July 18, 2019 Advisory Council
Meeting Materials Packet

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

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

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

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

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

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

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

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

2. Operations Update
   a. Budget
   b. Personnel

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

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

5. Regulations Update
   a. Substantial Relationship Criteria and Rehabilitation Criteria – Amendments to Title 4, California Code of Regulations (CCR) §§1380 and 1381; Title 16, CCR §§2767 and 2768; and new CCR sections, Title 16
   b. Household Mover Regulations – Initial Rulemaking Proposal
6. Division of Household Movers Update  
   a. California Moving and Storage Association (CMSA) Conference  
   b. Household Movers Application Workshops  
   c. Additional Online Resources (fillable forms and outreach)

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

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

9. Public Comment on Items Not on The Agenda

10. Future Agenda Items/Confirmation of Next Meeting Date

11. Adjournment
Agenda Item 2a: Budget Update
### Analysis of Fund Condition
(Dollars in Thousands)

#### Gov Budget

<table>
<thead>
<tr>
<th></th>
<th>Prelim PY Actuals 2017-18</th>
<th>Prelim CY 2018-19</th>
<th>Governor's Budget BY 2019-20</th>
<th>BY+2 2020-21</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>BEGINNING BALANCE</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Prior Year Adjustment</td>
<td>$2,848</td>
<td>$2,962</td>
<td>$2,768</td>
<td>$3,071</td>
</tr>
<tr>
<td>Adjusted Beginning Balance</td>
<td>$2,848</td>
<td>$2,962</td>
<td>$2,768</td>
<td>$3,071</td>
</tr>
<tr>
<td><strong>REVENUES, TRANSFERS, AND OTHER ADJUSTMENTS</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Revenues:</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4121200 Delinquent fees</td>
<td>$108</td>
<td>$108</td>
<td>$97</td>
<td>$97</td>
</tr>
<tr>
<td>4127400 Renewal fees</td>
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<td>$2,194</td>
<td>$2,511</td>
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<tr>
<td>4129200 Other regulatory fees</td>
<td>$20</td>
<td>$25</td>
<td>$29</td>
<td>$30</td>
</tr>
<tr>
<td>4129400 Other regulatory licenses and permits</td>
<td>$398</td>
<td>$231</td>
<td>$627</td>
<td>$627</td>
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<tr>
<td>4163000 Income from surplus money investments</td>
<td>$9</td>
<td>$56</td>
<td>$52</td>
<td>$50</td>
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<tr>
<td>4171400 Escheat of unclaimed checks and warrants</td>
<td>$2</td>
<td>$12</td>
<td>$10</td>
<td>$10</td>
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<tr>
<td>Total Revenues, Transfers, and Other Adjustments</td>
<td>$2,980</td>
<td>$2,626</td>
<td>$3,326</td>
<td>$3,325</td>
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<tr>
<td>Total Resources</td>
<td>$5,828</td>
<td>$5,588</td>
<td>$6,094</td>
<td>$6,396</td>
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</table>

|                      |                           |                   |                             |              |
| **EXPENDITURE AND EXPENDITURE ADJUSTMENTS** | | | | |
| Expenditures:        |                           |                   |                             |              |
| 1111 Department of Consumer Affairs Regulatory Boards, Bureaus, Divisions (State Operations) | $2,701                  | $2,664            | $2,829                      | $2,886       |
| 8880 Financial Information System for California (State Operations) | $4                        | $-                | $-                          | -            |
| 9892 Supplemental Pension Payments (State Operations) | $-                        | $21               | $46                         | $21          |
| 9900 Statewide General Administrative Expenditures (Pro Rata) (State Operations) | $161                      | $135              | $149                        | $135         |
| Total Expenditures and Expenditure Adjustments | $2,866                    | $2,820            | $3,023                      | $3,042       |

|                      |                           |                   |                             |              |
| **FUND BALANCE**     |                           |                   |                             |              |
| Reserve for economic uncertainties | $2,962                  | $2,768            | $3,071                      | $3,354       |
| Months in Reserve    | 12.6                      | 11.0              | 12.1                        | 13.0         |

**NOTES:**
A. Assumes workload and revenue projections are realized.
B. Assumes interest rate at 0.361%.
C. Assumes appropriation growth of 2% per year.
D. Projections through FM 10
# 3315 - Household Movers Fund

## Analysis of Fund Condition

(Dollars in Thousands)

<table>
<thead>
<tr>
<th>Gov Budget</th>
<th>Prelim PY Actuals</th>
<th>Prelim CY</th>
<th>Governor's Budget</th>
<th>Governor's Budget</th>
<th>Governor's Budget</th>
</tr>
</thead>
<tbody>
<tr>
<td>BEGINNING BALANCE</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Prior Year Adjustment</td>
<td>$ -</td>
<td>$ -</td>
<td>$ 1,814</td>
<td>$ 2,244</td>
<td>$ -</td>
</tr>
<tr>
<td>Adjusted Beginning Balance</td>
<td>$ -</td>
<td>$ -</td>
<td>$ 1,814</td>
<td>$ 2,244</td>
<td>$ -</td>
</tr>
</tbody>
</table>

## REVENUES, TRANSFERS, AND OTHER ADJUSTMENTS

| Revenues: | | | | | | |
|-----------|----------------|----------|-------------------|-------------------|-------------------|
| 4129200 Other Regulatory Fees | $ - | $ 2,041 | $ 2,596 | $ 2,596 | $ - | $ - |
| 4129400 Other Regulatory Licenses and Permits | $ - | $ 90 | $ 90 | $ 90 | $ - | $ - |
| 4163000 Investment Income - Surplus Money Investments | $ - | $ - | $ 40 | $ 40 | $ - | $ - |
| 4173000 Penalty Assessments - Other | $ - | $ 1 | $ 1 | $ 1 | $ - | $ - |
| Totals, Revenues | $ - | $ 2,132 | $ 2,727 | $ 2,727 | $ - | $ - |

Transfers and Other Adjustments

- Revenue Transfer from Household Mover's Fund (3315) to Motor Carriers Safety Improvement Fund (0293) per Public Utilities Code Section 5003.1
  - $ - | $ -21 | $ -21 | $ -21 | $ - | $ -

- Revenue Transfer from the Transpertation Rate Fund (0412) to the Household Mover's Fund (3315) per 8660-011-0412 and 8660-401, Budget Act of 2018
  - $ - | $ 750 | $ - | $ - | $ - | $ -

- Revenue Transfer from the Transpertation Rate Fund (0412) to Household Movers Fund (3315) per 8660-401, Budget Act of 2018
  - $ - | $ 558 | $ - | $ - | $ - | $ -

| Total Revenues, Transfers, and Other Adjustments | $ - | $ 3,419 | $ 2,706 | $ 2,727 | $ - | $ - |

| Total Resources | $ - | $ 3,419 | $ 4,520 | $ 4,971 | $ - | $ - |

## EXPENDITURE AND EXPENDITURE ADJUSTMENTS

| Expenditures: | | | | | | |
|---------------|----------------|----------|-------------------|-------------------|-------------------|
| 1111 Department of Consumer Affairs Regulatory Boards, Bureaus, Divisions (State Operations) | $ - | $ 1,605 | $ 2,276 | $ 2,322 | $ - | $ - |

| Total Expenditures and Expenditure Adjustments | $ - | $ 1,605 | $ 2,276 | $ 2,322 | $ - | $ - |

## FUND BALANCE

| Reserve for economic uncertainties | $ - | $ 1,814 | $ 2,244 | $ 2,649 | $ - | $ - |

| MONTHS IN RESERVE | 0.0 | 9.6 | 11.6 | 13.4 | | |

## NOTES:

A. Assumes workload and revenue projections are realized.
B. Assumes interest rate at .361%.
C. Assumes appropriation growth of 2% per year.
D. Projections through FM 10.
## 0752 - Home Furnishings and Thermal Insulation
### Analysis of Fund Condition
(Dollars in Thousands)

#### Gov Budget

<table>
<thead>
<tr>
<th></th>
<th>Prelim PY Actuals</th>
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<td><strong>BEGINNING BALANCE</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Prior Year Adjustment</td>
<td>$3,054</td>
<td>$2,837</td>
<td>$3,285</td>
<td>$3,124</td>
</tr>
<tr>
<td>Adjusted Beginning Balance</td>
<td>$3,054</td>
<td>$2,837</td>
<td>$3,285</td>
<td>$3,124</td>
</tr>
</tbody>
</table>

#### REVENUES, TRANSFERS, AND OTHER ADJUSTMENTS

**Revenues:**
- 4121200 Delinquent fees: $116
- 4127400 Renewal fees: $3,679
- 4129200 Other regulatory fees: $114
- 4129400 Other regulatory licenses and permits: $1,116
- 4163000 Investment Income - Surplus Money Investments: $9
- 4170400 Sale of fixed assets: $-
- 4171400 Escheat - Unclaimed Checks, Warrants, Bonds, and Coupons: $6
- 4171500 Escheat - Unclaimed Property: $-
- 4172500 Miscellaneous revenues: $1

**Total Revenues, Transfers, and Other Adjustments:** $5,041

**Total Resources:** $8,095

#### EXPENDITURE AND EXPENDITURE ADJUSTMENTS

**Expenditures:**
- 1111 Department of Consumer Affairs Regulatory Boards, Bureaus, Divisions (State Operations): $4,984
- 8880 Financial Information System for California (State Operations): $6
- 9892 Supplemental Pension Payments (State Operations): $-
- 9900 Statewide General Administrative Expenditures (Pro Rata) (State Operations): $268

**Total Expenditures and Expenditure Adjustments:** $5,258

#### FUND BALANCE

**Reserve for economic uncertainties:** $2,837

**Months in Reserve:**
- 7.2
- 6.9
- 6.6
- 6.3

**NOTES:**
- A. Assumes workload and revenue projections are realized through FM 10
- B. Assumes 2% growth in expenditures in BY+1 and ongoing
- C. Assumes 1.5% growth in income from surplus money
- D. Based on preliminary FM 10 expenditure and revenue report
Agenda Item 3a: Licensing Statistical Overview
# LICENSING STATISTICS

## Electronic and Appliance Repair Registrations

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

## Household Furnishings and Thermal Insulation Licenses

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

## Household Movers Permits

<table>
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<tr>
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<th>2015-16</th>
<th>2016-17</th>
<th>2017-18</th>
<th>2018-19</th>
</tr>
</thead>
<tbody>
<tr>
<td>Permits Issued</td>
<td></td>
<td></td>
<td></td>
<td>131</td>
</tr>
<tr>
<td>Exams Administered</td>
<td></td>
<td></td>
<td></td>
<td>169</td>
</tr>
<tr>
<td><strong>Total Active HHM Permits</strong></td>
<td></td>
<td></td>
<td></td>
<td>1026</td>
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</table>
Agenda Item 3b: Consumer Complaints
Statistical Overview
## CONSUMER COMPLAINT STATISTICS
### Household Movers

### Household Movers Consumer Complaints

<table>
<thead>
<tr>
<th>Year</th>
<th>OPENED</th>
<th>CLOSED</th>
</tr>
</thead>
<tbody>
<tr>
<td>2015-16</td>
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<td>2016-17</td>
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<td>2017-18</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2018-19</td>
<td>203</td>
<td>181</td>
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</table>

### Home Movers Complaints

#### by Category (as of July 1, 2018)

<table>
<thead>
<tr>
<th>Category</th>
<th>Volume</th>
</tr>
</thead>
<tbody>
<tr>
<td>Loss and/or Damages</td>
<td>73</td>
</tr>
<tr>
<td>Hold Hostage</td>
<td>44</td>
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<td>Unlicensed Tip</td>
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<td>Overcharges</td>
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<td>Miscellaneous</td>
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<tr>
<td>Interstate</td>
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</tr>
<tr>
<td>Delivery</td>
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</tr>
<tr>
<td>Refund</td>
<td>7</td>
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<tr>
<td>Restoration</td>
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</tbody>
</table>

### Home Movers Complaints

#### Received by Months (as of July 1, 2018)

<table>
<thead>
<tr>
<th>Month</th>
<th>Volume</th>
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</thead>
<tbody>
<tr>
<td>JUL 18</td>
<td>23</td>
</tr>
<tr>
<td>AUG 18</td>
<td>12</td>
</tr>
<tr>
<td>SEP 18</td>
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<td>OCT 18</td>
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<td>NOV 18</td>
<td>6</td>
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<td>DEC 18</td>
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<td>JAN 19</td>
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<td>FEB 19</td>
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</tr>
<tr>
<td>MAR 19</td>
<td>3</td>
</tr>
<tr>
<td>APR 19</td>
<td>4</td>
</tr>
<tr>
<td>MAY 19</td>
<td>7</td>
</tr>
<tr>
<td>JUN 19</td>
<td>7</td>
</tr>
</tbody>
</table>

The charts illustrate the distribution of complaints by category and the number of complaints received each month.
### Electronic and Appliance Repair Consumer Complaints

