

AMENDED IN ASSEMBLY JUNE 11, 2012

AMENDED IN SENATE APRIL 12, 2012

SENATE BILL

No. 1576

Introduced by Committee on Business, Professions and Economic Development (Senators Price (Chair), Corbett, Correa, Emmerson, Hernandez, Negrete McLeod, Strickland, Vargas, and Wyland)

March 12, 2012

An act to amend Sections 5070.1, 5072, 5076, 5093, 5094.6, 5107, 7011.8, 7076, 8741, 8762, 8773, 12012, 12012.1, 12024.11, 12027, 12104, 12104.5, 12105, 12106.5, 12107, 12107.1, 12108, 12201, 12201.2, 12202, 12203, 12205, 12210.5, 12212, 12214, 12314, 12500.5, 12500.6, 12500.8, 12609, 12610, 12706, 12708, 12722, 12723, 12727, 12735, 13403, 13440, 13450, 13460, 13461, 13480, and 13710 of, to amend and renumber Section 12736 of, to repeal Section 13302 of, and to repeal and add Section 5019 of, the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

SB 1576, as amended, Committee on Business, Professions and Economic Development. Professions and vocations.

Existing law provides for the licensure and regulation of professions and vocations by boards within the Department of Consumer Affairs.

(1) Existing law provides for the licensure and regulation of the practice of accountancy by the California Board of Accountancy. Under existing law, permits to engage in the practice of public accountancy are required to be issued by the board only to holders of the certificate of certified public accountant, and to those partnerships, corporations,

and other persons who, upon application approved by the board, are registered with the board.

Under existing law, the rules of professional conduct adopted by the board are required to be printed as a part of the application blanks for both certificates and registration and every applicant for either a certificate or registration is required to subscribe thereto when making an application.

This bill would require such an applicant to acknowledge the fact that the applicant has read and understands the rules of professional conduct adopted by the board.

Existing law authorizes a partnership, except as specified, to be registered by the board to engage in the practice of public accountancy provided it meets certain requirements, including, but not limited to, that each partner personally engaged within this state in the practice of public accountancy has a valid permit or certificate to practice in this state and that, except as specified, each partner not personally engaged in the practice of public accountancy within this state is required to be a certified public accountant in good standing of some state.

This bill would modify those requirements to instead include that each partner engaged within this state in the practice of public accountancy has a valid permit or certificate to practice in this state and that, except as specified, each partner not engaged in the practice of public accountancy within this state is required to be a certified public accountant in good standing of some state.

Existing law requires a firm, in order to renew its registration, to have a specified peer review report accepted by a board-recognized peer review group. Existing law requires the board to adopt regulations and emergency regulations to implement, interpret, and make specific these peer review requirements.

This bill would delete that requirement to adopt emergency regulations.

Existing law requires an applicant for the certified public accountant license to comply with certain education, examination, and experience requirements under one of 2 provisions that set forth different standards, commonly referred to as the 2 “pathways.” Existing law, under the 2nd pathway, requires an applicant to present satisfactory evidence that the applicant has completed certain education, and after December 31, 2013, that education is required to include specified ethics study. Existing law authorizes the Advisory Committee on Accounting Ethics Curriculum to determine that a course satisfies the ethics study

requirement. No later than June 1, 2012, existing law also requires the Advisory Committee on Accounting Ethics Curriculum to recommend to the board ethics study guidelines, as defined, to be included as part of the educational requirements.

This bill would delete those provisions establishing the responsibilities of the committee.

Existing law authorizes the board to conditionally renew or reinstate for a maximum of one year the permit or certificate of a holder who demonstrates financial hardship and who enters into a formal agreement with the board to reimburse the board within that one-year period for those unpaid costs.

This bill would authorize the board to conditionally renew or reinstate for a maximum of 3 years a permit or certificate if the holder demonstrates financial hardship and enters into a formal agreement with the board to reimburse the board within that 3-year period for those unpaid costs.

Existing law provides that an accountant who is no longer actively engaged in practice may, upon application to the board and meeting specified requirements, have his or her license placed on retired status. Existing law prohibits the board, beginning on a specified date, from approving an application for a retired status license if the applicant's permit is delinquent.

This bill would remove the prohibition against granting retired status to an accountant's license which had become delinquent and would allow an accountant whose license was canceled for failure to renew to apply for his or her license to be placed in retired status.

This bill would also exempt holders of licenses placed in retired status during a specified period from complying with certain requirements.

(2) Existing law, the Contractors' State License Law, provides for the licensure and regulation of contractors by the Contractors' State License Board. Existing law requires the board to appoint a registrar to serve as the executive officer and secretary of the board to carry out the duties delegated by the board. Under existing law, any person who reports to or causes a complaint to be filed with the board that a licensee has engaged in professional misconduct, knowing that complaint to be false, is guilty of a crime. Existing law authorizes the board to notify the district attorney or city attorney that a person has made what the board believes is a false report or complaint.

This bill would limit application of those provisions to any person licensed by the board and would instead authorize the registrar to issue a citation to such a person.

(3) Existing law, the Professional Land Surveyors' Act, provides for licensing and regulation of land surveyors by the Board for Professional Engineers, Land Surveyors, and Geologists. Existing law specifies the examinations required to obtain a license, with certain exemptions for registered professional engineers and certain engineers-in-training.

This bill would limit that exemption to persons who were registered as professional engineers prior to January 1, 1982.

Existing law requires a licensed land surveyor to sign a corner record, other than lost corners, as defined.

This bill would revise the references in these provisions to a manual issued by the United States Bureau of Land Management.

Existing law requires a licensed land surveyor or licensed civil engineer, after making a field survey, to file with the county surveyor a record of the survey if, among other things, it discloses the establishment of one or more points or lines not shown on any subdivision map, official map, or record of survey, as specified.

This bill would also require the field survey to be filed with the county surveyor if it discloses the location, relocation, reestablishment, or retracement of one or more points or lines not shown on any subdivision map, official map, or record of survey.

(4) This bill would make other technical, nonsubstantive, and conforming changes.

Existing law vests the Secretary of Food and Agriculture with general supervision of weights and measures and weighing and measuring devices sold or used in the state, and authorizes the secretary to exercise any power conferred upon the department or upon the State Sealer, who is the chief of the division of the department charged with the enforcement of the provisions relating to weights and measures.

This bill would make various technical, nonsubstantive changes to these provisions, to, among other things, correct references to the secretary, the California Agricultural Commissioners and Sealers Association, ASTM International, and SAE International. The bill would delete a duplicate provision and renumber a provision.

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

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

1 SECTION 1. Section 5019 of the Business and Professions
2 Code is repealed.

3 SEC. 2. Section 5019 is added to the Business and Professions
4 Code, to read:

5 5019. Every applicant, when subscribing to an application for
6 certificate or registration, shall acknowledge the fact that the
7 applicant has read and understands the rules of professional conduct
8 adopted by the board.

9 SEC. 3. Section 5070.1 of the Business and Professions Code
10 is amended to read:

11 5070.1. (a) The board may establish, by regulation, a system
12 for the placement of a license ~~on~~ into a retired status, upon
13 application, for certified public accountants and public accountants
14 who are not actively engaged in the practice of public accountancy
15 or any activity which requires them to be licensed by the board.

16 (b) No licensee with a license ~~on~~ in a retired status shall engage
17 in any activity for which a permit is required.

18 (c) ~~Except as provided in subdivision (d), the~~ The board shall
19 deny an applicant's application ~~for to place a retired status license~~
20 ~~if the permit is canceled or in a retired status~~ if the permit is *subject*
21 *to an outstanding order of the board, is* suspended, revoked, or
22 otherwise punitively restricted by the board, or *is* subject to
23 disciplinary action under this chapter.

24 (d) ~~(1) Upon approval of an application for a retired status~~
25 ~~license from the holder of a license canceled pursuant to Section~~
26 ~~5070.7, the board shall reissue that license in a retired status.~~

27 (d) (1) *The holder of a license that was canceled pursuant to*
28 *Section 5070.7 may apply for the placement of that license in a*
29 *retired status pursuant to subdivision (a).*

30 (2) *Upon approval of an application made pursuant to*
31 *paragraph (1), the board shall reissue that license in a retired*
32 *status.*

33 ~~(2)~~

34 (3) The holder of a canceled license that was placed in retired
35 status ~~on or after~~ *between* January 1, 1994, and ~~prior to~~ January 1,
36 1999, *inclusive*, shall not be required to meet the qualifications
37 established pursuant to subdivision (e), but shall be subject to all
38 other requirements of this section.

