

Senate Bill No. 1576

CHAPTER 661

An act to amend Sections 5070.1, 5072, 5076, 5093, 5094.6, 5107, 6795, 7011.8, 7076, 8741, 8762, 8773, 9880.2, 9882.14, 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 add Section 9807 to, to repeal Section 13302 of, and to repeal and add Section 5019 of, the Business and Professions Code, relating to professions and vocations.

[Approved by Governor September 27, 2012. Filed with
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LEGISLATIVE COUNSEL'S DIGEST

SB 1576, 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 California civil engineers.

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.

Existing law provides for renewal of certificates of registration and authority for professional engineers to be renewed every 2 years, with renewals staggered on a monthly basis.

This bill would require renewals to be staggered on a quarterly basis.

(4) Existing law provides for licensing and regulation of service dealers by the Bureau of Electronic and Appliance Repair, Home Furnishings, and Thermal Insulation. Existing law provides for licensing and regulation of automotive repair dealers by the Bureau of Automotive Repair, and requires that bureau to cooperate with the Office of Traffic Safety relative to the adoption of standards for the installation of ignition interlock devices on motor vehicles.

This bill would authorize a service dealer to install, calibrate, service, maintain, and monitor ignition interlock devices, and would exempt a person registered as a service dealer and whose work is limited to the installation or replacement of an ignition interlock device from the requirement to register with the Bureau of Automotive Repair.

(5) 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.

This bill would incorporate additional changes to Section 5072 of the Business and Professions Code proposed by SB 1405, that would become operative only if SB 1405 and this bill are both chaptered and become effective on or before January 1, 2013, and this bill is chaptered last.

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

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 Section 5019 of the Business and Professions Code is repealed.

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

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

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

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

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

(c) The board shall deny an applicant's application to place a license in a retired status if the permit is subject to an outstanding order of the board, is suspended, revoked, or otherwise punitively restricted by the board, or is subject to disciplinary action under this chapter.

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

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

(3) The holder of a canceled license that was placed in retired status between January 1, 1994, and January 1, 1999, inclusive, shall not be required to meet the qualifications established pursuant to subdivision (e), but shall be subject to all other requirements of this section.

(e) The board shall establish minimum qualifications to place a license in retired status.

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

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

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

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

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

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

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

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

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

SEC. 4.3. Section 5072 of the Business and Professions Code is amended to read:

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

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

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

(2) Each partner engaged within this state in the practice of public accountancy as defined by Section 5051 shall hold a valid permit to practice

in this state or shall have applied for a certificate as a certified public accountant under Sections 5087 and 5088.

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

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

(c) This section shall become inoperative on July 1, 2013, and, as of January 1, 2014, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2014, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 4.5. Section 5072 is added to the Business and Professions Code, to read:

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

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

(1) At least one general partner shall hold a valid permit to practice as a certified public accountant, public accountant, or accountancy corporation, or shall be an applicant for a certificate as a certified public accountant under Sections 5087 and 5088, or the partnership shall be registered pursuant to subdivision (c) of Section 5096.12.

(2) Each partner engaged within this state in the practice of public accountancy as defined by Section 5051 shall hold a valid permit to practice in this state or shall have applied for a certificate as a certified public accountant under Sections 5087 and 5088, except for a partner with practice privileges pursuant to Section 5096.

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

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

(c) This section shall become operative on July 1, 2013.

(d) This section shall remain in effect only until January 1, 2019, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2019, deletes or extends that date.

SEC. 4.7. Section 5072 is added to the Business and Professions Code, to read:

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

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

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

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

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

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

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

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

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

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

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

(2) “Accounting and auditing practice” includes any services that were performed in the prior three years using professional standards defined by the board in regulations.

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

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

(e) A firm issued a substandard peer review report, as defined by the board in regulation, shall submit a copy of that report to the board. The board shall establish in regulation the time period that a firm must submit

the report to the board. This period shall not exceed 60 days from the time the report is accepted by a board-recognized peer review program provider to the date the report is submitted to the board.

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

(2) Nothing in this subdivision shall require a board-recognized peer review program provider, when administering peer reviews in another state, to violate the laws of that state.