<table>
<thead>
<tr>
<th>Year</th>
<th>OPENED</th>
<th>CLOSED</th>
</tr>
</thead>
<tbody>
<tr>
<td>2015-16</td>
<td>678</td>
<td>758</td>
</tr>
<tr>
<td>2016-17</td>
<td>582</td>
<td>582</td>
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<tr>
<td>2017-18</td>
<td>1019</td>
<td>1014</td>
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<tr>
<td>2018-19</td>
<td>528</td>
<td>500</td>
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### Household Furnishings and Thermal Insulation Consumer Complaints

<table>
<thead>
<tr>
<th>Year</th>
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</tr>
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<tbody>
<tr>
<td>2015-16</td>
<td>299</td>
<td>303</td>
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<tr>
<td>2016-17</td>
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<td>248</td>
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<tr>
<td>2017-18</td>
<td>288</td>
<td>281</td>
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<tr>
<td>2018-19</td>
<td>158</td>
<td>157</td>
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</table>
Agenda Items 3c: Enforcement
Statistical Overview
BEAR/BHFTI ENFORCEMENT STATISTICS

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

<table>
<thead>
<tr>
<th>TELEPHONE DISCONNECTS ORDERED</th>
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<tbody>
<tr>
<td>Year</td>
</tr>
<tr>
<td>------</td>
</tr>
<tr>
<td>2015-16</td>
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<tr>
<td>2016-17</td>
</tr>
<tr>
<td>2017-18</td>
</tr>
<tr>
<td>2018-19</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>INTERNAL CASES (Investigations)</th>
</tr>
</thead>
<tbody>
<tr>
<td>OPENED</td>
</tr>
<tr>
<td>Year</td>
</tr>
<tr>
<td>--------</td>
</tr>
<tr>
<td>2015-16</td>
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<tr>
<td>2016-17</td>
</tr>
<tr>
<td>2017-18</td>
</tr>
<tr>
<td>2018-19</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>CITATIONS ISSUED</th>
</tr>
</thead>
<tbody>
<tr>
<td>Year</td>
</tr>
<tr>
<td>------</td>
</tr>
<tr>
<td>2015-16</td>
</tr>
<tr>
<td>2016-17</td>
</tr>
<tr>
<td>2017-18</td>
</tr>
<tr>
<td>2018-19</td>
</tr>
</tbody>
</table>
Agenda Items 3d: Investigations
Statistical Overview
### Household Mover Cases Under Investigation

<table>
<thead>
<tr>
<th></th>
<th>July 2018 – July 2019</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Total</strong></td>
<td>235</td>
</tr>
</tbody>
</table>

### Hold Hostage Situations

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
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<tr>
<td><strong>Resolved</strong></td>
<td>30</td>
</tr>
<tr>
<td><strong>Pending</strong></td>
<td>8</td>
</tr>
<tr>
<td><strong>Forwarded to Other Agencies</strong></td>
<td>7</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>45</td>
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</table>

### Cease and Desist Letters Issued

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
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</thead>
<tbody>
<tr>
<td><strong>(Failure of Movers to Cease and Desist will result in Administrative Citations)</strong></td>
<td>44</td>
</tr>
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</table>

### Investigative Subpoenas Issued

<p>| | |</p>
<table>
<thead>
<tr>
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<tbody>
<tr>
<td><strong>July 2018 - July 2019</strong></td>
<td>4</td>
</tr>
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</table>

### Investigations Referred to District Attorney

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
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<tbody>
<tr>
<td><strong>July 2018 - July 2019</strong></td>
<td>2</td>
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Agenda Item 3e: Laboratory Testing
Statistical Overview
# LAB STATISTICS

## Data for FYTD 18/19

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

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

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

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

**Samples Received with the Flame Retardant Chemical Statement (TB117-2013) 07/01/18-06/30/19**

<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>89</td>
<td>7</td>
<td>2</td>
<td>38</td>
<td>38</td>
</tr>
<tr>
<td>91%</td>
<td>7%</td>
<td>2%</td>
<td>43% of those marked “No”</td>
<td>43% of those marked “No”</td>
</tr>
</tbody>
</table>

## Samples Analyzed with the “NO” Flame Retardant Chemical Statement 07/01/18-06/30/19

<table>
<thead>
<tr>
<th>Type Test</th>
<th>Pass</th>
<th>Fail</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>No.</td>
<td>%</td>
</tr>
<tr>
<td>DTSC Analysis (38)</td>
<td>34</td>
<td>89</td>
</tr>
<tr>
<td>FR Doc Review (38)*</td>
<td>29</td>
<td>76</td>
</tr>
</tbody>
</table>

*Review in progress for four components*
Agenda Item 4: Legislative Update
An act to amend Sections 7026.1, 7316, 7332, 7334, 7337.5, 7396, 7423, 19011, 19017, 19051, 19059.5, 19060.6, and 19170 of, to add and repeal Section 101.5 of, and to repeal Sections 7326, 7365, 19010.1, and 19052 of, the Business and Professions Code, and to amend Section 110371 of the Health and Safety Code, relating to professions and vocations.

legislative counsel’s digest

AB 193, as introduced, Patterson. Professions and vocations.
(1) Existing law establishes the Department of Consumer Affairs in the Business, Consumer Services, and Housing Agency to, among other things, ensure that certain businesses and professions that have potential impact upon the public health, safety, and welfare are adequately regulated.

This bill would require the department, beginning on January 1, 2021, to conduct a comprehensive review of all occupational licensing requirements and identify unnecessary licensing requirements that cannot be adequately justified. The bill would require the department to report to the Legislature on January 1, 2023, and every 2 years thereafter, on the department’s progress, and would require the department to issue a final report to the Legislature no later than January 1, 2033. The bill would require the department to apply for federal funds that have been made available specifically for the purpose of reviewing, updating, and eliminating overly burdensome licensing requirements, as provided.
(2) Existing law provides for the licensure and regulation of contractors by the Contractors’ State License Board in the department and includes within the term “contractor” a person who performs tree removal, tree pruning, stump removal, or engages in tree or limb cabling or guying.

This bill would delete tree pruning from those provisions.

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

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

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

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

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


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

SECTION 1. The Legislature finds and declares all of the following:
(a) Many entities, including the Federal Trade Commission, the United States Department of Labor, and the Milton Marks “Little Hoover” Commission on California State Government Organization and Economy, have acknowledged the unnecessary burdens that occupational licensing places on otherwise qualified workers.
(b) Unnecessary licensing increases costs for consumers and restricts opportunities for workers.
(c) Researchers show that occupational licensing restrictions can result in almost three million fewer jobs and a cost of over $200,000,000,000 to consumers.

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

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

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

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

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

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

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

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

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

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

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

(1) Any person not exempt under Section 7053 who maintains or services air-conditioning, heating, or refrigeration equipment that is a fixed part of the structure to which it is attached.
(2) (A) Any person, consultant to an owner-builder, firm, association, organization, partnership, business trust, corporation, or company, who or which undertakes, offers to undertake, purports to have the capacity to undertake, or submits a bid to construct any building or home improvement project, or part thereof.

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

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

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

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

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

(5) Any person engaged in the business of drilling, digging, boring, or otherwise constructing, deepening, repairing, reperforating, or abandoning any water well, cathodic protection well, or monitoring well.

(b) The term “contractor” or “consultant” does not include a common interest development manager, as defined in Section 11501, and a common interest development manager is not required
to have a contractor’s license when performing management
services, as defined in subdivision (d) of Section 11500.
SEC. 4. Section 7316 of the Business and Professions Code is
amended to read:
7316. (a) The practice of barbering is all or any combination
of the following practices:
1. Shaving or trimming the beard or cutting the hair.
2. Giving facial and scalp massages or treatments with oils,
creams, lotions, or other preparations either by hand or mechanical
appliances.
3. Singeing, shampooing, arranging, dressing, curling, waving,
chemical waving, hair relaxing, or dyeing the hair or applying hair
tonics.
4. Applying cosmetic preparations, antiseptics, powders, oils,
clays, or lotions to scalp, face, or neck.
5. Hairstyling of all textures of hair by standard methods that
are current at the time of the hairstyling.
(b) The practice of cosmetology is all or any combination of
the following practices:
1. Arranging, dressing, curling, waving, machineless permanent
waving, permanent waving, cleansing, cutting, shampooing,
relaxing, singeing, bleaching, tinting, coloring, straightening,
dyeing, applying hair tonics to, beautifying, or otherwise treating
by any means, the hair of any person.
2. Massaging, cleaning, or stimulating the scalp, face, neck,
arms, or upper part of the human body, by means of the hands,
devices, apparatus or appliances, with or without the use of
cosmetic preparations, antiseptics, tonics, lotions, or creams.
3. Beautifying the face, neck, arms, or upper part of the human
body, by use of cosmetic preparations, antiseptics, tonics, lotions,
or creams.
4. Removing superfluous hair from the body of any person by
the use of depilatories or by the use of tweezers, chemicals, or
preparations or by the use of devices or appliances of any kind or
description, except by the use of light waves, commonly known
as rays.
5. Cutting, trimming, polishing, tinting, coloring, cleansing,
or manicuring the nails of any person.
(6)
(5) Massaging, cleansing, treating, or beautifying the hands or feet of any person.

(c) Within the practice of cosmetology there exist the specialty branches of skin care and nail care.

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

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

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

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

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

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

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

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

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

(e) Notwithstanding paragraph (2) of subdivision (d), a person who engages in natural hairstyling, which is defined as the provision of natural hair braiding services together with any of the
services or procedures defined within the regulated practices of barbering or cosmetology, is subject to regulation pursuant to this chapter and shall obtain and maintain a barbering or cosmetology license as applicable to the services respectively offered or performed.

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

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

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

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

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

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

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

(d) Has done any of the following:

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

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

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

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

7332. (a) An apprentice is any person who is licensed by the board to engage in learning or acquiring a knowledge of barbering, cosmetology, skin care, nail care, or electrology, in a licensed establishment under the supervision of a licensee approved by the board.
(b) For purposes of this section, “under the supervision of a
licensee” means that the apprentice shall be supervised at all times
by a licensee approved by the board while performing services in
a licensed establishment. At no time shall an apprentice be the
only individual working in the establishment. An apprentice that
is not being supervised by a licensee, licensee that has been
approved by the board to supervise an apprentice, apprentice shall
be deemed to be practicing unlicensed under this chapter.

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

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

(1) Is over 16 years of age.
(2) Has completed the 10th grade in the public schools of this
state or its equivalent.
(3) Is not subject to denial pursuant to Section 480.
(4) Has submitted evidence acceptable to the board that any
training the apprentice is required by law to obtain shall be
conducted in a licensed establishment and under the supervision
of a licensee approved by the board.

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

(1) Is not less than 17 years of age.
(2) Has completed the 12th grade or an accredited senior high
school course of study in schools of this state or its equivalent.
(3) Is not subject to denial pursuant to Section 480.
(4) Has submitted evidence acceptable to the board that any
training the apprentice is required by law to obtain shall be
conducted in a licensed establishment and under the supervision
of a licensee approved by the board.

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

(d) All persons making application as an apprentice in
cosmetology, skin-care, nail-care, or electrology shall also complete
minimum preapprentice training for the length of time established
by the board in a facility approved by the board prior to serving
the general public.
(e) Apprentices may only perform services on the general public
for which they have received technical training.
(f) Apprentices shall be required to obtain at least the minimum
hours of technical instruction and minimum number of practical
operations for each subject as specified in board regulations for
courses taught in schools approved by the board, in accordance
with Sections 3074 and 3078 of the Labor Code.
SEC. 8. Section 7337.5 of the Business and Professions Code
is amended to read:
7337.5. (a) The board shall adopt regulations providing for
the submittal of applications for admission to examination of
students of approved cosmetology, electrology, or barbering
schools who have completed at least 75 percent of the required
course clock hours and curriculum requirements (60 percent for
students of the manicurist course), or any person licensed as an
apprentice in barbering, cosmetology, or skin care, or nail care
who has completed at least 75 percent of the required
apprenticeship training hours. The regulations shall include
provisions that ensure that all proof of qualifications of the
applicant is received by the board before the applicant is examined.
(b) An application for examination submitted by a student of
an approved cosmetology, electrology, or barbering school under
this section shall be known as a “school preapplication” and an
additional preapplication fee may be required.
(c) An application for examination submitted by a person
licensed as an apprentice in barbering, cosmetology, or skin care,
nail care shall be known as an “apprenticeship preapplication”
and an additional fee may be required.
(d) The board shall administer the licensing examination not
later than 10 working days after graduation from an approved
cosmetology, electrology, or barbering school to students who
have submitted an application for admission for examination under
the preapplication procedure, or not later than 10 working days
after completion of an approved barbering, cosmetology, or skin
care, or nail care apprenticeship program for a person licensed as
an apprentice.
SEC. 9. Section 7365 of the Business and Professions Code is repealed.