1 (e) The board shall establish minimum qualifications ~~for to~~
2 *place a retired status license in retired status.*

3 (f) The board may exempt the holder of a ~~retired status~~ license
4 *in a retired status* from the renewal requirements described in
5 Section 5070.5.

6 (g) The board shall establish minimum qualifications for the
7 restoration of a license in a retired status to an active status. These
8 minimum qualifications shall include, but are not limited to,
9 continuing education and payment of a fee as provided in
10 subdivision (h) of Section 5134.

11 SEC. 4. Section 5072 of the Business and Professions Code is
12 amended to read:

13 5072. (a) No persons shall engage in the practice of
14 accountancy as a partnership unless the partnership is registered
15 by the board.

16 (b) A partnership, other than a limited partnership, may be
17 registered by the board to engage in the practice of public
18 accountancy provided it meets the following requirements:

19 (1) At least one general partner shall hold a valid permit to
20 practice as a certified public accountant, public accountant, or
21 accountancy corporation, or shall be an applicant for a certificate
22 as a certified public accountant under Sections 5087 and 5088.

23 (2) Each partner engaged within this state in the practice of
24 public accountancy as defined by Section 5051 shall hold a valid
25 permit to practice in this state or shall have applied for a certificate
26 as a certified public accountant under Sections 5087 and 5088.

27 (3) Each partner not engaged in the practice of public
28 accountancy within this state shall be a certified public accountant
29 in good standing of some state, except as permitted by Section
30 5079.

31 (4) Each resident manager in charge of an office of the firm in
32 this state shall be a licensee in good standing of this state, or shall
33 have applied for a certificate as a certified public accountant under
34 Sections 5087 and 5088.

35 SEC. 5. Section 5076 of the Business and Professions Code is
36 amended to read:

37 5076. (a) In order to renew its registration, a firm, as defined
38 in Section 5035.1, shall have a peer review report of its accounting
39 and auditing practice accepted by a board-recognized peer review
40 program no less frequently than every three years.

1 (b) For purposes of this article, the following definitions apply:

2 (1) “Peer review” means a study, appraisal, or review conducted
3 in accordance with professional standards of the professional work
4 of a firm, and may include an evaluation of other factors in
5 accordance with the requirements specified by the board in
6 regulations. The peer review report shall be issued by an individual
7 who has a valid and current license, certificate, or permit to practice
8 public accountancy from this state or another state and is
9 unaffiliated with the firm being reviewed.

10 (2) “Accounting and auditing practice” includes any services
11 that are performed using professional standards defined by the
12 board in regulations.

13 (c) The board shall adopt regulations as necessary to implement,
14 interpret, and make specific the peer review requirements in this
15 section, including, but not limited to, regulations specifying the
16 requirements for board recognition of a peer review program,
17 standards for administering a peer review, extensions of time for
18 fulfilling the peer review requirement, exclusions from the peer
19 review program, and document submission.

20 (d) Nothing in this section shall prohibit the board from initiating
21 an investigation and imposing discipline against a firm or licensee,
22 either as the result of a complaint that alleges violations of statutes,
23 rules, or regulations, or from information contained in a peer review
24 report received by the board.

25 (e) A firm issued a substandard peer review report, as defined
26 by the board in regulation, shall submit a copy of that report to the
27 board. The board shall establish in regulation the time period that
28 a firm must submit the report to the board. This period shall not
29 exceed 60 days from the time the report is accepted by a
30 board-recognized peer review program provider to the date the
31 report is submitted to the board.

32 (f) (1) A board-recognized peer review program provider shall
33 file a copy with the board of all substandard peer review reports
34 issued to California-licensed firms. The board shall establish in
35 regulation the time period that a board-recognized peer review
36 program provider shall file the report with the board. This period
37 shall not exceed 60 days from the time the report is accepted by a
38 board-recognized peer review program provider to the date the
39 report is filed with the board. These reports may be filed with the
40 board electronically.

- 1 (2) Nothing in this subdivision shall require a board-recognized
2 peer review program provider, when administering peer reviews
3 in another state, to violate the laws of that state.
- 4 (g) The board shall, by January 1, 2010, define a substandard
5 peer review report in regulation.
- 6 (h) Any requirements imposed by a board-recognized peer
7 review program on a firm in conjunction with the completion of
8 a peer review shall be separate from, and in addition to, any action
9 by the board pursuant to this section.
- 10 (i) Any report of a substandard peer review submitted to the
11 board in conjunction with this section shall be collected for
12 investigatory purposes.
- 13 (j) Nothing in this section affects the discovery or admissibility
14 of evidence in a civil or criminal action.
- 15 (k) Nothing in this section requires any firm to become a
16 member of any professional organization.
- 17 (l) A peer reviewer shall not disclose information concerning
18 licensees or their clients obtained during a peer review, unless
19 specifically authorized pursuant to this section, Section 5076.1, or
20 regulations prescribed by the board.
- 21 (m) (1) By January 1, 2015, the board shall provide the
22 Legislature and Governor with a report regarding the peer review
23 requirements of this section that includes, without limitation:
- 24 (A) The number of peer review reports completed to date and
25 the number of reports which were submitted to the board as
26 required in subdivision (e).
- 27 (B) The number of enforcement actions that were initiated as a
28 result of an investigation conducted pursuant to subdivision (i).
- 29 (C) The number of firms that were recommended to take
30 corrective actions to improve their practice through the mandatory
31 peer review process, and the number of firms that took corrective
32 actions to improve their practice following recommendations
33 resulting from the mandatory peer review process.
- 34 (D) The extent to which mandatory peer review of accounting
35 firms enhances consumer protection.
- 36 (E) The cost impact on firms undergoing mandatory peer review
37 and the cost impact of mandatory peer review on the firm's clients.
- 38 (F) A recommendation as to whether the mandatory peer review
39 program should continue.

1 (G) The extent to which mandatory peer review of small firms
2 or sole practitioners that prepare nondisclosure compiled financial
3 statements on an other comprehensive basis of accounting enhances
4 consumer protection.

5 (H) The impact of peer review required by this section on small
6 firms and sole practitioners that prepare nondisclosure compiled
7 financial statements on an other comprehensive basis of accounting.

8 (I) The impact of peer review required by this section on small
9 businesses, nonprofit corporations, and other entities that utilize
10 small firms or sole practitioners for the purposes of nondisclosure
11 compiled financial statements prepared on an other comprehensive
12 basis of accounting.

13 (J) A recommendation as to whether the preparation of
14 nondisclosure compiled financial statements on an other
15 comprehensive basis of accounting should continue to be a part
16 of the mandatory peer review program.

17 (2) A report to the Legislature pursuant to this section shall be
18 submitted in compliance with Section 9795 of the Government
19 Code.

20 SEC. 6. Section 5093 of the Business and Professions Code is
21 amended to read:

22 5093. (a) To qualify for the certified public accountant license,
23 an applicant who is applying under this section shall meet the
24 education, examination, and experience requirements specified in
25 subdivisions (b), (c), and (d), or otherwise prescribed pursuant to
26 this article. The board may adopt regulations as necessary to
27 implement this section.

28 (b) (1) An applicant for admission to the certified public
29 accountant examination under the provisions of this section shall
30 present satisfactory evidence that the applicant has completed a
31 baccalaureate or higher degree conferred by a degree-granting
32 university, college, or other institution of learning accredited by
33 a regional or national accrediting agency included in a list of these
34 agencies published by the United States Secretary of Education
35 under the requirements of the Higher Education Act of 1965 as
36 amended (20 U.S.C. Sec. 1001 et seq.), or meeting, at a minimum,
37 the standards described in subdivision (c) of Section 5094. The
38 total educational program shall include a minimum of 24 semester
39 units in accounting subjects and 24 semester units in
40 business-related subjects. This evidence shall be provided at the

1 time of application for admission to the examination, except that
2 an applicant who applied, qualified, and sat for at least two subjects
3 of the examination for the certified public accountant license before
4 May 15, 2002, may provide this evidence at the time of application
5 for licensure.