(g) The board shall, by January 1, 2010, define a substandard peer review report in regulation.

(h) Any requirements imposed by a board-recognized peer review program on a firm in conjunction with the completion of a peer review shall be separate from, and in addition to, any action by the board pursuant to this section.

(i) Any report of a substandard peer review submitted to the board in conjunction with this section shall be collected for investigatory purposes.

(j) Nothing in this section affects the discovery or admissibility of evidence in a civil or criminal action.

(k) Nothing in this section requires any firm to become a member of any professional organization.

(l) A peer reviewer shall not disclose information concerning licensees or their clients obtained during a peer review, unless specifically authorized pursuant to this section, Section 5076.1, or regulations prescribed by the board.

(m) (1) By January 1, 2015, the board shall provide the Legislature and Governor with a report regarding the peer review requirements of this section that includes, without limitation:

(A) The number of peer review reports completed to date and the number of reports which were submitted to the board as required in subdivision (e).

(B) The number of enforcement actions that were initiated as a result of an investigation conducted pursuant to subdivision (i).

(C) The number of firms that were recommended to take corrective actions to improve their practice through the mandatory peer review process, and the number of firms that took corrective actions to improve their practice following recommendations resulting from the mandatory peer review process.

(D) The extent to which mandatory peer review of accounting firms enhances consumer protection.

(E) The cost impact on firms undergoing mandatory peer review and the cost impact of mandatory peer review on the firm's clients.

(F) A recommendation as to whether the mandatory peer review program should continue.

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

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

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

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

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

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

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

(b) (1) An applicant for admission to the certified public accountant examination under the provisions of this section shall present satisfactory evidence that the applicant has completed a baccalaureate or higher degree conferred by a degree-granting university, college, or other institution of learning accredited by a regional or national accrediting agency included in a list of these agencies published by the United States Secretary of Education under the requirements of the Higher Education Act of 1965 as amended (20 U.S.C. Sec. 1001 et seq.), or meeting, at a minimum, the standards described in subdivision (c) of Section 5094. The total educational program shall include a minimum of 24 semester units in accounting subjects and 24 semester units in business-related subjects. This evidence shall be provided at the time of application for admission to the examination, except that an applicant who applied, qualified, and sat for at least two subjects of the examination for the certified public accountant license before May 15, 2002, may provide this evidence at the time of application for licensure.

(2) An applicant for issuance of the certified public accountant license under the provisions of this section shall present satisfactory evidence that the applicant has completed at least 150 semester units of college education including a baccalaureate or higher degree conferred by a college or university, meeting, at a minimum, the standards described in Section 5094, the total educational program to include a minimum of 24 semester units in accounting subjects, 24 semester units in business-related subjects, and, after December 31, 2013, shall also include a minimum of 10 units of ethics

study consistent with the requirements set forth in Section 5094.3 and 20 units of accounting study consistent with the regulations promulgated under subdivision (c) of Section 5094.6. This evidence shall be presented at the time of application for the certified public accountant license. Nothing herein shall be deemed inconsistent with Section 5094 or 5094.6. Nothing herein shall be construed to be inconsistent with prevailing academic practice regarding the completion of units.

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

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

(e) Applicants completing education at a college or university located outside of this state, meeting, at a minimum, the standards described in Section 5094, shall be deemed to meet the educational requirements of this section if the board determines that the education is substantially equivalent to the standards of education specified under this chapter.

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

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

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

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

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

(b) A certified copy of the actual costs, or a good faith estimate of costs where actual costs are not available, signed by the executive officer, shall

be prima facie evidence of reasonable costs of investigation and prosecution of the case.

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

(d) The finding of the administrative law judge with regard to cost shall not be reviewable by the board to increase the cost award. The board may reduce or eliminate the cost award, or remand to the administrative law judge where the proposed decision fails to make a finding on costs requested by the executive officer pursuant to subdivision (a).

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

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

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

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

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

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

(2) Notwithstanding paragraph (1) or paragraph (2) of subdivision (g) of Section 125.3, the board may, in its discretion, conditionally renew or reinstate for a maximum of three years 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 three-year period for those unpaid costs.