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

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

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

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

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

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

(a) (1) A cosmetologist application and examination fee shall be the actual cost to the board for developing, purchasing, grading, and administering the examination.

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

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

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

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

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

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

(2) A barber initial license fee shall be not more than fifty dollars ($50).
(d) (1) An electrologist application and examination fee shall be the actual cost to the board for developing, purchasing, grading, and administering the examination.
(2) An electrologist initial license fee shall be not more than fifty dollars ($50).
(e) An apprentice application and license fee shall be not more than twenty-five dollars ($25).
(f) The license renewal fee for individual practitioner licenses that are subject to renewal shall be not more than fifty dollars ($50).
(g) Notwithstanding Section 163.5 the license renewal delinquency fee shall be 50 percent of the renewal fee in effect on the date of renewal.
(h) Any preapplication fee shall be established by the board in an amount sufficient to cover the costs of processing and administration of the preapplication.

SEC. 12. Section 19010.1 of the Business and Professions Code is repealed.
19010.1. “Custom upholsterer” means a person who, either by himself or herself or through employees or agents, repairs, reupholsters, re-covers, restores, or renews upholstered furniture, or who makes to order and specification of the user any article of upholstered furniture, using either new materials or owner’s materials.

SEC. 13. Section 19011 of the Business and Professions Code is amended to read:
19011. “Manufacturer” means a person who, either by himself or herself themselves or through employees or agents, makes any article of upholstered furniture or bedding in whole or in part, or who does the upholstery or covering of any unit thereof, using either new or secondhand material. “Manufacturer” does not, however, include a “custom upholsterer,” as defined in Section 19010.1.

SEC. 14. Section 19017 of the Business and Professions Code is amended to read:
19017. “Owner’s material” means any article or material belonging to a person for his or her own, or their tenant’s use, that is sent to any manufacturer, manufacturer or bedding renovator, or custom upholsterer to be repaired or renovated.

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

19051. Every upholstered-furniture retailer, unless the person holds an importer’s license, a furniture and bedding manufacturer’s license, a wholesale furniture and bedding dealer’s license, a custom upholsterer’s license, or a retail furniture and bedding dealer’s license, shall hold a retail furniture dealer’s license.

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

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

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

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

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

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

SEC. 18. Section 19060.6 of the Business and Professions Code is amended to read:
19060.6. (a) Except as provided in subdivision (b), every Every person who, on his or her their own account, advertises, solicits solicits, or contracts to manufacture, repair or renovate manufacture upholstered furniture or bedding, and who either does the work himself or herself themselves or has others do it for him or her, it, shall obtain the particular license required by this chapter for the particular type of work that he or she the person solicits or advertises that he or she the person will do, regardless of whether he or she the person has a shop or factory.

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

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

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

<table>
<thead>
<tr>
<th>License Type</th>
<th>Maximum Fee</th>
<th>Minimum Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Importer’s license</td>
<td>$940</td>
<td>$120</td>
</tr>
<tr>
<td>Furniture and bedding manufacturer’s license</td>
<td>940</td>
<td>120</td>
</tr>
<tr>
<td>Wholesale furniture and bedding dealer’s license</td>
<td>675</td>
<td>120</td>
</tr>
<tr>
<td>Supply dealer’s license</td>
<td>675</td>
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</tr>
<tr>
<td>Custom upholsterer’s license</td>
<td>450</td>
<td>80</td>
</tr>
<tr>
<td>Sanitizer’s license</td>
<td>450</td>
<td>80</td>
</tr>
<tr>
<td>Retail furniture and bedding dealer’s license</td>
<td>300</td>
<td>40</td>
</tr>
<tr>
<td>Retail furniture dealer’s license</td>
<td>150</td>
<td>20</td>
</tr>
<tr>
<td>Retail bedding dealer’s license</td>
<td>150</td>
<td>20</td>
</tr>
</tbody>
</table>

(b) Individuals who, in their own homes and without the employment of any other person, make, sell, advertise, or contract
to make pillows, quilts, quilted pads, or comforters are exempt from the fee requirements imposed by subdivision (a). However, these individuals shall comply with all other provisions of this chapter.

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

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

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

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

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

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

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

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

(3) “Professional cosmetic” means a cosmetic product as it is defined in Section 109900 that is intended or marketed to be used only by a professional on account of a specific ingredient, increased concentration of an ingredient, or other quality that requires safe handling, or is otherwise used by a professional.
An act to amend Sections 23.8, 23.9, 25, 27, 28, 30, 31, 101, 101.7, 102.3, 103, 105.5, 106, 107, 108.5, 111, 114, 114.3, 115.5, 115.6, 116, 119, 120, 121, 124, 125, 125.3, 125.6, 125.9, 127, 129, 130, 132, 136, 137, 138, and 144, 145, 151, 152, 152.6, 153, 156.1, 158, 159.5, 161, 210, 328, 450, and 450.3 of the Business and Professions Code, relating to business and professions.

legislative counsel's digest

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

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

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

Existing law authorizes the director to audit and review, upon the director’s own initiative or upon the request of a consumer or licensee, inquiries and complaints regarding, among other things, dismissals of disciplinary cases of specified licensees and requires the director to...
report to the Chairpersons of the Senate Business and Professions Committee and the Assembly Health Committee annually regarding any findings from such an audit or review.

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

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

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

*This bill would make other conforming and nonsubstantive changes, including replacing gendered terms with nongendered terms, updating cross-references, and deleting obsolete provisions.*


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

SECTION 1. Section 23.8 of the Business and Professions Code is amended to read:

> 23.8. “Licensee” means any person authorized by a license, certificate, registration, or other means to engage in a business or profession regulated by this code or referred to in Sections 1000 and 3600.

> Any reference to licentiate in this code shall be deemed to refer to licensee.

SEC. 2. Section 23.9 of the Business and Professions Code is amended to read:

> 23.9. Notwithstanding any other provision of this code, any individual who, while imprisoned in a state prison or other correctional institution, is trained, in the course of a rehabilitation program approved by the particular licensing agency concerned and provided by the prison or other correctional institution, in a particular skill, occupation, or profession for which a state license, certificate, or other evidence of proficiency is required by this code

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

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

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

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

“Human sexuality” as used in this section means the study of a
human being as a sexual being and how a human being functions
with respect thereto.

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

If a licensing board or agency proposes to establish a training
program in human sexuality, the board or agency shall first consult
with other licensing boards or agencies that have established or
propose to establish a training program in human sexuality to
ensure that the programs are compatible in scope and content.

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

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

(b) In providing information on the Internet, each entity
specified in subdivisions (c) and (d) shall comply with the
Department of Consumer Affairs’ guidelines for access to public
records.

(c) Each of the following entities within the Department of
Consumer Affairs shall comply with the requirements of this
section:
(1) The Board for Professional Engineers, Land Surveyors, and Geologists shall disclose information on its registrants and licensees.

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

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

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

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

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

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

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

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

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

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

(12) The Acupuncture Board shall disclose information on its licensees.
(13) The Board of Behavioral Sciences shall disclose information on its licensees and registrants.
(14) The Dental Board of California shall disclose information on its licensees.
(15) The State Board of Optometry shall disclose information on its licensees.
(16) The Board of Psychology shall disclose information on its licensees, including psychologists, psychological assistants, and registered psychologists.
(17) The Veterinary Medical Board shall disclose information on its licensees, registrants, and permitholders.
(d) The State Board of Chiropractic Examiners shall disclose information on its licensees.
(e) The Structural Pest Control Board shall disclose information on its licensees, including applicators, field representatives, and operators in the areas of fumigation, general pest and wood destroying pests and organisms, and wood roof cleaning and treatment.
(f) The Bureau of Cannabis Control shall disclose information on its licensees.
(g) “Internet” for the purposes of this section has the meaning set forth in paragraph (6) of subdivision (f) of Section 17538.

SEC. 5. Section 28 of the Business and Professions Code is amended to read:
28. (a) The Legislature finds that there is a need to ensure that professionals of the healing arts who have demonstrable contact with victims and potential victims of child, elder, and dependent adult abuse, and abusers and potential abusers of children, elders, and dependent adults are provided with adequate and appropriate training regarding the assessment and reporting of child, elder, and dependent adult abuse that will ameliorate, reduce, and eliminate the trauma of abuse and neglect and ensure the reporting of abuse in a timely manner to prevent additional occurrences.
(b) The Board of Psychology and the Board of Behavioral Sciences shall establish required training in the area of child abuse assessment and reporting for all persons applying for initial licensure and renewal of a license as a psychologist, clinical social worker, professional clinical counselor, or marriage and family therapist. This training shall be required one time only for all persons applying for initial licensure or for licensure renewal.
Pages 7 – 42 omitted because amendments are not relevant to the Bureau
interest in any organization subject to regulation by the board, commission, or committee of which he is a member.
Introduced by Assembly Member Low

February 14, 2019

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

legislative counsel's digest

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

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

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

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

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

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

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

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

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

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

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

(b) For purposes of this section, “fee” includes any fees authorized to be imposed by a board for regulatory costs. “Fee” does not include administrative fines, civil penalties, or criminal penalties.
ASSEMBLY BILL No. 1296

Introduced by Assembly Member Gonzalez

February 22, 2019

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

legislative counsel's digest

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

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

This bill would establish the Tax Recovery in the Underground Economy Criminal Enforcement Program in the Department of Justice to combat underground economic activities through a multiagency collaboration to, among other things, pool resources, collaborate and share data, prosecute violations, and recover state revenue lost to the underground economy, as specified. The bill would require Tax
Recovery in the Underground Economy Criminal Enforcement Program investigative teams to be located in Sacramento, Los Angeles, San Diego, the San Francisco Bay area, and Fresno. The bill would establish a Tax Recovery in the Underground Economy Criminal Enforcement Program executive board and Tax Recovery in the Underground Economy Criminal Enforcement Program committees to ensure multiagency collaboration and to oversee the investigative teams, as provided. The bill would authorize, and in certain circumstances require, the exchange of confidential information, as provided. The bill would require that information exchanged pursuant to these provisions retain its confidential status, as specified. The bill would require the Department of Justice, in consultation with the executive board of the program, to submit to the Legislature a report on or before July 1, 2021, and annually thereafter, that includes specific information relating to the program. The bill would require the Legislative Analyst’s Office to, on or before July 1, 2022, submit a report to the Legislature that includes an analysis of the effectiveness of the program, as specified, along with recommendations to improve the program. The bill would repeal these reporting requirements on January 1, 2027.

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

This bill would permit the use of the information to enable the Tax Recovery in the Underground Economy Criminal Enforcement Program to carry out its duties. Because the bill would expand the group of persons who can be convicted for knowingly accessing, using, or disclosing this information without authorization, it would expand the scope of an existing crime and therefore impose a state-mandated local program.

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

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

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

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

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

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

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

   A. To protect workers, law-abiding businesses, and consumers by bringing justice to unscrupulous businesses operating in the state’s underground economy.

   B. To recover significant lost revenues to the state by prosecuting egregious, felony-level tax and fee evasion crimes in the state’s underground economy.

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

   D. To support multiagency investigative teams in every region of the state.

SEC. 2. Part 12.3 (commencing with Section 15925) is added to Division 3 of Title 2 of the Government Code, to read:
PART 12.3. TAX RECOVERY IN THE UNDERGROUND ECONOMY CRIMINAL ENFORCEMENT ACT

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

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

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

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

(1) A representative from the Department of Justice who shall be designated by the Attorney General to facilitate and oversee the multiagency collaboration set forth in this act.
(2) A representative from the Division of Law Enforcement at the Department of Justice.
(3) A representative from the Criminal Law Division at the Department of Justice.
(4) A representative from the Investigations and Special Operations Bureau at the California Department of Tax and Fee Administration.
(5) A representative from the Criminal Investigation Bureau at the Franchise Tax Board.
(6) A representative from the Investigation Division at the Employment Development Department.

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

(1) The California Health and Human Services Agency.
(2) The Department of Consumer Affairs.
(3) The Department of Industrial Relations.
(4) The Department of Insurance.
(5) The Department of Motor Vehicles.
(6) The Department of the California Highway Patrol.
(7) The Department of Alcoholic Beverage Control.
(8) The Bureau of Cannabis Control.
(9) The Contractors’ State License Board.
(d) The Tax Recovery in the Underground Economy Criminal Enforcement Program may, as the executive board deems appropriate, invite other state and federal agencies to join the executive board in an advisory capacity subject to paragraph (2) of subdivision (b) of Section 15928.

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

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

15927. (e) The Tax Recovery in the Underground Economy Criminal Enforcement Program shall include investigative teams located in Sacramento, Los Angeles, San Diego, the San Francisco Bay area, and Fresno under the direct oversight of the Department of Justice. Fresno. The investigative teams shall include, but are not limited to, duly authorized representatives of the agencies listed in subdivision (b) of Section 15926. The addition of an agency to an investigative team shall be by written agreement between the
Tax Recovery in the Underground Economy Criminal Enforcement Program’s executive board and the agency joining the investigative team. The written agreement shall govern the participation of the agency joining the investigative team.

