AMENDED IN ASSEMBLY JUNE 22, 2009

AMENDED IN SENATE APRIL 21, 2009

SENATE BILL No. 820

Introduced by Committee on Business, Professions and Economic Development (Negrete McLeod (chair), Aanestad, Corbett, Correa, Florez, Oropeza, Romero, Walters, Wyland, and Yee)

March 10, 2009

An act to amend Sections 139, 146, 1632.5, 1634.2, 2493, 4200.3, 4200.4, 4938, 5016, 5021, 5022, 5023, 5651, 7028.7, 7044, 7159, 7159.5, 7159.14, 7303.2, 7500.1, 7505.5, 7507.9, 7507.12, 7606, 7616, 7641, 7643, 7646, 7647, 7662, 7665, 7666, 7671, 7725.5, 7729, 9884.2, 9884.7, 9884.12, 9889.3, and 10146 of, to add Sections *5515.5*, 7044.01 and 7507.115 to, and to *to repeal Section 6763.1 of*, repeal and add Section 7108.5 of, the Business and Professions Code, to amend ~~Sections 44017.3, 44072.1, and 44072.2 of the Health and Safety Code,~~ *Sections 44014.2, 44017.3, 44072.1, 44072.2, and 44095 of the Health and Safety Code,* and to amend Sections 28, 5201, and 24603 of the Vehicle Code, relating to consumer affairs.

LEGISLATIVE COUNSEL'S DIGEST

SB 820, as amended, Committee on Business, Professions and Economic Development. Consumer affairs: professions and vocations.

Existing law provides for the licensure and regulation of various professions and vocations by boards and bureaus within the Department of Consumer Affairs. Existing law requires that certain examinations for licensure be developed by or in consultation with the Office of Examination Resources in the department, as specified.

This bill would rename that office the Office of Professional Examination ~~Resources~~ *Services*.

Existing law prohibits a person from holding himself or herself out to the public as a professional fiduciary without a license. Existing law specifies that a violation of certain requirements to be registered, licensed, or certified to engage in certain businesses is punishable as an infraction subject to specified procedures and fines.

This bill would make a violation of the professional fiduciary licensure requirement punishable as an infraction, thereby imposing a state-mandated local program.

Existing law, the Bagley-Keene Open Meeting Act, requires a state body, as defined, to provide prescribed notice of its meetings to any person who requests that notice in writing. Existing law provides for the licensure and regulation of accountants by the California Board of Accountancy and requires the executive officer of the board to give at least 7 days' notice of board meetings. Existing law authorizes the board to appoint an administrative committee and an advisory committee for certain purposes and requires members of the administrative committee to hold office for one year.

This bill would designate the advisory committee as the qualifications committee and would require members of that committee and the administrative committee to hold office for 2 years. The bill would require notice of each meeting of the board to be given in accordance with the Bagley-Keene Open Meeting Act.

Existing law, the Architects Practice Act, provides for the licensure and regulation of architects by the California Architects Board. Under existing law, the board is composed of 5 architect members and 5 public members. Existing law requires that each appointment to the board expire on June 30 of the 4th year following the year in which the previous term expired.

This bill would modify the term length for certain members of the board.

Existing law provides for the licensure and regulation of landscape architects by the California Architects Board. Existing law requires the board to ascertain the qualifications of applicants for a license by means of written examination. Under existing law, the board may waive the written examination for a person licensed out of state, as specified, if the person has passed an equivalent examination and a supplemental examination, as specified.

This bill would also require an out-of-state licensee to submit proof of job experience equivalent to that required of California applicants in order to waive the written examination.

Existing law, the Professional Engineers Act, provides for the licensure and regulation of professional engineers by the Board for Professional Engineers and Land Surveyors within the department. Under existing law, in order to use the title "structural engineer," a person must successfully pass a written test incorporating a national examination for structural engineering by a nationally recognized entity approved by the board, and a supplemental California specific examination.

This bill would eliminate the requirement to successfully pass a California specific examination, so that only one board-prescribed examination is required.

Existing law, the Contractors' State License Law, provides for the licensure and regulation of contractors by the Contractors' State License Board. Existing law imposes specified requirements on home improvement contracts and service and repair contracts and requires contractors to pay subcontractors within a specified period of time. Existing law makes it a misdemeanor for a person to engage in the business or act in the capacity of a contractor without a license and provides certain exemptions from that licensure requirement, including exemptions for owner-builders, as specified. Existing law authorizes the Registrar of Contractors to issue citations for violations of that licensure requirement, as specified.

This bill would make various technical, nonsubstantive changes to those provisions.

Under existing law, a person who violates the law by engaging in work as an owner-builder without a contractor's license or an exemption from licensure is prohibited from obtaining a contractor's license for a period of one year following the violation.

This bill would delete that prohibition.

Existing law, the Collateral Recovery Act, provides for the licensure and regulation of repossession agencies by the Bureau of Security and Investigative Services under the supervision and control of the Director of Consumer Affairs. The act defines "collateral" as any vehicle, boat, recreational vehicle, motor home, appliance, or other property that is subject to a security agreement. ~~The act prohibits a person from engaging in the activities of a repossession agency unless the person holds a valid agency license or is exempt from licensure, as specified.~~ Under the act, a person may be actively in charge of only one repossession office at a time. A violation of the act is a misdemeanor.

This bill would specify that the act also applies to trailers and would authorize a person to be actively in charge of 2 repossession offices at a time. The bill would prohibit a licensee from appraising the value of any collateral. Because a violation of that prohibition would be a crime, the bill would impose a state-mandated local program.

Existing law sets forth a procedure for the removal, inventory, and storage of personal effects from repossessed collateral. Existing law allows a debtor to waive the preparation and presentation of an inventory in certain circumstances and authorizes a repossession agency to release those personal effects to someone other than the debtor when authorized by the debtor or legal owner. Existing law requires specified special interest license plates that remain the personal effects of the debtor to be removed from the collateral and inventoried and requires the destruction of those plates and notification to the Department of Motor Vehicles if the plates are not claimed by the debtor within 60 days.

This bill would authorize a debtor to make that waiver only with the consent of the licensee and would authorize the release of personal effects to someone other than the debtor only when authorized by the debtor. The bill would also authorize a licensee to retain those special interest license plates indefinitely for return to the debtor, as specified.

Existing law provides that whenever possession is taken of any vehicle by or on behalf of any legal owner under the terms of a security agreement or lease agreement, the person taking possession is required to notify specified law enforcement agencies within one hour after taking possession of the vehicle and by the most expeditious means available. Failure to provide that notice is an infraction.

This bill would require separate notifications for multiple vehicle repossessions. By changing the definition of a crime, the bill would impose a state-mandated local program.

Existing law, the Funeral Directors and Embalmers Law, provides for the licensure and regulation of embalmers and funeral directors by the Cemetery and Funeral Bureau. Existing law requires an applicant for an embalmer's license to, among other things, have successfully completed a course of instruction in a specified embalming school and to either furnish proof of completion of a high school course or evidence of licensure and practice for a certain period of time prior to application.

This bill would instead require the applicant to have graduated from a specified mortuary science program and to furnish official transcripts from that program. The bill would make other conforming changes.

Existing law requires the applicant to pass an examination including specified subjects and requires the bureau to examine applicants at least once annually.

This bill would require the applicant to pass the ~~funeral services~~ sciences section of a specified national examination and an examination on the state's laws and the rules and regulations of the bureau and would delete the requirement that the board examine applicants at least once annually. The bill would, until June 30, 2010, authorize an applicant who failed the examination previously administered by the bureau to retake that examination.

Existing law, the Real Estate Law, provides for the licensure and regulation of real estate brokers and salespersons by the Real Estate Commissioner. Existing law authorizes the commissioner to issue rules and regulations he or she deems necessary to regulate the method of accounting and to accomplish certain purposes related to advance fees, as specified.

This bill would make certain nonsubstantive, technical changes to those provisions.

Existing law, the Automotive Repair Act, provides for the registration, licensure, and regulation of automotive repair dealers, lamp and brake adjusting stations, and smog check stations and technicians by the Bureau of Automotive Repair in the Department of Consumer Affairs and requires the Director of Consumer Affairs to validate an automotive repair dealer registration upon receipt of a specified form and fee. Existing law authorizes the director to refuse to validate or invalidate that registration for, among other things, a conviction for providing consideration to insurance agents for referrals. Under existing law, the director may deny, suspend, revoke, or take other disciplinary action against lamp and brake adjusting station or smog check station and technician applicants and licensees for, among other things, the conviction of a crime substantially related to the qualifications, functions, and duties of the licensee.

This bill would require the director to issue an automotive repair dealer registration upon receipt of a specified form and fee and would authorize the director to deny, suspend, revoke, or place on probation a registration for, among other things, conviction of a crime that is substantially related to the qualifications, functions, or duties of an automotive repair dealer. The bill would also authorize the director to deny, suspend, revoke, or take other disciplinary action against lamp and brake adjusting station and smog check station and technician applicants and licensees for the conviction of a crime substantially related to the qualifications, functions, or duties of that licensee.

Existing law establishes the vehicle inspection and maintenance (smog check) program, administered by the Department of Consumer Affairs and prescribes certain cost limits for repairs under the program. Existing law requires a smog check station where smog check inspections are performed to post a sign advising customers of those cost limits.

This bill would instead require the department to provide licensed smog check stations with a sign informing customers about their options when a vehicle fails a smog check inspection, as specified.

The bill would *revise provisions relating to repair assistance agreements and would* make other technical, nonsubstantive changes.

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.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

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

SECTION 1. Section 139 of the Business and Professions Code is amended to read:

139. (a) The Legislature finds and declares that occupational analyses and examination validation studies are fundamental components of licensure programs. It is the intent of the Legislature that the policy developed by the department pursuant to subdivision (b) be used by the fiscal, policy, and sunset review committees of the Legislature in their annual reviews of these boards, programs, and bureaus.

(b) Notwithstanding any other provision of law, the department shall develop, in consultation with the boards, programs, bureaus, and divisions under its jurisdiction, and the Osteopathic Medical Board of California and the State Board of Chiropractic Examiners, a policy regarding examination development and validation, and occupational analysis. The department shall finalize and distribute this policy by September 30, 1999, to each of the boards, programs, bureaus, and divisions under its jurisdiction and to the Osteopathic Medical Board of California and the State Board of Chiropractic

Examiners. This policy shall be submitted in draft form at least 30 days prior to that date to the appropriate fiscal, policy, and sunset review committees of the Legislature for review. This policy shall address, but shall not be limited to, the following issues:

(1) An appropriate schedule for examination validation and occupational analyses, and circumstances under which more frequent reviews are appropriate.

(2) Minimum requirements for psychometrically sound examination validation, examination development, and occupational analyses, including standards for sufficient number of test items.

(3) Standards for review of state and national examinations.

(4) Setting of passing standards.

(5) Appropriate funding sources for examination validations and occupational analyses.

(6) Conditions under which boards, programs, and bureaus should use internal and external entities to conduct these reviews.

(7) Standards for determining appropriate costs of reviews of different types of examinations, measured in terms of hours required.

(8) Conditions under which it is appropriate to fund permanent and limited term positions within a board, program, or bureau to manage these reviews.

(c) Every regulatory board and bureau, as defined in Section 22, and every program and bureau administered by the department, the Osteopathic Medical Board of California, and the State Board of Chiropractic Examiners, shall submit to the director on or before December 1, 1999, and on or before December 1 of each subsequent year, its method for ensuring that every licensing examination administered by or pursuant to contract with the board is subject to periodic evaluation. The evaluation shall include (1) a description of the occupational analysis serving as the basis for the examination; (2) sufficient item analysis data to permit a psychometric evaluation of the items; (3) an assessment of the appropriateness of prerequisites for admittance to the examination; and (4) an estimate of the costs and personnel required to perform these functions. The evaluation shall be revised and a new evaluation submitted to the director whenever, in the judgment of the board, program, or bureau, there is a substantial change in the examination or the prerequisites for admittance to the examination.

