

Assembly Bill No. 2973

CHAPTER 405

An act to amend Sections 146.5, 312, 7215.5, 8516, 8663, 8674, 9812.5, 9814, 9830.5, 9832.5, 9847.5, 9849, 9851, 9853, 9855.9, 9860, 9862.5, 9863, 9873, 19010.1, 19010.5, 19011, 19017, 19031, 19034.5, 19049, 19059.5, 19060.5, 19062, 19063, 19064, 19072.6, 19093, 19162, 19170, 19208, 19211, 19215.1, 19215.2, 19215.3, 19215.4, 19215.5, 19215.6, 19215.7, and 19215.8 of, and to repeal Sections 121.5, 327, 335, 336, 351, 1620, 3151, 4946, 7017, and 7218 of, the Business and Professions Code, to amend Sections 1791 and 1794.4 of the Civil Code, to amend Sections 94050 and 94771 of the Education Code, to amend Sections 15376 and 15378 of the Government Code, to amend Sections 44031.5 and 57053.9 of the Health and Safety Code, and to amend Section 71030 of the Public Resources Code, relating to regulation of businesses, and making an appropriation therefor.

[Approved by Governor September 6, 2002. Filed
with Secretary of State September 9, 2002.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2973, Committee on Business and Professions. Regulation of businesses.

(1) Existing law allows, under specified circumstances, the violation of certain provisions requiring a license or other authorization to engage in a business or profession to be charged as an infraction. Under existing law, these provisions will be repealed on January 1, 2003.

This bill would extend the operation of these provisions to January 1, 2008.

(2) Existing law requires the Director of Consumer Affairs to report to the Governor and Legislature on specified matters and to disseminate certain information to the public.

This bill would recast provisions pertaining to these reporting responsibilities and would delete the director's duty to disseminate particular information to the public.

(3) Existing law requires the Dental Board of California, the Acupuncture Board, the Contractors' State License Board, and the State Board of Guide Dogs to report specified information to the Governor and Legislature. Existing law also requires entities contracting on behalf of the state to report to the Governor and the Legislature certain information concerning the level of participation of minority, women, and disabled veteran business enterprises in those contracts.



This bill would delete these particular reporting requirements.

(4) Existing law provides for the regulation and licensure by the Structural Pest Control Board of persons engaged in the pest control business. Under existing law, a licensee reinspecting items noted in an original inspection report is required to identify the original report by both date and stamp numbers. Existing law also authorizes the board to levy a fine of \$500 for specified violations committed by a licensee, deposited into the Education and Enforcement Account in the Structural Pest Control Education and Enforcement Fund, a continuously appropriated fund.

This bill would increase the amount of this fine to \$1,000 and would delete the requirement of including in the reinspection the stamp numbers of the original report. Because the bill would increase the fine revenue deposited into a continuously appropriated fund, it would make an appropriation.

(5) Existing law, the Electronic and Appliance Repair Dealers Registration Law, provides for the regulation by the Director of Consumer Affairs of persons engaged in the business of repairing, servicing, or maintaining electronic and other types of household appliances and for their registration with the Bureau of Electronic and Appliance Repair, which is within the Department of Consumer Affairs. Under existing law, certain provisions pertaining to the regulation of this business will be repealed on January 1, 2003. The law additionally provides for the regulation by the director and registration with the bureau of service contractors, as defined. Under existing law, a violation of the law's provisions is punishable as a misdemeanor offense, and a violation of specified provisions of the law pertaining to service contractors is additionally subject to the imposition of an administrative fine that, upon collection, is deposited into the Electronic and Appliance Repair Fund, which is continuously appropriated. Under existing law, the provisions of the law regulating service contractors will be repealed on January 1, 2003.

This bill would extend the operation of these provisions to January 1, 2008. Because the bill would extend the operation of criminal penalty provisions pertaining to service contractors, it would impose a state-mandated local program. Because the bill would also extend, with respect to those persons, the operation of administrative fines which are paid into a continuously appropriated fund, it would also make an appropriation.

(6) Existing law, the Home Furnishing and Thermal Insulation Act, regulates and provides for the licensure of persons engaged in various businesses associated with home furnishings, including sanitizing.



This bill would exempt persons holding specified licenses issued under this law from additional licensure as a sanitizer and would make nonsubstantive changes to various other provisions of this law.

(7) Existing law, the Private Postsecondary and Vocational Education Reform Act of 1989, creates within the Department of Consumer Affairs, the Bureau for Private Postsecondary and Vocational Education, which succeeded to the rights and functions of the former Council for Private Postsecondary and Vocational Education. Under existing law, the Director of Consumer Affairs is vested with the responsibility of administering and enforcing the act and is authorized to assign those duties to a program administrator.

This bill would delete obsolete references to the Council for Private Postsecondary and Vocational Education. The bill would authorize the director to assign his or her duties under the act to a bureau chief.

(8) Existing law requires specified state agencies to adopt regulations regarding their procedures for considering and issuing permits to engage in a particular activity or act and specifies that these regulations be proposed during certain timeframes occurring in 1983 and 1984.

This bill would delete these obsolete timeframe provisions.

(9) Existing law establishes the Motor Vehicle Inspection program, enforced by the Bureau of Automotive Repair in the Department of Consumer Affairs. Under existing law, this program includes the establishment and operation of smog check stations, and the department is required to establish training requirements for smog check technicians. Existing law requires an institution administering these training or retraining courses to issue a certificate that is valid for one year to each person who successfully completes the course.

This bill would extend the term during which the certificate is valid to 2 years.

(10) 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.

Appropriation: yes.

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

SECTION 1. Section 121.5 of the Business and Professions Code, as added by Chapter 306 of the Statutes of 2001, is repealed.

SEC. 2. Section 146.5 of the Business and Professions Code is amended to read:



146.5. (a) Notwithstanding any other provision of law, a violation of any code section listed in subdivision (c) is an infraction subject to the procedures described in Sections 19.6 and 19.7 of the Penal Code if either of the following occur:

(1) A complaint or 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 is filed in court charging the offense as an infraction unless the defendant, at the time he or she is arraigned, after being advised of his or her rights, elects to have the case proceed as a misdemeanor.

(2) The court, with the consent of the defendant and the prosecution, determines that the offense is an infraction in which event the case shall proceed as if the defendant has been arraigned on an infraction complaint.

(b) Subdivision (a) does not apply to a violation of the code sections listed in subdivision (c) if the defendant has had his or her license, registration, or certificate previously revoked or suspended.

(c) The following sections require registration, licensure, certification, or other authorization in order to engage in certain businesses or professions regulated by this code:

- (1) Section 2630.
- (2) Section 2903.
- (3) Sections 3760 and 3761.
- (4) Section 4825.
- (5) Section 4980.
- (6) Section 4996.
- (7) Section 5536.
- (8) Section 6704.
- (9) Section 6980.10.
- (10) Section 7317.
- (11) Section 7502 or 7592.
- (12) Section 7617 or 7641.
- (13) Subdivision (a) of Section 7872.
- (14) Section 8016.
- (15) Section 8505.
- (16) Section 8725.
- (17) Section 9681.
- (18) Section 9840.
- (19) Section 9855.1.
- (20) Section 19049.

(d) Notwithstanding any other provision of law, a violation of any of the sections listed in subdivision (c), which is an infraction, is punishable by a fine of not less than two hundred fifty dollars (\$250) and not more than one thousand dollars (\$1,000). No portion of the



minimum fine may be suspended by the court unless as a condition of that suspension, the defendant is required to submit proof of a current valid license, registration, or certificate for the profession or vocation that was the basis for his or her conviction.

(e) This section shall remain in effect only until January 1, 2008, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2008, deletes or extends that date.

SEC. 3. Section 312 of the Business and Professions Code is amended to read:

312. The director shall submit to the Governor and the Legislature on or before January 1, 2003, and annually thereafter, a report of programmatic and statistical information regarding the activities of the department and its constituent entities. The report shall include information concerning the director's activities pursuant to Section 326, including the number and general patterns of consumer complaints and the action taken on those complaints.

SEC. 4. Section 327 of the Business and Professions Code is repealed.

SEC. 5. Section 335 of the Business and Professions Code is repealed.

SEC. 6. Section 336 of the Business and Professions Code is repealed.

SEC. 7. Section 351 of the Business and Professions Code is repealed.

SEC. 8. Section 1620 of the Business and Professions Code is repealed.

SEC. 9. Section 3151 of the Business and Professions Code is repealed.

SEC. 10. Section 4946 of the Business and Professions Code is repealed.

SEC. 11. Section 7017 of the Business and Professions Code is repealed.

SEC. 12. Section 7215.5 of the Business and Professions Code is amended to read:

7215.5. During the first year following the successful training of each person-dog unit, and release from a guide dog training school of the trained person supplied with a guide dog, the school may retain title to the trained dog. During this probationary year, the school may enter into a contractual agreement with the user of the dog describing the conditions under which the user may maintain the status of legal custodian of the dog. During the probationary year, the school, acting in what it deems to be the best interest of the user, the dog, or the public, may temporarily or permanently resume possession of the dog.