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

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

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

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

(2) For cases that involve a known or suspected felony level tax or fee evasion crime, voting members and advisory members of an investigatory team of the Tax Recovery in the Underground Economy Criminal Enforcement Program if all of the following criteria are met:
(A) The confidential tax or fee information is obtained by a voting member or advisory member of the Tax Recovery in the Underground Economy Criminal Enforcement Program person employed by an agency listed in subdivision (b) or (c) of Section 15926 pursuant to existing law, agreements authorized by existing law, or order by the Governor.

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

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

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

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

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

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

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

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

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

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

   (2) To conduct investigations.

   (3) To prosecute violations.

   (4) To conduct data analytics.

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

1. Section 11183 as that section pertains to the Department of Justice.
2. Sections 1094 and 1095, 1094, 1095, and 2111 of the Unemployment Insurance Code as those sections pertain to the Employment Development Department.
3. Sections 19542, 19542.1, and 19542.3 of the Revenue and Taxation Code as those Sections pertain to the Franchise Tax Board.
4. Section 15619 of this code, Section 42464.8 of the Public Resources Code, and Sections 7056, 7056.5, 8255, 9255, 9255.1, 30455, 32455, 32457, 38705, 38706, 43651, 45981, 45983, 45984, 46751, 50159, 50160, 50161, 55381, 60608, and 60609 of the Revenue and Taxation Code, as those sections pertain to the California Department of Tax and Fee Administration.
5. Any other information confidentiality provisions in federal and state law.
6. Any information confidentiality provisions that are applicable to any agency that is added to the Tax Recovery in the Underground Economy Criminal Enforcement Program pursuant to subdivision (c) or (d) of Section 15926.

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

(f) The Tax Recovery in the Underground Economy Criminal Enforcement Program’s executive board shall oversee the Tax Recovery in the Underground Economy Criminal Enforcement Program to ensure the protection of that appropriate policies,
procedures, and training are in place to protect confidential tax and fee information pursuant to this part.

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

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

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

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

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

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

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

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

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

(b) The Legislative Analyst’s Office, on or before July 1, 2022, 2026, shall submit a report to the Legislature that includes an analysis of the effectiveness of the Tax Recovery in the
Underground Economy Criminal Enforcement Program in accomplishing the purposes specified in subdivision (a) of Section 15926 along with recommendations to improve the program.

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

(2) Pursuant to Notwithstanding Section 10231.5, this section is repealed on January 1, 2024.

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

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

(a) To enable the director or his or her representative to carry out his or her responsibilities under this code.

(b) To properly present a claim for benefits.

(c) To acquaint a worker or his or her authorized agent with his or her existing or prospective right to benefits.

(d) To furnish an employer or his or her authorized agent with information to enable him or her to fully discharge his or her obligations or safeguard his or her rights under this division or Division 3 (commencing with Section 9000).

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

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

(g) To enable county administrators of general relief or assistance, or their representatives, to determine entitlement to locally provided general relief or assistance, when the
determination is directly connected with, and limited to, the
administration of general relief or assistance.
(h) To enable state or local governmental departments or
agencies to seek criminal, civil, or administrative remedies in
connection with the unlawful application for, or receipt of, relief
provided under Division 9 (commencing with Section 10000) of
the Welfare and Institutions Code or to enable the collection of
expenditures for medical assistance services pursuant to Part 5
(commencing with Section 17000) of Division 9 of the Welfare
and Institutions Code.
(i) To provide any law enforcement agency with the name,
address, telephone number, birth date, social security number,
physical description, and names and addresses of present and past
employers, of any victim, suspect, missing person, potential
witness, or person for whom a felony arrest warrant has been
issued, when a request for this information is made by any
investigator or peace officer as defined by Sections 830.1 and
830.2 of the Penal Code, or by any federal law enforcement officer
to whom the Attorney General has delegated authority to enforce
federal search warrants, as defined under Sections 60.2 and 60.3
of Title 28 of the Code of Federal Regulations, as amended, and
when the requesting officer has been designated by the head of
the law enforcement agency and requests this information in the
course of and as a part of an investigation into the commission of
a crime when there is a reasonable suspicion that the crime is a
felony and that the information would lead to relevant evidence.
The information provided pursuant to this subdivision shall be
provided to the extent permitted by federal law and regulations,
and to the extent the information is available and accessible within
the constraints and configurations of existing department records.
Any person who receives any information under this subdivision
shall make a written report of the information to the law
enforcement agency that employs them, for filing under
the normal procedures of that agency.
(1) This subdivision shall not be construed to authorize the
release to any law enforcement agency of a general list identifying
individuals applying for or receiving benefits.
(2) The department shall maintain records pursuant to this
subdivision only for periods required under regulations or statutes
enacted for the administration of its programs.
This subdivision shall not be construed as limiting the information provided to law enforcement agencies to that pertaining only to applicants for, or recipients of, benefits.

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

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

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

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

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

To provide federal, state, or local governmental departments or agencies with information concerning any individuals who are or have been:
(1) Directed by state mandate or court order to pay restitution, fines, penalties, assessments, or fees as a result of a violation of law.

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

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

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

(q) To provide employment tax information to the tax officials of Mexico, if a reciprocal agreement exists. For purposes of this subdivision, “reciprocal agreement” means a formal agreement to exchange information between national taxing officials of Mexico and taxing authorities of the State Board of Equalization, the Franchise Tax Board, and the Employment Development Department. Furthermore, the reciprocal agreement shall be limited to the exchange of information that is essential for tax administration purposes only. Taxing authorities of the State of California shall be granted tax information only on California
residents. Taxing authorities of Mexico shall be granted tax
information only on Mexican nationals.
(r) To enable city and county planning agencies to develop
economic forecasts for planning purposes. The information shall
be limited to businesses within the jurisdiction of the city or county
whose planning agency is requesting the information, and shall
not include information regarding individual employees.
(s) To provide the State Department of Developmental Services
with wage and employer information that will assist in the
collection of moneys owed by the recipient, parent, or any other
legally liable individual for services and supports provided pursuant
to Chapter 9 (commencing with Section 4775) of Division 4.5 of,
and Chapter 2 (commencing with Section 7200) and Chapter 3
(commencing with Section 7500) of Division 7 of, the Welfare and Institutions Code.
(t) To provide the State Board of Equalization with employment
tax information that will assist in the administration of tax
programs. The information shall be limited to the exchange of
employment tax information essential for tax administration
purposes to the extent permitted by federal law and regulations.
(u) This section shall not be construed to authorize or permit
the use of information obtained in the administration of this code
by any private collection agency.
(v) The disclosure of the name and address of an individual or
business entity that was issued an assessment that included
penalties under Section 1128 or 1128.1 shall not be in violation
of Section 1094 if the assessment is final. The disclosure may also
include any of the following:
(1) The total amount of the assessment.
(2) The amount of the penalty imposed under Section 1128 or
1128.1 that is included in the assessment.
(3) The facts that resulted in the charging of the penalty under
Section 1128 or 1128.1.
(w) To enable the Contractors’ State License Board to verify
the employment history of an individual applying for licensure
pursuant to Section 7068 of the Business and Professions Code.
(x) To provide any peace officer with the Division of
Investigation in the Department of Consumer Affairs information
pursuant to subdivision (i) when the requesting peace officer has
been designated by the chief of the Division of Investigation and
requests this information in the course of and as part of an investigation into the commission of a crime or other unlawful act when there is reasonable suspicion to believe that the crime or act may be connected to the information requested and would lead to relevant information regarding the crime or unlawful act.

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

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

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

(ab) To enable the State Department of Education, the University of California, the California State University, and the Chancellor of the California Community Colleges, pursuant to the requirements prescribed by the federal American Recovery and Reinvestment Act of 2009 (Public Law 111-5), to obtain quarterly wage data, commencing July 1, 2010, on students who have attended their respective systems to assess the impact of education on the employment and earnings of those students, to conduct the annual analysis of district-level and individual district or postsecondary education system performance in achieving priority educational outcomes, and to submit the required reports to the Legislature and the Governor. The information shall be provided to the extent permitted by federal statutes and regulations.
(ac) To provide the Agricultural Labor Relations Board with employee, wage, and employer information, for use in the investigation or enforcement of the Alatorre-Zenovich-Dunlap-Berman Agricultural Labor Relations Act of 1975 (Part 3.5 (commencing with Section 1140) of Division 2 of the Labor Code). The information shall be provided to the extent permitted by federal statutes and regulations.

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

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

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

(C) Verifying or determining the eligibility of employees and employers for health coverage through the Small Business Health Options Program, provided pursuant to Section 100502 of the Government Code, when the verification or determination is
directly connected with, and limited to, the administration of the
Small Business Health Options Program.

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

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

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

(ag) To provide, to the extent permitted by federal law and
regulations, the Student Aid Commission with wage information
in order to verify the employment status of an individual applying
for a Cal Grant C award pursuant to subdivision (c) of Section
69439 of the Education Code.

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

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

(aj) To enable the California Workforce Development Board,
the Chancellor of the California Community Colleges, the
Superintendent of Public Instruction, the Department of
Rehabilitation, the State Department of Social Services, the Bureau
for Private Postsecondary Education, the Department of Industrial
Relations, the Division of Apprenticeship Standards, and the
Employment Training Panel to access any relevant quarterly wage
data necessary for the evaluation and reporting of their respective
program performance outcomes as required and permitted by
various state and federal laws pertaining to performance
measurement and program evaluation under the federal Workforce
Innovation and Opportunity Act (Public Law 113-128); the
workforce performance metrics dashboard pursuant to paragraph
(1) of subdivision (i) of Section 14013; the Adult Education Block
Grant Program consortia performance metrics pursuant to Section
84920 of the Education Code; the economic and workforce
development program performance measures pursuant to Section
88650 of the Education Code; and the California Community
Colleges Economic and Workforce Development Program
performance measures established in Part 52.5 (commencing with
Section 88600) of Division 7 of Title 3 of the Education Code.

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

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

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

(2) To enable the State Department of Developmental Services
to obtain quarterly wage data of consumers served by that
department for the purposes of monitoring and evaluating
employment outcomes to determine the effectiveness of the
Employment First Policy, established pursuant to Section 4869 of
the Welfare and Institutions Code.
(3) The information provided pursuant to this subdivision shall be provided to the extent permitted by federal statutes and regulations.

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

SEC. 4. 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 add Section 9815 to the Business and Professions Code, relating to professions and vocations.

legislative counsel's digest

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

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

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

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

SECTION 1. Section 9815 is added to the Business and Professions Code, to read:

9815. Not later than July 1, 2021, the Bureau of Household Goods and Services, in consultation with stakeholders, shall conduct a review of its accepted trade standards for good and workmanlike repair, as defined in Section 2741 of Title 16 of the California Code of Regulations, to determine whether additional regulations should be adopted concerning privacy and security implications of connected devices, as defined in Section 1798.91.05 of the Civil Code.
An act to amend Sections 421, 422, 423, 424, 737.3, 3901, 3902, 3903, 3950, and 24243 of, to amend the heading of Chapter 1 (commencing with Section 3901) of Division 2 of, to add Part 3 (commencing with Section 24000) to Division 9 of, to repeal Sections 912.1, 918, 918.1, and 918.2 of, and to repeal Chapter 9 (commencing with Section 5500) of Division 2 of, the Public Utilities Code, relating to public utilities.

legislative counsel’s digest

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

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

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

(2) Under existing law, the Public Utilities Commission has regulatory authority over public utilities. Chapter 421 of the Statutes of 2017 transferred regulatory authority for vessels for hire from the commission to the Division of Boating and Waterways within the Department of Parks and Recreation, for household goods carriers, which were renamed to “household movers,” from the commission to
the Division of Household Movers within the Bureau of Electronic and Appliance Repair, Home Furnishings, and Thermal Insulation in the Department of Consumer Affairs, and for commercial air operators from the commission to the city, county, or city and county with geographic jurisdiction.

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


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

SECTION 1. Section 421 of the Public Utilities Code is amended to read:

421. (a) The commission shall annually determine a fee to be paid by every passenger stage corporation, charter-party carrier of passengers, pipeline corporation, for-hire vessel operator, common carrier vessel operator, and railroad corporation, and commercial air operator, and every other common carrier and related business subject to the jurisdiction of the commission, except as otherwise provided in Article 3 (commencing with Section 431) of this chapter and Chapter 6 (commencing with Section 5001) of Division 2.

(b) The annual fee shall be established to produce a total amount equal to the amount established in the authorized commission budget for the same year, including adjustments appropriated by the Legislature and an appropriate reserve, to regulate common carriers and related businesses, less the amount to be paid from special accounts or funds pursuant to Section 403, reimbursements, federal funds, other revenues, and unencumbered funds from the preceding year.