(d) The evaluation may be conducted by the board, program, or bureau, the Office of Professional Examination ~~Resources~~ *Services* of the department, the Osteopathic Medical Board of California, or the State Board of Chiropractic Examiners or pursuant to a contract with a qualified private testing firm. A board, program, or bureau that provides for development or administration of a licensing examination pursuant to contract with a public or private entity may rely on an occupational analysis or item analysis conducted by that entity. The department shall compile this information, along with a schedule specifying when examination validations and occupational analyses shall be performed, and submit it to the appropriate fiscal, policy, and sunset review committees of the Legislature by September 30 of each year. It is the intent of the Legislature that the method specified in this report be consistent with the policy developed by the department pursuant to subdivision (b).

SEC. 2. Section 146 of the Business and Professions Code is amended to read:

146. (a) Notwithstanding any other provision of law, a violation of any code section listed in subdivision (c) or (d) is an infraction subject to the procedures described in Sections 19.6 and 19.7 of the Penal Code when:

(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, or

(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 subdivisions (c) and (d) 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) Sections 2052 and 2054.

(2) Section 2630.
(3) Section 2903.
(4) Section 3660.
(5) Sections 3760 and 3761.
(6) Section 4080.
(7) Section 4825.
(8) Section 4935.
(9) Section 4980.
(10) Section 4996.
(11) Section 5536.
(12) Section 6530.
(13) Section 6704.
(14) Section 6980.10.
(15) Section 7317.
(16) Section 7502 or 7592.
(17) Section 7520.
(18) Section 7617 or 7641.
(19) Subdivision (a) of Section 7872.
(20) Section 8016.
(21) Section 8505.
(22) Section 8725.
(23) Section 9681.
(24) Section 9840.
(25) Subdivision (c) of Section 9891.24.
(26) Section 19049.

(d) Institutions that are required to register with the Bureau for Private Postsecondary and Vocational Education pursuant to Section 94931 of the Education Code.

(e) Notwithstanding any other provision of law, a violation of any of the sections listed in subdivision (c) or (d), 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 which was the basis for his or her conviction.

SEC. 3. Section 1632.5 of the Business and Professions Code is amended to read:

1632.5. (a) Prior to implementation of paragraph (2) of subdivision (c) of Section 1632, the department's Office of Professional Examination ~~Resources~~ *Services* shall review the Western Regional Examining Board examination to ensure compliance with the requirements of Section 139 and to certify that the examination process meets those standards. If the department determines that the examination process fails to meet those standards, paragraph (2) of subdivision (c) of Section 1632 shall not be implemented. The review of the Western Regional Examining Board examination shall be conducted during or after the Dental Board of California's occupational analysis scheduled for the 2004–05 fiscal year, but not later than September 30, 2005. However, an applicant who successfully completes the Western Regional Examining Board examination on or after January 1, 2005, shall be deemed to have met the requirements of subdivision (c) of Section 1632 if the department certifies that the Western Regional Examining Board examination meets the standards set forth in this subdivision.

(b) The Western Regional Examining Board examination process shall be regularly reviewed by the department pursuant to Section 139.

(c) The Western Regional Examining Board examination shall meet the mandates of subdivision (a) of Section 12944 of the Government Code.

(d) As part of its next scheduled review by the Joint Committee on Boards, Commissions, and Consumer Protection, the Dental Board of California shall report to that committee and the department on the pass rates of applicants who sat for the Western Regional Examining Board examination, compared with the pass rates of applicants who sat for the state clinical and written examination administered by the Dental Board of California. This report shall be a component of the evaluation of the examination process that is based on psychometrically sound principles for establishing minimum qualifications and levels of competency.

SEC. 4. Section 1634.2 of the Business and Professions Code is amended to read:

1634.2. (a) An advanced education program's compliance with subdivision (c) of Section 1634.1 shall be regularly reviewed by the department pursuant to Section 139.

(b) An advanced education program described in subdivision (c) of Section 1634.1 shall meet the requirements of subdivision (a) of Section 12944 of the Government Code.

(c) The clinical residency program completion certification required by subdivision (c) of Section 1634.1 shall include a list of core competencies commensurate to those found in the board's examinations. The board, together with the department's Office of Professional Examination ~~Resources~~ *Services*, shall ensure the alignment of the competencies stated in the clinical residency program completion certification with the board's current occupational analysis. The board shall implement use of the clinical residency program completion certification form and use of the core competency list through the adoption of emergency regulations by January 1, 2008.

(d) As part of its next scheduled review after January 1, 2007, by the Joint Committee on Boards, Commissions and Consumer Protection, the board shall report to that committee and to the department the number of complaints received for those dentists who have obtained licensure by passing the state clinical examination and for those dentists who have obtained licensure through an advanced education program. The report shall also contain tracking information on these complaints and their disposition. This report shall be a component of the evaluation of the examination process that is based on psychometrically sound principles for establishing minimum qualifications and levels of competency.

SEC. 5. Section 2493 of the Business and Professions Code is amended to read:

2493. (a) An applicant for a certificate to practice podiatric medicine shall pass an examination in the subjects required by Section 2483 in order to ensure a minimum of entry-level competence.

(b) The board shall require a passing score on the National Board of Podiatric Medical Examiners Part III examination that is consistent with the postgraduate training requirement in Section 2484. The board, as of July 1, 2005, shall require a passing score one standard error of measurement higher than the national passing scale score until such time as the National Board of Podiatric Medical Examiners recommends a higher passing score consistent with Section 2484. In consultation with the Office of Professional

Examination ~~Resources~~ *Services* of the Department of Consumer Affairs, the board shall ensure that the part III examination adequately evaluates the full scope of practice established by Section 2472, including amputation and other foot and ankle surgical procedures, pursuant to Section 139.

SEC. 6. Section 4200.3 of the Business and Professions Code is amended to read:

4200.3. (a) The examination process shall be regularly reviewed pursuant to Section 139.

(b) The examination process shall meet the standards and guidelines set forth in the Standards for Educational and Psychological Testing and the Federal Uniform Guidelines for Employee Selection Procedures. The board shall work with the Office of Professional Examination ~~Resources~~ *Services* of the department or with an equivalent organization who shall certify at minimum once every five years that the examination process meets these national testing standards. If the department determines that the examination process fails to meet these standards, the board shall terminate its use of the North American Pharmacy Licensure Examination and shall use only the written and practical examination developed by the board.

(c) The examination shall meet the mandates of subdivision (a) of Section 12944 of the Government Code.

(d) The board shall work with the Office of Professional Examination ~~Resources~~ *Services* or with an equivalent organization to develop the state jurisprudence examination to ensure that applicants for licensure are evaluated on their knowledge of applicable state laws and regulations.

(e) The board shall annually publish the pass and fail rates for the pharmacist's licensure examination administered pursuant to Section 4200, including a comparison of historical pass and fail rates before utilization of the North American Pharmacist Licensure Examination.

(f) The board shall report to the Joint Committee on Boards, Commissions, and Consumer Protection and the department as part of its next scheduled review, the pass rates of applicants who sat for the national examination compared with the pass rates of applicants who sat for the prior state examination. This report shall be a component of the evaluation of the examination process that is based on psychometrically sound principles for establishing minimum qualifications and levels of competency.

SEC. 7. Section 4200.4 of the Business and Professions Code is amended to read:

4200.4. An applicant who fails the national examination may not retake the examination for at least 90 days or for a period established by regulations adopted by the board in consultation with the Office of Professional Examination ~~Resources~~ *Services* of the department.

SEC. 8. Section 4938 of the Business and Professions Code is amended to read:

4938. The board shall issue a license to practice acupuncture to any person who makes an application and meets the following requirements:

(a) Is at least 18 years of age.

(b) Furnishes satisfactory evidence of completion of one of the following:

(1) An educational and training program approved by the board pursuant to Section 4939.

(2) Satisfactory completion of a tutorial program in the practice of an acupuncturist which is approved by the board.

(3) In the case of an applicant who has completed education and training outside the United States and Canada, documented educational training and clinical experience which meets the standards established pursuant to Sections 4939 and 4941.

(c) Passes a written examination administered by the board that tests the applicant's ability, competency, and knowledge in the practice of an acupuncturist. The written examination shall be developed by the Office of Professional Examination ~~Resources~~ *Services* of the Department of Consumer Affairs.

(d) Is not subject to denial pursuant to Division 1.5 (commencing with Section 475).

(e) Completes a clinical internship training program approved by the board. The clinical internship training program shall not exceed nine months in duration and shall be located in a clinic in this state, which is approved by the board pursuant to Section 4939. The length of the clinical internship shall depend upon the grades received in the examination and the clinical training already satisfactorily completed by the individual prior to taking the examination. On and after January 1, 1987, individuals with 800 or more hours of documented clinical training shall be deemed to have met this requirement. The purpose of the clinical internship training program shall be to ensure a minimum level of clinical competence.

Each applicant who qualifies for a license shall pay, as a condition precedent to its issuance and in addition to other fees required, the initial licensure fee.

SEC. 9. Section 5016 of the Business and Professions Code is amended to read:

5016. A majority of the board shall constitute a quorum for the transaction of any business at any meeting of the board. Notice of each meeting of the board shall be given in accordance with the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code). The board shall meet at the call of the president and executive officer, but not less than twice each year. Any two members of the board may request the executive officer to call a special meeting, and the executive officer, upon receiving that notice, shall call a meeting pursuant to the procedure prescribed herein.

SEC. 10. Section 5021 of the Business and Professions Code is amended to read:

5021. The members of the administrative and qualifications committees shall hold office for two years.

SEC. 11. Section 5022 of the Business and Professions Code is amended to read:

5022. The qualifications committee shall make recommendations and forward its report to the board for action on any matter on which it is authorized to act. An applicant for registration as a certified public accountant who is aggrieved by any action taken by the committee with respect to his or her qualifications may appeal to the board in accordance with rules or regulations prescribed by the board. The board on the appeal may give an oral or written examination as an aid in determining whether the applicant is qualified under the terms of this chapter.

SEC. 12. Section 5023 of the Business and Professions Code is amended to read:

5023. The board may establish a qualifications committee of its own certified public accountant members or other certified public accountants of the state in good standing, to perform the following advisory duties:

(a) To examine the qualifications of all applicants for the license of certified public accountant.

(b) To recommend to the board applicants for the certified public accountant license who fulfill the requirements of this chapter.

SEC. 13. Section 5515.5 is added to the Business and Professions Code, to read:

5515.5. (a) Notwithstanding Section 5515, the following provisions shall apply:

(1) Of the architect members of the board appointed by the Governor whose terms commence on July 1, 2009, the term of two members shall expire on June 30, 2013, and the term of one member shall expire on June 30, 2015.

(2) Of the architect members of the board appointed by the Governor whose terms commence on July 1, 2010, one member's term shall expire on June 30, 2014, and one member's term shall expire on June 30, 2016.

(3) The term of the public member of the board appointed by the Governor whose term commences on July 1, 2010, shall expire on June 30, 2015.

(4) Of the public members of the board appointed by the Governor whose terms commence on July 1, 2012, one member's term shall expire on June 30, 2016, and one member's term shall expire on June 30, 2017.

(b) Except as provided in subdivision (a), this section shall not be construed to affect the application of Section 5515 to the terms of any current or future members of the board.