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

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

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

SEC. 9. Section 6795 of the Business and Professions Code is amended to read:

6795. Certificates of registration as a professional engineer, and certificates of authority, shall be valid for a period of two years from the assigned date of renewal. Biennial renewals shall be staggered on a quarterly basis. To renew an unexpired certificate, the certificate holder shall, on or before the date of expiration indicated on the renewal receipt, apply for renewal on a form prescribed by the board, and pay the renewal fee prescribed by this chapter.

SEC. 10. Section 7011.8 of the Business and Professions Code is amended to read:

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

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

SEC. 11. Section 7076 of the Business and Professions Code is amended to read:

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

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

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

(c) A partnership license shall be canceled upon the disassociation of a general partner or upon the dissolution of the partnership. The disassociating

partner or the remaining partner or partners shall notify the registrar in writing within 90 days of the disassociation of a general partner or dissolution of the partnership. Failure to notify the registrar of the disassociation or dissolution within 90 days shall cause the license to be canceled effective the date the written notification is received at the board's headquarters office. Failure to notify the registrar within 90 days of the disassociation or dissolution is grounds for disciplinary action. The remaining general partner or partners may request a continuance of the license to complete projects contracted for or in progress prior to the date of disassociation or dissolution for a reasonable length of time to be determined by rules of the board. The request for a continuance must be made in writing and received at the board's headquarters office within 90 days after the disassociation or dissolution. The remaining general partner or partners must apply for and obtain a new license to undertake new work and to continue contracting after the continuance expires.

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

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

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

(e) The general partner or partners shall notify the registrar in writing within 90 days of the disassociation of a limited partner. Failure to notify the registrar of the disassociation, within 90 days, shall cause the disassociation to be effective the date the written notification is received at the board's headquarters office. Failure to notify the registrar within 90 days of the disassociation is grounds for disciplinary action.

The disassociation of a limited partner will not affect the partnership license unless the partnership license has only one limited partner. In this case, the license will be canceled upon the disassociation of the limited partner unless a new limited partner is added to the license within 90 days of the disassociation. If the license is canceled, the remaining general partner or partners may request a continuance of the license to complete projects contracted for or in progress prior to the date of disassociation for a reasonable amount of time to be determined by rules of the board. The request for a continuance must be made in writing and received at the board's headquarters office within 90 days after the disassociation. The remaining general partner or partners must apply for and obtain a new license to

undertake new work and to continue contracting after the continuance expires.

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

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

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

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

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

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

SEC. 12. Section 8741 of the Business and Professions Code is amended to read:

8741. (a) The first division of the examination shall test the applicant's fundamental knowledge of surveying, mathematics, and basic science. The board may prescribe by regulation reasonable educational or experience requirements including two years of postsecondary education in land surveying, two years of experience in land surveying, or a combination of postsecondary education and experience in land surveying totaling two years for admission to the first division of the examination. Applicants registered by the board as a California civil engineer are exempt from this division of the examination.

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

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

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

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

SEC. 13. Section 8762 of the Business and Professions Code is amended to read:

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

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

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

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

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

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

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

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

(d) (1) If the 90-day time limit contained in subdivision (c) cannot be complied with for reasons beyond the control of the licensed land surveyor or licensed civil engineer, the 90-day time period shall be extended until the time at which the reasons for delay are eliminated. If the licensed land surveyor or licensed civil engineer cannot comply with the 90-day time limit, he or she shall, prior to the expiration of the 90-day time limit, provide the county surveyor with a letter stating that he or she is unable to comply. The letter shall provide an estimate of the date for completion of the record of survey, the reasons for the delay, and a general statement as to the location of the survey, including the assessor’s parcel number or numbers.

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

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

(f) If the preparer of the record of survey provides a postage-paid, self-addressed envelope or postcard with the filing of the record of survey, the county recorder shall return the postage-paid, self-addressed envelope or postcard to the preparer of the record of survey with the filing data within

10 days of final filing. For the purposes of this subdivision, “filing data” includes the date, the book or volume, and the page at which the record of survey is filed with the county recorder.

SEC. 14. Section 8773 of the Business and Professions Code is amended to read:

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

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

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

SEC. 15. Section 9807 is added to the Business and Professions Code, to read:

9807. (a) Notwithstanding any other provision of law, a service dealer licensed under this chapter may install, calibrate, service, maintain, and monitor ignition interlock devices.