6 (2) An applicant for issuance of the certified public accountant
7 license under the provisions of this section shall present satisfactory
8 evidence that the applicant has completed at least 150 semester
9 units of college education including a baccalaureate or higher
10 degree conferred by a college or university, meeting, at a minimum,
11 the standards described in Section 5094, the total educational
12 program to include a minimum of 24 semester units in accounting
13 subjects, 24 semester units in business-related subjects, and, after
14 December 31, 2013, shall also include a minimum of 10 units of
15 ethics study consistent with the requirements set forth in Section
16 5094.3 and 20 units of accounting study consistent with the
17 regulations promulgated under subdivision (c) of Section 5094.6.
18 This evidence shall be presented at the time of application for the
19 certified public accountant license. Nothing herein shall be deemed
20 inconsistent with Section 5094 or 5094.6. Nothing herein shall be
21 construed to be inconsistent with prevailing academic practice
22 regarding the completion of units.

23 (c) An applicant for the certified public accountant license shall
24 pass an examination prescribed by the board.

25 (d) The applicant shall show, to the satisfaction of the board,
26 that the applicant has had one year of qualifying experience. This
27 experience may include providing any type of service or advice
28 involving the use of accounting, attest, compilation, management
29 advisory, financial advisory, tax or consulting skills. To be
30 qualifying under this section, experience shall have been performed
31 in accordance with applicable professional standards. Experience
32 in public accounting shall be completed under the supervision or
33 in the employ of a person licensed or otherwise having comparable
34 authority under the laws of any state or country to engage in the
35 practice of public accountancy. Experience in private or
36 governmental accounting or auditing shall be completed under the
37 supervision of an individual licensed by a state to engage in the
38 practice of public accountancy.

39 (e) Applicants completing education at a college or university
40 located outside of this state, meeting, at a minimum, the standards

1 described in Section 5094, shall be deemed to meet the educational
2 requirements of this section if the board determines that the
3 education is substantially equivalent to the standards of education
4 specified under this chapter.

5 SEC. 7. Section 5094.6 of the Business and Professions Code
6 is amended to read:

7 5094.6. (a) The board shall, by regulation, adopt guidelines
8 for accounting study to be included as part of the education
9 required under Section 5093.

10 (b) For purposes of this section, “accounting study” means
11 independent study or other academic work in accounting, business,
12 ethics, business law, or other academic work relevant to accounting
13 and business, so as to enhance the competency of students as
14 practitioners.

15 SEC. 8. Section 5107 of the Business and Professions Code is
16 amended to read:

17 5107. (a) The executive officer of the board may request the
18 administrative law judge, as part of the proposed decision in a
19 disciplinary proceeding, to direct any holder of a permit or
20 certificate found to have committed a violation or violations of
21 this chapter to pay to the board all reasonable costs of investigation
22 and prosecution of the case, including, but not limited to, attorneys’
23 fees. The board shall not recover costs incurred at the
24 administrative hearing.

25 (b) A certified copy of the actual costs, or a good faith estimate
26 of costs where actual costs are not available, signed by the
27 executive officer, shall be prima facie evidence of reasonable costs
28 of investigation and prosecution of the case.

29 (c) The administrative law judge shall make a proposed finding
30 of the amount of reasonable costs of investigation and prosecution
31 of the case when requested to do so by the executive officer
32 pursuant to subdivision (a). Costs are payable 120 days after the
33 board’s decision is final, unless otherwise provided for by the
34 administrative law judge or if the time for payment is extended by
35 the board.

36 (d) The finding of the administrative law judge with regard to
37 cost shall not be reviewable by the board to increase the cost award.
38 The board may reduce or eliminate the cost award, or remand to
39 the administrative law judge where the proposed decision fails to

1 make a finding on costs requested by the executive officer pursuant
2 to subdivision (a).

3 (e) The administrative law judge may make a further finding
4 that the amount of reasonable costs awarded shall be reduced or
5 eliminated upon a finding that respondent has demonstrated that
6 he or she cannot pay all or a portion of the costs or that payment
7 of the costs would cause an unreasonable financial hardship which
8 cannot be remedied through a payment plan.

9 (f) When an administrative law judge makes a finding that costs
10 be waived or reduced, he or she shall set forth the factual basis for
11 his or her finding in the proposed decision.

12 (g) Where an order for recovery of costs is made and timely
13 payment is not made as directed by the board's decision, the board
14 may enforce the order for payment in any appropriate court. This
15 right of enforcement shall be in addition to any other rights the
16 board may have as to any holder of a permit or certificate directed
17 to pay costs.

18 (h) In a judicial action for the recovery of costs, proof of the
19 board's decision shall be conclusive proof of the validity of the
20 order of payment and the terms of payment.

21 (i) All costs recovered under this section shall be deposited in
22 the Accountancy Fund.

23 (j) (1) Except as provided in paragraph (2), the board shall not
24 renew or reinstate the permit or certificate of a holder who has
25 failed to pay all of the costs ordered under this section.

26 (2) Notwithstanding paragraph (1) or paragraph (2) of
27 subdivision (g) of Section 125.3, the board may, in its discretion,
28 conditionally renew or reinstate for a maximum of three years the
29 permit or certificate of a holder who demonstrates financial
30 hardship and who enters into a formal agreement with the board
31 to reimburse the board within that three-year period for those
32 unpaid costs.

33 (k) Nothing in this section shall preclude the board from seeking
34 recovery of costs in an order or decision made pursuant to an
35 agreement entered into between the board and the holder of a
36 permit or certificate.

37 (l) (1) Costs may not be recovered under this section as a result
38 of a citation issued pursuant to Section 125.9 and its implementing
39 language if the licensee complies with the citation.

1 (2) The Legislature hereby finds and declares that this
2 subdivision is declaratory of existing law.

3 SEC. 9. Section 7011.8 of the Business and Professions Code
4 is amended to read:

5 7011.8. (a) Any person subject to licensure under this chapter
6 who reports to, or causes a complaint to be filed with, the
7 Contractors' State License Board that a person licensed by that
8 entity has engaged in professional misconduct, knowing the report
9 or complaint to be false, may be issued a citation by the registrar.

10 (b) The board may notify the appropriate district attorney or
11 city attorney that a person subject to licensure under this chapter
12 has made or filed what the entity believes to be a false report or
13 complaint against a licensee.

14 SEC. 10. Section 7076 of the Business and Professions Code
15 is amended to read:

16 7076. (a) An individual license shall be canceled upon the
17 death of a person licensed as an individual. An immediate member
18 of the family of the deceased licensee may request a continuance
19 of the license to complete projects in progress and undertake new
20 work for a reasonable amount of time to be determined by rules
21 of the board. The request for a continuance must be made in writing
22 and received at the board's headquarters office within 90 days
23 after the death. Approval of the continuance of an individual license
24 may be contingent upon meeting the bond requirements of Sections
25 7071.5 and 7071.6 within 90 days of notification by the board of
26 that requirement. The immediate member of the family must apply
27 for and obtain his or her own license to continue contracting after
28 the continuance expires.

29 (b) A partnership license shall be canceled upon the death of a
30 general partner. The remaining partner or partners shall notify the
31 registrar in writing within 90 days of the death of a general partner.
32 Failure to notify the registrar within 90 days of the death is grounds
33 for disciplinary action.

34 The remaining general partner or partners may request a
35 continuance of the license to complete projects in progress and
36 undertake new work for a reasonable amount of time to be
37 determined by rules of the board. The request for a continuance
38 must be made in writing and received at the board's headquarters
39 office within 90 days after the death. The remaining general partner

1 or partners must apply for and obtain a new license to continue
2 contracting after the continuance expires.

3 (c) A partnership license shall be canceled upon the
4 disassociation of a general partner or upon the dissolution of the
5 partnership. The disassociating partner or the remaining partner
6 or partners shall notify the registrar in writing within 90 days of
7 the disassociation of a general partner or dissolution of the
8 partnership. Failure to notify the registrar of the disassociation or
9 dissolution within 90 days shall cause the license to be canceled
10 effective the date the written notification is received at the board's
11 headquarters office. Failure to notify the registrar within 90 days
12 of the disassociation or dissolution is grounds for disciplinary
13 action. The remaining general partner or partners may request a
14 continuance of the license to complete projects contracted for or
15 in progress prior to the date of disassociation or dissolution for a
16 reasonable length of time to be determined by rules of the board.
17 The request for a continuance must be made in writing and received
18 at the board's headquarters office within 90 days after the
19 disassociation or dissolution. The remaining general partner or
20 partners must apply for and obtain a new license to undertake new
21 work and to continue contracting after the continuance expires.

22 (d) The general partner or partners shall notify the registrar in
23 writing within 90 days of the death of a limited partner. Failure to
24 notify the registrar within 90 days of the death is grounds for
25 disciplinary action.

26 The death of a limited partner will not affect the partnership
27 license unless the partnership license has only one limited partner.
28 In this case, the license will be canceled upon the death of the
29 limited partner unless a new limited partner is added to the license
30 within 90 days of the death.