~~SEC. 13.~~

SEC. 14. Section 5651 of the Business and Professions Code is amended to read:

5651. (a) The board shall by means of examination, ascertain the professional qualifications of all applicants for licenses to practice landscape architecture in this state and shall issue a license to every person whom it finds to be qualified on payment of the initial license fee prescribed by this chapter.

(b) The examination shall consist of a written examination. The written examination may be waived by the board if the applicant meets both of the following requirements:

(1) Is currently licensed by a United States jurisdiction, Canadian province, or Puerto Rico, has passed a written examination equivalent to that which is required in California at the time of application, and has submitted proof of job experience equivalent to that required of California applicants at the time of application.

(2) Has passed the California supplemental examination if, at the time of application, it is required of all California applicants.

SEC. 15. Section 6763.1 of the Business and Professions Code is repealed.

~~6763.1. An applicant to use the title "structural engineer" shall have successfully passed a written examination that incorporates a national examination for structural engineering by a nationally recognized entity approved by the board, if available, and a supplemental California specific examination. The California specific examination shall test the applicant's knowledge of state laws, rules, and regulations, and of seismicity and structural engineering unique to practice in this state. The board shall use the national examination on or before December 31, 2004.~~

~~SEC. 14.~~

SEC. 16. Section 7028.7 of the Business and Professions Code is amended to read:

7028.7. (a) If upon inspection or investigation, either upon complaint or otherwise, the registrar has probable cause to believe that a person is acting in the capacity of or engaging in the business of a contractor or salesperson within this state without having a license or registration in good standing to so act or engage, and the person is not otherwise exempted from this chapter, the registrar shall issue a citation to that person.

(b) Within 72 hours of receiving notice that a public entity is intending to award, or has awarded, a contract to an unlicensed contractor, the registrar shall give written notice to the public entity that a citation may be issued if a contract is awarded to an unlicensed contractor. If after receiving the written notice from the registrar that the public entity has awarded or awards the contract to an unlicensed contractor, the registrar may issue a citation to the responsible officer or employee of the public entity as specified in Section 7028.15.

(c) Each citation authorized under this section shall be in writing and describe with particularity the basis of the citation. Each citation shall contain an order of abatement and an assessment of a civil penalty in an amount not less than two hundred dollars ($200) or more than fifteen thousand dollars ($15,000).

(d) With the approval of the Contractors' State License Board, the registrar shall prescribe procedures for the issuance of a citation authorized under this section. The Contractors' State License Board shall adopt regulations covering the assessment of a civil penalty that shall give due consideration to the gravity of the violation, and any history of previous violations.

(e) The sanctions authorized under this section shall be separate from, and in addition to, all other remedies either civil or criminal.

~~SEC. 15.~~

SEC. 17. Section 7044 of the Business and Professions Code is amended to read:

7044. (a) This chapter does not apply to any of the following:

(1) An owner who builds or improves a structure on his or her property, provided that both of the following conditions are met:

(A) None of the improvements are intended or offered for sale.

(B) The property owner personally performs all of the work or any work not performed by the owner is performed by the owner's employees with wages as their sole compensation.

(2) An owner who builds or improves a structure on his or her property, provided that both of the following conditions are met:

(A) The owner directly contracts with licensees who are duly licensed to contract for the work of the respective trades involved in completing the project.

(B) For projects involving single-family residential structures, no more than four of these structures are intended or offered for sale in a calendar year. This subparagraph shall not apply if the owner contracts with a general contractor for the construction.

(3) A homeowner improving his or her principal place of residence or appurtenances thereto, provided that all of the following conditions exist:

(A) The work is performed prior to sale.

(B) The homeowner has actually resided in the residence for the 12 months prior to completion of the work.

(C) The homeowner has not availed himself or herself of the exemption in this paragraph on more than two structures more than once during any three-year period.

(b) In all actions brought under this chapter, both of the following shall apply:

(1) Except as provided in paragraph (2), proof of the sale or offering for sale of a structure by or for the owner-builder within one year after completion of the structure constitutes a rebuttable presumption affecting the burden of proof that the structure was undertaken for purposes of sale.

(2) Proof of the sale or offering for sale of five or more structures by the owner-builder within one year after completion constitutes a conclusive presumption that the structures were undertaken for purposes of sale.

~~SEC. 16.~~

SEC. 18. Section 7044.01 is added to the Business and Professions Code, to read:

7044.01. In addition to all other remedies, any (a) licensed contractor or association of contractors, (b) labor organization, (c) consumer affected by the violation, (d) district attorney, or (e) the Attorney General shall be entitled to seek injunctive relief prohibiting any violation of this chapter by an owner-builder who is neither licensed nor exempted from licensure under this chapter. The plaintiff in that action shall not be required to prove irreparable injury and shall be entitled to attorney's fees and all costs incurred in the prosecution of the action, provided the plaintiff is the prevailing party. The defendant in that action shall be entitled to attorney's fees and all costs incurred in the defense against the action, provided the defendant is the prevailing party.

~~SEC. 17.~~

SEC. 19. Section 7108.5 of the Business and Professions Code is repealed.

~~SEC. 18.~~

SEC. 20. Section 7108.5 is added to the Business and Professions Code, to read:

7108.5. (a) This section applies to all private works of improvement and to all public works of improvement, except where Section 10262 of the Public Contract Code applies.

(b) Except as provided in subdivision (c), a prime contractor or subcontractor shall pay to any subcontractor, not later than 10 days of receipt of each progress payment, unless otherwise agreed to in writing, the respective amounts allowed the contractor on account of the work performed by the subcontractors, to the extent of each subcontractor's interest therein. A prime contractor or subcontractor that fails to comply with this subdivision shall be subject to a penalty, payable to the subcontractor, of 2 percent of the amount due per month for every month that payment is not made as required under this subdivision.

(c) If there is a good faith dispute over all or any portion of the amount due on a progress payment from the prime contractor or subcontractor to a subcontractor, the prime contractor or subcontractor may withhold no more than 150 percent of the disputed amount.

(d) A violation of this section shall constitute a cause for disciplinary action.

(e) In any action for the collection of funds wrongfully withheld, the prevailing party shall be entitled to his or her attorney's fees and costs.

(f) The sanctions authorized under this section shall be separate from, and in addition to, all other remedies, either civil, administrative, or criminal.

~~SEC. 19.~~

SEC. 21. Section 7159 of the Business and Professions Code is amended to read:

7159. (a) (1) This section identifies the projects for which a home improvement contract is required, outlines the contract requirements, and lists the items that shall be included in the contract, or may be provided as an attachment.

(2) This section does not apply to service and repair contracts that are subject to Section 7159.10, if the contract for the applicable services complies with Sections 7159.10 to 7159.14, inclusive.

(3) This section does not apply to the sale, installation, and servicing of a fire alarm sold in conjunction with an alarm system, as defined in subdivision (n) of Section 7590.1, if all costs attributable to making the fire alarm system operable, including sale and installation costs, do not exceed five hundred dollars ($500), and the licensee complies with the requirements set forth in Section 7159.9.

(4) This section does not apply to any costs associated with monitoring a burglar or fire alarm system.

(5) Failure by the licensee, his or her agent or salesperson, or by a person subject to be licensed under this chapter, to provide the specified information, notices, and disclosures in the contract, or to otherwise fail to comply with any provision of this section, is cause for discipline.

(b) For purposes of this section, “home improvement contract” means an agreement, whether oral or written, or contained in one or more documents, between a contractor and an owner or between a contractor and a tenant, regardless of the number of residence or dwelling units contained in the building in which the tenant resides, if the work is to be performed in, to, or upon the residence or dwelling unit of the tenant, for the performance of a home improvement, as defined in Section 7151, and includes all labor, services, and materials to be furnished and performed thereunder, if the aggregate contract price specified in one or more improvement contracts, including all labor, services, and materials to be furnished by the contractor, exceeds five hundred dollars ($500). “Home improvement contract” also means an agreement, whether oral or written, or contained in one or more documents, between a salesperson, whether or not he or she is a home improvement salesperson, and an owner or a tenant, regardless of the number of residence or dwelling units contained in the building in which the tenant resides, which provides for the sale, installation, or furnishing of home improvement goods or services.

(c) In addition to the specific requirements listed under this section, every home improvement contract and any person subject to licensure under this chapter or his or her agent or salesperson shall comply with all of the following:

(1) The writing shall be legible.

(2) Any printed form shall be readable. Unless a larger typeface is specified in this article, text in any printed form shall be in at least 10-point typeface and the headings shall be in at least 10-point boldface type.

(3) (A) Before any work is started, the contractor shall give the buyer a copy of the contract signed and dated by both the contractor and the buyer. The buyer’s receipt of the copy of the contract initiates the buyer’s rights to cancel the contract pursuant to Sections 1689.5 to 1689.14, inclusive, of the Civil Code.

(B) The contract shall contain on the first page, in a typeface no smaller than that generally used in the body of the document, both of the following:

(i) The date the buyer signed the contract.

(ii) The name and address of the contractor to which the applicable “Notice of Cancellation” is to be mailed, immediately preceded by a statement advising the buyer that the “Notice of

Cancellation” may be sent to the contractor at the address noted on the contract.

(4) The contract shall include a statement that, upon satisfactory payment being made for any portion of the work performed, the contractor, prior to any further payment being made, shall furnish to the person contracting for the home improvement or swimming pool work a full and unconditional release from any potential lien claimant claim or mechanic’s lien authorized pursuant to Section 3110 of the Civil Code for that portion of the work for which payment has been made.

(5) A change-order form for changes or extra work shall be incorporated into the contract and shall become part of the contract only if it is in writing and signed by the parties prior to the commencement of any work covered by a change order.

(6) The contract shall contain, in close proximity to the signatures of the owner and contractor, a notice stating that the owner or tenant has the right to require the contractor to have a performance and payment bond.

(7) If the contract provides for a contractor to furnish joint control, the contractor shall not have any financial or other interest in the joint control.

(8) The provisions of this section are not exclusive and do not relieve the contractor from compliance with any other applicable provision of law.

(d) A home improvement contract and any changes to the contract shall be in writing and signed by the parties to the contract prior to the commencement of work covered by the contract or an applicable change order and, except as provided in paragraph (8) of subdivision (a) of Section 7159.5, shall include or comply with all of the following:

(1) The name, business address, and license number of the contractor.

(2) If applicable, the name and registration number of the home improvement salesperson that solicited or negotiated the contract.

(3) The following heading on the contract form that identifies the type of contract in at least 10-point boldface type: “Home Improvement.”

(4) The following statement in at least 12-point boldface type: “You are entitled to a completely filled in copy of this agreement,

signed by both you and the contractor, before any work may be started."

(5) The heading: "Contract Price," followed by the amount of the contract in dollars and cents.

(6) If a finance charge will be charged, the heading: "Finance Charge," followed by the amount in dollars and cents. The finance charge is to be set out separately from the contract amount.

(7) The heading: "Description of the Project and Description of the Significant Materials to be Used and Equipment to be Installed," followed by a description of the project and a description of the significant materials to be used and equipment to be installed. For swimming pools, the project description required under this paragraph also shall include a plan and scale drawing showing the shape, size, dimensions, and the construction and equipment specifications.

(8) If a downpayment will be charged, the details of the downpayment shall be expressed in substantially the following form, and shall include the text of the notice as specified in subparagraph (C):

(A) The heading: "Downpayment."

(B) A space where the actual downpayment appears.

(C) The following statement in at least 12-point boldface type:

"THE DOWNPAYMENT MAY NOT EXCEED $1,000 OR 10 PERCENT OF THE CONTRACT PRICE, WHICHEVER IS LESS."