(c) Notwithstanding any other provision of law, the fees paid by railroad corporations shall be used for state-funded railroad investigation and enforcement activities of the commission, other than the rail safety activities funded by the Transportation Planning and Development Account pursuant to Section 99315. The railroad fees shall be set annually at a level that generates not less than the
amount sufficient to fund activities pursuant to Sections 765.5, 916.2, and 7712.

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

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

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

3. Expenditures for legal personnel who actually pursue violations of rail safety regulations beyond the informal complaint level.

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

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

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

(g) The commission, in performing its duties, shall limit the expenditure of funds for rail safety purposes to those railroad corporation fees collected pursuant to subdivision (d). In no event shall the commission The commission shall not fund railroad safety
activities utilizing using funds from other commission accounts unrelated to railroad safety.

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

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

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

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

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

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

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

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

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

(e) For every carrier and related business having annual gross intrastate revenues of one hundred thousand dollars ($100,000) or less, or for every railroad corporation having annual gross intrastate revenues of ten million dollars ($10,000,000) or less, the
The commission shall annually establish uniform fees, which shall be not less than a minimum annual fee, to be paid by each carrier and related business and by each railroad corporation, if the revenues collected are consistent with paragraph (2) of subdivision (a).

Every carrier and related business and railroad corporation paying fees pursuant to this subdivision shall show proof of eligibility at the time of payment in a form the commission may specify.

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

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

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

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

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

(a) Every carrier and related business with annual gross intrastate revenues of one hundred thousand dollars ($100,000) or less, less and railroad corporation, commercial air operator, and for hire
vessel operator corporation shall make payment of the fee to the commission on an annual basis on or before January 15.

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

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

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

1. The alternate information or reports contain all of the information required by the commission.
2. The requirements to which the alternate information or reports are responsive are clearly identified.
3. The information or reports are certified by the carrier or related business to be true and correct.

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

424. As used in this article:

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

(b) “Gross intrastate revenue” includes all compensation for the transportation or storage of property or the transportation of persons when both the origin and destination of the transportation or the
performance of the service is within this state, and shall not include compensation for the transportation of persons or property in interstate or foreign commerce or the transportation of vehicles by ferries. “Gross intrastate revenue,” as determined pursuant to this article, shall apply only for purposes of determining the fees required by this chapter and shall not necessarily constitute gross operating revenue for any other purpose.

(c) “Fee” means that monetary amount determined in accordance with this article.

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

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

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

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

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

(1) Any farmer resident of this state who occasionally transports from the place of production to a warehouse, regular market, place
of storage, or place of shipment the farm products of neighboring farmers in exchange for like services or for a cash consideration or farm products for compensation.

(2) Persons or corporations hauling their own property.

(3) Any farmer operating a motor vehicle used exclusively in the transportation of his or her the farmer’s livestock and agricultural commodities or in the transportation of supplies to his or her the farmer’s farm.

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

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

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

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

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

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

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

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

(h) If, on or before the effective date of this section, the claimant has demanded the payment of additional freight charges and has
not filed a suit for the collection of additional freight charges, the
claimant shall notify the person, or entity, from whom additional
freight charges are sought of the provisions of this section within
30 days of the effective date of this section.

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

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

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

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

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

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

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

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

918.2. The commission and the Department of Insurance shall
collaborate on a study of transportation network company insurance
to assess whether coverage requirements are appropriate to the
risk of transportation network company services in order to promote data-driven decisions on insurance requirements, and shall report the findings of this study to the Legislature no later than December 31, 2017.

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

Chapter 1.
Interstate and Foreign Motor Carriers of Household Goods and Passengers Act

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

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

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

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

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

2. If the operation does not require authority from the Interstate Commerce Commission under the Interstate Commerce Act, or authority from another federal regulatory agency, an affidavit of that exempt status shall be filed with the application for registration.
(3) The commission shall grant registration upon the filing of the application pursuant to applicable law and the payment of any applicable fees, subject to the carrier’s compliance with this chapter.

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

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

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

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

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

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

PART 3. COMMERCIAL AIR CARRIERS

24000. As used in this article, “commercial air operator” means any person owning, controlling, operating, renting, or managing aircraft for any commercial purpose for compensation. “Commercial air operator” does not include any person owning, controlling, operating, renting, managing, furnishing, or otherwise providing transportation by hot air balloon for entertainment, sporting, or recreational purposes.

24001. As used in this article, “aircraft” means any contrivance used for navigation of, or flight in, the air. “Aircraft” does not
include a hot air balloon furnished or providing transportation for
entertainment, sporting, or recreational purposes.

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

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

24004. (a) All commercial air operators shall comply with any
requirement of a city, county, or city and county that the person
obtain a business license as a condition for operating in that city,
county, or city and county.
(b) All commercial air operators shall also provide the city,
county, or city and county a currently effective certificate of
insurance evidencing insurance coverage as required in Section
24003. A new certificate of insurance shall be provided to the city,
county, or city and county at least annually or whenever there is
a material change in insurance coverage. A city, county, or city
and county shall give reasonable notice of this requirement with
any business license renewal notification. A city, county, or city
and county may charge a reasonable fee for purposes of carrying
out the provisions of this subdivision.

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

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

24007. Notwithstanding the provisions of Section 24004, a
city, county, or city and county shall have the authority to accept
policies of insurance written by nonadmitted insurers subject to
Section 1763 of the Insurance Code of this state, provided that the
policies of insurance shall meet the rules and regulations adopted
therefor by the applicable jurisdiction.

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

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

(b) Any person owning, controlling, operating, renting, managing, furnishing, or otherwise providing transportation by hot air balloon for hire shall comply with any requirement of a city, county, or city and county that the person obtain a business license as a condition for operating in that city, county, or city and county. Whenever a city, county, or city and county requires a business license, any person owning, controlling, operating, renting, managing, furnishing, or otherwise providing transportation by hot air balloon for hire shall prominently display the license only within the city or county of the person’s primary place of business frequented by customers and potential customers. Whenever a city, county, or city and county requires a business license, the person shall provide to the city, county, or city and county a currently effective certificate of insurance evidencing insurance coverage as required in subdivision (a). A new certificate of insurance shall be provided to the city, county, or city and county, at least annually or whenever there is a material change in insurance coverage. A city, county, or city and county shall give reasonable notice of this requirement with any business license renewal notification. Every business license issued by a city, county, or
city and county to any person owning, controlling, operating, renting, managing, furnishing, or otherwise providing transportation by hot air balloon for hire and every currently effective certificate of insurance evidencing insurance coverage shall be maintained as a public record. The city, county, or city and county may charge a reasonable fee for purposes of carrying out the provisions of this subdivision.

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

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

24243. This part does not apply to:

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

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

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

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

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

(f) Any person who maintains in effect an insurance policy meeting the requirements of Section 24350 and who has filed with the department a certificate of insurance issued by the insurance company which issued such policy, provided, however, the policy, provided that such the person shall, in accordance with the
provisions of Section 24300, report each aircraft accident in which he the person is involved as operator or owner of aircraft.

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

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

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

Date Due: By January 1, 2017

Recipient: Legislature
SENATE BILL No. 144

Introduced by Senator Mitchell Senators Mitchell and Hertzberg

January 18, 2019

An act relating to criminal fees. An act to amend Sections 7158, 7159.5, 7159.14, 7161, 9807, 9848, and 9882.14 of the Business and Professions Code, to amend Sections 6157, 27706, 27707, 27750, 27752, 27756, 27757, 29550, 29551, 50050, 68085, 68085.1, 68085.5, 68085.7, 68085.8, 71380, 71386, 76000.10, 76223, 77009, 77203, and 77205 of, to add Section 6111 to, to repeal Sections 22712, 27753, 29550.1, 29550.2, and 29550.3 of, and to repeal and add Section 68635 of the Government Code, to amend Section 11374.5 of, to add Section 11470.5 to, and to repeal Section 11470.2 of, the Health and Safety Code, to amend Sections 273a, 273d, 273.1, 273.6, 290.06, 295, 597.3, 670, 987, 987.2, 1000.3, 1001.90, 1202.4, 1202.42, 1203, 1203.016, 1203.018, 1203.066, 1203.067, 1203.097, 1203.1, 1203.1a, 1203.1ab, 1203.1d, 1203.1i, 1203.4, 1203.4a, 1203.41, 1203.42, 1203.45, 1203.9, 1205, 1208, 1208.2, 1208.3, 1210.1, 1211, 1462.5, 1463, 1463.007, 1463.010, 1463.011, 1463.012, 1463.14, 1464.8, 2085.5, 2085.6, 2085.7, 3000.07, 4011.1, 4018.6, 4024.2, and 5008.2 of, to add Section 1465.9 to, and to repeal Sections 987.4, 987.5, 987.8, 987.81, 1001.15, 1001.16, 1203.1b, 1203.1bb, 1203.1c, 1203.1e, 1203.1h, 1203.1m, 1209, 1210.15, 1214.1, 1214.5, 1463.07, 3010.8, 4011.2, 5007.5, and 6266 of, the Penal Code, to amend Sections 11208, 13386, 21212, 23573, 23575.3, 40509, 40510.5, 40512, 42003, 42007, 42007.1, 42007.3, 42007.4, 42008.5, 42008.7, and 42008.8 of, to add Section 44237 to, and to repeal Sections 40508.5, 40508.6, and 40611, of, the Vehicle Code, and to amend Sections 903.45 and 904 of, and to repeal Section 903.3 of, the Welfare and Institutions Code, relating to fees.
legislative counsel's digest

SB 144, as amended, Mitchell. **Fees: criminal administrative fees.**

**Criminal fees.**

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

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

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

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

3. Existing law, as added by the Substance Abuse and Crime Prevention Act of 2000, adopted by voters as Proposition 36 at the November 7, 2000, statewide general election, requires that persons convicted of certain nonviolent drug possession offenses be granted probation and be placed in an appropriate drug treatment program.
The act allows the trial judge to require a person convicted of a nonviolent drug possession offense to contribute to the cost of their placement in a drug treatment program. The act allows its amendment by a statute passed by 2/3 of both houses of the Legislature and requires that all amendments further the act and be consistent with its purposes.

This bill would amend the act by deleting the authority of the court to require a person convicted of a nonviolent drug possession offense to contribute to the cost of their placement in a drug treatment program.

(4) Existing law allows the court to impose a civil assessment of up to $300 against a defendant who fails, after notice and without good cause, to appear in court or who fails to pay all or any portion of a fine ordered by the court.

This bill would repeal the authority of the court to impose that assessment.

(5) Existing law, the Sexual Predator Punishment and Control Act: Jessica’s Law, adopted by voters as Proposition 83 at the November 7, 2006, statewide general election, requires every person paroled after being committed to prison for a registerable sex offense to be monitored by a global positioning system for the term of their parole. The act requires the inmate to pay for the costs associated with the monitoring by a global positioning system unless the Department of Corrections and Rehabilitation finds the inmate has an inability to pay. The act allows its amendment by a statute passed by 2/3 of both houses of the Legislature.

This bill would amend the act by deleting the requirement that a parolee pay for the costs associated with being monitored by a global positioning system.

(6) Existing law requires a person who has been convicted of driving a motor vehicle under the influence of an alcoholic beverage or drug to install an ignition interlock device on the vehicle that person operates. Existing law requires a manufacturer certified to provide ignition interlock devices to adopt a fee schedule for the payment of costs of the device in an amount commensurate with a defendant’s ability to pay. Existing law requires that a person subject to this requirement pay a percentage of the cost of the ignition interlock device program, up to the full cost, based on the person’s income and to pay a fee to the Department of Motor Vehicles to cover the costs of administering the program.
This bill would delete the requirement that the person pay the costs of the ignition interlock device program and the requirement that the person pay the fee to the department.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement. This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

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

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


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

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

(a) Approximately 80 percent of Californians in jail are indigent and too many enter the criminal justice system due to the criminalization of their poverty.

(b) Incarcerated people are disproportionately Black or Latinx because these populations are overpoliced, have higher rates of convictions following an arrest, and have the highest rates of poverty. In fact, while Black Californians represent only 7 percent of the state population, they make up 23 percent of the Californians on probation and are also grossly overrepresented in felony and misdemeanor arrests.
(c) People exiting jail or prison face higher rates of unemployment and homelessness, due in part to racial discrimination and the impact of their criminal conviction.

(d) The inability to meet basic needs has been found to contribute to higher rates of recidivism and is a barrier to family reunification.

(e) According to a report by the Ella Baker Center for Human Rights, the average debt incurred for court-ordered fines and fees was roughly equal to the annual income for respondents in the survey.

(f) A national survey of formerly incarcerated people found that families often bear the burden of fees, and that 83 percent of the people responsible for paying these costs are women.

(g) Because these fees are often assigned to people who simply cannot afford to pay them, they make poor people, their families, and their communities poorer.

(h) Criminal justice fees have no formal punitive or public safety function. Instead, they undermine public safety because the debt they cause can limit access to employment, housing, education, and public benefits, which creates additional barriers to successful reentry. Research also shows that criminal justice fees can push individuals into underground economies and can result in individuals turning to criminal activity or predatory lending to pay their debts.