31 If the license is canceled, the remaining general partner or
32 partners may request a continuance of the license to complete
33 projects in progress and to undertake new work for a reasonable
34 amount of time to be determined by rules of the board. The request
35 for a continuance must be made in writing and received at the
36 board's headquarters office within 90 days after the death. The
37 remaining general partner or partners must apply for and obtain a
38 new license to continue contracting after the continuance expires.

39 (e) The general partner or partners shall notify the registrar in
40 writing within 90 days of the disassociation of a limited partner.

1 Failure to notify the registrar of the disassociation, within 90 days,
2 shall cause the disassociation to be effective the date the written
3 notification is received at the board’s headquarters office. Failure
4 to notify the registrar within 90 days of the disassociation is
5 grounds for disciplinary action.

6 The disassociation of a limited partner will not affect the
7 partnership license unless the partnership license has only one
8 limited partner. In this case, the license will be canceled upon the
9 disassociation of the limited partner unless a new limited partner
10 is added to the license within 90 days of the disassociation. If the
11 license is canceled, the remaining general partner or partners may
12 request a continuance of the license to complete projects contracted
13 for or in progress prior to the date of disassociation for a reasonable
14 amount of time to be determined by rules of the board. The request
15 for a continuance must be made in writing and received at the
16 board’s headquarters office within 90 days after the disassociation.
17 The remaining general partner or partners must apply for and obtain
18 a new license to undertake new work and to continue contracting
19 after the continuance expires.

20 (f) A joint venture license shall be canceled upon the
21 cancellation, revocation, or disassociation of any of its entity
22 licenses or upon the dissolution of the joint venture. The registrar
23 shall be notified in writing within 90 days of the disassociation of
24 a joint venture entity or dissolution of the joint venture. Failure to
25 notify the registrar of the disassociation or dissolution within 90
26 days shall cause the license to be canceled effective the date the
27 written notification is received at the board’s headquarters office.
28 Failure to notify the registrar within 90 days of the disassociation
29 or dissolution is grounds for disciplinary action.

30 Any remaining entity or entities may request a continuance of
31 the license to complete projects contracted for or in progress prior
32 to the date of disassociation or dissolution for a reasonable amount
33 of time to be determined by rules of the board. The request for a
34 continuance must be made in writing and received at the board’s
35 headquarters office within 90 days of the disassociation or
36 dissolution. The remaining entity or entities must apply for and
37 obtain a new license to undertake new work and to continue
38 contracting after the continuance expires.

1 (g) Any individual, partnership, or joint venture license
2 continued in accordance with this section is subject to all other
3 provisions of this chapter.

4 (h) A corporation license shall be canceled upon the
5 corporation's dissolution, merger, or surrender of its right to do
6 business in this state. The corporation shall notify the registrar in
7 writing within 90 days of the dissolution, merger, or surrender.
8 Failure to notify the registrar of the dissolution, merger, or
9 surrender within 90 days shall cause the license to be canceled
10 effective the date written notification is received at the board's
11 headquarters office. If the corporation fails to notify the board of
12 the dissolution, merger, or surrender, the corporation license shall
13 be canceled 60 days after the board's discovery when researching
14 the corporate records of the Secretary of State. Failure to notify
15 the registrar within 90 days of the dissolution, merger, or surrender
16 is grounds for disciplinary action.

17 (i) A limited liability company license shall be canceled upon
18 the company's dissolution, merger, or surrender of its right to do
19 business in this state. The limited liability company shall notify
20 the registrar in writing within 90 days of the dissolution, merger,
21 or surrender. Failure to notify the registrar of the dissolution,
22 merger, or surrender within 90 days shall cause the license to be
23 canceled effective the date written notification is received at the
24 board's headquarters office. If the limited liability company fails
25 to notify the board of the dissolution, merger, or surrender, the
26 limited liability company license shall be canceled 60 days after
27 the board's discovery when researching the records of the Secretary
28 of State. Failure to notify the registrar within 90 days of the
29 dissolution, merger, or surrender is grounds for disciplinary action.

30 (j) The registrar shall review and accept the petition of a licensee
31 who disputes the date of cancellation upon a showing of good
32 cause. This petition shall be received within 90 days of the board's
33 official notice of cancellation.

34 SEC. 11. Section 8741 of the Business and Professions Code
35 is amended to read:

36 8741. (a) The first division of the examination shall test the
37 applicant's fundamental knowledge of surveying, mathematics,
38 and basic science. The board may prescribe by regulation
39 reasonable educational or experience requirements including two
40 years of postsecondary education in land surveying, two years of

1 experience in land surveying, or a combination of postsecondary
2 education and experience in land surveying totaling two years for
3 admission to the first division of the examination. Applicants
4 registered by the board as a California civil engineer prior to
5 January 1, 1982, are exempt from this division of the examination.

6 The second division of the examination shall test the applicant's
7 ability to apply his or her knowledge and experience and to assume
8 responsible charge in the professional practice of land surveying.

9 (b) The applicant for the second division examination shall have
10 successfully passed the first division examination, or shall be
11 exempt therefrom. The applicant shall be thoroughly familiar with
12 (1) the procedure and rules governing the survey of public lands
13 as set forth in Manual of Surveying Instructions (2009), published
14 by the federal Bureau of Land Management and (2) the principles
15 of real property relating to boundaries and conveyancing.

16 (c) The board may by rule provide for a waiver of the first
17 division of the examination for applicants whose education and
18 experience qualifications substantially exceed the requirements of
19 Section 8742.

20 (d) The board may by rule provide for a waiver of the second
21 division of the examination and the assignment to a special
22 examination for those applicants whose educational qualifications
23 are equal to, and whose experience qualifications substantially
24 exceed, those qualifications established under subdivision (c). The
25 special examination may be either written or oral, or a combination
26 of both.

27 SEC. 12. Section 8762 of the Business and Professions Code
28 is amended to read:

29 8762. (a) Except as provided in subdivision (b), after making
30 a field survey in conformity with the practice of land surveying,
31 the licensed surveyor or licensed civil engineer may file with the
32 county surveyor in the county in which the field survey was made,
33 a record of the survey.

34 (b) Notwithstanding subdivision (a), after making a field survey
35 in conformity with the practice of land surveying, the licensed land
36 surveyor or licensed civil engineer shall file with the county
37 surveyor in the county in which the field survey was made a record
38 of the survey relating to land boundaries or property lines, if the
39 field survey discloses any of the following:

1 (1) Material evidence or physical change, which in whole or in
2 part does not appear on any subdivision map, official map, or
3 record of survey previously recorded or properly filed in the office
4 of the county recorder or county surveying department, or map or
5 survey record maintained by the Bureau of Land Management of
6 the United States.

7 (2) A material discrepancy with the information contained in
8 any subdivision map, official map, or record of survey previously
9 recorded or filed in the office of the county recorder or the county
10 surveying department, or any map or survey record maintained by
11 the Bureau of Land Management of the United States. For purposes
12 of this subdivision, a “material discrepancy” is limited to a material
13 discrepancy in the position of points or lines, or in dimensions.

14 (3) Evidence that, by reasonable analysis, might result in
15 materially alternate positions of lines or points, shown on any
16 subdivision map, official map, or record of survey previously
17 recorded or filed in the office of the county recorder or the county
18 surveying department, or any map or survey record maintained by
19 the Bureau of Land Management of the United States.

20 (4) The location, relocation, establishment, reestablishment, or
21 retracement of one or more points or lines not shown on any
22 subdivision map, official map, or record of survey, the positions
23 of which are not ascertainable from an inspection of the subdivision
24 map, official map, or record of survey.

25 (5) The points or lines set during the performance of a field
26 survey of any parcel described in any deed or other instrument of
27 title recorded in the county recorder’s office are not shown on any
28 subdivision map, official map, or record of survey.

29 (c) The record of survey required to be filed pursuant to this
30 section shall be filed within 90 days after the setting of boundary
31 monuments during the performance of a field survey or within 90
32 days after completion of a field survey, whichever occurs first.

33 (d) (1) If the 90-day time limit contained in subdivision (c)
34 cannot be complied with for reasons beyond the control of the
35 licensed land surveyor or licensed civil engineer, the 90-day time
36 period shall be extended until the time at which the reasons for
37 delay are eliminated. If the licensed land surveyor or licensed civil
38 engineer cannot comply with the 90-day time limit, he or she shall,
39 prior to the expiration of the 90-day time limit, provide the county
40 surveyor with a letter stating that he or she is unable to comply.