Within 15 days after the end of each calendar year, each licensed school shall report to the board the following:

(1) The number of dog ownership titles transferred to dog users pursuant to this section during the calendar year.

(2) The number of title recoveries and repossessions made by the school pursuant to this section during the calendar year.

(3) The number, type, and amount of charges assessed for followup training, instruction, veterinary, or boarding services, pursuant to this section, which make a distinction between users who have acquired title to their dogs and users who have not acquired title.

(4) The views of the governing entity of the school as to any problems or concerns relative to compliance with the provisions of this section, along with recommendations for appropriate legislative or administrative changes commensurate with the purposes of this section.

Immediately upon completion of the first year following the successful training referred to above, if the training school and the dog user are mutually satisfied with the operation of the person-dog unit, title to the dog shall be transferred to the blind user if the user so desires. Transfer of title shall be evidenced by a transfer of title agreement executed by both parties thereto. The school may retain an option to recover title and possession to the guide dog subject to conditions described in the transfer of title agreement. These conditions may include, but are not limited to, the following:

(1) If in the school's opinion, the guide dog is being misused or neglected or mistreated by its blind user.

(2) If the blind person to whom the dog was furnished has ceased to use the dog as a guide and the dog is not too old to be retrained as a guide for another blind person.

(3) If, in the school's opinion, the dog is no longer a safe guide and the user refuses to cease using the dog as a guide after being requested by the school to cease this use.

The guide dog school shall make no distinction as to the quality or extent of followup or supportive services available to its blind graduates based on whether they elect to acquire title to their dogs or allow title to remain with the school after the probationary year. The school may, however, make this distinction when assessing reasonable and appropriate charges for followup training, instruction, veterinary, or boarding services.

No applicant for admission to a guide dog training school, nor any enrolled student, shall be required by the school prior to completion of his or her training to sign any instrument or to announce his or her intention regarding transfer of title of the dog from the school to himself or herself upon completion of the training and probation period.



SEC. 13. Section 7218 of the Business and Professions Code is repealed.

SEC. 14. Section 8516 of the Business and Professions Code is amended to read:

8516. (a) This section, and Section 8519, apply only to wood destroying pests or organisms.

(b) No registered company or licensee shall commence work on a contract, or sign, issue, or deliver any documents expressing an opinion or statement relating to the absence or presence of wood destroying pests or organisms until an inspection has been made by a licensed Branch 3 field representative or operator. The address of each property inspected or upon which work is completed shall be reported on a form prescribed by the board and shall be filed with the board no later than 10 business days after the commencement of an inspection or upon completed work.

Every property inspected pursuant to this subdivision or Section 8518 shall be assessed a filing fee pursuant to Section 8674.

Failure of a registered company to report and file with the board the address of any property inspected or work completed pursuant to Section 8518 or this section is grounds for disciplinary action and shall subject the registered company to a fine of not more than two thousand five hundred dollars (\$2,500).

A written inspection report conforming to this section and a form approved by the board shall be prepared and delivered to the person requesting the inspection or to the person's designated agent within 10 business days of the inspection, except that an inspection report prepared for use by an attorney for litigation purposes is not required to be reported to the board. The report shall be delivered before work is commenced on any property. The registered company shall retain for three years all original inspection reports, field notes, and activity forms.

Reports shall be made available for inspection and reproduction to the executive officer of the board or his or her duly authorized representative during business hours. Original inspection reports or copies thereof shall be submitted to the board upon request within two business days. The following shall be set forth in the report:

- (1) The date of the inspection and the name of the licensed field representative or operator making the inspection.
- (2) The name and address of the person or firm ordering the report.
- (3) The name and address of any person who is a party in interest.
- (4) The address or location of the property.
- (5) A general description of the building or premises inspected.
- (6) A foundation diagram or sketch of the structure or structures or portions of the structure or structures inspected, indicating thereon the approximate location of any infested or infected areas evident, and the



parts of the structure where conditions that would ordinarily subject those parts to attack by wood destroying pests or organisms exist.

(7) Information regarding the substructure, foundation walls and footings, porches, patios and steps, air vents, abutments, attic spaces, roof framing that includes the eaves, rafters, fascias, exposed timbers, exposed sheathing, ceiling joists, and attic walls, or other parts subject to attack by wood destroying pests or organisms. Conditions usually deemed likely to lead to infestation or infection, such as earth-wood contacts, excessive cellulose debris, faulty grade levels, excessive moisture conditions, evidence of roof leaks, and insufficient ventilation are to be reported.

(8) One of the following statements, as appropriate, printed in bold type:

(A) The exterior surface of the roof was not inspected. If you want the water tightness of the roof determined, you should contact a roofing contractor who is licensed by the Contractors' State License Board.

(B) The exterior surface of the roof was inspected to determine whether or not wood destroying pests or organisms are present.

(9) Indication or description of any areas that are inaccessible or not inspected with recommendation for further inspection if practicable. If, after the report has been made in compliance with this section, authority is given later to open inaccessible areas, a supplemental report on conditions in these areas shall be made.

(10) Recommendations for corrective measures.

(11) Information regarding the pesticide or pesticides to be used for their control as set forth in subdivision (a) of Section 8538.

(12) The inspection report shall clearly disclose that if requested by the person ordering the original report, a reinspection of the structure will be performed if an estimate or bid for making repairs was given with the original inspection report, or thereafter.

(13) The inspection report shall contain the following statement, printed in boldface type:

“NOTICE: Reports on this structure prepared by various registered companies should list the same findings (i.e. termite infestations, termite damage, fungus damage, etc.). However, recommendations to correct these findings may vary from company to company. You have a right to seek a second opinion from another company.”

An estimate or bid for repairs shall be given separately allocating the costs to perform each and every recommendation for corrective measures as specified in subdivision (c) with the original inspection report if the person who ordered the original inspection report so requests, and if the registered company is regularly in the business of performing corrective measures.



If no estimate or bid was given with the original inspection report, or thereafter, then the registered company shall not be required to perform a reinspection.

A reinspection shall be an inspection of those items previously listed on an original report to determine if the recommendations have been completed. Each reinspection shall be reported on an original inspection report form and shall be labeled “Reinspection” in capital letters by rubber stamp or typewritten. Each reinspection shall also identify the original report by date.

After four months from an original inspection, all inspections shall be original inspections and not reinspections.

Any reinspection shall be performed for not more than the price of the registered company’s original inspection price and shall be completed within 10 working days after a reinspection has been ordered.

(c) At the time a report is ordered, the registered company or licensee shall inform the person or entity ordering the report, that a separated report is available pursuant to this subdivision. If a separated report is requested at the time the inspection report is ordered, the registered company or licensee shall separately identify on the report each recommendation for corrective measures as follows:

- (1) The infestation or infection that is evident.
- (2) The conditions that are present that are deemed likely to lead to infestation or infection.

If a registered company or licensee fails to inform as required by this subdivision and a dispute arises, or if any other dispute arises as to whether this subdivision has been complied with, a separated report shall be provided within 24 hours of the request but, in no event, later than the next business day, and at no additional cost.

(d) When a corrective condition is identified, either as paragraph (1) or (2) of subdivision (c), and the responsible party, as negotiated between the buyer and the seller, chooses not to correct those conditions, the registered company or licensee shall not be liable for damages resulting from a failure to correct those conditions or subject to any disciplinary action by the board. Nothing in this subdivision, however, shall relieve a registered company or a licensee of any liability resulting from negligence, fraud, dishonest dealing, other violations pursuant to this chapter, or contractual obligations between the registered company or licensee and the responsible parties.

(e) The inspection report form prescribed by the board shall separately identify the infestation or infection that is evident and the conditions that are present that are deemed likely to lead to infestation or infection. If a separated form is requested, the form shall explain the infestation or infection that is evident and the conditions that are present



that are deemed likely to lead to infestation or infection and the difference between those conditions. In no event, however, shall conditions deemed likely to lead to infestation or infection be characterized as actual “defects” or as actual “active” infestations or infections or in need of correction as a precondition to issuing a certification pursuant to Section 8519.

(f) The report and any contract entered into shall also state specifically when any guarantee for the work is made, and if so, the specific terms of the guarantee and the period of time for which the guarantee shall be in effect.

(g) Control service is defined as the regular reinspection of a property after a report has been made in compliance with this section and any corrections as have been agreed upon have been completed. Under a control service agreement a registered company shall refer to the original report and contract in a manner as to identify them clearly, and the report shall be assumed to be a true report of conditions as originally issued, except it may be modified after a control service inspection. A registered company is not required to issue a report as outlined in paragraphs (1) to (11), inclusive, of subdivision (b) after each control service inspection. If after control service inspection, no modification of the original report is made in writing, then it will be assumed that conditions are as originally reported. A control service contract shall state specifically the particular wood destroying pests or organisms and the portions of the buildings or structures covered by the contract.