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

(j) The use of criminal justice fees has been argued by some to be unconstitutional. On February 20, 2019, the United States Supreme Court ruled unanimously in Timbs v. Indiana that the Eighth Amendment’s Excessive Fines Clause is an incorporated protection applicable to the states and “protects people against abuses of government’s punitive or criminal-law-enforcement authority.” Justice Ginsburg wrote in her decision that the constitutional protection against excessive fines is “fundamental to our scheme of ordered liberty with deep roots in our history and tradition.”

SEC. 2. It is the intent of the Legislature to eliminate the range of administrative fees that agencies and courts are authorized to impose to fund elements of the criminal legal system and to
eliminate all outstanding debt incurred as a result of the imposition of administrative fees.

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

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

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

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

7159.5. This section applies to all home improvement contracts, as defined in Section 7151.2, between an owner or tenant and a
contractor, whether a general contractor or a specialty contractor, that is licensed or subject to be licensed pursuant to this chapter with regard to the transaction.

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

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

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

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

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

5. Except for a downpayment, the contractor may neither request nor accept payment that exceeds the value of the work performed or material delivered.

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

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

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

(b) A violation of paragraph (1), (3), or (5) of subdivision (a)
by a licensee or a person subject to be licensed under this chapter,
or by his or her their agent or salesperson, is a misdemeanor
punishable by a fine of not less than one hundred dollars ($100)
or more than five thousand dollars ($5,000), or by imprisonment
in a county jail not exceeding one year, or by both that fine and
imprisonment.
(1) An indictment or information against a person who is not
licensed but who is required to be licensed under this chapter shall
be brought, or a criminal complaint filed, for a violation of this
section, in accordance with paragraph (4) of subdivision (d) of
Section 802 of the Penal Code, within four years from the date of
the contract or, if the contract is not reduced to writing, from the
date the buyer makes the first payment to the contractor.
(2) An indictment or information against a person who is
licensed under this chapter shall be brought, or a criminal complaint
filed, for a violation of this section, in accordance with paragraph
(2) of subdivision (d) of Section 802 of the Penal Code, within
two years from the date of the contract or, if the contract is not
reduced to writing, from the date the buyer makes the first payment
to the contractor.
(3) The limitations on actions in this subdivision shall not apply
to any administrative action filed against a licensed contractor.
(c) Any person who violates this section as part of a plan or scheme to defraud an owner or tenant of a residential or nonresidential structure, including a mobilehome or manufactured home, in connection with the offer or performance of repairs to the structure for damage caused by a natural disaster, shall be ordered by the court to make full restitution to the victim based on the person's ability to pay, as defined in subdivision (e) of Section 1203.1b of the Penal Code. paragraph (2) of subdivision (b) of Section 27755 of the Government Code. In addition to full restitution, and imprisonment authorized by this section, the court may impose a fine of not less than five hundred dollars ($500) nor more than twenty-five thousand dollars ($25,000), based upon the defendant's ability to pay. This subdivision applies to natural disasters for which a state of emergency is proclaimed by the Governor pursuant to Section 8625 of the Government Code, or for which an emergency or major disaster is declared by the President of the United States.

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

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

(1) The contract may not exceed seven hundred fifty dollars ($750).

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

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

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

(5) The prospective buyer must have initiated contact with the contractor to request work.

(6) The contractor may not sell the buyer goods or services beyond those reasonably necessary to take care of the particular problem that caused the buyer to contact the contractor.
(7) **No payment may** be due before the project is completed.

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

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

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

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

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

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

(2) An indictment or information against a person who is licensed under this chapter shall be brought, or a criminal complaint filed, for a violation of this section, in accordance with paragraph (2) of subdivision (d) of Section 802 of the Penal Code, within two years from the date of the contract or, if the contract is not reduced to writing, from the date the buyer makes the first payment to the contractor.
(3) The limitations on actions in this subdivision shall do not apply to any administrative action filed against a licensed contractor.

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

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

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

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

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

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

(d) Preparing or accepting any trust deed, mortgage, promissory note, or other evidence of indebtedness upon the obligations of a home improvement transaction or other transaction for a work of
improvement with knowledge that it specifies a greater monetary
obligation than the consideration for the improvement work, which
consideration may be a time sale price.
(e) Directly or indirectly publishing any advertisement relating
to home improvements or other works of improvement that
contains an assertion, representation, or statement of fact that is
false, deceptive, or misleading, or by any means advertising or
purporting to offer to the general public this improvement work
with the intent not to accept contracts for the particular work or at
the price that is advertised or offered to the public, except that any
advertisement that is subject to and complies with the existing
rules, regulations, or guides of the Federal Trade Commission shall
not be deemed false, deceptive, or misleading.
(f) Any person who violates subdivision (b), (c), (d), or (e) as
part of a plan or scheme to defraud an owner of a residential or
nonresidential structure, including a mobilehome or manufactured
home, in connection with the offer or performance of repairs to
the structure for damage caused by a natural disaster, shall be
ordered by the court to make full restitution to the victim based
on the person’s ability to pay, as defined in subdivision (e) of
Section 1203.1b of the Penal Code, paragraph (2) of subdivision
(b) of Section 27755 of the Government Code. In addition to full
restitution and imprisonment as authorized by this section, the
court may impose a fine of not less than five hundred dollars ($500)
 nor more than twenty-five thousand dollars ($25,000), based upon
the defendant’s ability to pay. This subdivision applies to natural
disasters for which a state of emergency is proclaimed by the
Governor pursuant to Section 8625 of the Government Code or
for which an emergency or major disaster is declared by the
President of the United States.
SEC. 7. Section 9807 of the Business and Professions Code is
amended to read:
9807. (a) Notwithstanding any other law, a service dealer
licensed under this chapter and authorized to engage in the
electronic repair industry, as defined in subdivision (p) of Section
9801, may install, calibrate, service, maintain, and monitor certified
ignition interlock devices.
(b) (1) The director may issue a citation to, or suspend, revoke,
or place on probation the registration of, a service dealer who
installs, calibrates, services, maintains, or monitors ignition
interlock devices if the service dealer is not in compliance with subdivision (k) of Section 23575.3 of the Vehicle Code.

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

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

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

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

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

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

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

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

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

(2) An automotive repair dealer shall provide to an individual receiving ignition interlock device services the information provided in subdivision (k) of Section 23575.3 of the Vehicle Code along with the contact telephone number of the bureau.
Pages 14 – 216 omitted because amendments are not relevant to the Bureau.
(1) Original issuance of a traffic violator school owner, operator, instructor, and branch or classroom location license.

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

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

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

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

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

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

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

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

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

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

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

(B) The department may use denial of certification, suspension or revocation of certification, or decertification of an ignition interlock device in another state as an indication that the
certification requirements are not met, if either of the following apply:

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

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

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

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

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

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

(d) The department shall utilize information from an independent, accredited (ISO/IEC 17025) laboratory to certify ignition interlock devices of the manufacturer or manufacturer’s agent, in accordance with the guidelines. The cost of certification shall be borne by the manufacturers of ignition interlock devices. If the certification of a device is suspended or revoked, the manufacturer of the device shall be responsible for, and shall bear the cost of, the removal of the device and the replacement of a certified device of the manufacturer or another manufacturer.
(e) A model of ignition interlock device shall not be certified unless it meets the accuracy requirements and specifications provided in the guidelines adopted by the National Highway Traffic Safety Administration.

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

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

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

2. A “Verification of Installation” to be returned to the department by the reinstating offender upon application for reinstatement. Copies shall be provided for the manufacturer or the manufacturer’s agent.

3. A “Notice of Noncompliance” and procedures to ensure continued use of the ignition interlock device during the restriction period and to ensure compliance with maintenance requirements. The maintenance period shall be standardized at 60 days to maximize monitoring checks for equipment tampering.

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

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

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

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

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

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

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

(d) A charge under this section shall be dismissed when the person charged alleges in court, under oath, that the charge against the person is the first charge against that person under this section, unless it is otherwise established in court that the charge is not the first charge against the person.
(e) (1) Except as provided in subdivision (d), a violation of this section is an infraction punishable by a fine of not more than twenty-five dollars ($25).

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

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

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

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

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

(3) If the violation occurred within a city, 25 percent of the amount collected shall be transferred to, and deposited in, the treasury of that city. If the violation occurred in an unincorporated area, this 25 percent shall be deposited and used pursuant to paragraph (1).
SEC. 121. Section 23573 of the Vehicle Code, as amended by Section 23 of Chapter 485 of the Statutes of 2017, is amended to read:

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

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

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

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

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

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

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

(e) (1) A person who is notified by the department pursuant to subdivision (a) shall arrange for each vehicle with an ignition interlock device to be serviced by the installer at least once every 60 days in order for the installer to recalibrate and monitor the operation of the device.
(2) The installer shall notify the department if the device is removed or indicates that the person has attempted to remove, bypass, or tamper with the device, or if the person fails three or more times to comply with any requirement for the maintenance or calibration of the ignition interlock device.

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

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

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

(i) The person does not own a vehicle.

(ii) The person does not have access to a vehicle at the person’s residence.

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

(iv) The person acknowledges that he or she is only allowed to drive a vehicle that is fitted with a functioning, certified ignition interlock device and that he or she is required to have a valid driver’s license before he or she can drive.

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

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

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

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

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

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

(j) In addition to all other requirements of this code, a person
convicted of any of the following violations shall be punished as
follows:
(1) Upon a conviction of a violation of Section 14601.2,
14601.4, or 14601.5 subsequent to one prior conviction of a
violation of Section 23103.5, 23152, or 23153, within a 10-year
period, the person shall immediately install a functioning, certified
ignition interlock device, pursuant to this section, in all vehicles
operated by that person for a term of one year.
(2) Upon a conviction of a violation of Section 14601.2,
14601.4, or 14601.5 subsequent to two prior convictions of a
violation of Section 23103.5, 23152, or 23153, within a 10-year
period, or one prior conviction of Section 14601.2, 14601.4, or
14601.5, within a 10-year period, the person shall immediately
install a functioning, certified ignition interlock device, pursuant
to this section, in all vehicles operated by that person for a term of two years.
(3) Upon a conviction of a violation of Section 14601.2,
14601.4, or 14601.5 subsequent to three or more prior convictions
of a violation of Section 23103.5, 23152, or 23153, within a 10-year
period, or two or more prior convictions of Section
14601.2, 14601.4, or 14601.5, within a 10-year period, the person
shall immediately install a functioning, certified ignition interlock
device, pursuant to this section, in all vehicles operated by that
person for a term of three years.
(k) The department shall notify the court if a person subject to
this section has failed to show proof of installation within 30 days
of the department informing the person he or she is required to install a functioning, certified ignition interlock device.
(l) Subdivisions (g), (h), (j), (k), and (l) of Section 23575 apply
to this section.
(m) The requirements of this section are in addition to any other
requirements of law.
(n) This section shall become operative on January 1, 2019.
(o) This section shall remain in effect only until January 1, 2026, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2026, deletes or extends that date.

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

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

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

(c) (1) A person who is notified by the department pursuant to subdivision (a) shall, within 30 days of notification, complete—
both of the following:

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

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

(2) Pay to the department a fee sufficient to cover the costs of administration of this section, including startup costs, as determined by the department.

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

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

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

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

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

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

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

(i) The person does not own a vehicle.

(ii) The person does not have access to a vehicle at the person’s residence.

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

(iv) The person acknowledges that he or she is only allowed to drive a vehicle that is fitted with a functioning, certified ignition interlock device and that he or she is required to have a valid driver’s license before he or she can drive.

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

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

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

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

(h) This section does not permit a person to drive without a valid driver’s license.
(i) A person who is required under subdivision (c) to install a functioning, certified ignition interlock device who willfully fails to install the ignition interlock device within the time period required under subdivision (c) is guilty of a misdemeanor and shall be punished by imprisonment in a county jail for not more than six months or by a fine of not more than five thousand dollars ($5,000), or by both that fine and imprisonment.

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

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

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

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

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

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

(m) The requirements of this section are in addition to any other requirements of law.
(n) This section shall become operative January 1, 2026.

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

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

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

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

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

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

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

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

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

(A) The person does not own a vehicle.

(B) The person does not have access to a vehicle at the person’s residence.
(C) The person no longer has access to the vehicle he or she was driving at the time he or she was arrested for a violation that subsequently resulted in a conviction for a violation listed in subdivision (h).

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

(E) The person acknowledges that he or she is required to have a valid driver’s license before he or she can drive.