1 The letter shall provide an estimate of the date for completion of
2 the record of survey, the reasons for the delay, and a general
3 statement as to the location of the survey, including the assessor's
4 parcel number or numbers.

5 (2) The licensed land surveyor or licensed civil engineer shall
6 not initially be required to provide specific details of the survey.
7 However, if other surveys at the same location are performed by
8 others which may affect or be affected by the survey, the licensed
9 land surveyor or licensed civil engineer shall then provide
10 information requested by the county surveyor without unreasonable
11 delay.

12 (e) Any record of survey filed with the county surveyor shall,
13 after being examined by him or her, be filed with the county
14 recorder.

15 (f) If the preparer of the record of survey provides a
16 postage-paid, self-addressed envelope or postcard with the filing
17 of the record of survey, the county recorder shall return the
18 postage-paid, self-addressed envelope or postcard to the preparer
19 of the record of survey with the filing data within 10 days of final
20 filing. For the purposes of this subdivision, "filing data" includes
21 the date, the book or volume, and the page at which the record of
22 survey is filed with the county recorder.

23 SEC. 13. Section 8773 of the Business and Professions Code
24 is amended to read:

25 8773. (a) Except as provided in subdivision (b) of Section
26 8773.4, a person authorized to practice land surveying in this state
27 shall complete, sign, stamp with his or her seal, and file with the
28 county surveyor or engineer of the county where the corners are
29 situated, a written record of corner establishment or restoration to
30 be known as a "corner record" for every corner established by the
31 Survey of the Public Lands of the United States, except "lost
32 corners," as defined by the Manual of Surveying Instructions
33 (2009), published by the federal Bureau of Land Management and
34 every accessory to such corner which is found, set, reset, or used
35 as control in any survey by such authorized person.

36 (b) After the establishment of a lost corner, as defined by the
37 Manual of Surveying Instructions (2009), published by the federal
38 Bureau of Land Management a record of survey shall be filed as
39 set forth in Section 8764.

1 (c) Any person authorized to practice land surveying in this
2 state may file such corner record for any property corners, property
3 controlling corners, reference monuments, or accessories to a
4 property corner.

5 SEC. 14. Section 12012 of the Business and Professions Code
6 is amended to read:

7 12012. The secretary may exercise any power conferred upon
8 the department or upon the State Sealer by this division through
9 the State Sealer or otherwise.

10 SEC. 15. Section 12012.1 of the Business and Professions
11 Code is amended to read:

12 12012.1. The secretary may bring an action to enjoin the
13 violation, or the threatened violation, of any provision of this
14 division, or of any regulation adopted pursuant thereto, in the
15 superior court in the county in which the violation occurs or is
16 about to occur. There may be joined in one proceeding any number
17 of defendants alleged to be violating the same provisions or
18 regulations, although their properties, interests, residence, or place
19 of business, may be in several counties and the violations separate
20 and distinct. Any proceeding that is brought pursuant to this section
21 shall be governed in all other respects by the provisions of Chapter
22 3 (commencing with Section 525), Title 7, Part 2 of the Code of
23 Civil Procedure. The county sealer of any county acting through
24 the district attorney or county counsel of that county may bring an
25 action to enjoin the violation in the county or the threatened
26 violation in the county of any provision of this division or of any
27 regulation adopted pursuant thereto in the same manner as may
28 the secretary, and if the secretary joins as a party plaintiff, those
29 actions shall not be limited to violations occurring within the
30 county.

31 SEC. 16. Section 12024.11 of the Business and Professions
32 Code is amended to read:

33 12024.11. The secretary shall adopt necessary rules and
34 regulations pertaining to the sale or advertisement of wood for fuel
35 purposes in order to standardize quantities of measurement and to
36 protect against deceptive marketing practices.

37 SEC. 17. Section 12027 of the Business and Professions Code
38 is amended to read:

1 12027. The secretary may make rules and regulations as are
2 reasonably necessary for the purpose of carrying out the provisions
3 of this division.

4 SEC. 18. Section 12104 of the Business and Professions Code
5 is amended to read:

6 12104. (a) The department shall issue instructions and make
7 recommendations to the county sealers, and the instructions and
8 recommendations shall govern the procedure to be followed by
9 these officers in the discharge of their duties.

10 (b) Instructions and recommendations that are made to insure
11 statewide weights and measures protection shall include a local
12 administration cost analysis utilizing data provided by the county
13 sealer. The cost analysis shall identify the joint programs or
14 activities for which funds necessary to maintain adequate county
15 administration and enforcement have not been provided. The
16 secretary shall develop, jointly with the county sealers, county
17 priorities for the enforcement programs and activities of the
18 secretary.

19 (c) The secretary shall, upon request, report to the Legislature
20 his or her findings concerning the cost analysis with specific regard
21 to programs where funds are inadequate for an efficient
22 enforcement program, together with a listing of the priorities jointly
23 established by the secretary and the county sealers that are
24 contained in the formal instructions and recommendations.

25 SEC. 19. Section 12104.5 of the Business and Professions
26 Code is amended to read:

27 12104.5. The secretary may allocate annually to each county
28 an amount determined by the secretary not to exceed one-third of
29 the amount expended by the county pursuant to this division during
30 the previous fiscal year for weights and measures programs. The
31 allocation shall be made from funds appropriated to the secretary
32 for the administration and enforcement of this division at the local
33 level.

34 SEC. 20. Section 12105 of the Business and Professions Code
35 is amended to read:

36 12105. The department shall, at a frequency determined by the
37 secretary, inspect the work of the local sealers and may inspect
38 the weights, measures, balances or any other weighing or
39 measuring devices of any person.

1 SEC. 21. Section 12106.5 of the Business and Professions
2 Code is amended to read:

3 12106.5. The secretary may accept the testing and sealing of
4 weighing and measuring devices by another state upon a finding
5 that the requirements of California for testing and sealing such
6 devices have been met.

7 SEC. 22. Section 12107 of the Business and Professions Code
8 is amended to read:

9 12107. The secretary shall establish tolerances and
10 specifications and other technical requirements for commercial
11 weighing and measuring. In doing so, the secretary shall adopt,
12 by reference, the latest standards as recommended by the National
13 Conference on Weights and Measures and published in the National
14 Institute of Standards and Technology Handbook 44
15 “Specifications and Tolerances, and other Technical Requirements
16 for Weighing and Measuring Devices,” except as specifically
17 modified, amended, or rejected by regulation adopted by the
18 secretary.

19 The secretary may, by regulation, establish tolerances and
20 specifications for commercial weighing and measuring devices
21 not included in Handbook 44.

22 Any regulation shall be adopted, amended, or repealed in
23 conformity with Chapter 3.5 (commencing with Section 11340)
24 of Part 1 of Division 3 of Title 2 of the Government Code.

25 It shall be unlawful for any person to violate any of the rules,
26 regulations, tolerances, specifications, or standards established
27 under this section.

28 SEC. 23. Section 12107.1 of the Business and Professions
29 Code is amended to read:

30 12107.1. The secretary, by regulation, may establish a standard
31 or standards of net weight or net measure, or net count of any
32 commodity, except any manufactured commodity consisting of
33 four or more staple ingredients. These standards, whenever
34 applicable, shall be based upon published, official federal or state
35 specifications and requirements or, in the absence of any published
36 official specifications, upon established and accepted common
37 usage. Any regulation shall be adopted, amended, or repealed in
38 conformity with the provisions of Chapter 3.5 (commencing with
39 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
40 Code.

1 Whenever a standard, net weight, net measure, or net count has
2 been established for any commodity, it is unlawful to sell the
3 commodity by, at, or for a quantity greater or less than the standard.

4 SEC. 24. Section 12108 of the Business and Professions Code
5 is amended to read:

6 12108. The secretary may arrange for the services of a sealer
7 employed in a county on a collaborative basis and allow reasonable
8 compensation and expenses for the purpose of performing services
9 not already within his or her duties and that are subject to
10 administration or enforcement by the department under the
11 provisions of this code or of the Food and Agricultural Code.

12 SEC. 25. Section 12201 of the Business and Professions Code
13 is amended to read:

14 12201. If from any cause a vacancy occurs in the office of
15 county sealer, the secretary upon learning of the vacancy shall
16 immediately transmit to the board of supervisors or other
17 appointing power a list of persons licensed by him or her for the
18 position. If the appointing power fails to appoint a county sealer
19 within 60 days after the receipt of the list, the secretary shall
20 appoint a county sealer from that list. A person holding the position
21 of Deputy State Sealer shall be appointed the county sealer of
22 weights and measures for, and an employee of, the county to which
23 he or she is assigned. The secretary shall issue to him or her a
24 license that is valid only for the county he or she is serving. He or
25 she shall become subject to this code.