(9) If payments, other than the downpayment, are to be made before the project is completed, the details of these payments, known as progress payments, shall be expressed in substantially the following form, and shall include the text of the statement as specified in subparagraph (C):

(A) A schedule of progress payments shall be preceded by the heading: "Schedule of Progress Payments."

(B) Each progress payment shall be stated in dollars and cents and specifically reference the amount of work or services to be performed and materials and equipment to be supplied.

(C) The section of the contract reserved for the progress payments shall include the following statement in at least 12-point boldface type:

"The schedule of progress payments must specifically describe each phase of work, including the type and amount of work or services scheduled to be supplied in each phase, along with the amount of each proposed progress payment. IT IS AGAINST THE LAW FOR A CONTRACTOR TO COLLECT PAYMENT FOR WORK NOT YET COMPLETED, OR FOR MATERIALS NOT YET DELIVERED. HOWEVER, A CONTRACTOR MAY REQUIRE A DOWNPAYMENT."

(10) The contract shall address the commencement of work to be performed in substantially the following form:

(A) A statement that describes what constitutes substantial commencement of work under the contract.

(B) The heading: "Approximate Start Date."

(C) The approximate date on which work will be commenced.

(11) The estimated completion date of the work shall be referenced in the contract in substantially the following form:

(A) The heading: "Approximate Completion Date."

(B) The approximate date of completion.

(12) If applicable, the heading: "List of Documents to be Incorporated into the Contract," followed by the list of documents incorporated into the contract.

(13) The heading: "Note about Extra Work and Change Orders," followed by the following statement:

"Extra Work and Change Orders become part of the contract once the order is prepared in writing and signed by the parties prior to the commencement of work covered by the new change order. The order must describe the scope of the extra work or change, the cost to be added or subtracted from the contract, and the effect the order will have on the schedule of progress payments."

(e) Except as provided in paragraph (8) of subdivision (a) of Section 7159.5, all of the following notices shall be provided to the owner as part of the contract form as specified or, if otherwise authorized under this subdivision, may be provided as an attachment to the contract:

(1) A notice concerning commercial general liability insurance. This notice may be provided as an attachment to the contract if

the contract includes the following statement: “A notice concerning commercial general liability insurance is attached to this contract.” The notice shall include the heading “Commercial General Liability Insurance (CGL),” followed by whichever of the following statements is both relevant and correct:

(A) “(The name on the license or ‘This contractor’) does not carry commercial general liability insurance.”

(B) “(The name on the license or ‘This contractor’) carries commercial general liability insurance written by (the insurance company). You may call (the insurance company) at ____________ to check the contractor’s insurance coverage.”

(C) “(The name on the license or ‘This contractor’) is self-insured.”

(2) A notice concerning workers’ compensation insurance. This notice may be provided as an attachment to the contract if the contract includes the statement: “A notice concerning workers’ compensation insurance is attached to this contract.” The notice shall include the heading “Workers’ Compensation Insurance” followed by whichever of the following statements is correct:

(A) “(The name on the license or ‘This contractor’) has no employees and is exempt from workers’ compensation requirements.”

(B) “(The name on the license or ‘This contractor’) carries workers’ compensation insurance for all employees.”

(3) A notice that provides the buyer with the following information about the performance of extra or change-order work:

(A) A statement that the buyer may not require a contractor to perform extra or change-order work without providing written authorization prior to the commencement of work covered by the new change order.

(B) A statement informing the buyer that extra work or a change order is not enforceable against a buyer unless the change order also identifies all of the following in writing prior to the commencement of work covered by the new change order:

(i) The scope of work encompassed by the order.

(ii) The amount to be added or subtracted from the contract.

(iii) The effect the order will make in the progress payments or the completion date.

(C) A statement informing the buyer that the contractor’s failure to comply with the requirements of this paragraph does not preclude the recovery of compensation for work performed based upon legal or equitable remedies designed to prevent unjust enrichment.

(4) A notice with the heading “Mechanics’ Lien Warning” written as follows:

“MECHANICS’ LIEN WARNING:

Anyone who helps improve your property, but who is not paid, may record what is called a mechanics’ lien on your property. A mechanics’ lien is a claim, like a mortgage or home equity loan, made against your property and recorded with the county recorder.

Even if you pay your contractor in full, unpaid subcontractors, suppliers, and laborers who helped to improve your property may record mechanics’ liens and sue you in court to foreclose the lien. If a court finds the lien is valid, you could be forced to pay twice or have a court officer sell your home to pay the lien. Liens can also affect your credit.

To preserve their right to record a lien, each subcontractor and material supplier must provide you with a document called a ‘20-day Preliminary Notice.’ This notice is not a lien. The purpose of the notice is to let you know that the person who sends you the notice has the right to record a lien on your property if he or she is not paid.

BE CAREFUL. The Preliminary Notice can be sent up to 20 days after the subcontractor starts work or the supplier provides material. This can be a big problem if you pay your contractor before you have received the Preliminary Notices.

You will not get Preliminary Notices from your prime contractor or from laborers who work on your project. The law assumes that you already know they are improving your property.

PROTECT YOURSELF FROM LIENS. You can protect yourself from liens by getting a list from your contractor of all the subcontractors and material suppliers that work on your project. Find out from your contractor when these subcontractors started work and when these suppliers delivered goods or materials. Then wait 20 days, paying attention to the Preliminary Notices you receive.

PAY WITH JOINT CHECKS. One way to protect yourself is to pay with a joint check. When your contractor tells you it is time to pay for the work of a subcontractor or supplier who has provided you with a Preliminary Notice, write a joint check payable to both the contractor and the subcontractor or material supplier.

For other ways to prevent liens, visit CSLB's Internet Web site at www.cslb.ca.gov or call CSLB at 800-321-CSLB (2752).

REMEMBER, IF YOU DO NOTHING, YOU RISK HAVING A LIEN PLACED ON YOUR HOME. This can mean that you may have to pay twice, or face the forced sale of your home to pay what you owe."

(5) The following notice shall be provided in at least 12-point typeface:

"Information about the Contractors' State License Board (CSLB): CSLB is the state consumer protection agency that licenses and regulates construction contractors.

Contact CSLB for information about the licensed contractor you are considering, including information about disclosable complaints, disciplinary actions, and civil judgments that are reported to CSLB.

Use only licensed contractors. If you file a complaint against a licensed contractor within the legal deadline (usually four years), CSLB has authority to investigate the complaint. If you use an unlicensed contractor, CSLB may not be able to help you resolve your complaint. Your only remedy may be in civil court, and you may be liable for damages arising out of any injuries to the unlicensed contractor or the unlicensed contractor's employees.

For more information:

Visit CSLB's Internet Web site at www.cslb.ca.gov

Call CSLB at 800-321-CSLB (2752)

Write CSLB at P.O. Box 26000, Sacramento, CA 95826."

(6) (A) The notice set forth in subparagraph (B) and entitled "Three-Day Right to Cancel," shall be provided to the buyer unless the contract is:

(i) Negotiated at the contractor's place of business.

(ii) Subject to the "Seven-Day Right to Cancel," as set forth in paragraph (7).

(iii) Subject to licensure under the Alarm Company Act (Chapter 11.6 (commencing with Section 7590)), provided the alarm company licensee complies with Sections 1689.5, 1689.6, and 1689.7 of the Civil Code, as applicable.

(B) “Three-Day Right to Cancel

You, the buyer, have the right to cancel this contract within three business days. You may cancel by e-mailing, mailing, faxing, or delivering a written notice to the contractor at the contractor’s place of business by midnight of the third business day after you received a signed and dated copy of the contract that includes this notice. Include your name, your address, and the date you received the signed copy of the contract and this notice.

If you cancel, the contractor must return to you anything you paid within 10 days of receiving the notice of cancellation. For your part, you must make available to the contractor at your residence, in substantially as good condition as you received them, goods delivered to you under this contract or sale. Or, you may, if you wish, comply with the contractor’s instructions on how to return the goods at the contractor’s expense and risk. If you do make the goods available to the contractor and the contractor does not pick them up within 20 days of the date of your notice of cancellation, you may keep them without any further obligation. If you fail to make the goods available to the contractor, or if you agree to return the goods to the contractor and fail to do so, then you remain liable for performance of all obligations under the contract.”

(C) The “Three-Day Right to Cancel” notice required by this paragraph shall comply with all of the following:

(i) The text of the notice is at least 12-point boldface type.

(ii) The notice is in immediate proximity to a space reserved for the owner’s signature.

(iii) The owner acknowledges receipt of the notice by signing and dating the notice form in the signature space.

(iv) The notice is written in the same language, e.g., Spanish, as that principally used in any oral sales presentation.

(v) The notice may be attached to the contract if the contract includes, in at least 12-point boldface type, a checkbox with the following statement: “The law requires that the contractor give you a notice explaining your right to cancel. Initial the checkbox if the contractor has given you a ‘Notice of the Three-Day Right to Cancel.’ ”

(vi) The notice shall be accompanied by a completed form in duplicate, captioned “Notice of Cancellation,” which also shall be attached to the agreement or offer to purchase and be easily detachable, and which shall contain the following statement written in the same language, e.g., Spanish, as used in the contract:

“Notice of Cancellation”

/enter date of transaction/

____

(Date)

“You may cancel this transaction, without any penalty or obligation, within three business days from the above date.

If you cancel, any property traded in, any payments made by you under the contract or sale, and any negotiable instrument executed by you will be returned within 10 days following receipt by the seller of your cancellation notice, and any security interest arising out of the transaction will be canceled.

If you cancel, you must make available to the seller at your residence, in substantially as good condition as when received, any goods delivered to you under this contract or sale, or you may, if you wish, comply with the instructions of the seller regarding the return shipment of the goods at the seller’s expense and risk.

If you do make the goods available to the seller and the seller does not pick them up within 20 days of the date of your notice of cancellation, you may retain or dispose of the goods without any further obligation. If you fail to make the goods available to the seller, or if you agree to return the goods to the seller and fail to do so, then you remain liable for performance of all obligations under the contract.”

To cancel this transaction, mail or deliver a signed and dated copy of this cancellation notice, or any other written notice, or send a telegram

to ____,

/name of seller/

at____

/address of seller's place of business/

not later than midnight of______________________________________.

(Date)

I hereby cancel this transaction. ________________________________

(Date)

____

(Buyer's signature)

(7) (A) The following notice entitled "Seven-Day Right to Cancel" shall be provided to the buyer for any contract that is written for the repair or restoration of residential premises damaged by any sudden or catastrophic event for which a state of emergency has been declared by the President of the United States or the Governor, or for which a local emergency has been declared by the executive officer or governing body of any city, county, or city and county:

"Seven-Day Right to Cancel

You, the buyer, have the right to cancel this contract within seven business days. You may cancel by e-mailing, mailing, faxing, or delivering a written notice to the contractor at the contractor's place of business by midnight of the seventh business day after you received a signed and dated copy of the contract that includes this notice. Include your name, your address, and the date you received the signed copy of the contract and this notice.

If you cancel, the contractor must return to you anything you paid within 10 days of receiving the notice of cancellation. For your part, you must make available to the contractor at your residence, in substantially as good condition as you received them, goods delivered to you under this contract or sale. Or, you may, if you wish, comply with the contractor's instructions on how to return the goods at the contractor's expense and risk. If you do make the goods available to the contractor and the contractor does not pick them up within 20 days of the date of your notice of cancellation, you may keep them without any further obligation. If you fail to make the goods available to the contractor, or if you agree to return the goods to the contractor and fail to do so, then you remain liable for performance of all obligations under the contract."

(B) The “Seven-Day Right to Cancel” notice required by this subdivision shall comply with all of the following:

(i) The text of the notice is at least 12-point boldface type.

(ii) The notice is in immediate proximity to a space reserved for the owner’s signature.