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

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

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

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

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

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

(h) A person is required to install a functioning, certified ignition interlock device pursuant to this section for the applicable term, as follows:
(1) A person convicted of a violation of subdivision (a), (b), (d), (e), or (g) of Section 23152 shall be required to do the following, as applicable:

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

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

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

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

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

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

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

(2) A person convicted of a violation of subdivision (a), (b), (d), (e), or (g) of Section 23153 shall install a functioning, certified ignition interlock device, as follows:
(A) Upon a conviction with no priors, punishable under Section 23554, the person shall install a functioning, certified ignition interlock device in the vehicle, as ordered by the court, that is operated by that person for a mandatory term of 12 months.

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

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

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

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

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

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

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

(k) (1) Every manufacturer and manufacturer’s agent certified by the department to provide ignition interlock devices, under Section 13386, shall adopt the following fee schedule that provides...
for the payment of the costs of the certified ignition interlock
device by offenders subject to this chapter in amounts
commensurate with that person’s income relative to the federal
poverty level, as defined in Section 127400 of the Health and
Safety Code:

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

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

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

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

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

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

(G) The manufacturer is responsible for the percentage of costs
that the offender is not responsible for pursuant to subparagraphs
(A) to (E), inclusive:
(2) The ignition interlock device provider shall verify the offender’s income to determine the cost of the ignition interlock device pursuant to this subdivision by verifying one of the following documents from the offender:
   (A) The previous year’s federal income tax return.
   (B) The previous three months of weekly or monthly income statements.
   (C) Employment Development Department verification of unemployment benefits.
(1) The Department of Consumer Affairs may impose a civil assessment not to exceed one thousand dollars ($1,000) upon a manufacturer or manufacturer’s agent certified to provide ignition interlock devices who fails to inform an offender subject to this chapter of the provisions of subdivision (k), or who fails to comply with the provisions of subdivision (k).

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

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

(m) For the purposes of this section, the following definitions apply:
   (1) “Bypass” means either of the following:
      (A) Failure to take any random retest.
      (B) Failure to pass a random retest with a breath alcohol concentration not exceeding 0.03 percent, by weight of alcohol, in the person’s blood.
   (2) “Operates” includes operating a vehicle that is not owned by the person subject to this section.
   (3) “Owned” means solely owned or owned in conjunction with another person or legal entity.
   (4) “Random retest” means a breath test performed by the driver upon a certified ignition interlock device at random intervals after the initial engine startup breath test and while the vehicle’s motor is running.
   (5) “Vehicle” does not include a motorcycle until the state certified an ignition interlock device that can be installed on a motorcycle. A person subject to an ignition interlock device
restriction shall not operate a motorcycle for the duration of the
ingestation interlock device restriction period.

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

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

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

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

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

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

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

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

SEC. 125. Section 40508.6 of the Vehicle Code is repealed.
Pages 235-263 omitted because amendments are not relevant to the Bureau
An act to amend Section 2810.3 of the Labor Code, to amend Sections 2113, 2036, 2113, 36627, and 36633 of the Streets and Highways Code, and to amend Section 27150.2, 27151, and 34500 of, and to repeal Sections 16020.1 and 16020.2 of, the Vehicle Code, relating to transportation.

legislative counsel's digest

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

(1) Existing law creates the Road Maintenance and Rehabilitation Program and, after certain allocations for the program are made, requires the remaining funds available for the program to be allocated 50% for maintenance of the state highway system or for purposes of the state highway operation and protection program and 50% for apportionment to cities and counties by the Controller pursuant to a specified formula. Before receiving an apportionment of funds under the program from the Controller in a fiscal year, existing law requires a city or county to submit to the California Transportation Commission a list of projects proposed to be funded with these funds. In order to receive an allocation or apportionment of these funds, existing law requires the city or county to annually expend a certain minimum amount from its general fund for street, road, and highway purposes. Existing law authorizes the Controller to perform audits to ensure
compliance with this expenditure requirement and requires a city or county that has not complied with this expenditure requirement to reimburse the state the funds it received during the fiscal year it was not in compliance.

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

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

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

(2)
(3) Existing law provides that, on and after January 1, 2020, provisions requiring an applicant for registration renewal to submit a form issued by the insurer as evidence that the applicant is in compliance with the financial responsibility laws of the state do not apply to vehicle owners with a residence address in the County of Los Angeles or in the City and County of San Francisco at the time of registration renewal. Existing law also provides that, on and after January 1, 2020, provisions requiring a person who drives a motor vehicle to provide evidence of financial responsibility for the vehicle upon demand of a peace officer or traffic collision investigator do not apply to a person who drives a motor vehicle upon a highway in the County of Los Angeles or in the City and County of San Francisco.

This bill would repeal those provisions.

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

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

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

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

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

State-mandated local program: no.
The people of the State of California do enact as follows:

SECTION 1. Section 2810.3 of the Labor Code is amended to read:

2810.3. (a) As used in this section:

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

2. (B) “Client employer” does not include any of the following:

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

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

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

3. (2) “Labor” has the same meaning provided by Section 200.

4. (3) “Labor contractor” means an individual or entity that supplies, either with or without a contract, a client employer with workers to perform labor within the client employer’s usual course of business. “Labor contractor” does not include any of the following:

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

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

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

   (D) A third party who is a party to an employee leasing arrangement, as defined by Rule 4 of Section V of the California Workers’ Compensation Experience Rating Plan-1995 (Section 2353.1 of Title 10 of the California Code of Regulations), as it read on January 1, 2014, except those arrangements described in subrule d of Rule 4 of Section V, if the employee leasing arrangement contractually obligates the client employer to assume all civil legal responsibility and civil liability under this act.
(4) “Wages” has the same meaning provided by Section 200 and all sums payable to an employee or the state based upon any failure to pay wages, as provided by law.

(5) “Worker” does not include an employee who is exempt from the payment of an overtime rate of compensation for executive, administrative, and professional employees pursuant to wage orders by the Industrial Welfare Commission described in Section 515.

(6) “Usual course of business” means the regular and customary work of a business, performed within or upon the premises or worksite of the client employer.

(b) A client employer shall share with a labor contractor all civil legal responsibility and civil liability for all workers supplied by that labor contractor for both of the following:

1. The payment of wages.
2. Failure to secure valid workers’ compensation coverage as required by Section 3700.

(c) A client employer shall not shift to the labor contractor any legal duties or liabilities under Division 5 (commencing with Section 6300) with respect to workers supplied by the labor contractor.

(d) At least 30 days prior to filing a civil action against a client employer for violations covered by this section, a worker or the worker’s representative shall notify the client employer of violations under subdivision (b).

(e) Neither the client employer nor the labor contractor may take any adverse action against any worker for providing notification of violations or filing a claim or civil action.

(f) The provisions of subdivisions (b) and (c) are in addition to, and shall be supplemental of, any other theories of liability or requirement established by statute or common law.

(g) This section does not prohibit a client employer from establishing, exercising, or enforcing by contract any otherwise lawful remedies against a labor contractor for liability created by acts of a labor contractor.

(h) This section does not prohibit a labor contractor from establishing, exercising, or enforcing by contract any otherwise lawful remedies against a client employer for liability created by acts of a client employer.

(i) Upon request by a state enforcement agency or department, a client employer or a labor contractor shall provide to the agency
or department any information within its possession, custody, or control required to verify compliance with applicable state laws. Upon request, these records shall be made available promptly for inspection, and the state agency or department shall be permitted to copy them. This subdivision does not require the disclosure of information that is not otherwise required to be disclosed by employers upon request by a state enforcement agency or department.

(j) The Labor Commissioner may adopt regulations and rules of practice and procedure necessary to administer and enforce the provisions of subdivisions (b) and (i) that are under the Labor Commissioner’s jurisdiction.

(k) The Division of Occupational Safety and Health may adopt regulations and rules of practice and procedure necessary to administer and enforce the provisions of subdivisions (c) and (i) that are under its jurisdiction.

(l) The Employment Development Department may adopt regulations and rules of practice and procedure necessary to administer and enforce the provisions of subdivisions (b) and (i) that are under its jurisdiction.

(m) A waiver of this section is contrary to public policy, and is void and unenforceable.

(n) This section does not impose individual liability on a homeowner for labor or services received at the home or the owner of a home-based business for labor or services received at the home.

(o) This section does not impose liability on a client employer for the use of an independent contractor other than a labor contractor or to change the definition of independent contractor.

(p) This section does not impose liability on the following:

1. A client employer that is not a motor carrier of property based solely on the employer’s use of a third-party motor carrier of property with interstate or intrastate operating authority to ship or receive freight.

2. A client employer that is a motor carrier of property subcontracting with, or otherwise engaging, another motor carrier of property to provide transportation services using its own employees and commercial motor vehicles, as defined in Section 34601 of the Vehicle Code.
(3) A client employer that is not a household mover based solely on the employer’s use of a third-party household mover permitted by the Bureau of Household Goods and Services pursuant to Chapter 3.1 (commencing with Section 19225) of Division 8 of the Business and Professions Code to move household goods.

(4) A client employer that is a household mover permitted by the Bureau of Household Goods and Services pursuant to Chapter 3.1 (commencing with Section 19225) of Division 8 of the Business and Professions Code subcontracting with, or otherwise engaging, another permitted household mover to provide transportation of household goods using its own employees and motor vehicles, as defined in former Section 5108 of the Public Utilities Code.

(5) A client employer that is a cable operator, as defined by Section 5830 of the Public Utilities Code, a direct-to-home satellite service provider, or a telephone corporation, as defined by Section 234 of the Public Utilities Code, based upon its contracting with a company to build, install, maintain, or perform repair work utilizing the employees and vehicles of the contractor if the name of the contractor is visible on employee uniforms and vehicles.

(6) A motor club holding a certificate of authority issued pursuant to Chapter 2 (commencing with Section 12160) of Part 5 of Division 2 of the Insurance Code when it contracts with third parties to provide motor club services utilizing the employees and vehicles of the third-party contractor if the name of the contractor is visible on the contractor’s vehicles.

**SEC. 2. Section 2036 of the Streets and Highways Code is amended to read:**

2036. (a) Cities and counties shall maintain their existing commitment of local funds for street, road, and highway purposes in order to remain eligible for an allocation or apportionment of funds pursuant to Section 2032.

(b) In order to receive an allocation or apportionment pursuant to Section 2032, the city or county shall annually expend from its general fund for street, road, and highway purposes an amount not less than the annual average of its expenditures from its general fund during the 2009–10, 2010–11, and 2011–12 fiscal years, as reported to the Controller pursuant to Section 2151. For purposes of this subdivision, in calculating a city’s or county’s annual general fund expenditures and its average general fund expenditures for the 2009–10, 2010–11, and 2011–12 fiscal years, any
unrestricted funds that the city or county may expend at its
discretion, including vehicle in-lieu tax revenues and revenues
from fines and forfeitures, expended for street, road, and highway
purposes shall be considered expenditures from the general fund.
One-time allocations that have been expended for street and
highway purposes, but which may not be available on an ongoing
basis, including revenue provided under the Teeter Plan Bond Law
of 1994 (Chapter 6.6 (commencing with Section 54773) of Part 1
of Division 2 of Title 5 of the Government Code), may not be
considered when calculating a city’s or county’s annual general
fund expenditures.
(c) For any city incorporated after July 1, 2009, the Controller
shall calculate an annual average expenditure for the period
between July 1, 2009, and December 31, 2015, inclusive, that the
city was incorporated.
(d) For purposes of subdivision (b), the Controller may request
fiscal data from cities and counties in addition to data provided
pursuant to Section 2151, for the 2009–10, 2010–11, and 2011–12
fiscal years. Each city and county shall furnish the data to the
Controller not later than 120 days after receiving the request. The
Controller may withhold payment to cities and counties that do
not comply with the request for information or that provide
incomplete data.
(e) The Controller may perform audits to ensure compliance
with subdivision (b) when deemed necessary. Any
(1) For any city or county that has not complied with subdivision
(b) shall reimburse the state for the funds it received during that
fiscal year. Any funds returned as a result of a failure to comply
with subdivision (b) shall be reapportioned to the other counties
and cities whose expenditures are in compliance. (b), the Controller
shall withhold from its apportionment pursuant to Section 2032
for a fiscal year following an audit an amount up to the amount
of funds that the city or county received during the fiscal year that
was audited. The amount withheld shall be reapportioned in one
annual payment pursuant to paragraph (3).
(2) If the amount to be apportioned pursuant to Section 2032
is less than the amount to be withheld pursuant to paragraph (1),
the city or county shall reimburse the state for the difference
between the amount withheld and the apportionment that was
received during the fiscal year that was audited. If the city or
county is ineligible for an apportionment pursuant to Section 2032, the city or county shall reimburse the state in an amount equal to the allocation or apportionment it received in the fiscal year that was audited.

(3) Any funds withheld or returned as a result of a failure to comply with subdivision (b) shall be reallocated or reapportioned to the other counties or cities whose expenditures are in compliance during the fiscal year that the funds are withheld or returned. The reallocation or reapportionment shall be pursuant to the formula in clauses (i) and (ii) of subparagraph (C) of paragraph (3) of subdivision (a) of Section 2103.

(4) The Controller may adopt any rules, regulations, and procedures necessary to carry out the purposes of this section.