26 SEC. 26. Section 12201.2 of the Business and Professions
27 Code is amended to read:

28 12201.2. If the position of sealer cannot be filled by the board
29 of supervisors or other appointing power or by the secretary as
30 provided in Section 12201, then it shall be the duty of the secretary
31 to perform the duties of sealer in the same manner, to the same
32 extent, and with the same authority as if he or she had been the
33 duly appointed sealer therein. The board of supervisors of the
34 county shall reimburse the department for all expenses incurred
35 by the secretary in fulfilling his or her responsibilities under the
36 provisions of this section.

37 SEC. 27. Section 12202 of the Business and Professions Code
38 is amended to read:

39 12202. (a) The secretary shall cause to be examined persons
40 desiring to become county sealers, deputy county sealers, or

1 inspectors and shall adopt rules and regulations governing these
2 examinations given for the purpose of determining the fitness,
3 experience, and qualifications of candidates for these positions.
4 The secretary may provide for inspectors qualified to be employed
5 in designated categories. Successful candidates shall be given a
6 license that shall be good for five years unless revoked. Licenses
7 of incumbent county sealers, deputy county sealers, or inspectors
8 shall be renewed upon expiration without further examination.

9 (b) The secretary may charge each candidate a fee to cover the
10 actual cost of providing the license examination.

11 SEC. 28. Section 12203 of the Business and Professions Code
12 is amended to read:

13 12203. Except as provided in this section, no person shall
14 hereafter be appointed to the office of county sealer, deputy county
15 sealer or inspector unless he or she has a license issued by the
16 secretary as provided in Section 12202. If there is no person
17 available for the position of county sealer who holds a license, the
18 appointing power may make a temporary appointment of a person
19 recommended in writing by the secretary. If the appointing power
20 does not make a temporary appointment and no person can be
21 appointed from the eligible list by the secretary, then the secretary
22 may make a temporary appointment of a person competent to carry
23 on the duties of the office. Any temporary appointment shall be
24 for a period not exceeding six months or until the next license
25 examination is held. If the position of deputy county sealer or
26 inspector cannot be filled from the lists, a temporary appointment
27 may be made, upon the written recommendation of the secretary
28 for a period not exceeding six months.

29 SEC. 29. Section 12205 of the Business and Professions Code
30 is amended to read:

31 12205. For the purpose of receiving advice on the best and
32 most efficacious methods of performing his or her duties and
33 conducting his or her office, every county sealer serving in a county
34 shall attend the annual meeting of the California Agricultural
35 Commissioners and Sealers Association and other meetings as the
36 department or the board of supervisors requires.

37 The county sealer shall be allowed all actual and necessary
38 traveling expenses incurred while on any service that requires him
39 or her to go outside the county. Those expenses shall be a charge
40 against the county in which the county sealer is employed.

1 SEC. 30. Section 12210.5 of the Business and Professions
2 Code is amended to read:

3 12210.5. Any county that inspects or tests any weighing or
4 measuring device or instrument used commercially, at the request
5 of the owner or user of the device, when that inspection or testing
6 of the device could legally be performed by a registered repairman,
7 may, if authorized by the county board of supervisors, collect from
8 the requesting owner or user thereof a fee.

9 The fee shall be based upon a uniform schedule of fees, that
10 shall be prescribed by the secretary for use by the counties. The
11 secretary shall prepare the schedule of fees to be comparable with
12 the rates charged by the industry's registered repairmen. All fees
13 collected shall be credited to the general fund of the county in
14 which collected and used only for the administration and
15 enforcement of laws pertaining to weights and measures.

16 SEC. 31. Section 12212 of the Business and Professions Code
17 is amended to read:

18 12212. (a) The secretary shall adopt necessary regulations
19 governing the inspection frequency of all commercially used
20 weights, measures and weighing and measuring apparatus in the
21 state.

22 (b) The sealer of each county shall perform such inspections as
23 may be required by the secretary. Nothing in this section shall be
24 construed to prohibit the sealer from inspecting a device more
25 frequently than required if he or she deems those tests to be
26 necessary.

27 (c) Any regulation shall be adopted by the secretary in
28 conformity with the provisions of Chapter 4.5 (commencing with
29 Section 11371) of Part 1 of Division 3 of Title 2 of the Government
30 Code.

31 (d) In counties where the secretary finds that the sealer, because
32 of lack of equipment, is unable or fails to perform the tests as
33 required herein, the secretary may enter into a contract with the
34 board of supervisors of each of those counties to perform the tests.
35 Those contracts shall provide that the county shall pay the cost of
36 those services based upon a uniform schedule of fees developed
37 by the secretary. The fee schedule shall be based on the
38 approximate cost of performing those services. The contracts shall
39 also provide that the secretary shall periodically render a bill to
40 each county so served for the cost of services rendered, and the

1 auditor of the county so billed shall pay the charge in the same
2 manner in which other claims against the county are paid.

3 (e) All fees collected under the provisions of this section shall
4 be credited to the Department of Food and Agriculture Fund.

5 SEC. 32. Section 12214 of the Business and Professions Code
6 is amended to read:

7 12214. (a) Upon satisfactory evidence presented to the
8 secretary that the county sealer of any county is guilty of neglect
9 of duty, incompetence, or misconduct in office, the trial board
10 hereinafter provided for shall hold a hearing or hearings at times
11 and places that it shall provide.

12 (b) The secretary and the president of the voluntary association
13 of the sealers of the state shall select an impartial third person who,
14 with them, shall compose a county sealer's trial board to determine
15 whether the sealer is guilty of the charges presented.

16 (c) At least 10 days prior to the date of hearing, the secretary
17 shall give notice in writing to the sealer of the time and place of
18 hearing and any information as to the nature of the charges that
19 will enable the sealer to make a defense thereto.

20 (d) At the hearing or hearings, the trial board shall hear evidence
21 that is offered and thereafter, within 30 days, make an order
22 dismissing the charges or an order disqualifying the sealer.

23 (e) In case the order disqualifies the sealer, the secretary shall
24 forthwith revoke the sealer's license and declare the office vacant
25 and a copy of the order shall be immediately transmitted by the
26 secretary to the board of supervisors and the auditor of the county
27 in which the sealer held office.

28 (f) The license of a deputy sealer or inspector may be revoked
29 in the same manner and for the same causes that a license of a
30 sealer may be revoked.

31 SEC. 33. Section 12314 of the Business and Professions Code
32 is amended to read:

33 12314. The department, by regulation, may establish criteria
34 and procedures for certification of laboratories to perform
35 measurement services that are determined by the secretary to be
36 beyond the existing equipment capabilities of the department, or
37 when warranted by financial or workload considerations.

38 The department shall recover actual costs for the certification
39 of any laboratory from that laboratory.

1 The secretary may revoke or suspend any certification issued
2 pursuant to this section for good cause. The secretary shall establish
3 by regulation criteria to be used when revoking or suspending any
4 certification on the basis of good cause. Any proceeding to revoke
5 or suspend any certification shall be conducted pursuant to Chapter
6 5 (commencing with Section 11500) of Part 1 of Division 3 of
7 Title 2 of the Government Code, and the secretary shall have all
8 the powers granted therein.

9 Measurements performed and standards certified by laboratories
10 certified under the provisions of this section shall qualify as prima
11 facie evidence.

12 SEC. 34. Section 12500.5 of the Business and Professions
13 Code is amended to read:

14 12500.5. The secretary by rules and regulations shall provide
15 for submission for approval of types or designs of weights,
16 measures, or weighing, measuring, or counting instruments or
17 devices, used for commercial purposes, and shall issue certificates
18 of approval of such types or designs as he or she shall find to meet
19 the requirements of this code and the tolerances and specifications
20 thereunder.

21 It shall be unlawful to sell or use for commercial purposes any
22 weight or measure, or any weighing, measuring, or counting
23 instrument or device, of a type or design that has not first been so
24 approved by the department; provided, however, that any such
25 weight, measure, instrument, or device in use for commercial
26 purposes prior to the effective date of this act may be continued
27 in use unless and until condemned under the provisions of this
28 code.