(iii) The owner acknowledges receipt of the notice by signing and dating the notice form in the signature space.

(iv) The notice is written in the same language, e.g., Spanish, as that principally used in any oral sales presentation.

(v) The notice may be attached to the contract if the contract includes, in at least 12-point boldface type, a checkbox with the following statement: “The law requires that the contractor give you a notice explaining your right to cancel. Initial the checkbox if the contractor has given you a ‘Notice of the Seven-Day Right to Cancel.’ ”

(vi) The notice shall be accompanied by a completed form in duplicate, captioned “Notice of Cancellation,” which shall also be attached to the agreement or offer to purchase and be easily detachable, and which shall contain the following statement written in the same language, e.g., Spanish, as used in the contract:

“Notice of Cancellation”

/enter date of transaction/

____

(Date)

“You may cancel this transaction, without any penalty or obligation, within seven business days from the above date.

If you cancel, any property traded in, any payments made by you under the contract or sale, and any negotiable instrument executed by you will be returned within 10 days following receipt by the seller of your cancellation notice, and any security interest arising out of the transaction will be canceled.

If you cancel, you must make available to the seller at your residence, in substantially as good condition as when received, any goods delivered to you under this contract or sale, or you may, if you wish, comply with the instructions of the seller regarding the return shipment of the goods at the seller’s expense and risk.

If you do make the goods available to the seller and the seller does not pick them up within 20 days of the date of your notice of cancellation, you may retain or dispose of the goods without any further obligation. If you fail to make the goods available to the seller, or if you agree to return the goods to the seller and fail to do so, then you remain liable for performance of all obligations under the contract."

To cancel this transaction, mail or deliver a signed and dated copy of this cancellation notice, or any other written notice, or send a telegram

to ____,

/name of seller/

at ____

/address of seller's place of business/

not later than midnight of ____________________________.

(Date)

I hereby cancel this transaction. ________________________

(Date)

____

(Buyer's signature)

~~SEC. 20.~~

SEC. 22. Section 7159.5 of the Business and Professions Code is amended to read:

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

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

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

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

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

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

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

(6) Upon any payment by the person contracting for home improvement, and prior to any further payment being made, the contractor shall, if requested, obtain and furnish to the person a full and unconditional release from any potential lien claimant claim or mechanic's lien authorized pursuant to Section 3110 of the Civil Code for any portion of the work for which payment has been made. The person contracting for home improvement may withhold all further payments until these releases are furnished.

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

(8) A contractor furnishing a performance and payment bond, lien and completion bond, or a bond equivalent or joint control approved by the registrar covering full performance and payment is exempt from paragraphs (3), (4), and (5), and need not include, as part of the contract, the statement regarding the downpayment specified in subparagraph (C) of paragraph (8) of subdivision (d) of Section 7159, the details and statement regarding progress payments specified in paragraph (9) of subdivision (d) of Section 7159, or the Mechanics' Lien Warning specified in paragraph (4) of subdivision (e) of Section 7159. A contractor furnishing these bonds, bond equivalents, or a joint control approved by the registrar may accept payment prior to completion. If the contract provides for a contractor to furnish joint control, the contractor shall not have any financial or other interest in the joint control.

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

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

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

(3) The limitations on actions in this subdivision shall not apply to any administrative action filed against a licensed contractor.

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

~~SEC. 21.~~

SEC. 23. Section 7159.14 of the Business and Professions Code is amended to read:

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

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

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

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

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

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

(6) The contractor may not sell the buyer goods or services beyond those reasonably necessary to take care of the particular problem that caused the buyer to contact the contractor.

(7) No payment may be due before the project is completed.

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

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

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

(11) Upon any payment by the buyer, the contractor shall, if requested, obtain and furnish to the buyer a full and unconditional release from any potential lien claimant claim or mechanic's lien authorized pursuant to Section 3110 of the Civil Code for any portion of the work for which payment has been made.

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

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

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

(3) The limitations on actions in this subdivision shall not apply to any administrative action filed against a licensed contractor.

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

~~SEC. 22.~~

SEC. 24. Section 7303.2 of the Business and Professions Code is amended to read:

7303.2. The board shall conduct the following studies and reviews, and shall report its findings and recommendations to the department and the Joint Committee on Boards, Commissions, and Consumer Protection no later than September 1, 2005:

(a) The board, pursuant to Section 139 and in conjunction with the Office of Professional Examination ~~Resources~~ *Services* of the department, shall review the 1600 hour training requirement for cosmetologists.

(b) The board, in conjunction with the Office of Professional Examination ~~Resources~~ *Services* of the department, shall evaluate the equivalency of the national exam.

(c) The board shall conduct a study to assess the costs and benefits associated with requiring all applicants to submit fingerprint cards for background investigations.

(d) The board, in coordination with the Department of Industrial Relations, shall review all components of the apprenticeship program, including, but not limited to, the following:

(1) Apprenticeship curriculum requirements.

(2) The standards for the preapprentice trainers, program sponsors, trainers, and placement establishments. The board shall pay particular attention to ways to eliminate duplicative regulations.

(e) The board shall review all components of the externship program. In addition to structural changes, the board shall address the following:

(1) Whether the program should be eliminated.

(2) Whether the program should be available to all students, not just cosmetology students attending private schools.

(3) Whether the students should be paid.

(f) The board shall assess the costs and benefits associated with same day licensing. If the board determines that the benefits of same day licensing outweigh the costs, the board shall immediately plan and implement safety measures to protect site staff and undispersed licenses.

(g) The board, in conjunction with the Office of Professional Examination ~~Resources~~ *Services* of the department, shall assess the validity of aggregate scoring for board applicants.

~~SEC. 23.~~

SEC. 25. Section 7500.1 of the Business and Professions Code is amended to read:

7500.1. The following terms as used in this chapter have the meaning expressed in this section~~.~~*:*

(a) “Advertisement” means any written or printed communication, including a directory listing, except a free telephone directory listing that does not allow space for a license number.

(b) “Assignment” means a written authorization by the legal owner, lienholder, lessor or lessee, or the agent of any of them, to skip trace, locate, or repossess or to collect money payment in lieu of repossession of~~,~~ any collateral, including, but not limited to, collateral registered under the Vehicle Code that is subject to a security agreement that contains a repossession clause. “Assignment” also means a written authorization by an employer to recover any collateral entrusted to an employee or former employee if the possessor is wrongfully in possession of the collateral. A photocopy of an assignment, facsimile copy of an assignment, or electronic assignment shall have the same force and effect as an original written assignment.

(c) “Bureau” means the Bureau of Security and Investigative Services.

(d) “Chief” means the Chief of the Bureau of Security and Investigative Services.

(e) “Collateral” means any specific vehicle, trailer, boat, recreational vehicle, motor home, appliance, or other property that is subject to a security agreement.

(f) “Combustibles” means any substance or article that is capable of undergoing combustion or catching fire, or that is flammable, if retained.

(g) “Dangerous drugs” means any controlled substances as defined in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code.

(h) “Deadly weapon” means and includes any instrument or weapon of the kind commonly known as a blackjack, slungshot, billy, sandclub, sandbag, metal knuckles, dirk, dagger, pistol, or revolver, or any other firearm, any knife having a blade longer than five inches, any razor with an unguarded blade, and any metal pipe or bar used or intended to be used as a club.

(i) “Debtor” means any person obligated under a security agreement.

(j) “Department” means the Department of Consumer Affairs.

(k) “Director” means the Director of Consumer Affairs.

(*l*) "Health hazard" means any personal effects which if retained would produce an unsanitary or unhealthful condition.

(m) "Legal owner" means a person holding a security interest in any collateral that is subject to a security agreement, a lien against any collateral, or an interest in any collateral that is subject to a lease agreement.

(n) "Licensee" means an individual, partnership, limited liability company, or corporation licensed under this chapter as a repossession agency.

(o) "Multiple licensee" means a repossession agency holding more than one repossession license under this chapter, with one fictitious trade style and ownership, conducting repossession business from additional licensed locations other than the location shown on the original license.

(p) "Person" includes any individual, partnership, limited liability company, or corporation.

(q) "Personal effects" means any property that is not the property of the legal owner.

(r) "Private building" means and includes any dwelling, outbuilding, or other enclosed structure.

(s) "Qualified certificate holder" or "qualified manager" is a person who possesses a valid qualification certificate in accordance with the provisions of Article 5 (commencing with Section 7504) and is in active control or management of, and who is a director of, the licensee's place of business.

(t) "Registrant" means a person registered under this chapter.

(u) "Secured area" means and includes any fenced and locked area.

(v) "Security agreement" means an obligation, pledge, mortgage, chattel mortgage, lease agreement, deposit, or lien, given by a debtor as security for payment or performance of his or her debt, by furnishing the creditor with a recourse to be used in case of failure in the principal obligation. "Security agreement" also includes a bailment where an employer-employee relationship exists or existed between the bailor and the bailee.

(w) "Services" means any duty or labor to be rendered by one person for another.

(x) "Violent act" means any act that results in bodily harm or injury to any party involved.

(y) The amendments made to this section during the 2005–06 Regular Session shall not be deemed to exempt any person from the provisions of this chapter.

~~SEC. 24.~~

SEC. 26. Section 7505.5 of the Business and Professions Code is amended to read:

7505.5. The person deemed to be actively in charge of an office shall be the holder of a qualification certificate and the certificate, together with the current renewal certificate, shall be prominently displayed below the repossession agency's license. The person shall be in charge of not more than two licensed locations. The person shall share equally with the licensee the responsibility for the conduct of the business and the personnel of the licensed agency or agencies, if more than one agency is licensed at that location. This section shall not apply to any licensee who notifies the bureau in writing that the licensee is not conducting any business, but wishes to maintain a current license status with the bureau. When the licensee resumes conducting business, the licensee shall so inform the bureau in writing within 30 days.

~~SEC. 25.~~

SEC. 27. Section 7507.9 of the Business and Professions Code is amended to read:

7507.9. Personal effects shall be removed from the collateral, including any personal effect that is mounted but detachable from the collateral by a release mechanism. A complete and accurate inventory of the personal effects shall be made, and the personal effects shall be labeled and stored by the licensee for a minimum of 60 days in a secure manner, except those personal effects removed by or in the presence of the debtor or the party in possession of the collateral at the time of the repossession. If the licensee or the licensee's agent cannot determine whether the property attached to the collateral is a personal effect or a part of the collateral, then that fact shall be noted on the inventory and the licensee or agent shall not be obligated to remove the item from the collateral, unless the item can be removed without the use of tools, in which case it shall be removed and inventoried. The licensee or the licensee's agent shall notify the debtor that if the debtor takes the position that an item is a personal effect, then the debtor shall contact the legal owner to resolve the issue.

(a) The date and time the inventory is made shall be indicated. The permanent records of the licensee shall indicate the name of the employee or registrant who performed the inventory.

(b) The following items of personal effects are items determined to present a danger or health hazard when recovered by the licensee and shall be disposed of in the following manner:

(1) Deadly weapons and dangerous drugs shall be turned over to any law enforcement agency for retention. These items shall be entered on the inventory and a notation shall be made as to the date and the time and the place the deadly weapon or dangerous drug was turned over to the law enforcement agency, and a receipt from the law enforcement agency shall be maintained in the records of the repossession agency.

(2) Combustibles shall be inventoried and noted as "disposed of, dangerous combustible," and the item shall be disposed of in a reasonable and safe manner.

(3) Food and other health hazard items shall be inventoried and noted as "disposed of, health hazard," and disposed of in a reasonable and safe manner.

(c) Personal effects may be disposed of after being held for at least 60 days. The inventory, and adequate information as to how, when, and to whom the personal effects were disposed of, shall be filed in the permanent records of the licensee.