(h) A registered company or licensee may enter into and maintain a control service agreement provided the following requirements are met:

(1) The control service agreement shall be in writing, signed by both parties, and shall specifically include the following:

(A) The wood destroying pests and organisms that could infest and infect the structure.

(B) The wood destroying pests and organisms covered by the control service agreement. Any wood destroying pest or organism that is not covered must be specifically listed.

(C) The type and manner of treatment to be used to correct the infestations or infections.

(D) The structures or buildings, or portions thereof, covered by the agreement, including a statement specifying whether the coverage for purposes of periodic inspections is limited or full. Any exclusions from those described in the original report must be specifically listed.

(E) A reference to the original inspection report and agreement.

(F) The frequency of the inspections to be provided, the fee to be charged for each renewal, and the duration of the agreement.

(G) Whether the fee includes structural repairs.



(H) If the services provided are guaranteed, and, if so, the terms of the guarantee.

(I) A statement that all corrections of infestations or infections covered by the control service agreement shall be completed within six months of discovery, unless otherwise agreed to in writing by both parties.

(2) Inspections made pursuant to a control service agreement shall be conducted by a Branch 3 licensee. Section 8506.1 does not modify this provision.

(3) A full inspection of the property covered by the control service agreement shall be conducted and a report filed pursuant to subdivision (b) at least once every three years from the date that the agreement was entered into, unless the consumer cancels the contract within three years from the date the agreement was entered into.

(4) A written report shall be required for the correction of any infestation or infection unless all of the following conditions are met:

(A) The infestation or infection has been previously reported.

(B) The infestation or infection is covered by the control service agreement.

(C) There is no additional charge for correcting the infestation or infection.

(D) Correction of the infestation or infection takes place within 45 days of its discovery.

(E) Correction of the infestation or infection does not include fumigation.

(5) All notice requirements pursuant to Section 8538 shall apply to all pesticide treatments conducted under control service agreements.

(6) For purposes of this section, “control service agreement” means any agreement, including extended warranties, to have a licensee conduct over a period of time regular inspections and other activities related to the control or eradication of wood destroying pests and organisms.

(i) All work recommended by a registered company, where an estimate or bid for making repairs was given with the original inspection report, or thereafter, shall be recorded on this report or a separate work agreement and shall specify a price for each recommendation. This information shall be provided to the person requesting the inspection, and shall be retained by the registered company with the inspection report copy for three years.

SEC. 15. Section 8663 of the Business and Professions Code is amended to read:

8663. (a) This section only applies to work conducted under a Branch 1 license.



(b) The board or county agricultural commissioners, when acting pursuant to Section 8616.4, may levy a fine of up to one thousand dollars (\$1,000) against a registered company acting as a prime contractor for any major violation committed by any licensee with whom the prime contractor has subcontracted if, before that violation occurred, the prime contractor had been notified by certified mail, return receipt requested, of more than two major violations committed by the subcontractor within 12 consecutive months.

Fines collected pursuant to this section shall be paid to the Education and Enforcement Account in the Structural Pest Control Education and Enforcement Fund.

(c) For purposes of this section, “major violation” means a violation of any of the following provisions of this code or of the California Code of Regulations that poses a serious hazard to humans:

(1) A violation of subdivision (a) or (b) of Section 1970.4 of Title 16 of, or Section 6454 of Title 3 of, the California Code of Regulations, or a violation of Section 8505.5.

(2) Any violation of the structural pest control law that results in a serious injury to any person.

(3) A violation of Section 8505.2 or 8505.3, relating to direct and personal supervision.

(4) A violation of Section 8505.7, relating to vacating and securing structures.

(5) A violation of subdivision (a) of Section 6780 of Title 3 of the California Code of Regulations.

(6) A violation of Section 6454 of Title 3 of the California Code of Regulations.

(7) A violation of Section 8505.12, relating to warning agents.

(8) A violation of Section 8505.9 or 8505.10, relating to warning signs.

(d) A copy of a notice of violation issued for any violation committed by a subcontractor shall be sent by certified mail to the prime contractor by the issuing authority within 15 days from the date the violation was committed.

(e) Notwithstanding subdivision (b), a prime contractor may be fined for a subcontractor’s first violation for failing to have a signed factsheet on the premises being treated, or if the subcontractor fails to provide advance notice of a treatment to the occupants of the premises being treated.

SEC. 16. Section 8674 of the Business and Professions Code is amended to read:

8674. The fees prescribed by this chapter are the following:

(a) A duplicate license fee of not more than two dollars (\$2).



- (b) A fee for filing a change of name of a licensee of not more than two dollars (\$2).
- (c) An operator's examination fee of not more than twenty-five dollars (\$25).
- (d) An operator's license fee of not more than one hundred fifty dollars (\$150).
- (e) An operator's license renewal fee of not more than one hundred fifty dollars (\$150).
- (f) A company registration fee of not more than one hundred twenty dollars (\$120).
- (g) A branch office registration fee of not more than sixty dollars (\$60).
- (h) A field representative's examination fee of not more than fifteen dollars (\$15).
- (i) A field representative's license fee of not more than forty-five dollars (\$45).
- (j) A field representative's license renewal fee of not more than forty-five dollars (\$45).
- (k) An applicator's examination fee of not more than fifteen dollars (\$15).
- (l) An applicator's license fee of not more than fifty dollars (\$50).
- (m) An applicator's license renewal fee of not more than fifty dollars (\$50).
- (n) An activity form fee, per property address, of not more than three dollars (\$3).
- (o) A fee for certifying a copy of an activity form of not more than three dollars (\$3).
- (p) A fee for filing a change of a registered company's name, principal office address, or branch office address, qualifying manager, or the names of a registered company's officers, or bond or insurance of not more than twenty-five dollars (\$25) for each change.
- (q) A fee for approval of continuing education providers of not more than fifty dollars (\$50).
- (r) A pesticide use report filing fee of not more than five dollars (\$5) for each pesticide use report or combination of use reports representing a registered structural pest control company's total county pesticide use for the month.
- (s) A fee for approval of continuing education courses of not more than twenty-five dollars (\$25).
- (t) (1) Any person who pays a fee pursuant to subdivision (r) shall, in addition, pay a fee of two dollars (\$2) for each pesticide use stamp purchased from the board. Notwithstanding any other provision of law, the fee established pursuant to this subdivision shall be deposited with



a bank or other depository approved by the Department of Finance and designated by the Research Advisory Panel or into the Structural Pest Control Research Fund that is hereby created and continuously appropriated to be used only for structural pest control research. If the Research Advisory Panel designates that the fees be deposited in an account other than the Structural Pest Control Research Fund, any moneys in the fund shall be transferred to the designated account.

(2) Prior to the deposit of any funds, the depository shall enter into an agreement with the Department of Consumer Affairs that includes, but is not limited to, all of the following requirements:

(A) The depository shall serve as custodian for the safekeeping of the funds.

(B) Funds deposited in the designated account shall be encumbered solely for the exclusive purpose of implementing and continuing the program for which they were collected.

(C) Funds deposited in the designated account shall be subject to an audit at least once every two years by an auditor selected by the Director of Consumer Affairs. A copy of the audit shall be provided to the director within 30 days of completion of the audit.

(D) The Department of Consumer Affairs shall be reimbursed for all expenses it incurs that are reasonably related to implementing and continuing the program for which the funds were collected in accordance with the agreement.

(E) A reserve in an amount sufficient to pay for costs arising from unanticipated occurrences associated with administration of the program shall be maintained in the designated account.

(3) A charge for administrative expenses of the board in an amount not to exceed 5 percent of the amount collected and deposited in the Structural Pest Control Research Fund may be assessed against the fund. The charge shall be limited to expenses directly related to the administration of the fund.

(4) The board shall, by regulation, establish a five-member research advisory panel including, but not limited to, representatives from each of the following: (A) the Structural Pest Control Board, (B) the structural pest control industry, (C) the Department of Pesticide Regulation, and (D) the University of California. The panel, or other entity designated by the board, shall solicit on behalf of the board all requests for proposals and present to the panel all proposals that meet the criteria established by the panel. The panel shall review the proposals and recommend to the board which proposals to accept. The recommendations shall be accepted upon a two-thirds vote of the board. The board shall direct the panel, or other entity designated by the board, to prepare and issue the research contracts and authorize the transfer of funds from the Structural



Pest Control Research Fund to the applicants whose proposals were accepted by the board.

(5) A charge for requests for proposals, contracts, and monitoring of contracted research shall not exceed 5 percent of the research funds available each year and shall be paid from the Structural Pest Control Research Fund.

SEC. 17. Section 9812.5 of the Business and Professions Code is amended to read:

9812.5. The director shall gather evidence of violations of this chapter and of any regulation established hereunder by any service contractor, whether registered or not, and by any employee, partner, officer, or member of any service contractor. The director shall, on his or her own initiative, conduct spot check investigations of service contractors throughout the state on a continuous basis. This section shall remain in effect only until January 1, 2008, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2008, deletes or extends that date.