29 SEC. 35. Section 12500.6 of the Business and Professions
30 Code is amended to read:

31 12500.6. Notwithstanding Section 12500.5, the secretary may
32 prohibit the sale or installation of any previously approved type
33 or design of weight or measure or weighing, measuring, or counting
34 instrument if the secretary determines the weight, measure, or
35 instrument does not fulfill the purpose for which it was approved
36 or that the weight, measure, or instrument is not identical to the
37 approved type or design.

38 The secretary may initiate proceedings pursuant to Chapter 5
39 (commencing with Section 11500) of Part 1 of Division 3 of Title
40 2 of the Government Code to determine whether the approval

1 should be revoked or modified, and to determine the period of time
2 that the owner or user of any accurate device for which type
3 approval has been revoked or modified may continue to use that
4 device for commercial purposes, pending the replacement or
5 modification of the device.

6 SEC. 36. Section 12500.8 of the Business and Professions
7 Code is amended to read:

8 12500.8. The secretary may enter into an agreement with the
9 Office of Weights and Measures of the National Bureau of
10 Standards of the Department of Commerce, and other weights and
11 measures jurisdictions, to accept the certifications of each other
12 for prototype examination purposes.

13 SEC. 37. Section 12609 of the Business and Professions Code
14 is amended to read:

15 12609. The secretary shall adopt necessary regulations to carry
16 out the purpose of this division and for the testing of packages to
17 verify the net quantity statements. In adopting these regulations,
18 the secretary shall adopt by reference the packaging and labeling
19 requirements recommended by the National Conference on Weights
20 and Measures and published in the current edition of the National
21 Institute of Standards and Technology Handbook 130, Uniform
22 Packaging and Labeling Regulation, except insofar as those
23 requirements are specifically modified, amended, or rejected by
24 regulation by the secretary. The regulations shall include
25 exemptions from full compliance with this chapter for good and
26 sufficient reasons. Any exemptions affecting consumer
27 commodities shall be in conformance with exemptions permitted
28 by federal regulations. Any regulation, or amendment thereof,
29 shall be adopted by the secretary in conformity with Chapter 3.5
30 (commencing with Section 11340) of Part 1 of Division 3 of Title
31 2 of the Government Code.

32 SEC. 38. Section 12610 of the Business and Professions Code
33 is amended to read:

34 12610. The secretary may promulgate regulations similar to
35 those promulgated by the Secretary of Health, Education, and
36 Welfare or the Federal Trade Commission pursuant to the Fair
37 Packaging and Labeling Act—~~P.L.~~ (*Public Law* 89-755; 80 Stat.
38 1296; ~~15 U.S.C.~~ *15 U.S.C. Secs.* 1451-1461) effective to *do* the
39 following:

1 (a) Establish and define standards for characterization of the
2 size of a package enclosing any commodity, that may be used to
3 supplement the label statement of net quantity of contents of
4 packages containing such commodity, but this subdivision shall
5 not be construed as authorizing any limitation on the size, shape,
6 weight, dimensions, or number of packages which may be used to
7 enclose any commodity;

8 (b) Require that the label on each package of a commodity (other
9 than one that is a food within the meaning of Section 201(f) of the
10 Federal Food, Drug, and Cosmetic Act) bear the common or usual
11 name of the consumer commodity, if any.

12 SEC. 39. Section 12706 of the Business and Professions Code
13 is amended to read:

14 12706. (a) The secretary may assign or reassign dates for the
15 expiration of licenses for any weighmaster.

16 (b) The secretary may establish a license year for any
17 weighmaster consisting of any period from one month to 11
18 months, inclusive, with subsequent renewals being required at
19 yearly intervals thereafter.

20 (c) Whenever the license year is less than 12 months by reason
21 of the assignment or reassignment of the expiration date by the
22 secretary, the license fee as designated in Section 12704 shall be
23 decreased by one-twelfth of the annual fee for each month of the
24 period less than 12 months.

25 SEC. 40. Section 12708 of the Business and Professions Code
26 is amended to read:

27 12708. The secretary may refuse to grant any license provided
28 for by this chapter, or may refuse to renew any license, and may
29 revoke or suspend any license when, after a hearing conducted
30 pursuant to Chapter 5 (commencing with Section 11500) of Part
31 1 of Division 3 of Title 2 of the Government Code, the secretary
32 is satisfied that the applicant or licensee is not qualified to capably
33 or reliably perform the duties of a weighmaster or has otherwise
34 been found guilty of a misdemeanor as provided in this chapter.

35 SEC. 41. Section 12722 of the Business and Professions Code
36 is amended to read:

37 12722. (a) In accordance with this chapter and regulations
38 adopted by the secretary, any weighmaster may use a tare weight
39 for a vehicle, container, or pallet that has been previously
40 determined by a weighmaster. It is the responsibility of the party

1 for whom the tare weight was established to maintain the tare
2 weight within the variations prescribed by the secretary.

3 (b) Any weighmaster weighing any vehicle moving earth, stone,
4 rock, sand, gravel, or asphalt paving material may use a
5 predetermined tare weight. The issuance of predetermined tare
6 weights are exempt from the provisions of Subchapter 9
7 (commencing with Section 4400) of Chapter 9 of Title 4 of the
8 California Administrative Code. It is the responsibility of the party
9 for whom the tare weight was established to maintain the actual
10 weight so that the actual tare weight of the vehicle shall at no time
11 exceed the recorded tare weight.

12 SEC. 42. Section 12723 of the Business and Professions Code
13 is amended to read:

14 12723. The secretary shall adopt regulations for the
15 establishment of vehicle, container, and pallet tares, including, but
16 not limited to, the adoption of conditions of use, certificate
17 requirements, sample size, allowable variations, and procedure to
18 be used to verify common tares.

19 SEC. 43. Section 12727 of the Business and Professions Code
20 is amended to read:

21 12727. The secretary may, at any time, require a vehicle to
22 proceed to the nearest vehicle scale for the purpose of weight
23 verification.

24 SEC. 44. Section 12735 of the Business and Professions Code
25 is amended to read:

26 12735. The secretary may adopt any rules and regulations that
27 are reasonably necessary for the purpose of carrying out this
28 chapter. Adoption of these rules and regulations shall be in
29 accordance with Chapter 3.5 (commencing with Section 11340)
30 of Part 1 of Division 3 of Title 2 of the Government Code.

31 SEC. 45. Section 12736 of the Business and Professions Code
32 is amended and renumbered to read:

33 13303. The secretary may adopt necessary rules and regulations
34 regarding the accuracy of automated systems for retail commodity
35 price charging referred to as “scanners.”

36 SEC. 46. Section 13302 of the Business and Professions Code
37 is repealed.

38 SEC. 47. Section 13403 of the Business and Professions Code
39 is amended to read:

1 13403. “Octane number” or “antiknock index number,” when
2 used in this chapter, means that number assigned to a spark ignition
3 engine fuel that designates the antiknock quality. The “octane
4 number” or “antiknock index number” shall be determined
5 according to the ASTM International method or methods
6 designated in the latest ASTM International Standard Specification
7 D-4814.

8 SEC. 48. Section 13440 of the Business and Professions Code
9 is amended to read:

10 13440. (a) The department shall establish specifications for
11 automotive spark-ignition engine fuels. The department shall adopt
12 by reference the latest standards established by a recognized
13 consensus organization or standards writing organization such as
14 the ASTM International or the SAE International, for automotive
15 spark-ignition engine fuel, except that no specification shall be
16 less stringent than required by any California state law.

17 (b) Any gasoline-oxygenate blend containing methanol shall
18 also contain an alcohol cosolvent (butanol or higher molecular
19 weight alcohol) in an amount equal to or greater than the volume
20 percentage of methanol except those blends previously granted a
21 waiver by the Environmental Protection Agency.

22 (c) Any gasoline-oxygenate blend containing ethanol that
23 complies with Section 2258 of Title 13 of the California Code of
24 Regulations, as it reads on the effective date of the act amending
25 this section during the 1993–94 Regular Session, or as amended,
26 may exceed the Reid vapor pressure limits of ASTM D 4814 for
27 the area and season in which the blend is sold at retail by not more
28 than 6.9 kilopascals (1.0 pounds per square inch), except the total
29 Reid vapor pressure shall not exceed 103 kilopascals (15 pounds
30 per square inch).

31 (d) The antiknock index as defined in Section 13403 for gasoline
32 and gasoline-oxygenate blends shall not be less than 87.

33 (e) Gasoline and gasoline-oxygenate blends shall meet the latest
34 specifications set forth in ASTM D 4814, except that no
35 specification shall be less stringent than required by any California
36 state law.