(d) The inventory shall include the name, address, business hours, and telephone number of the repossession agency to contact for recovering the personal effects and an itemization of all personal effects removal and storage charges that will be made by the repossession agency. The inventory shall also include the following statement: "Please be advised that the property listed on this inventory will be disposed of by the repossession agency after being held for 60 days from the date of this notice IF UNCLAIMED."

(e) The inventory shall be provided to a debtor not later than 48 hours after the recovery of the collateral, except that if:

(1) The 48-hour period encompasses a Saturday, Sunday, or postal holiday, the inventory shall be provided no later than 72 hours after the recovery of the collateral.

(2) The 48-hour period encompasses a Saturday or Sunday and a postal holiday, the inventory shall be provided no later than 96 hours after the recovery of the collateral.

(3) Inventory resulting from repossession of a yacht, motor home, or travel trailer is such that it shall take at least four hours to inventory, then the inventory shall be provided no later than 96 hours after the recovery of the collateral. When the 96-hour period encompasses a Saturday, Sunday, or postal holiday, the inventory shall be provided no later than 120 hours after the recovery of the collateral.

(f) Environmental, Olympic, special interest, or other license plates issued pursuant to Article 8 (commencing with Section 5000), Article 8.4 (commencing with Section 5060) or Article 8.5 (commencing with Section 5100) of Chapter 1 of Division 3 of the Vehicle Code that remain the personal effects of the debtor shall be removed from the collateral and inventoried pursuant to this section. If the plates are not claimed by the debtor within 60 days, they shall either (1) be effectively destroyed and the licensee shall, within 30 days thereafter, notify the Department of Motor Vehicles of their effective destruction on a form promulgated by the chief that has been approved as to form by the Director of the Department of Motor Vehicles; or (2) be retained by the licensee indefinitely to be returned to the debtor upon request, in which case the licensee shall not charge more than 60 days storage on the plates.

(g) The notice may be given by regular mail addressed to the last known address of the debtor or by personal service at the option of the repossession agency.

(h) With the consent of the licensee, the debtor may waive the preparation and presentation of an inventory if the debtor redeems the personal effects or other personal property not covered by a security interest within the time period for the notices required by this section and signs a statement that he or she has received all the property.

(i) If personal effects or other personal property not covered by a security agreement are to be released to someone other than the debtor, the repossession agency may request written authorization to do so from the debtor.

(j) The inventory shall be a confidential document. A licensee shall only disclose the contents of the inventory under the following circumstances:

(1) In response to the order of a court having jurisdiction to issue the order.

(2) In compliance with a lawful subpoena issued by a court of competent jurisdiction.

(3) When the debtor has consented in writing to the release and the written consent is signed and dated by the debtor subsequent to the repossession and states the entity or entities to whom the contents of the inventory may be disclosed.

(4) To the debtor.

~~SEC. 26.~~

SEC. 28. Section 7507.115 is added to the Business and Professions Code, to read:

7507.115. A licensee shall not appraise the value of any collateral.

~~SEC. 27.~~

SEC. 29. Section 7507.12 of the Business and Professions Code is amended to read:

7507.12. With regard to collateral subject to registration under the Vehicle Code, a repossession is complete when the repossessor gains entry to the collateral or when the collateral becomes connected to a tow truck or the repossessor's tow vehicle, as those terms are defined in Section 615 of the Vehicle Code. No person other than the legal owner may direct a repossessor to release a vehicle without legal authority to do so.

~~SEC. 28.~~

SEC. 30. Section 7606 of the Business and Professions Code is amended to read:

7606. The bureau may, pursuant to the provisions of the Administrative Procedure Act, adopt and enforce reasonably necessary rules and regulations relating to:

(a) The practice of embalming.

(b) The business of a funeral director.

(c) The sanitary conditions of places where such practice or business is conducted with particular regard to plumbing, sewage, ventilation and equipment.

(d) Specifying conditions for approval of funeral establishments for apprentices and for approval of mortuary science programs.

(e) The scope of examinations.

(f) Carrying out generally the various provisions of this chapter for the protection of the peace, health, safety, welfare and morals of the public.

~~SEC. 29.~~

SEC. 31. Section 7616 of the Business and Professions Code is amended to read:

7616. (a) A licensed funeral establishment is a place of business conducted in a building or separate portion of a building having a specific street address or location and devoted exclusively to those activities as are incident, convenient, or related to the preparation and arrangements, financial and otherwise, for the funeral, transportation, burial or other disposition of human remains and including, but not limited to, either of the following:

(1) A suitable room for the storage of human remains.

(2) A preparation room equipped with a sanitary flooring and necessary drainage and ventilation and containing necessary instruments and supplies for the preparation, sanitation, or embalming of human remains for burial or transportation.

(b) Licensed funeral establishments under common ownership or by contractual agreement within close geographical proximity of each other shall be deemed to be in compliance with the requirements of paragraph (1) or (2) of subdivision (a) if at least one of the establishments has a room described in those paragraphs.

(c) Except as provided in Section 7609, and except accredited mortuary science programs engaged in teaching students the art of embalming, no person shall operate or maintain or hold himself or herself out as operating or maintaining any of the facilities specified in paragraph (2) of subdivision (a), unless he or she is licensed as a funeral director.

(d) Nothing in this section shall be construed to require a funeral establishment to conduct its business or financial transactions at the same location as its preparation or storage of human remains.

(e) Nothing in this chapter shall be deemed to render unlawful the conduct of any ambulance service from the same premises as those on which a licensed funeral establishment is conducted, including the maintenance in connection with the funeral establishment of garages for the ambulances and living quarters for ambulance drivers.

(f) Every funeral establishment holding a funeral director's license on December 31, 1996, shall, upon application and payment of fees for renewal of its funeral director's license, be issued a funeral establishment license.

~~SEC. 30.~~

SEC. 32. Section 7641 of the Business and Professions Code is amended to read:

7641. It is unlawful for any person to embalm a body, or engage in, or hold himself or herself out as engaged in practice as an embalmer, unless he or she is licensed by the bureau. However, this section shall have no effect on students and instructors of embalming in mortuary science programs approved by the bureau.

~~SEC. 31.~~

SEC. 33. Section 7643 of the Business and Professions Code is amended to read:

7643. In order to qualify for a license as an embalmer, the applicant shall comply with all of the following requirements:

(a) Be over 18 years of age.

(b) Not have committed acts or crimes constituting grounds for denial of licensure under Section 480.

(c) Have completed at least two years of apprenticeship under an embalmer licensed and engaged in practice as an embalmer in this state in a funeral establishment which shall have been approved for apprentices by the bureau and while so apprenticed shall have assisted in embalming not fewer than 100 human remains; provided, however, that a person who has been licensed and has practiced as an embalmer for a minimum of three years within the seven years preceding his or her application in any other state or country and whose license has never been suspended or revoked for unethical conduct shall not be required to serve any apprenticeship in this state.

(d) Have graduated from a mortuary science program approved by the bureau and accredited by the American Board of Funeral Service Education, or its equivalent, as determined by the bureau, and furnish official transcripts from that program or equivalent.

~~SEC. 32.~~

SEC. 34. Section 7646 of the Business and Professions Code is amended to read:

7646. (a) The bureau shall require the applicant to pass both of the following:

(1) The ~~funeral service~~ sciences section of the national examination administered by the International Conference of Funeral Service Examining Boards, or its equivalent, as determined by the bureau.

(2) An examination, administered by the bureau, on the state's laws and the rules and regulations of the bureau, including those sections of the Health and Safety Code which pertain to the funeral industry.

(b) An applicant who has previously passed the ~~funeral services~~ sciences section of the national examination described in paragraph (1) of subdivision (a) ~~in another state~~ shall be deemed to be in compliance with that paragraph.

(c) An applicant who has previously failed the examination administered by the bureau prior to the operative date of this section may, until June 30, 2010, retake that examination. If the applicant passes that examination, he or she shall be deemed to be in compliance with this section.

~~SEC. 33.~~

SEC. 35. Section 7647 of the Business and Professions Code is amended to read:

7647. Examinations shall be administered at times and places determined by the bureau and the International Conference of Funeral Service Examining Boards.

The bureau shall give notice of the time and place of the examination described in paragraph (2) of subdivision (a) of Section 7646.

~~SEC. 34.~~

SEC. 36. Section 7662 of the Business and Professions Code is amended to read:

7662. In order to qualify as an apprentice embalmer, an applicant shall comply with all of the following requirements:

(a) Be over 18 years of age.

(b) Not have committed acts or crimes constituting grounds for denial of licensure under Section 480.

(c) Do one of the following:

(1) Furnish proof showing completion of a high school course.

(2) Furnish the bureau with evidence that he or she has been licensed and has practiced as an embalmer for a minimum of three years within the seven years preceding his or her application in any other state or country and that the license has never been suspended or revoked for unethical conduct.

(3) Have graduated from a mortuary science program approved by the bureau and accredited by the American Board of Funeral

Service Education, or its equivalent, as determined by the bureau, and furnish official transcripts from that program or equivalent.

~~SEC. 35.~~

SEC. 37. Section 7665 of the Business and Professions Code is amended to read:

7665. All registered apprentice embalmers shall comply with the following requirements during their period of apprenticeship:

(a) Shall file a report of apprenticeship as follows:

(1) On or before January 15 of each year covering the period of apprenticeship ending as of December 31 preceding.

(2) Upon change of supervising embalmer or employer, or both.

(3) Upon completion of apprenticeship.

(4) Upon application for leave of absence for a period in excess of 15 days.

(5) Upon suspending apprenticeship to attend a mortuary science program.

(6) Upon application for reregistration after suspension or revocation of registration if a complete report of previous registration has not been filed.

(b) The information contained in the report shall consist of a concise summary of the work done by the apprentice during the period covered thereby, shall be verified by the apprentice and certified to as correct by his or her supervising embalmer and employer. Upon request of the bureau, each funeral director in whose establishment an apprenticeship is being, or has been, served, and each embalmer under whose instruction or supervision an apprenticeship is being or has been served, shall promptly file with the bureau a report or such other information as may be requested relating to the apprenticeship. Failure to comply with the request is cause for revocation by the bureau of the approval granted to the funeral director or embalmer for the training of apprentices and is also a cause for disciplinary action against the funeral director or embalmer.

~~SEC. 36.~~

SEC. 38. Section 7666 of the Business and Professions Code is amended to read:

7666. (a) The term of apprenticeship shall be two years. However, if an apprentice after having served his or her apprenticeship fails to pass the examinations required for an embalmer's license, he or she may continue for one additional term of apprenticeship, which shall be the maximum apprenticeship permitted and provided further that an apprentice may, upon filing an application therefor, be permitted to continue the apprenticeship for a period not to exceed six months, if approved, for any of the following reasons:

(1) While awaiting the processing of applications submitted to the bureau.

(2) While awaiting notification of grades of examinations required under Section 7646.

(3) While awaiting the commencement of a class of a mortuary science program when the apprentice intends to enroll in the program.

Applications filed for an extension of apprenticeship shall be filed by the applicant with the bureau not fewer than 15 days prior to the date the applicant requests the extension to commence.

(b) Terms of apprenticeship may be served before, after, or divided by the mortuary science program at the option of the apprentice; provided, however, that the term of apprenticeship must be completed, excluding time spent in active military service, within six years from the date of original registration, or from the date an apprentice successfully passes the examinations for an embalmer's license required in Section 7646, whichever first occurs, and provided further that if the term of apprenticeship is not completed within the six-year period, the bureau may require that the applicant serve the additional term of apprenticeship, not to exceed two years.