SEC. 18. Section 9814 of the Business and Professions Code is amended to read:

9814. The director may establish and enforce regulations as may be reasonable for the conduct of service dealers and for the general enforcement of the various provisions of this chapter in the protection of the public. The director may, by regulation, define the scope of the terms described in subdivisions (g) to (q), inclusive, of Section 9801 to include items of the same general nature or class as those enumerated therein. The director shall distribute to each registered service dealer copies of this chapter and of the regulations thereunder. These regulations shall be adopted, amended, or repealed in accordance with the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 19. Section 9830.5 of the Business and Professions Code is amended to read:

9830.5. Each service contractor shall pay the fee required by this chapter for each place of business operated by him or her in this state and shall register with the bureau upon forms prescribed by the director. The forms shall contain sufficient information to identify the service contractor, including name, address, retail seller's permit number, if a permit is required under the Sales and Use Tax Law (Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code), a copy of the certificate of qualification as filed with the Secretary of State if the service contractor is a foreign corporation, and other identifying data to be prescribed by the bureau. If the business is to be carried on under a fictitious name, that fictitious name shall be stated. If the service



contractor is a partnership, identifying data shall be stated for each partner. If the service contractor is a private company that does not file an annual report on Form 10-K with the Securities and Exchange Commission, data shall be included for each of the officers and directors of the company as well as for the individual in charge of each place of the service contractor's business in the State of California, subject to any regulations the director may adopt. If the service contractor is a publicly held corporation or a private company that files an annual report on Form 10-K with the Securities and Exchange Commission, it shall be sufficient for purposes of providing data for each of the officers and directors of the corporation or company to file with the director the most recent annual report on Form 10-K that is filed with the Securities and Exchange Commission.

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

This section shall remain in effect only until January 1, 2008, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2008, deletes or extends that date.

SEC. 20. Section 9832.5 of the Business and Professions Code is amended to read:

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

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

(c) To renew an expired registration, the service contractor shall apply for renewal on a form prescribed by the director, pay the renewal fee in effect on the last regular renewal date, and pay all accrued and unpaid delinquency and renewal fees.

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

(e) For purposes of implementing the distribution of the renewal of registrations throughout the year, the director may extend, by not more than six months, the date fixed by law for renewal of a registration, except that, in that event, any renewal fee that may be involved shall be prorated in such a manner that no person shall be required to pay a greater



or lesser fee than would have been required had the change in renewal dates not occurred.

(f) This section shall remain in effect only until January 1, 2008, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2008, deletes or extends that date.

SEC. 21. Section 9847.5 of the Business and Professions Code is amended to read:

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

This section shall remain in effect only until January 1, 2008, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2008, deletes or extends that date.

SEC. 22. Section 9849 of the Business and Professions Code, as amended by Section 41 of Chapter 401 of the Statutes of 1997, is amended to read:

9849. The expiration of a valid registration shall not deprive the director of jurisdiction to proceed with any investigation or hearing on a cease and desist order against a service dealer or to render a decision invalidating a registration temporarily or permanently.

This section shall become operative on January 1, 2008.

SEC. 23. Section 9849 of the Business and Professions Code, as amended by Section 40 of Chapter 401 of the Statutes of 1997, is amended to read:

9849. The expiration of a valid registration shall not deprive the director of jurisdiction to proceed with any investigation or hearing on a cease and desist order against a service dealer or service contractor or to render a decision invalidating a registration temporarily or permanently.

This section shall remain in effect only until January 1, 2008, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2008, deletes or extends that date.

SEC. 24. Section 9851 of the Business and Professions Code, as amended by Section 43 of Chapter 401 of the Statutes of 1997, is amended to read:

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



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

This section shall become operative on January 1, 2008.

SEC. 25. Section 9851 of the Business and Professions Code, as amended by Section 42 of Chapter 401 of the Statutes of 1997, is amended to read:

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

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

This section shall remain in effect only until January 1, 2008, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2008, deletes or extends that date.

SEC. 26. Section 9853 of the Business and Professions Code, as amended by Section 45 of Chapter 401 of the Statutes of 1997, is amended to read:

9853. A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions, and duties of a service dealer is deemed to be a conviction within the meaning of this article. The director may order the registration temporarily or permanently invalidated, or may decline to issue a registration, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing that person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

This section shall become operative on January 1, 2008.

SEC. 27. Section 9853 of the Business and Professions Code, as amended by Section 44 of Chapter 401 of the Statutes of 1997, is amended to read:

9853. A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the



qualifications, functions, and duties of a service dealer or service contractor is deemed to be a conviction within the meaning of this article. The director may order the registration temporarily or permanently invalidated, or may decline to issue a registration, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code, allowing that person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

This section shall remain in effect only until January 1, 2008, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2008, deletes or extends that date.

SEC. 28. Section 9855.9 of the Business and Professions Code is amended to read:

9855.9. This article shall remain in effect only until January 1, 2008, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2008, deletes or extends that date.

SEC. 29. Section 9860 of the Business and Professions Code, as amended by Section 51 of Chapter 401 of the Statutes of 1997, is amended to read:

9860. The director shall establish procedures for accepting complaints from the public against any service dealer.

This section shall become operative on January 1, 2008.

SEC. 30. Section 9860 of the Business and Professions Code, as amended by Section 50 of Chapter 401 of the Statutes of 1997, is amended to read:

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

This section shall remain in effect only until January 1, 2008, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2008, deletes or extends that date.

SEC. 31. Section 9862.5 of the Business and Professions Code is amended to read:

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



This section shall remain in effect only until January 1, 2008, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2008, deletes or extends that date.

SEC. 32. Section 9863 of the Business and Professions Code, as amended by Section 54 of Chapter 401 of the Statutes of 1997, is amended to read:

9863. If, upon summary investigation, it appears probable to the director that a violation of this chapter, or the regulations thereunder, has occurred, the director, in his or her discretion, may suggest measures that in the director's judgment would compensate the complainant for the damages he or she has suffered as a result of the alleged violation. If the service dealer accepts the director's suggestions and performs accordingly, the director shall give that fact due consideration in any subsequent disciplinary proceeding. If the service dealer declines to abide by the suggestions of the director, the director may investigate further and may institute disciplinary proceedings in accordance with the provisions of this chapter.

This section shall become operative on January 1, 2008.

SEC. 33. Section 9863 of the Business and Professions Code, as amended by Section 53 of Chapter 401 of the Statutes of 1997, is amended to read:

9863. If, upon summary investigation, it appears probable to the director that a violation of this chapter, or the regulations thereunder, has occurred, the director, in his or her discretion, may suggest measures that in the director's judgment would compensate the complainant for the damages he or she has suffered as a result of the alleged violation. If the service dealer or service contractor accepts the director's suggestions and performs accordingly, the director shall give that fact due consideration in any subsequent disciplinary proceeding. If the service dealer or service contractor declines to abide by the suggestions of the director, the director may investigate further and may institute disciplinary proceedings in accordance with the provisions of this chapter.

This section shall remain in effect only until January 1, 2008, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2008, deletes or extends that date.

SEC. 34. Section 9873 of the Business and Professions Code, as amended by Section 56 of Chapter 401 of the Statutes of 1997, is amended to read:

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

(a) The initial registration fee for an electronic repair industry service dealer or for an appliance repair industry service dealer is not more than



one hundred sixty-five dollars (\$165) for each place of business in this state. The initial registration fee for a person who engages in business as both an electronic repair industry service dealer and an appliance repair industry service dealer is not more than three hundred twenty-five dollars (\$325).

(b) The annual registration renewal fee for an electronic repair industry service dealer or for an appliance repair industry service dealer is not more than one hundred sixty-five dollars (\$165) for each place of business in this state, if renewed prior to its expiration date. The annual renewal fee for a service dealer who engages in the business as both an electronic repair industry service dealer and an appliance repair industry service dealer is not more than three hundred dollars (\$300).

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

This section shall become operative on January 1, 2008.

SEC. 35. Section 9873 of the Business and Professions Code, as amended by Section 2 of Chapter 1075 of the Statutes of 1998, is amended to read:

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

(a) (1) The initial registration fee for an electronic repair industry service dealer or for an appliance repair industry service dealer is not more than one hundred sixty-five dollars (\$165) for each place of business in this state. The initial registration fee for a service contractor is not more than seventy-five dollars (\$75) for each place of business in this state.

(2) The initial registration fee for a person who engages in business as both an electronic repair industry service dealer and an appliance repair industry service dealer is not more than three hundred twenty-five dollars (\$325) for each place of business in this state. The initial registration fee for a person who is a service contractor and engages in business as either an electronic repair industry service dealer or an appliance repair industry service dealer is not more than two hundred forty dollars (\$240) for each place of business in this state.

(3) The initial registration fee for a person who engages in both the electronic repair industry and the appliance repair industry as a service dealer and is a service contractor is not more than four hundred dollars (\$400) for each place of business in this state.

(4) On or after January 1, 2000, the initial registration fee for a service contractor described in subdivision (e) of Section 12741 of the Insurance Code shall be set by the director in an amount not to exceed the actual



and direct costs associated with the regulation of those service contractors, but in no event more than fifty thousand dollars (\$50,000).

