

Senate Bill No. 1778

Passed the Senate August 30, 2002

Secretary of the Senate

Passed the Assembly August 27, 2002

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day of
_____, 2002, at _____ o'clock __M.

Private Secretary of the Governor



CHAPTER _____

An act to amend Sections 18021.7, 18029.3, 18029.6, and 18035.2 of the Health and Safety Code, relating to mobilehomes and manufactured homes, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 1778, Dunn. Mobilehomes and manufactured homes.

(1) The existing Mobilehomes-Manufactured Housing Act of 1980 authorizes the Director of Housing and Community Development or his or her designee to issue a citation that assesses a civil penalty, payable to the Department of Housing and Community Development, to any licensee who violates specified provisions of the act. The act requires those funds to be deposited in the Mobilehome-Manufactured Home Revolving Fund, a continuously appropriated fund.

This bill would authorize the issuance of such a citation to any licensee who violates additional specified provisions of the act, thereby making an appropriation by authorizing the expenditure of additional funds from a continuously appropriated fund.

(2) The act requires any manufactured home, mobilehome, vehicle, or transportable structure manufactured, remanufactured, altered, used, or converted for use as a commercial coach or special purpose commercial coach to comply with the act and the regulations adopted thereunder relating to insignia and inspection requirements, construction, fire safety, electrical, heating, mechanical, plumbing, occupancy, and energy conservation. Other existing provisions impose requirements relating to sanitation, structural, and safety requirements for mobile food preparation units.

This bill would require that special purpose commercial coach mobile food preparation units shall also meet requirements for mobile food preparation units and stationary mobile food preparation units.

(3) The act requires all used mobilehomes and manufactured homes sold in this state on and after January 1, 1986, to be equipped with an operable smoke detector.

This bill would provide that on and after January 1, 2003, this requirement is satisfied if, within 45 days prior to the date of



transfer of title, the transferor signs a declaration stating that each smoke detector in the manufactured home or mobilehome is operable on the date that the declaration is signed.

(4) The act specifies that in the case of the sale of a manufactured home or mobilehome to be installed on a foundation system, other provisions of the act generally governing the escrow of manufactured home and mobilehome sales transactions are not applicable.

This bill would impose additional requirements for escrow instructions and disbursements in the case of manufactured homes and mobilehomes to be installed on a foundation system.

Appropriation: yes.

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

SECTION 1. Section 18021.7 of the Health and Safety Code is amended to read:

18021.7. (a) (1) In addition to other remedies provided in this part, the Director of Housing and Community Development or his or her designee may issue a citation that assesses a civil penalty payable to the department to any licensee who violates Section 18021.5, 18029.6, or 18030, subdivision (b) of Section 18032, Section 18035, 18035.1, 18035.2, 18035.3, 18036, 18039, 18045, 18045.5, 18045.6, 18046, or 18058, subdivision (a) of Section 18059, subdivision (b) of Section 18059.5, subdivision (c) of Section 18060, subdivision (c) of Section 18060.5, Section 18061, subdivision (d), (i), or (j) of Section 18061.5, subdivision (a), (b), or (e) of Section 18062, subdivision (a), (b), (d), (f), (g), or (h) of Section 18062.2, subdivision (c) of Section 18063, or Section 18080.5.

(2) A violation of subdivision (d) of Section 18060.5 is also cause for citation if both the dealer and the manufacturer receive written notice of a warranty complaint from the complainant, from the department, or another source of information, and, at a minimum, the 90-day period provided for correction of substantial defects pursuant to Section 1797.7 of the Civil Code has expired.

(3) Each citation and related civil penalty assessment shall be issued no later than six months after discovery of the violation.

(b) The amount of any civil penalty assessed pursuant to subdivision (a) shall be one hundred dollars (\$100) for each



violation, but shall be increased to two hundred fifty dollars (\$250) for each subsequent violation of the same prohibition for which a citation for the subsequent violation is issued within one year of the citation for the previous violation. The violation or violations giving cause for the citation shall be corrected if applicable, and payment of the civil penalty shall be remitted to the department within 45 days of the date of issuance of the citation. Civil penalties received by the department pursuant to this section shall be deposited in the Mobilehome-Manufactured Home Revolving Fund.

(c) Any person or entity served a citation pursuant to this section may petition for, and shall be granted, an informal hearing before the director or his or her designee. The petition shall be a written request briefly stating the grounds for the request. Any petition, to be considered, shall be received by the department within 30 days of the date of issuance of the citation.