(c) A student attending a mortuary science program may register as an apprentice during the program term but shall receive no credit for apprenticeship on the term required by this code unless he or she is also a full-time employee of a funeral director.

(d) An apprentice while serving his or her required term of apprenticeship shall be a full-time employee in the funeral establishment in which he or she is employed.

~~SEC. 37.~~

SEC. 39. Section 7671 of the Business and Professions Code is amended to read:

7671. No person who is a duly registered apprentice or a student at an approved mortuary science program in California at the time of any amendment to this chapter raising the requirements for apprentice embalmers or license as an embalmer, shall be required to comply with the provisions of that amendment.

~~SEC. 38.~~

SEC. 40. Section 7725.5 of the Business and Professions Code is amended to read:

7725.5. A license which is not renewed within five years after its expiration may not be renewed, restored, reissued, or reinstated thereafter. The holder of the expired license may obtain a new license only if the holder pays all of the fees, and meets all of the requirements, other than requirements relating to education, set forth in this chapter for obtaining an original license, except that the bureau may issue a new license to the holder without examination if the holder establishes to the bureau's satisfaction that, with due regard for the public interest, the holder is qualified to engage in the activity in which the holder again seeks to be licensed. The bureau may, by appropriate regulation, provide for the waiver or refund of all or any part of the application fee in those cases in which a license is issued without examination under this section.

The provisions of this section do not apply to certificates of apprenticeship.

~~SEC. 39.~~

SEC. 41. Section 7729 of the Business and Professions Code is amended to read:

7729. The amount of the fees prescribed by this chapter shall be fixed according to the following schedule with the minimum amount specified being the amount fixed on January 1, 1988.

(a) The application fee for a funeral director's license shall be not less than one hundred dollars ($100) and not more than two hundred dollars ($200).

(b) The application fee for change of location of a funeral establishment's license shall be not less than one hundred fifty dollars ($150) and not more than two hundred fifty dollars ($250).

(c) The application fee for permission to assign a funeral establishment's license shall be not less than two hundred dollars ($200) and not more than three hundred dollars ($300).

(d) The license renewal fee payable by a licensed funeral director shall be not less than one hundred dollars ($100) and not more than two hundred dollars ($200). The fee for a delinquent renewal of a funeral director's license shall be 150 percent of the timely renewal fee.

(e) The application fee for an embalmer's license and the examination on the state's laws required under paragraph (2) of subdivision (a) of Section 7646 for the license shall be not less than one hundred dollars ($100) and not more than one hundred fifty dollars ($150).

(f) The renewal fee payable by a licensed embalmer shall be not less than seventy-five dollars ($75) and not more than one hundred twenty-five dollars ($125). The fee for a delinquent renewal of an embalmer's license shall be 150 percent of the timely renewal fee.

(g) The application fee for a certificate of registration as an apprentice embalmer shall be not less than thirty dollars ($30) and not more than sixty dollars ($60).

(h) The fee for an application by a funeral establishment for approval to train apprentice embalmers and for renewal of that approval shall be not less than fifty dollars ($50) and not more than one hundred dollars ($100).

(i) The application fee for a funeral director's examination shall be not less than seventy-five dollars ($75) and not more than one hundred dollars ($100).

(j) The fee for a timely filing of an individual report or a combined report on preneed trust funds shall be not less than one hundred dollars ($100) and not more than two hundred dollars ($200). The fee for a late filing of any report on preneed trust funds shall be 150 percent of the applicable timely fee.

(k) The application fee for permission to change the name appearing on a funeral establishment's license shall be not less than one hundred dollars ($100) and not more than two hundred dollars ($200), and for permission to change the name on any other license or certificate, not less than twenty dollars ($20) and not more than forty dollars ($40).

(*l*) The application fee for a duplicate funeral director's license, a duplicate funeral establishment's license, a duplicate embalmer's license, or a duplicate certificate of registration as an apprentice embalmer, shall be not less than twenty dollars ($20) and not more than forty dollars ($40).

(m) The fee for filing a report of a change of corporate officers, managers, or preneed trust fund trustees shall be not less than twenty-five dollars ($25) and not more than fifty dollars ($50).

(n) The application fee for a funeral establishment license shall be not less than three hundred dollars ($300) and not more than four hundred dollars ($400).

(o) The license renewal fee for a licensed funeral establishment shall be not less than three hundred dollars ($300) nor more than four hundred dollars ($400).

~~SEC. 40.~~

SEC. 42. Section 9884.2 of the Business and Professions Code is amended to read:

9884.2. Upon receipt of the form properly filled out and receipt of the required fee, the director shall issue the registration and send a proof of issuance to the automotive repair dealer. The director shall by regulation prescribe conditions that he or she determines are necessary to insure future compliance with this chapter, upon which a person, whose registration has previously been revoked or has previously been denied or who has committed acts prohibited by Section 9884.7 while an automotive repair dealer or mechanic or while an employee, partner, officer or member of an automotive repair dealer, may have his or her registration issued.

~~SEC. 41.~~

SEC. 43. Section 9884.7 of the Business and Professions Code is amended to read:

9884.7. (a) The director, where the automotive repair dealer cannot show there was a bona fide error, may deny, or may suspend, revoke, or place on probation the registration of an automotive repair dealer for any of the following acts or omissions related to the conduct of the business of the automotive repair dealer, which are done by the automotive repair dealer or any automotive technician, employee, partner, officer, or member of the automotive repair dealer.

(1) Making or authorizing in any manner or by any means whatever any statement written or oral which is untrue or misleading, and which is known, or which by the exercise of reasonable care should be known, to be untrue or misleading.

(2) Causing or allowing a customer to sign any work order that does not state the repairs requested by the customer or the automobile's odometer reading at the time of repair.

(3) Failing or refusing to give to a customer a copy of any document requiring his or her signature, as soon as the customer signs the document.

(4) Any other conduct which constitutes fraud.

(5) Conduct constituting gross negligence.

(6) Failure in any material respect to comply with the provisions of this chapter or regulations adopted pursuant to it.

(7) Any willful departure from or disregard of accepted trade standards for good and workmanlike repair in any material respect, which is prejudicial to another without consent of the owner or his or her duly authorized representative.

(8) Making false promises of a character likely to influence, persuade, or induce a customer to authorize the repair, service, or maintenance of automobiles.

(9) Having repair work done by someone other than the dealer or his or her employees without the knowledge or consent of the customer unless the dealer can demonstrate that the customer could not reasonably have been notified.

(10) Conviction of a crime substantially related to the qualifications, functions, or duties of an automotive repair dealer. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which the director is permitted to take following the establishment of a conviction may be taken 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 *the* provisions of Section 1203.4 of the Penal Code.

Upon denying a registration, the director shall notify the applicant thereof, in writing, by personal service or mail addressed to the address of the applicant set forth in the application, and the applicant shall be given a hearing under Section 9884.12 if, within 30 days thereafter, he or she files with the bureau a written request for hearing, otherwise the denial is deemed affirmed.

(b) Except as provided for in subdivision (c), if an automotive repair dealer operates more than one place of business in this state, the director pursuant to subdivision (a) shall only suspend, revoke, or place on probation the registration of the specific place of business which has violated any of the provisions of this chapter.

This violation, or action by the director, shall not affect in any manner the right of the automotive repair dealer to operate his or her other places of business.

(c) Notwithstanding subdivision (b), the director may suspend, revoke, or place on probation the registration for all places of business operated in this state by an automotive repair dealer upon a finding that the automotive repair dealer has, or is, engaged in a course of repeated and willful violations of this chapter, or regulations adopted pursuant to it.

~~SEC. 42.~~

SEC. 44. Section 9884.12 of the Business and Professions Code is amended to read:

9884.12. All proceedings to deny, suspend, revoke, or place on probation a registration shall be conducted pursuant to Chapter 5 (commencing with Section 11500), Part 1, Division 3, Title 2 of the Government Code.

~~SEC. 43.~~

SEC. 45. Section 9889.3 of the Business and Professions Code is amended to read:

9889.3. The director may suspend, revoke, or take other disciplinary action against a license as provided in this article if the licensee or any partner, officer, or director thereof:

(a) Violates any section of the Business and Professions Code that relates to his or her licensed activities.

(b) Is convicted of any crime substantially related to the qualifications, functions, or duties of the licenseholder in question.

(c) Violates any of the regulations promulgated by the director pursuant to this chapter.

(d) Commits any act involving dishonesty, fraud, or deceit whereby another is injured.

(e) Has misrepresented a material fact in obtaining a license.

(f) Aids or abets an unlicensed person to evade the provisions of this chapter.

(g) Fails to make and keep records showing his or her transactions as a licensee, or fails to have the records available for inspection by the director or his or her duly authorized representative for a period of not less than three years after completion of any transaction to which the records refer, or refuses to comply with a written request of the director to make the record available for inspection.

(h) Violates or attempts to violate the provisions of this chapter relating to the particular activity for which he or she is licensed.

(i) Is convicted of a violation of Section 551 of the Penal Code.

~~SEC. 44.~~

SEC. 46. Section 10146 of the Business and Professions Code is amended to read:

10146. Any real estate broker who contracts for or collects an advance fee from any other person, hereinafter referred to as the "principal," shall deposit any such amount or amounts, when collected in a trust account with a bank or other recognized depository. Such funds are trust funds and not the funds of the agent. Amounts may be withdrawn therefrom for the benefit of the agent only when actually expended for the benefit of the principal or five days after the verified accounts mentioned hereinafter have been mailed to the principal. Upon request of the commissioner, a broker shall furnish to the commissioner an authorization for examination of financial records of the trust account in accordance with the procedures set forth in Section 7473 of the Government Code.

The commissioner may issue such rules and regulations as he or she deems necessary to regulate the method of accounting, and to accomplish the purpose of the provisions of this code relating to advance fees including, but not limited to, establishing forms for and determining information to be included in such accountings. Each principal shall be furnished a verified copy of such accountings at the end of each calendar quarter and when the contract has been completely performed by the licensee. The commissioner shall be furnished a verified copy of any account or all accounts on his or her demand therefor.

Where advance fees actually paid by or on behalf of any principal are not handled in accordance with the preceding paragraph, it shall be presumed that the agent has violated Sections 506 and 506a of the Penal Code. The principal may recover treble damages for amounts so misapplied and shall be entitled to reasonable attorney's fees in any action brought to recover the same.

SEC. 47. Section 44014.2 of the Health and Safety Code is amended to read:

44014.2. (a) The department shall develop a program for the voluntary certification of licensed smog check stations, or the department may accept a smog check station certification program proposed by accredited industry representatives. The certification program, which may be called a "gold shield" program, shall be for the purpose of providing consumers, whose vehicles fail an emissions test at a test-only facility, an option of services at a single location to prevent the necessity for additional trips back to the test-only facility for vehicle certification.

(b) As soon as is practicable, but not later than January 1, 2004, the department shall adopt regulations that apply to all enhanced areas of the state, including those areas subject to the enhanced program pursuant to Section 44003.5, that permit both of the following:

(1) Any vehicle that fails a required smog test at a test-only facility may be repaired, retested, and certified at a facility licensed pursuant to Section 44014, and certified pursuant to subdivision (a).

(2) Any vehicle that is identified as a gross polluter may be repaired, retested, and certified at a facility licensed pursuant to Section 44014, and certified pursuant to subdivision (a).

(c) Smog check stations that seek voluntary certification under this section shall enter into an agreement with the department to provide repair services pursuant to Section 44062.1.

(d) An agreement made pursuant to this section shall not be deemed to be a contract subject to the requirements of Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code.