A service dealer or service contractor who does not operate a place of business in this state, but engages in the electronic repair industry, the appliance repair industry, or sells, issues, or administers service contracts in this state shall pay the registration fee specified herein as if he or she had a place of business in this state.

(b) (1) The annual registration renewal fee for an electronic repair industry service dealer or for an appliance repair industry service dealer is not more than one hundred sixty-five dollars (\$165) for each place of business in this state, if renewed prior to its expiration date. The annual registration renewal fee for a service contractor is seventy-five dollars (\$75) for each place of business in this state, if renewed prior to its expiration date.

(2) The annual renewal fee for a service dealer who engages in the business as both an electronic repair industry service dealer and an appliance repair industry service dealer is not more than three hundred dollars (\$300) for each place of business in this state.

(3) The annual renewal fee for a service dealer who engages in the electronic repair industry and the appliance repair industry and is a service contractor is not more than three hundred seventy-five dollars (\$375) for each place of business in this state.

(4) It is the intent of the Legislature that the amount of the annual registration renewal fee for a service contractor described in subdivision (e) of Section 12741 of the Insurance Code shall be evaluated and set by the Legislature.

A service dealer or service contractor who does not operate a place of business in this state, but who engages in the electronic repair industry, the appliance repair industry, or sells or issues service contracts in this state shall pay the registration fee specified herein as if he or she had a place of business in this state.

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

This section shall remain in effect only until January 1, 2008, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2008, deletes or extends that date.

SEC. 36. Section 19010.1 of the Business and Professions Code is amended to read:

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. 37. Section 19010.5 of the Business and Professions Code is amended to read:

19010.5. "Wholesaler" means a person who, on his or her own account, sells any article of upholstered furniture or bedding or filling materials to another for the purpose of resale, but shall not include an affiliate or a subsidiary where the ownership and name are identical, and that is the exclusive sales outlet of a manufacturer.

SEC. 38. Section 19011 of the Business and Professions Code is amended to read:

19011. "Manufacturer" means a person who, either by himself or herself 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. 39. 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 tenant's use, that is sent to any manufacturer, bedding renovator, or custom upholsterer to be repaired or renovated, or used in repairing or renovating.

SEC. 40. Section 19031 of the Business and Professions Code is amended to read:

19031. The chief shall be appointed by the Governor and shall serve at his or her pleasure. His or her compensation shall be fixed by the Director of Consumer Affairs in accordance with law.

The duty of enforcing and administering this chapter is vested in the chief and he or she is responsible to the director therefor.

SEC. 41. Section 19034.5 of the Business and Professions Code is amended to read:

19034.5. All rules and regulations shall become effective not earlier than 30 days after approval by the director, and upon compliance with the procedure provided in Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 42. Section 19049 of the Business and Professions Code is amended to read:

19049. It shall be unlawful for any person to engage in a business regulated by this chapter unless, at the time of so doing, he or she holds a valid, unexpired license to engage in that business, in compliance with the provisions of this chapter.



SEC. 43. 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 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, retail bedding dealer, or custom upholsterer.

SEC. 44. Section 19060.5 of the Business and Professions Code is amended to read:

19060.5. Every person who, on his or her own account, sells either directly or indirectly to any person either at wholesale or retail any merchandise subject to this chapter by means of a car, catalog, office, or in any other manner, shall obtain the proper license for each method of sale or distribution.

SEC. 45. Section 19062 of the Business and Professions Code is amended to read:

19062. A license issued by the bureau shall be posted in a conspicuous place in the main office or principal place of business of the licensee.

SEC. 46. Section 19063 of the Business and Professions Code is amended to read:

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

(a) Who has had any license issued to him or her revoked, or whose license is under suspension, or who has failed to renew his or her license while it was under suspension.

(b) If any license of a partnership of which he or she is or was a member, or of a corporation of which he or she is or was an officer or director, or of a firm or association of which he or she is or was an officer or of which he or she is or was acting in a managerial capacity, has had any license issued to it revoked or suspended, and while acting as a member, officer, director, or in a managerial capacity he or she participated in any of the prohibited acts for which the license was revoked or suspended.

SEC. 47. Section 19064 of the Business and Professions Code is amended to read:

19064. The bureau may refuse to issue any license provided for in this chapter to any partnership, corporation, firm, or association:

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

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



the firm or association has had any license issued to him or her revoked, or whose license is under suspension, or who has failed to renew his or her license while it was under suspension.

(c) If any member of the partnership, or any officer or director of the corporation, or any officer or person acting in a managerial capacity of the firm or association, was either a member of any partnership, or an officer or director of any corporation, or an officer or person acting in a managerial capacity of any firm or association, whose license has been revoked, or whose license is under suspension, or who failed to renew a license while it was under suspension, and while acting as such member, officer, director, or person acting in a managerial capacity participated in any of the prohibited acts for which any such license was revoked or suspended.

SEC. 48. Section 19072.6 of the Business and Professions Code is amended to read:

19072.6. The manufacturer of chairs and benches and similar articles, using slip seats that are manufactured by himself or herself or purchased from another, is responsible for the labeling of those articles.

SEC. 49. Section 19093 of the Business and Professions Code is amended to read:

19093. Any person who repairs or renovates upholstered furniture or bedding for the owner for his or her own or a tenant's use, shall affix the "Owner's Material" label, which shall be attached to the article before delivery to the owner.

SEC. 50. Section 19162 of the Business and Professions Code is amended to read:

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

SEC. 51. 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:

	Maximum fee	Minimum fee
Importer’s license	\$750	\$120
Furniture and bedding manufacturer’s license	750	120
Wholesale furniture and bedding dealer’s license	540	120
Supply dealer’s license	540	120
Custom upholsterer’s license	360	80
Sanitizer’s license	360	80
Retail furniture and bedding dealer’s license	240	40
Retail furniture dealer’s license	120	20
Retail bedding dealer’s license	120	20

(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. 52. Section 19208 of the Business and Professions Code is amended to read:

19208. The chief or his or her authorized designee may cite any person licensed under and subject to the provisions of this chapter to participate in an office conference before the chief to show cause why he or she should not be subject to any or a range of disciplinary actions or to prosecution for any violation of this chapter.



SEC. 53. Section 19211 of the Business and Professions Code is amended to read:

19211. Any person who has been denied a license, or who has had his or her license revoked, or whose license is under suspension, or who has failed to renew his or her license while it was under suspension, or any person who has been a member of any partnership, or an officer or director of any corporation, or an officer or person acting in a managerial capacity of any firm or association, whose license has been revoked, or whose license is under suspension, or who has failed to renew a license while it was under suspension, and while acting as a member, officer, director, or person acting in a managerial capacity, participated in any of the prohibited acts for which the license was suspended, or revoked, shall be prohibited from serving as a member of any licensed partnership, or as an officer or director of any licensed corporation, or as an officer or person acting in a managerial capacity of any licensed firm or association, and the employment, election, or association of a person in this capacity by a licensee shall constitute grounds for disciplinary action against the licensee.

SEC. 54. Section 19215.1 of the Business and Professions Code is amended to read:

19215.1. The acceptance by a nonresident licensee of any of the rights and privileges conferred upon him or her by this chapter, as evidenced by his or her engaging within this state, either personally or through an agent or employee, in a business subject to license under this chapter, is equivalent to the appointment by the licensee of the director as his or her true and lawful attorney upon whom may be served all lawful process in any disciplinary proceeding conducted against him or her under this chapter.

SEC. 55. Section 19215.2 of the Business and Professions Code is amended to read:

19215.2. The acceptance of such rights and privileges as so evidenced shall signify the agreement of the licensee that any such process which is served against him or her in the manner provided in this article shall be of the same legal force and validity as if served upon him or her personally in this state.

SEC. 56. Section 19215.3 of the Business and Professions Code is amended to read:

19215.3. Service shall be made by leaving a copy of the accusation, together with a notice of defense and statement to respondent as described in Section 11505 of the Government Code, with a fee of two dollars (\$2) for each licensee to be served, in the hands of the director or in his or her office in Sacramento. This service shall be sufficient



service on the licensee subject to compliance with Section 19215.4 of this code.

SEC. 57. Section 19215.4 of the Business and Professions Code is amended to read:

19215.4. A notice of such service and a copy of the accusation, together with the notice of defense and statement to respondent, shall forthwith be sent by registered mail by the director to the licensee at his or her last known address as furnished by the bureau. Personal service of this notice, copy of the accusation, notice of defense, and statement to respondent upon the licensee wherever found outside this state shall be the equivalent of this mailing.

SEC. 58. Section 19215.5 of the Business and Professions Code is amended to read:

19215.5. Proof of compliance with Section 19215.4 shall be made in the event of service by mail by affidavit of the director or his or her authorized employee showing this service by mailing, together with the return receipt of the United States post office bearing the signature of the licensee or his or her agent. The affidavit and receipt shall be appended to the original accusation on file with the bureau. In the event of personal service outside this state, compliance may be proved by the return of any duly constituted public officer qualified to serve process in civil actions in the state or jurisdiction where the licensee is found, showing such service to have been made. This return shall be appended to the original accusation on file with the bureau.

