the standard formula mentioned in the Truth in Advertising for Furniture Retailers Survey Summary would be a recommended or required formula. Mr. Paddock stated it will be a required formula set in place to define prevailing market price.

There were no further questions.

Agenda Item 19 – Adjournment

Mr. Paddock adjourned the meeting at approximately 11:50 AM.