37 (f) Notwithstanding any other provision of this section, gasoline
38 sold for use in Inyo or Mono County, or the portion of Kern County
39 lying east of the Los Angeles County Aqueduct, shall comply with
40 the latest specification set forth in ASTM D 4814 relating to

1 volatility class standards for the season during which the gasoline
2 is sold for either the interior region or the southeast region of
3 California, except that no specification shall be less stringent than
4 is required by any California state law.

5 SEC. 49. Section 13450 of the Business and Professions Code
6 is amended to read:

7 13450. The department shall establish specifications for
8 compression-ignition engine fuel, kerosene, and fuel oil. The
9 department shall adopt by reference the latest standards established
10 by a recognized consensus organization or standards writing
11 organization such as the ASTM International or the SAE
12 International, for compression-ignition engine fuels, kerosene, and
13 fuel oil, except that no specification shall be less stringent than
14 required by any California state law.

15 (a) Diesel fuel shall meet the specifications set forth in ASTM
16 D-975, except that sulfur specifications shall not exceed the
17 maximum specified by any California state law.

18 (b) Kerosene shall meet the specifications set forth in ASTM
19 D-3699.

20 (c) Fuel oil shall meet the specifications set forth in ASTM
21 D-396, except that sulfur specifications shall not exceed the
22 maximum specified by any California state law.

23 SEC. 50. Section 13460 of the Business and Professions Code
24 is amended to read:

25 13460. Engine oil shall not be sold or distributed for use in an
26 internal combustion engine unless the product conforms to the
27 following specifications:

28 (a) It shall meet the engine oil requirements established by the
29 latest revision of the SAE International Standard SAE J183 for
30 engine oil performance and engine service classification.

31 (b) The flashpoints for the various SAE International
32 classifications shall not be less than the following when tested in
33 accordance with the latest ASTM International standard method
34 of test for flash and fire points by means of the Cleveland open
35 cup (ASTM D-92):

| | | | |
|----|----------------|------------------------|---------------|
| 36 | | | |
| 37 | | Kinematic | |
| 38 | | Viscosity (centistoke) | Minimum |
| 39 | Viscosity | by ASTM D445 | Flash Degrees |
| 40 | Classification | at 100° C | Fahrenheit |

| | | | |
|---|----------|------------------------|-----|
| 1 | SAE 5W | | 305 |
| 2 | SAE 10W | | 335 |
| 3 | SAE 20W | | 345 |
| 4 | SAE 20 | | 345 |
| 5 | SAE 30 | | 355 |
| 6 | SAE 40 | | 375 |
| 7 | SAE 50 | | 400 |
| 8 | SAE 60 | | 435 |
| 9 | Grade 70 | 26.1 to less than 31.7 | 470 |

10

11 (c) It shall be free from water and suspended matter when tested
12 by means of centrifuge, in accordance with the standard test ASTM
13 D-2273.

14 (d) Any engine oil that is represented to meet SAE International
15 engine oil performance and engine service classification SA must
16 have a neutralization number as measured by ASTM International
17 method D-974 of 0.20 maximum.

18 (e) Any engine oil represented as “energy conserving” shall
19 meet the requirements established by the latest revision of the SAE
20 International Recommended Practice SAE J-1423.

21 SEC. 51. Section 13461 of the Business and Professions Code
22 is amended to read:

23 13461. Lubricating oil shall not be sold or distributed for use
24 in lubricating manual transmissions, gears, or axles unless the
25 product conforms to the following specifications:

26 (a) It meets the service requirements contained in the latest
27 revision of the SAE Information Report on axle and manual
28 transmission lubricants SAE J308.

29 (b) The viscosity grade classification number shall be the same
30 as the latest published SAE International Standard SAE J306 when
31 tested in accordance with the latest method published by the ASTM
32 International.

33 (c) It shall be free from water and suspended matter when tested
34 by means of centrifuge, in accordance with the standard test ASTM
35 D-2273.

36 SEC. 52. Section 13480 of the Business and Professions Code
37 is amended to read:

38 13480. (a) It is unlawful for any person to sell any petroleum
39 product referred to in this chapter at any place where petroleum
40 products are kept or stored for sale, unless there is affixed to each

1 container, receptacle, pump, dispenser, and inlet end of the fill
2 pipe of each underground storage tank, from which or into which
3 that product is drawn or poured out for sale or delivery, a sign or
4 label plainly visible consisting of the name of the product, the
5 brand, trademark, or trade name of the product, and, in the case
6 of engine fuel and kerosene, the grade or brand name designation.

7 (b) When the product is oil, as defined by Section 13401, each
8 sign or label shall also have in letters or numerals, plainly visible,
9 the viscosity grade classification as determined in accordance with
10 the SAE International latest standard for engine oil viscosity
11 classification SAE J300 or manual transmission and axle lubricants
12 viscosity classification SAE J306, as applicable, and shall be
13 preceded by the letters “SAE.”

14 (c) When the product is automotive spark-ignition engine fuel,
15 except M-85 and M-100 methanol fuel, there shall be
16 conspicuously displayed on the dispensing device at least one sign
17 or label showing the minimum octane number or antiknock index,
18 as defined in Section 13403, of the product sold therefrom.

19 (d) When the product is a motor fuel consisting of a mixture or
20 premixture of gasoline and oil or gasoline-oxygenate blend and
21 motor oil, there shall be conspicuously displayed on the dispensing
22 device at least one sign or label stating the ratio of gasoline to
23 motor oil or gasoline-oxygenate blend to motor oil.

24 (e) All signs or labels required by this section for retail motor
25 fuel dispensers and containers of more than one gallon capacity
26 shall be in letters and numerals not less than one-half inch (12.70
27 mm) in height. On containers of one gallon or less, the signs or
28 labels shall be in letters and numerals not less than one-fourth inch
29 (6.35 mm) in height and one-sixteenth inch (1.59 mm) in width.

30 (f) The provisions of this section pertaining to octane numbers
31 or antiknock index and motor oil SAE International viscosity
32 number grade shall not apply to products sold for aviation purposes.

33 (g) This section shall apply, with respect to thinners or solvents,
34 only to the sale, delivery, or offer for sale of the products through
35 service stations, garages, and other retail outlets.

36 SEC. 53. Section 13710 of the Business and Professions Code
37 is amended to read:

38 13710. (a) (1) The department shall establish specifications
39 for engine coolants and antifreeze, and prediluted engine coolants

1 and prediluted antifreeze that promote the public safety in the
2 operation of motor vehicles.

3 (2) In addition to paragraph (1), if the ASTM International
4 adopts standards for recycled engine coolants and antifreeze, the
5 department, on or before January 1, 2002, shall establish
6 specifications for recycled engine coolants and antifreeze, and
7 recycled prediluted engine coolants and antifreeze that promote
8 the public safety in the operation of motor vehicles.

9 (3) The chemical, physical, and performance specifications for
10 engine coolants and antifreeze and prediluted engine coolants and
11 prediluted antifreeze under paragraphs (1) and (2) shall not fall
12 below the minimum specifications, if any, established by the
13 ASTM International. Engine coolant and antifreeze shall not
14 contain, after dilution with 30 percent water and subsequent
15 mixing, visually identifiable suspended matter or sediment.
16 Prediluted engine coolant and prediluted antifreeze shall not
17 contain, after mixing, visually identifiable suspended matter or
18 sediment.

19 (4) For purposes of this subdivision, the department shall adopt
20 testing procedures and shall specify a virgin reference coolant that
21 it finds is recognized as standard in the industry. Alcohol-based
22 coolants and antifreeze, excluding glycols, are not suitable for use
23 in automotive engines and shall not be sold or distributed for
24 automotive use.

25 (b) Any automatic transmission fluid sold without limitation as
26 to type of transmission for which it is intended, shall meet all
27 automotive manufacturers' recommended requirements for
28 transmissions in general use in the state. Automatic transmission
29 fluids that are intended for use only in certain transmissions, as
30 disclosed on the label of its container, shall meet the latest
31 automotive manufacturers' recommended requirements for those
32 transmissions.

33 (c) The department shall establish specifications for brake fluid
34 that promote the public safety in the operation of automotive
35 vehicles. The specifications for brake fluid shall not fall below the
36 minimum specifications established by the National Highway
37 Traffic Safety Administration of the United States Department of
38 Transportation.

39 (d) Any manufacturer or packager of any product regulated by
40 this chapter and sold in the state shall provide, upon request to

- 1 duly authorized representatives of the department, documentation
- 2 of any claim made upon their products' label.

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