SEC. 59. Section 19215.6 of the Business and Professions Code is amended to read:

19215.6. The bureau, or if the proceeding has been assigned to a hearing officer of the Office of Administrative Hearings, the hearing officer, may order postponements or continuances and grant extensions of time that may be necessary to afford the licensee reasonable opportunity to defend the proceeding. In no event shall the licensee have less than 30 days after the date of mailing or delivery to him or her of the copy of the accusation in which to file a notice of defense, nor shall the notice of hearing provided for in Section 11509 of the Government Code or the notice and copy of affidavit referred to in Section 11514 of the Government Code be mailed or delivered less than 20 days prior to the date of hearing, and the time for making a request to cross-examine under Section 11514 of the Government Code shall be not less than 15 days.

SEC. 60. Section 19215.7 of the Business and Professions Code is amended to read:

19215.7. The director shall keep a record of all process served upon him or her pursuant to this article that shall show the day and hour of service.



SEC. 61. Section 19215.8 of the Business and Professions Code is amended to read:

19215.8. As used in this article “nonresident” means a person who is not a resident of this State at the time he or she engages in business in the State as described in Section 19215.1.

SEC. 62. Section 1791 of the Civil Code, as amended by Section 63 of Chapter 401 of the Statutes of 1997, is amended to read:

1791. As used in this chapter:

(a) “Consumer goods” means any new product or part thereof that is used, bought, or leased for use primarily for personal, family, or household purposes, except for clothing and consumables. “Consumer goods” shall include new and used assistive devices sold at retail.

(b) “Buyer” or “retail buyer” means any individual who buys consumer goods from a person engaged in the business of manufacturing, distributing, or selling consumer goods at retail. As used in this subdivision, “person” means any individual, partnership, corporation, limited liability company, association, or other legal entity that engages in any of these businesses.

(c) “Clothing” means any wearing apparel, worn for any purpose, including under and outer garments, shoes, and accessories composed primarily of woven material, natural or synthetic yarn, fiber, or leather or similar fabric.

(d) “Consumables” means any product that is intended for consumption by individuals, or use by individuals for purposes of personal care or in the performance of services ordinarily rendered within the household, and that usually is consumed or expended in the course of consumption or use.

(e) “Distributor” means any individual, partnership, corporation, association, or other legal relationship that stands between the manufacturer and the retail seller in purchases, consignments, or contracts for sale of consumer goods.

(f) “Independent repair or service facility” or “independent service dealer” means any individual, partnership, corporation, association, or other legal entity, not an employee or subsidiary of a manufacturer or distributor, that engages in the business of servicing and repairing consumer goods.

(g) “Lease” means any contract for the lease or bailment for the use of consumer goods by an individual, for a term exceeding four months, primarily for personal, family, or household purposes, whether or not it is agreed that the lessee bears the risk of the consumer goods’ depreciation.

(h) “Lessee” means an individual who leases consumer goods under a lease.



(i) “Lessor” means a person who regularly leases consumer goods under a lease.

(j) “Manufacturer” means any individual, partnership, corporation, association, or other legal relationship that manufactures, assembles, or produces consumer goods.

(k) “Place of business” means, for the purposes of any retail seller that sells consumer goods by catalog or mail order, the distribution point for consumer goods.

(l) “Retail seller,” “seller,” or “retailer” means any individual, partnership, corporation, association, or other legal relationship that engages in the business of selling or leasing consumer goods to retail buyers.

(m) “Return to the retail seller” means, for the purposes of any retail seller that sells consumer goods by catalog or mail order, the retail seller’s place of business, as defined in subdivision (k).

(n) “Sale” means either of the following:

(1) The passing of title from the seller to the buyer for a price.

(2) A consignment for sale.

(o) “Service contract” means a contract in writing to perform, over a fixed period of time or for a specified duration, services relating to the maintenance or repair of a consumer product, except that this term does not include a policy of automobile insurance, as defined in Section 116 of the Insurance Code.

(p) “Assistive device” means any instrument, apparatus, or contrivance, including any component or part thereof or accessory thereto, that is used or intended to be used, to assist an individual with a disability in the mitigation or treatment of an injury or disease or to assist or affect or replace the structure or any function of the body of an individual with a disability, except that this term does not include prescriptive lenses and other ophthalmic goods unless they are sold or dispensed to a blind person, as defined in Section 19153 of the Welfare and Institutions Code and unless they are intended to assist the limited vision of the person so disabled.

(q) “Catalog or similar sale” means a sale in which neither the seller nor any employee or agent of the seller nor any person related to the seller nor any person with a financial interest in the sale participates in the diagnosis of the buyer’s condition or in the selection or fitting of the device.

(r) “Home appliance” means any refrigerator, freezer, range, microwave oven, washer, dryer, dishwasher, garbage disposal, trash compactor, or room air-conditioner normally used or sold for personal, family, or household purposes.



(s) “Home electronic product” means any television, radio, antenna rotator, audio or video recorder or playback equipment, video camera, video game, video monitor, computer equipment, telephone, telecommunications equipment, electronic alarm system, electronic appliance control system, or other kind of electronic product, if it is normally used or sold for personal, family, or household purposes. The term includes any electronic accessory that is normally used or sold with a home electronic product for one of those purposes. The term excludes any single product with a wholesale price to the retail seller of less than fifty dollars (\$50).

This section shall become operative on January 1, 2008.

SEC. 63. Section 1791 of the Civil Code, as amended by Section 2 of Chapter 196 of the Statutes of 1998, is amended to read:

1791. As used in this chapter:

(a) “Consumer goods” means any new product or part thereof that is used, bought, or leased for use primarily for personal, family, or household purposes, except for clothing and consumables. “Consumer goods” shall include new and used assistive devices sold at retail.

(b) “Buyer” or “retail buyer” means any individual who buys consumer goods from a person engaged in the business of manufacturing, distributing, or selling consumer goods at retail. As used in this subdivision, “person” means any individual, partnership, corporation, limited liability company, association, or other legal entity that engages in any such business.

(c) “Clothing” means any wearing apparel, worn for any purpose, including under and outer garments, shoes, and accessories composed primarily of woven material, natural or synthetic yarn, fiber, or leather or similar fabric.

(d) “Consumables” means any product that is intended for consumption by individuals, or use by individuals for purposes of personal care or in the performance of services ordinarily rendered within the household, and that usually is consumed or expended in the course of consumption or use.

(e) “Distributor” means any individual, partnership, corporation, association, or other legal relationship that stands between the manufacturer and the retail seller in purchases, consignments, or contracts for sale of consumer goods.

(f) “Independent repair or service facility” or “independent service dealer” means any individual, partnership, corporation, association, or other legal entity, not an employee or subsidiary of a manufacturer or distributor, that engages in the business of servicing and repairing consumer goods.



(g) “Lease” means any contract for the lease or bailment for the use of consumer goods by an individual, for a term exceeding four months, primarily for personal, family, or household purposes, whether or not it is agreed that the lessee bears the risk of the consumer goods’ depreciation.

(h) “Lessee” means an individual who leases consumer goods under a lease.

(i) “Lessor” means a person who regularly leases consumer goods under a lease.

(j) “Manufacturer” means any individual, partnership, corporation, association, or other legal relationship that manufactures, assembles, or produces consumer goods.

(k) “Place of business” means, for the purposes of any retail seller that sells consumer goods by catalog or mail order, the distribution point for these goods.

(l) “Retail seller,” “seller,” or “retailer” means any individual, partnership, corporation, association, or other legal relationship that engages in the business of selling or leasing consumer goods to retail buyers.

(m) “Return to the retail seller” means, for the purposes of any retail seller that sells consumer goods by catalog or mail order, the retail seller’s place of business, as defined in subdivision (k).

(n) “Sale” means either of the following:

- (1) The passing of title from the seller to the buyer for a price.
- (2) A consignment for sale.

(o) “Service contract” means a contract in writing to perform, for an additional cost, over a fixed period of time or for a specified duration, services relating to the maintenance, replacement, or repair of a consumer product, except that this term does not include a policy of automobile insurance, as defined in Section 116 of the Insurance Code.

(p) “Service contract administrator” or “administrator” means a person, other than a service contract seller or an insurer admitted to do business in this state, who performs or arranges, or has an affiliate who performs or arranges, the collection, maintenance, or disbursement of moneys to compensate any party for claims or repairs pursuant to a service contract, and who also performs or arranges, or has an affiliate who performs or arranges, any of the following activities on behalf of service contract sellers:

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



service contract administrator shall not be an obligor on a service contract.

(q) “Service contract seller” or “seller” means a person who sells or offers to sell a service contract to a service contractholder, including a person who is the obligor under a service contract sold by the seller, manufacturer, or repairer of the product covered by the service contract.