~~SEC. 45.~~

SEC. 48. Section 44017.3 of the Health and Safety Code is amended to read:

44017.3. (a) The department shall provide a licensed smog check station with a sign informing customers about options when their vehicle fails a biennial smog check inspection, including, but not limited to, the option for qualified consumers to retire vehicles, receive repair assistance, or obtain repair cost waivers. The sign shall include the department's means of contact, including, but not limited to, its telephone number and Internet Web site. This sign shall be posted conspicuously in an area frequented by customers. The sign shall be required in all licensed smog check stations.

(b) In stations where licensed smog check technician repairs are not performed, the station shall have posted conspicuously in an area frequented by customers a statement that repair technicians are not available and repairs are not performed.

~~SEC. 46.~~

SEC. 49. Section 44072.1 of the Health and Safety Code is amended to read:

44072.1. The director may deny a license if the applicant, or any partner, officer, or director thereof, does any of the following:

(a) Fails to meet the qualifications established by the bureau pursuant to Articles 2 (commencing with Section 44010) and 3 (commencing with Section 44030) and the regulations adopted for the issuance of the license applied for.

(b) Was previously the holder of a license issued under this chapter, which license has been revoked and never reissued or which license was suspended and the terms of the suspension have not been fulfilled.

(c) Has committed any act that, if committed by any licensee, would be grounds for the suspension or revocation of a license issued pursuant to this chapter.

(d) Has committed any act involving dishonesty, fraud, or deceit whereby another is injured or whereby the applicant has benefited.

(e) Has acted in the capacity of a licensed person or firm under this chapter without having a license therefor.

(f) Has entered a plea of guilty or nolo contendere to, or been found guilty of, or been convicted of a crime substantially related to the qualifications, functions, or duties of the licenseholder in question, and the time for appeal has elapsed or the judgment of conviction has been affirmed on appeal, irrespective of an order granting probation following the conviction, suspending the imposition of sentence, or of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw a plea of guilty and to enter a plea of not guilty, or setting aside the plea or verdict of guilty, or dismissing the accusation or information.

~~SEC. 47.~~

SEC. 50. Section 44072.2 of the Health and Safety Code is amended to read:

44072.2. The director may suspend, revoke, or take other disciplinary action against a license as provided in this article if the licensee, or any partner, officer, or director thereof, does any of the following:

(a) Violates any section of this chapter and the regulations adopted pursuant to it, which related to the licensed activities.

(b) Is convicted of any crime substantially related to the qualifications, functions, or duties of the licenseholder in question.

(c) Violates any of the regulations adopted by the director pursuant to this chapter.

(d) Commits any act involving dishonesty, fraud, or deceit whereby another is injured.

(e) Has misrepresented a material fact in obtaining a license.

(f) Aids or abets unlicensed persons to evade the provisions of this chapter.

(g) Fails to make and keep records showing his or her transactions as a licensee, or fails to have those records available for inspection by the director or his or her duly authorized representative for a period of not less than three years after completion of any transaction to which the records refer, or refuses to comply with a written request of the director to make the records available for inspection.

(h) Violates or attempts to violate the provisions of this chapter relating to the particular activity for which he or she is licensed.

SEC. 51. Section 44095 of the Health and Safety Code is amended to read:

44095. (a) The department shall administer the program in accordance with regulations adopted by the department.

(b) (1) Nothing in this article shall be construed as superseding or precluding any similar program that is administered by a district, any other public agency, or any other person.

(2) The state board shall develop a methodology for, and shall undertake, a uniform data analysis of the program operated pursuant to this article and any similar programs operated in this state for the purpose of providing an accounting of the emission reductions that are achieved by all such programs.

(c) The department may directly operate the program or may provide for the program's operation pursuant to ~~contract~~ *an agreement*. The department may ~~contract~~ *enter into an agreement* with local agencies, community colleges, *air quality management districts,* or private entities to perform all or any portion of the program.

~~SEC. 48.~~

SEC. 52. Section 28 of the Vehicle Code is amended to read:

28. (a) Whenever possession is taken of any vehicle by or on behalf of any legal owner thereof under the terms of a security agreement or lease agreement, the person taking possession shall notify, within one hour after taking possession of the vehicle, and by the most expeditious means available, the city police department where the taking of possession occurred, if within an incorporated city, or the sheriff's department of the county where the taking of possession occurred, if outside an incorporated city, or the police department of a campus of the University of California or the California State University, if the taking of possession occurred on that campus, and shall within one business day forward a written notice to the city police or sheriff's department.

(b) If possession is taken of more than one vehicle, the possession of each vehicle shall be considered and reported as a separate event.

(c) Any person failing to notify the city police department, sheriff's department, or campus police department as required by this section is guilty of an infraction, and shall be fined a minimum of three hundred dollars ($300), and up to five hundred dollars ($500). The district attorney, city attorney, or city prosecutor shall promptly notify the Bureau of Security and Investigative Services of any conviction resulting from a violation of this section.

~~SEC. 49.~~

SEC. 53. Section 5201 of the Vehicle Code is amended to read:

5201. License plates shall at all times be securely fastened to the vehicle for which they are issued so as to prevent the plates from swinging, shall be mounted in a position so as to be clearly visible, and shall be maintained in a condition so as to be clearly legible. The rear license plate shall be mounted not less than 12 inches nor more than 60 inches from the ground, and the front license plate shall be mounted not more than 60 inches from the ground, except as follows:

(a) The rear license plate on a tow truck or repossessor's tow vehicle may be mounted on the left-hand side of the mast assembly at the rear of the cab of the vehicle, not less than 12 inches nor more than 90 inches from the ground.

(b) The rear license plate on a tank vehicle hauling hazardous waste, as defined in Section 25117 of the Health and Safety Code, or asphalt material may be mounted not less than 12 inches nor more than 90 inches from the ground.

(c) The rear license plate on a truck tractor may be mounted at the rear of the cab of the vehicle, but not less than 12 inches nor more than 90 inches from the ground.

(d) The rear license plate of a vehicle designed by the manufacturer for the collection and transportation of garbage, rubbish, or refuse that is used regularly for the collection and transportation of that material by any person or governmental entity employed to collect, transport, and dispose of garbage, rubbish, or refuse may be mounted not less than 12 inches nor more than 90 inches from the ground.

(e) The rear license plate on a two-axle livestock trailer may be mounted 12 inches or more, but not more than 90 inches, from the ground.

(f) A covering shall not be used on license plates except as follows:

(1) The installation of a cover over a lawfully parked vehicle to protect it from the weather and the elements does not constitute a violation of this subdivision. Any peace officer or other regularly salaried employee of a public agency designated to enforce laws, including local ordinances, relating to the parking of vehicles may temporarily remove so much of the cover as is necessary to inspect any license plate, tab, or indicia of registration on a vehicle.

(2) The installation of a license plate security cover is not a violation of this subdivision if the device does not obstruct or impair the recognition of the license plate information, including, but not limited to, the issuing state, license plate number, and registration tabs, and the cover is limited to the area directly over the top of the registration tabs. No portion of a license plate security cover shall rest over the license plate number.

(g) A casing, shield, frame, border, product, or other device that obstructs or impairs the reading or recognition of a license plate by an electronic device operated by state or local law enforcement, an electronic device operated in connection with a toll road, high-occupancy toll lane, toll bridge, or other toll facility, or a remote emission sensing device, as specified in Sections 44081 and 44081.6 of the Health and Safety Code, shall not be installed on, or affixed to, a vehicle.

(h) (1) It is the intent of the Legislature that an accommodation be made to persons with disabilities and to those persons who regularly transport persons with disabilities, to allow the removal and relocation of wheelchair lifts and wheelchair carriers without the necessity of removing and reattaching the vehicle's rear license plate. Therefore, it is not a violation of this section if the reading or recognition of a rear license plate is obstructed or impaired by a wheelchair lift or wheelchair carrier and all of the following requirements are met:

(A) The owner of the vehicle has been issued a special identification license plate pursuant to Section 5007, or the person using the wheelchair that is carried on the vehicle has been issued a distinguishing placard under Section 22511.55.

(B) (i) The operator of the vehicle displays a decal, designed and issued by the department, that contains the license plate number assigned to the vehicle transporting the wheelchair.

(ii) The decal is displayed on the rear window of the vehicle, in a location determined by the department, in consultation with the Department of the California Highway Patrol, so as to be clearly visible to law enforcement.

(2) Notwithstanding any other provision of law, if a decal is displayed pursuant to this subdivision, the requirements of this code that require the illumination of the license plate and the license plate number do not apply.

(3) The department shall adopt regulations governing the procedures for accepting and approving applications for decals, and issuing decals, authorized by this subdivision.

(4) This subdivision does not apply to a front license plate.

~~SEC. 50.~~

SEC. 54. Section 24603 of the Vehicle Code is amended to read:

24603. Every motor vehicle that is not in combination with any other vehicle and every vehicle at the end of a combination of vehicles shall at all times be equipped with stoplamps mounted on the rear as follows:

(a) Every such vehicle shall be equipped with one or more stoplamps.

(b) Every such vehicle, other than a motorcycle, manufactured and first registered on or after January 1, 1958, shall be equipped with two stoplamps, except that trailers and semitrailers manufactured after July 23, 1973, which are less than 30 inches wide, may be equipped with one stoplamp which shall be mounted at or near the vertical centerline of the trailer. If such vehicle is equipped with two stoplamps, they shall be mounted as specified in subdivision (d).

(c) Except as provided in subdivision (h), stoplamps on vehicles manufactured on or after January 1, 1969, shall be mounted not lower than 15 inches nor higher than 72 inches, except that a tow truck or a repossessor's tow vehicle, in addition to being equipped with the required stoplamps, may also be equipped with two stoplamps which may be mounted not lower than 15 inches nor higher than the maximum allowable vehicle height and as far forward as the rearmost portion of the driver's seat in the rearmost position.

(d) Where two stoplamps are required, at least one shall be mounted at the left and one at the right side, respectively, at the same level.

(e) Stoplamps on vehicles manufactured on or after January 1, 1979, shall emit a red light. Stoplamps on vehicles manufactured before January 1, 1979, shall emit a red or yellow light. All stoplamps shall be plainly visible and understandable from a distance of 300 feet to the rear both during normal sunlight and at nighttime, except that stoplamps on a vehicle of a size required to be equipped with clearance lamps shall be visible from a distance of 500 feet during those times.

(f) Stoplamps shall be activated upon application of the service (foot) brake and the hand control head for air, vacuum, or electric brakes. In addition, all stoplamps may be activated by a mechanical device designed to function only upon sudden release of the accelerator while the vehicle is in motion. Stoplamps on vehicles equipped with a manual transmission may be manually activated by a mechanical device when the vehicle is downshifted if the device is automatically rendered inoperative while the vehicle is accelerating.

(g) Any vehicle may be equipped with supplemental stoplamps mounted to the rear of the rearmost portion of the driver's seat in its rearmost position in addition to the lamps required to be mounted on the rear of the vehicle. Supplemental stoplamps installed after January 1, 1979, shall be red in color and mounted not lower than 15 inches above the roadway. The supplemental stoplamp on that side of a vehicle toward which a turn will be made may flash as part of the supplemental turn signal lamp.

A supplemental stoplamp may be mounted inside the rear window of a vehicle, if it is mounted at the centerline of the vehicle and is constructed and mounted so as to prevent any light, other than a monitorial indicator emitted from the device, either direct or reflected, from being visible to the driver.

(h) Any supplemental stoplamp installed after January 1, 1987, shall comply with Federal Motor Vehicle Safety Standard No. 108 (49 C.F.R. 571.108). Any vehicle equipped with a stoplamp that complies with the federal motor vehicle safety standards applicable to that make and model vehicle shall conform to that applicable safety standard unless modified to comply with the federal motor vehicle safety standard designated in this subdivision.

~~SEC. 51.~~

SEC. 55. 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.

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