(f) If a city or county fails to comply with the requirements of subdivision (b) in a particular fiscal year, the city or county may expend during that fiscal year and the following fiscal year a total amount that is not less than the total amount required to be expended for those fiscal years for purposes of complying with subdivision (b).

SEC. 2.

SEC. 3. Section 2113 of the Streets and Highways Code is amended to read:

2113. (a) An apportionment of money from the Highway Users Tax Account shall not be made to a city unless the city has set up, by ordinance, a special gas tax street fund.

(b) All amounts paid to each city out of the Highway Users Tax Account shall be deposited in its special gas tax street fund.

(c) In making any expenditure, a city shall follow the law governing it in regard to the doing of the particular type of work in cases that are not exclusively municipal affairs.

(d) A state officer or employee shall not be liable for anything done, or omitted to be done, by a city in the performance of any work.

(e) Interest received by a city from the investment of money in its special gas tax street fund shall be deposited in the fund and shall be used for street purposes.

SEC. 4. Section 36627 of the Streets and Highways Code is amended to read:
36627. Following adoption of the resolution establishing district assessments on properties pursuant to Section 36625, the clerk shall record a notice and an assessment diagram pursuant to Section 3114. No other provision of Division 4.5 (commencing with Section 3100) applies to an assessment district created pursuant to this part.

SEC. 4.

SEC. 5. Section 36633 of the Streets and Highways Code is amended to read:

36633. The validity of an assessment levied under this part shall not be contested in an action or proceeding unless the action or proceeding is commenced within 30 days after the resolution levying the assessment is adopted pursuant to Section 36626. An appeal from a final judgment in an action or proceeding shall be perfected within 30 days after the entry of judgment.

SEC. 6.

SEC. 7. Section 16020.2 of the Vehicle Code is repealed.

SEC. 8. Section 27150.2 of the Vehicle Code is amended to read:

27150.2. (a) Stations providing referee functions pursuant to Section 44036 of the Health and Safety Code shall provide for the testing of vehicular exhaust systems and the issuance of certificates of compliance only for those vehicles that have received a citation for a violation of Section 27150 or 27151.

(b) A certificate of compliance for a vehicular exhaust system shall be issued pursuant to subdivision (a) if the vehicle complies with Sections 27150 and 27151. Exhaust systems installed on motor vehicles, other than motorcycles, with a manufacturer’s gross vehicle weight rating of less than 6,000 pounds comply with Sections 27150 and 27151 if they emit no more than 95 dbA when tested in accordance with Society of Automotive Engineers Standard J1169 May 1998. J1492 October 2008.
(c) An exhaust system certificate of compliance issued pursuant to subdivision (a) shall identify, to the extent possible, the make, model, year, license number, and vehicle identification number of the vehicle tested, and the make and model of the exhaust system installed on the vehicle.

(d) The station shall charge a fee for the exhaust system certificate of compliance issued pursuant to subdivision (a). The fee charged shall be calculated to recover the costs incurred by the Department of Consumer Affairs to implement this section. The fees charged by the station shall be deposited in the Vehicle Inspection and Repair Fund established by Section 44062 of the Health and Safety Code.

(e) Vehicular exhaust systems are exempt from the requirements of Sections 27150 and 27151 if compliance with those sections, or the regulations adopted pursuant thereto, would cause an unreasonable hardship without resulting in a sufficient corresponding benefit with respect to noise level control.

SEC. 9. Section 27151 of the Vehicle Code is amended to read: 27151. (a) No A person shall not modify the exhaust system of a motor vehicle in a manner which will amplify or increase the noise emitted by the motor of the vehicle so that the vehicle is not in compliance with the provisions of Section 27150 or exceeds the noise limits established for the type of vehicle in Article 2.5 (commencing with Section 27200). No A person shall not operate a motor vehicle with an exhaust system so modified.

(b) For the purposes of exhaust systems installed on motor vehicles with a manufacturer’s gross vehicle weight rating of less than 6,000 pounds, other than motorcycles, a sound level of 95 dbA or less, when tested in accordance with Society of Automotive Engineers Standard J1169 May 1998, J1492 October 2008, complies with this section. Motor vehicle exhaust systems or parts thereof include, but are not limited to, nonoriginal exhaust equipment.

SEC. 6. SEC. 10. Section 34500 of the Vehicle Code is amended to read: 34500. The department shall regulate the safe operation of the following vehicles:

(a) Motortrucks of three or more axles that are more than 10,000 pounds gross vehicle weight rating.
(b) Truck tractors.
(c) Buses, schoolbuses, school pupil activity buses, youth buses, farm labor vehicles, modified limousines, and general public paratransit vehicles.
(d) Trailers and semitrailers designed or used for the transportation of more than 10 persons, and the towing motor vehicle.
(e) Trailers and semitrailers, pole or pipe dollies, auxiliary dollies, and logging dollies used in combination with vehicles listed in subdivision (a), (b), (c), (d), or (j). This subdivision does not include camp trailers, trailer coaches, and utility trailers.
(f) A combination of a motortruck and a vehicle or vehicles set forth in subdivision (e) that exceeds 40 feet in length when coupled together.
(g) A vehicle, or a combination of vehicles, transporting hazardous materials.
(h) Manufactured homes that, when moved upon the highway, are required to be moved pursuant to a permit, as specified in Section 35780 or 35790.
(i) A park trailer, as described in Section 18009.3 of the Health and Safety Code, that, when moved upon a highway, is required to be moved pursuant to a permit pursuant to Section 35780.
(j) Any other motortruck not specified in subdivisions (a) to (h), inclusive, or subdivision (k), that is regulated by the Department of Motor Vehicles, the Public Utilities Commission, the Bureau of Household Goods and Services, Department of Consumer Affairs, or the United States Secretary of Transportation.
(k) A commercial motor vehicle with a gross vehicle weight rating of 26,001 or more pounds or a commercial motor vehicle of any gross vehicle weight rating towing a vehicle described in subdivision (e) with a gross vehicle weight rating of more than 10,000 pounds, except combinations including camp trailers, trailer coaches, or utility trailers. For purposes of this subdivision, the term “commercial motor vehicle” has the same meaning as defined in subdivision (b) of Section 15210.
An act to amend Section 19283.1 of the Business and Professions Code, relating to business.

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

SECTION 1. Section 19283.1 of the Business and Professions Code is amended to read:

19283.1. (a) The bureau shall ensure that this chapter is enforced and obeyed, and that violations thereof are promptly
prosecuted and that moneys due to the state are recovered and collected.

(b) For purposes of this section, “peace officer” means a person designated as a peace officer pursuant to Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code.

(c) A peace officer may enforce and assist in the enforcement of Sections 19277 and 19278, resulting from a violation of Section 19236, 19237, 19244, or 19276, or more than one of those sections. A peace officer may additionally enforce and assist in the enforcement of Sections 19277.1 and 19279.3. In any case in which an arrest authorized by this subdivision is made for an offense declared to be a misdemeanor, and the person arrested does not demand to be taken before a magistrate, the arresting peace officer may, instead of taking the person before a magistrate, follow the procedure prescribed by Chapter 5C (commencing with Section 853.5) of Title 3 of Part 2 of the Penal Code. The provisions of that chapter shall thereafter apply with reference to any proceeding based upon the issuance of a citation pursuant to this authority.

(d) The bureau shall coordinate enforcement of this section with those peace officers likely to be involved in enforcing this section, including undertaking both of the following:

(1) Educational outreach to promote awareness among those peace officers about the requirements of Sections 19236, 19237, 19244, 19276, 19277, 19277.1, 19278, and 19279.3.

(2) Establishing lines of communication so that the bureau is notified if an action is commenced to enforce the requirements of those sections specified in subdivision (c), so that the bureau may take appropriate action to enforce the citation and fine provisions of this article.

(e) The Attorney General, a district attorney of the proper county or city and county, or a city attorney may institute and prosecute actions or proceedings for the violation of any law committed in connection with, or arising from, a transaction involving the transportation of household goods and personal effects.

(f) Notwithstanding any other law, a person employed as a special investigator or supervising special investigator by the bureau and designated by the director shall have the authority to issue a written notice to appear in court pursuant to Chapter 5C (commencing with Section 853.5) of Title 3 of Part 2 of the Penal Code for a violation of a provision for which a peace officer may
enforce or assist in the enforcement pursuant to subdivision (c).
An employee so designated is not a peace officer, is not entitled to safety member retirement benefits as a result of the designation, and does not have the power of arrest.
S. 3551

To adopt a certain California flammability standard as a Federal flammability standard to protect against the risk of upholstered furniture flammability, and for other purposes.

IN THE SENATE OF THE UNITED STATES

OCTOBER 4, 2018

Mr. WICKER (for himself and Mr. BLUMENTHAL) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To adopt a certain California flammability standard as a Federal flammability standard to protect against the risk of upholstered furniture flammability, and for other purposes.

Be it enacted by the Senate and House of Representa-
tives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Safer Occupancy Fur-
niture Flammability Act” or “SOFFA”.

SEC. 2. ADOPTION OF CALIFORNIA FLAMMABILITY STAND-
ARD AS A FEDERAL STANDARD.

(a) DEFINITIONS.—In this section—
(1) the term “bedding product” means—
   (A) an item that is used for sleeping or
   sleep-related purposes; or
   (B) any component or accessory with re-
   spect to an item described in subparagraph (A),
   without regard to whether the component or ac-
   cessory, as applicable, is used—
   (i) alone; or
   (ii) along with, or contained within,
   that item;
(2) the term “California standard” means the
   standard set forth by the Bureau of Electronic and
   Appliance Repair, Home Furnishings and Thermal
   Insulation of the Department of Consumer Affairs of
   the State of California in Technical Bulletin 117–
   2013, entitled “Requirements, Test Procedure and
   Apparatus for Testing the Smolder Resistance of
   Materials Used in Upholstered Furniture”, originally
   published June 2013, as in effect on the date of en-
   actment of this Act;
(3) the terms “foundation” and “mattress”
   have the meanings given those terms in section
   1633.2 of title 16, Code of Federal Regulations, as
   in effect on the date of enactment of this Act; and
(4) the term “upholstered furniture”—
(A) means an article of seating furniture that—

(i) is intended for indoor use;
(ii) is movable or stationary;
(iii) is constructed with a contiguous upholstered—

(I) seat; and

(II)(aa) back; or

(bb) arm;

(iv) is—

(I) made or sold with a cushion or pillow, without regard to whether that cushion or pillow, as applicable, is attached or detached with respect to the article of furniture; or

(II) stuffed or filled, or able to be stuffed or filled, in whole or in part, with any material, including a substance or material that is hidden or concealed by fabric or another covering, including a cushion or pillow belonging to, or forming a part of, the article of furniture; and

(v) together with the structural units of the article of furniture, any filling mate-
rial, and the container and covering with respect to those structural units and that filling material, can be used as a support for the body of an individual, or the limbs and feet of an individual, when the individual sits in an upright or reclining position;

(B) includes an article of furniture that is intended for use by a child; and

(C) does not include—

(i) a mattress;

(ii) a foundation;

(iii) any bedding product; or

(iv) furniture that is used exclusively for the purpose of physical fitness and exercise.

(b) Adoption of Standard.—

(1) In General.—Beginning on the date that is 180 days after the date of enactment of this Act, and except as provided in paragraph (2), the California standard shall be considered to be a flammability standard promulgated by the Consumer Product Safety Commission under section 4 of the Flammable Fabrics Act (15 U.S.C. 1193).
(2) **TESTING AND CERTIFICATION.**—A fabric, related material, or product to which the California standard applies as a result of paragraph (1) shall not be subject to section 14(a) of the Consumer Product Safety Act (15 U.S.C. 2063(a)).

(c) **PREEMPTION.**—

(1) **IN GENERAL.**—Notwithstanding section 16 of the Flammable Fabrics Act (15 U.S.C. 1203) and section 231 of the Consumer Product Safety Improvement Act of 2008 (15 U.S.C. 2051 note), and except as provided in subparagraphs (B) and (C) of paragraph (2), no State or any political subdivision of a State may establish or continue in effect any provision of a flammability law, regulation, code, standard, or requirement that is designed to protect against the risk of occurrence of fire, or to slow or prevent the spread of fire, with respect to upholstered furniture.

(2) **PRESERVATION OF CERTAIN STATE LAW.**—Nothing in this Act or the Flammable Fabrics Act (15 U.S.C. 1191 et seq.) may be construed to preempt or otherwise affect—

(A) any State or local law, regulation, code, standard, or requirement that—
(i) concerns health risks associated with upholstered furniture; and

(ii) is not designed to protect against the risk of occurrence of fire, or to slow or prevent the spread of fire, with respect to upholstered furniture;

(B) sections 1374 through 1374.3 of title 4, California Code of Regulations (except for subsections (b) and (c) of section 1374 of that title), as in effect on the date of enactment of this Act; or

(C) the California standard.