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

(s) “Assistive device” means any instrument, apparatus, or contrivance, including any component or part thereof or accessory thereto, that is used or intended to be used, to assist an individual with a disability in the mitigation or treatment of an injury or disease or to assist or affect or replace the structure or any function of the body of an individual with a disability, except that this term does not include prescriptive lenses and other ophthalmic goods unless they are sold or dispensed to a blind person, as defined in Section 19153 of the Welfare and Institutions Code, and unless they are intended to assist the limited vision of the person so disabled.

(t) “Catalog or similar sale” means a sale in which neither the seller nor any employee or agent of the seller nor any person related to the seller nor any person with a financial interest in the sale participates in the diagnosis of the buyer’s condition or in the selection or fitting of the device.

(u) “Home appliance” means any refrigerator, freezer, range, microwave oven, washer, dryer, dishwasher, garbage disposal, trash compactor, room air-conditioner, or other kind of appliance product normally used or sold for personal, family, or household purposes.

(v) “Home electronic product” means any television, radio, antenna rotator, audio or video recorder or playback equipment, video camera, video game, video monitor, computer equipment, telephone, telecommunications equipment, electronic alarm system, electronic appliance control system, or other kind of electronic product, if it is normally used or sold for personal, family, or household purposes. The term includes any electronic accessory that is normally used or sold with a home electronic product for one of those purposes. The term excludes any single product with a wholesale price to the retail seller of less than fifty dollars (\$50).

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

This section shall remain in effect only until January 1, 2008, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2008, deletes or extends that date.



SEC. 64. Section 1794.4 of the Civil Code, as amended by Section 65 of Chapter 401 of the Statutes of 1997, is amended to read:

1794.4. (a) Nothing in this chapter shall be construed to prevent the sale of a service contract to the buyer in addition to or in lieu of an express warranty if that contract fully and conspicuously discloses in simple and readily understood language the terms, conditions, and exclusions of that contract, provided that nothing in this section shall apply to a home protection contract issued by a home protection company that is subject to Part 7 (commencing with Section 12740) of Division 2 of the Insurance Code.

(b) Except as otherwise expressly provided in the service contract, every service contract shall obligate the service contractor to provide to the buyer of the product all of the services and functional parts that may be necessary to maintain proper operation of the entire product under normal operation and service for the duration of the service contract and without additional charge.

(c) The service contract shall contain all of the following items of information:

(1) A clear description and identification of the covered product.

(2) The point in time or event when the term of the service contract commences, and its duration measured by elapsed time or an objective measure of use.

(3) If the enforceability of the service contract is limited to the original buyer or is limited to persons other than every consumer owner of the covered product during the term of the service contract, a description of the limits on transfer or assignment of the service contract.

(4) A statement of the general obligation of the service contractor in the same language set forth in subdivision (b), with equally clear and conspicuous statements of the following:

(A) Any services, parts, characteristics, components, properties, defects, malfunctions, causes, conditions, repairs, or remedies that are excluded from the scope of the service contract.

(B) Any other limits on the application of the language in subdivision (b) such as a limit on the total number of service calls.

(C) Any additional services that the service contractor will provide.

(D) Whether the obligation of the service contractor includes preventive maintenance and, if so, the nature and frequency of the preventive maintenance that the service contractor will provide.

(E) Whether the buyer has an obligation to provide preventive maintenance or perform any other obligations and, if so, the nature and frequency of the preventive maintenance and of any other obligations, and the consequences of any noncompliance.



(5) A step-by-step explanation of the procedure that the buyer should follow in order to obtain performance of any obligation under the service contract including the following:

(A) The full legal and business name of the service contractor.

(B) The mailing address of the service contractor.

(C) The persons or class of persons that are authorized to perform service.

(D) The name or title and address of any agent, employee, or department of the service contractor that is responsible for the performance of any obligations.

(E) The method of giving notice to the service contractor of the need for service.

(F) Whether in-home service is provided or, if not, whether the costs of transporting the product, for service or repairs will be paid by the service contractor.

(G) If the product must be transported to the service contractor, either the place where the product may be delivered for service or repairs or a toll-free telephone number that the buyer may call to obtain that information.

(H) All other steps that the buyer must take to obtain service.

(I) All fees, charges, and other costs that the buyer must pay to obtain service.

(6) An explanation of the steps that the service contractor will take to carry out its obligations under the service contract.

(7) A description of any right to cancel the contract if the buyer returns the product or the product is sold, lost, stolen, or destroyed, or, if there is no right to cancel or the right to cancel is limited, a statement of the fact.

(8) Information respecting the availability of any informal dispute settlement process.

(d) Subdivisions (b) and (c) are applicable to service contracts on new or used home appliances and home electronic products entered into on or after July 1, 1989. They are applicable to service contracts on all other new or used products entered into on and after July 1, 1991.

(e) This section shall become operative on January 1, 2008.

SEC. 65. Section 1794.4 of the Civil Code, as amended by Section 64 of Chapter 401 of the Statutes of 1997, is amended to read:

1794.4. (a) Nothing in this chapter shall be construed to prevent the sale of a service contract to the buyer in addition to, or in lieu of, an express warranty if that contract fully and conspicuously discloses in simple and readily understood language the terms, conditions, and exclusions of that contract, provided that nothing in this section shall apply to a home protection contract issued by a home protection



company that is subject to Part 7 (commencing with Section 12740) of Division 2 of the Insurance Code.

(b) Except as otherwise expressly provided in the service contract, every service contract shall obligate the service contract seller to provide to the buyer of the product all of the services and functional parts that may be necessary to maintain proper operation of the entire product under normal operation and service for the duration of the service contract and without additional charge.

(c) The service contract shall contain all of the following items of information:

(1) A clear description and identification of the covered product.

(2) The point in time or event when the term of the service contract commences, and its duration measured by elapsed time or an objective measure of use.

(3) If the enforceability of the service contract is limited to the original buyer or is limited to persons other than every consumer owner of the covered product during the term of the service contract, a description of the limits on transfer or assignment of the service contract.

(4) A statement of the general obligation of the service contract seller in the same language set forth in subdivision (b), with equally clear and conspicuous statements of the following:

(A) Any services, parts, characteristics, components, properties, defects, malfunctions, causes, conditions, repairs, or remedies that are excluded from the scope of the service contract.

(B) Any other limits on the application of the language in subdivision (b) such as a limit on the total number of service calls.

(C) Any additional services that the service contract seller will provide.

(D) Whether the obligation of the service contract seller includes preventive maintenance and, if so, the nature and frequency of the preventive maintenance that the service contractor will provide.

(E) Whether the buyer has an obligation to provide preventive maintenance or perform any other obligations and, if so, the nature and frequency of the preventive maintenance and of any other obligations, and the consequences of any noncompliance.

(5) A step-by-step explanation of the procedure that the buyer should follow in order to obtain performance of any obligation under the service contract, including the following:

(A) The full legal and business name of the service contract seller.

(B) The mailing address of the service contract seller.

(C) The persons or class of persons that are authorized to perform service.



(D) The name or title and address of any administrator, agent, employee, or department of the service contract seller that is responsible for the performance of any obligations.

(E) The method of giving notice to the service contract seller of the need for service.

(F) Whether in-home service is provided or, if not, whether the costs of transporting the product, for service or repairs will be paid by the service contract seller.

(G) If the product must be transported to the service contract seller, either the place where the product may be delivered for service or repairs or a toll-free telephone number that the buyer may call to obtain that information.

(H) All other steps that the buyer must take to obtain service.

(I) All fees, charges, and other costs that the buyer must pay to obtain service.

(6) An explanation of the steps that the service contract seller will take to carry out its obligations under the service contract.

(7) A description of any right to cancel the contract if the buyer returns the product or the product is sold, lost, stolen, or destroyed, or, if there is no right to cancel or the right to cancel is limited, a statement of the fact.

(8) Information respecting the availability of any informal dispute settlement process.

(9) A statement identifying the person who is financially and legally obligated to perform the services specified in the service contract, including the name and address of that person.

Nothing in this subdivision shall preclude a service contract seller from designating an administrator that a service contract holder may initially contact for performance of the obligations under the service contract.

(d) Subdivisions (b) and (c) are applicable to service contracts on new or used home appliances and home electronic products entered into on or after July 1, 1989. They are applicable to service contracts on all other new or used products entered into on and after July 1, 1991.

(e) This section shall remain in effect only until January 1, 2008, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2008, deletes or extends that date.

SEC. 66. Section 94050 of the Education Code is amended to read:

94050. (a) It is the intent of the Legislature in enacting this chapter to prevent deceptive and misleading use of the terms “college” and “university” by businesses and other organizations that present themselves as institutions of higher education but are not authorized to



operate as private postsecondary educational institutions under Chapter 7 (commencing with Section 94700).

(b) No person shall designate a business, social, political, religious, or other organization operating in this state, including, but not limited to, any firm, association, partnership, or corporation, as a “college” or “university.”

(c) This section does not apply to the designation of any of the following:

(1) A postsecondary or vocational educational institution established, operated, and governed by a public entity, or by a firm, association, partnership, or corporation using the name of that institution with the permission of the institution.