(d) Upon receipt of a timely and complying petition, the department shall suspend enforcement of the citation and set a time and place for the informal hearing and shall give the licensee written notice thereof. The hearing shall commence no later than 30 days following receipt of the petition or at another time scheduled by the department pursuant to a request by the licensee or department if good and sufficient cause exists. If the licensee fails to appear at the time and place scheduled for the hearing, the department may notify the licensee in writing that the petition is dismissed and that compliance with terms of the citation shall occur within 10 days after receipt of the notification.

(e) The department shall notify the petitioner in writing of its decision and the reasons therefor within 30 days following conclusion of the informal hearing held pursuant to this section. If the decision upholds the citation, in whole or in part, the licensee shall comply with the citation in accordance with the decision within 30 days after the decision is mailed by the department.

(f) Nothing in this section shall be construed to preclude remedies available under other provisions of law.

SEC. 2. Section 18029.3 of the Health and Safety Code is amended to read:

18029.3. (a) Any manufactured home, mobilehome, vehicle, or transportable structure manufactured, remanufactured, altered, used, or converted for use as a commercial coach or special



purpose commercial coach shall comply with this part and the regulations adopted pursuant to this part relating to insignia and inspection requirements, construction, fire safety, electrical, heating, mechanical, plumbing, occupancy, and energy conservation.

(b) Special purpose commercial coach mobile food preparation units shall also meet the requirements of Article 12 (commencing with Section 114285) of Chapter 4 of Part 7 of Division 104 and the regulations implementing, interpreting, and clarifying that article, as enforced by the State Department of Health Services, which shall supersede the requirements in this part and the regulations adopted pursuant to this part in the event of a conflict.

SEC. 3. Section 18029.6 of the Health and Safety Code is amended to read:

18029.6. (a) On or after January 1, 1986, all used manufactured homes and used mobilehomes that are sold shall have a smoke detector that is operable on the date of transfer of title.

(b) On or after January 1, 2003, the requirement of subdivision (a) shall be satisfied if, within 45 days prior to the date of transfer of title, the transferor signs a declaration stating that each smoke detector in the manufactured home or mobilehome is operable on the date that the declaration is signed.

(c) The department may adopt regulations to carry out this section.

SEC. 4. Section 18035.2 of the Health and Safety Code is amended to read:

18035.2. (a) For every sale by a dealer of a new or used manufactured home or mobilehome to be installed on a foundation system pursuant to subdivision (a) of Section 18551, the dealer shall execute in writing and obtain the buyer's signature on a purchase order, conditional sale contract, or other document evidencing the purchase, and provide a statement of fact complying with subdivision (b) of Section 18035.1, contemporaneous with or prior to the receipt of any cash or cash equivalent from the buyer and shall establish an escrow account with an escrow agent. The escrow shall not be subject to Section 18035. The parties shall provide for escrow instructions that identify the fixed amounts of the deposit and balances due prior to closing, consistent with the amounts set forth in the document



evidencing the purchase and related services. Escrow disbursements and closing shall be consistent with the mutually agreed terms and conditions of the documents evidencing the purchase and related services. Disbursements of funds from escrow prior to delivery and installation of the unit, any accessory structures, and related services shall only be as mutually agreed upon in writing by the dealer and buyer.

(b) For every sale by a dealer of a new manufactured home or mobilehome installed or to be installed on a foundation system pursuant to subdivision (a) of Section 18551, the escrow instructions shall provide all of the following:

(1) That the original manufacturer's certificate of origin be placed in escrow.

(2) That, in the alternative:

(A) The lien of any inventory creditor on the manufactured home or mobilehome shall be satisfied by payment from the escrow account.

(B) That the inventory creditor shall consent in writing to other than full payment.

For purposes of this paragraph, "inventory creditor" includes any person who is identified as a creditor on the manufacturer's certificate of origin or any person who places the original certificate of origin in escrow and claims in writing to the escrow agent to have a purchase money security interest in the manufactured home or mobilehome as contemplated by Section 9103 of the Commercial Code.

(3) That the escrow agent shall obtain from the manufacturer a true and correct facsimile of the copy of the certificate of origin retained by the manufacturer pursuant to Section 18093.

(c) For every sale by a dealer of a new or used manufactured home or mobilehome that is subject to inspection pursuant to subdivision (a) of Section 18551, and for which it is stated, on the face of the document certifying or approving occupancy, that the issuance of the document is conditioned upon the payment of a fee, charge, dedication, or other requirement levied pursuant to Section 17620 of the Education Code, the escrow instructions shall provide that the payment of that fee, charge, dedication, or other requirement be made to the appropriate school district upon the close of escrow.



Approved _____, 2002

Governor