(2) A nonprofit religious institution described in paragraph (6) of subdivision (b) of Section 94739.

(3) A bona fide trade, business, professional, or fraternal organization that either sponsors no educational services or sponsors educational services solely for the membership of the organization.

(d) Any person violating this section is guilty of a misdemeanor.

SEC. 67. Section 94771 of the Education Code is amended to read:

94771. (a) The duty of administering and enforcing this chapter is vested in the Director of Consumer Affairs, who may assign and delegate those duties to a bureau chief, subject to the other provisions of this section.

(b) Every power granted to, or duty imposed upon, the bureau under this chapter may be exercised or performed in the name of the bureau, subject to any conditions and limitations the director may prescribe. The bureau chief may redelegate any of those powers or duties to his or her designee. The bureau chief shall be appointed by the Governor and confirmed by the Senate, and is exempt from the State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5 of Title 2 of the Government Code).

(c) The director, in accordance with the State Civil Service Act, may appoint and fix the compensation of such clerical, inspection, investigation, evaluation, and auditing personnel, as may be necessary to carry out this chapter.

(d) The proceedings under this chapter shall be conducted by the bureau in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. To the extent of any conflict between any of the provisions of this chapter and Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, that Chapter 5 shall prevail.

(e) The director shall appoint an advisory committee that shall consist of representatives of institutions, student advocates, and employers who



hire students, among other parties. The advisory committee shall be balanced to ensure that institutions and student advocates have approximate equal representation. Institutional representatives on the committee shall be in general proportion to the types of institutions approved or registered pursuant to this chapter and to the number of students served by each type of institution. The advisory committee shall advise the bureau concerning the bureau's administration, licensing, and enforcement functions under this chapter.

SEC. 68. Section 15376 of the Government Code is amended to read:

15376. All state agencies that issue permits shall adopt regulations regarding their procedures for considering and issuing permits, specifying the following criteria.

(a) A period dating from the receipt of a permit application within which the agency must either inform the applicant, in writing, that the application is complete and accepted for filing, or that the application is deficient and what specific information is required.

(b) A period dating from the filing of a completed application within which the agency must reach a permit decision.

(c) The agency's median, minimum, and maximum times for processing a permit, from the receipt of the initial application to the final permit decision, based on the agency's actual performance during the two years immediately preceding the proposal of the regulation.

(d) Any new or additional permits required by any state agency after the effective date of this chapter shall be subject to the provisions of this chapter.

(e) An agency may amend its regulations to modify the agency's time periods.

(f) The rulemaking file submitted to the Office of Administrative Law shall contain a justification for time periods proposed.

(g) A state agency shall be deemed to have good cause for exceeding the maximum time period established for processing a permit under either of the following circumstances:

(1) The number of permits to be processed exceeds by 15 percent the number processed in the same calendar quarter the preceding year.

(2) The permit-issuing agency must rely on another public or private entity for all or part of the processing and the delay is caused by that other entity.

SEC. 69. Section 15378 of the Government Code is amended to read:

15378. (a) The Secretaries of the Business, Transportation and Housing, Health and Welfare, California Environmental Protection, Resources, and State and Consumer Services Agencies, and the heads



of the independent agencies subject to the provisions of this chapter shall ensure that the departments, commissions, boards, and other administrative divisions within their agencies that issue permits comply with the provisions of this chapter.

(b) The secretaries and agency heads shall adopt regulations establishing an appeal process through which an applicant can appeal directly to the secretary or agency head for a timely resolution of any dispute arising from a violation of the time periods required by this chapter. The regulations shall provide for the full reimbursement of any and all filing fees paid by a permit applicant whose application was not processed within the time limits adopted by an agency pursuant to this chapter, and whose appeal to the secretary or agency head was decided in the applicant's favor. The appeal shall be decided in the applicant's favor if the state agency has exceeded its established maximum time period for issuance or denial of the permit, the agency has complied with any notice and hearing requirements, and the agency has failed to establish good cause for exceeding the time period pursuant to subdivision (g) of Section 15376. Information regarding the appeal process shall be included in the permit application forms issued by the agency.

SEC. 70. Section 44031.5 of the Health and Safety Code is amended to read:

44031.5. (a) No smog check technician may perform tests or make repairs required by this chapter, for compensation, unless qualified by the department for the class and category of vehicle being tested or repaired. To qualify, smog check technicians shall pass a qualification test administered by the department, in addition to meeting prerequisite minimum experience and training criteria established by the department, pursuant to Section 44045.5. Passage of the qualification test shall, and training may, also be required upon each biennial renewal of the smog check technician's license.

(b) The department shall prescribe training and periodic retraining courses for licensed smog check technicians pursuant to Section 44045.6.

(c) Whenever the department determines, through investigation, that a previously qualified smog check technician may lack the skills to reliably and accurately perform the test or repair functions within the required qualification, the department may prescribe for the technician one or more retraining courses which have been certified by the department. The smog check technician may request and be granted a hearing, pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, on the department's determination. The request for a hearing shall be submitted within 30



days of the department's notification of its determination. A failure to complete the prescribed retraining course within the time designated by the department, or to request a hearing within 30 days of the department's notification of its determination, shall result in loss of qualification. Upon a later completion of the prescribed department certified retraining course, the department may reinstate the smog check technician's qualification.

(d) Smog check technicians shall have the option to do hands-on work in lieu of written work in order to successfully complete the department certified training and retraining courses or may complete comparable military training as documented by submission of Verification of Military Experience and Training (V-MET) records in lieu of meeting any other training-related requirements of this section.

(e) The institution administering the department certified training or retraining courses shall issue a certificate of completion to each person who successfully completes the certified courses. The certificate shall be valid for two years.

(f) The department may, by regulation, establish procedures relating to the issuance and use of photo identification cards for licensed technicians.

SEC. 71. Section 57053.9 of the Health and Safety Code is amended to read:

57053.9. (a) On or before December 31, 1997, the office shall adopt regulations establishing an expedited appeals process by which a petitioner or responsible party may appeal any failure by a public agency to take timely action on the issuance or denial of a repair or maintenance project permit or consolidated permit in accordance with the time limits set pursuant to paragraph (4) of subdivision (a) of Section 57053.1.

(b) If the office finds that the time limits under appeal have been violated without good cause, the office shall establish a date certain by which the public agency shall act on the repair or maintenance project permit or consolidated permit application with adequate provision for the requirements described in subparagraphs (A) to (C), inclusive, of paragraph (4) of subdivision (a) of Section 57053.1, and shall provide for the full reimbursement of any filing or permit processing fees paid by the responsible party to the public agency for the permit application under appeal. For purposes of this section, "good cause" shall have the same meaning as defined in subdivision (g) of Section 15376 of the Government Code.

(c) The determination of the office on an appeal shall be based only on procedural violations, including, but not limited to, the exceeding of time limits, not on any nonprocedural matter with regard to the repair or



maintenance project permit, or permit application, or the consolidated permit, or consolidated permit application.

(d) In cases of a violation of time limits set pursuant to paragraph (4) of subdivision (a) of Section 57053.1, the determination of the office to order a reimbursement of any application fee pursuant to the regulations adopted pursuant to subdivision (a) shall only be applicable to the consolidated permit agency or to the participating permit agencies that are in violation of the time limits without showing good cause.

(e) An appeal taken pursuant to this section shall be only for violations of the time limits set pursuant to paragraph (4) of subdivision (a) of Section 57053.1.

SEC. 72. Section 71030 of the Public Resources Code is amended to read:

71030. (a) On or before December 31, 1994, the secretary shall adopt regulations establishing an expedited appeals process by which a petitioner or applicant may appeal any failure by an environmental agency to take timely action on the issuance or denial of an environmental permit in accordance with the time limits established pursuant to Section 71022 or Section 25199.6 of the Health and Safety Code.

(b) If the secretary finds that the time limits under appeal have been violated without good cause, the secretary shall establish a date certain by which the environmental agency shall act on the permit application with adequate provision for the requirements of subparagraphs (A) to (C), inclusive, of paragraph (4) of subdivision (a) of Section 71022, and provide for the full reimbursement of any filing or permit processing fees paid by the applicant to the environmental agency for the permit application under appeal. For purposes of this section, “good cause” shall have the same meaning as defined in subdivision (g) of Section 15376 of the Government Code.

(c) The determination of the secretary on an appeal shall be based only on procedural violations, including, but not limited to, the exceeding of time limits, not on any nonprocedural matter with regard to the environmental permit application or the environmental permit.

(d) In cases of a violation of time limits set pursuant to Section 71022, the determination of the secretary to order a reimbursement of any application filing fee pursuant to the regulations adopted pursuant to subdivision (a) shall only be applicable to the consolidated permit agency or to the participating permit agencies that are in violation of the time limits without showing good cause.

(e) Notwithstanding any other provision of this section, an appeal pursuant to subdivision (a) shall be only for violations of the time limits



established pursuant to Section 71022 for those environmental agencies described in subdivisions (c) and (h) of Section 71011.

SEC. 73. 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.