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

SEC. 16. Section 9880.2 of the Business and Professions Code is amended to read:

9880.2. The following persons are exempt from the requirement of registration:

(a) An employee of an automotive repair dealer if the employee repairs motor vehicles only as an employee.

(b) A person who solely engages in the business of repairing the motor vehicles of one or more commercial, industrial, or governmental establishments.

(c) A person who is registered pursuant to Chapter 20 (commencing with Section 9800) and whose work is limited to the installation or replacement of a motor vehicle radio, antenna, audio recorder, audio playback equipment, ignition interlock device, or burglar alarm.

(d) A person whose primary business is the wholesale supply of new or rebuilt automotive parts who solely engages in the remachining of individual automotive parts without compensation for warranty adjustments to those parts and who does not engage in repairing or diagnosing malfunctions of motor vehicles or motorcycles. “Primary business” means the business that

accounts for the majority of the company's gross sales. "Wholesale supply" means the sale, by a seller who possesses a California Resale Permit, of automotive parts to a retailer or jobber for the purpose of resale. However, a person described in this subdivision, prior to commencing work, shall do both of the following:

(1) Provide a notice containing the bureau's toll-free telephone number to the customer that the person is not regulated by the bureau.

(2) Provide a written description of the remachining services to be performed to the customer.

SEC. 17. Section 9882.14 of the Business and Professions Code is amended to read:

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

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

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

SEC. 18. Section 12012 of the Business and Professions Code is amended to read:

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

SEC. 19. Section 12012.1 of the Business and Professions Code is amended to read:

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

SEC. 20. Section 12024.11 of the Business and Professions Code is amended to read:

12024.11. The secretary shall adopt necessary rules and regulations pertaining to the sale or advertisement of wood for fuel purposes in order

to standardize quantities of measurement and to protect against deceptive marketing practices.

SEC. 21. Section 12027 of the Business and Professions Code is amended to read:

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

SEC. 22. Section 12104 of the Business and Professions Code is amended to read:

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

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

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

SEC. 23. Section 12104.5 of the Business and Professions Code is amended to read:

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

SEC. 24. Section 12105 of the Business and Professions Code is amended to read:

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

SEC. 25. Section 12106.5 of the Business and Professions Code is amended to read:

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

SEC. 26. Section 12107 of the Business and Professions Code is amended to read:

12107. The secretary shall establish tolerances and specifications and other technical requirements for commercial weighing and measuring. In doing so, the secretary shall adopt, by reference, the latest standards as

recommended by the National Conference on Weights and Measures and published in the National Institute of Standards and Technology Handbook 44 “Specifications, Tolerances, and other Technical Requirements for Weighing and Measuring Devices,” except as specifically modified, amended, or rejected by regulation adopted by the secretary.

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

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

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

SEC. 27. Section 12107.1 of the Business and Professions Code is amended to read:

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

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

SEC. 28. Section 12108 of the Business and Professions Code is amended to read:

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

SEC. 29. Section 12201 of the Business and Professions Code is amended to read:

12201. If from any cause a vacancy occurs in the office of county sealer, the secretary upon learning of the vacancy shall immediately transmit to the board of supervisors or other appointing power a list of persons licensed by him or her for the position. If the appointing power fails to appoint a county sealer within 60 days after the receipt of the list, the secretary shall appoint a county sealer from that list. A person holding the position of Deputy State Sealer shall be appointed the county sealer of weights and measures for, and an employee of, the county to which he or she is assigned.

The secretary shall issue to him or her a license that is valid only for the county he or she is serving. He or she shall become subject to this code.

SEC. 30. Section 12201.2 of the Business and Professions Code is amended to read:

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

SEC. 31. Section 12202 of the Business and Professions Code is amended to read:

12202. (a) The secretary shall cause to be examined persons desiring to become county sealers, deputy county sealers, or inspectors and shall adopt rules and regulations governing these examinations given for the purpose of determining the fitness, experience, and qualifications of candidates for these positions. The secretary may provide for inspectors qualified to be employed in designated categories. Successful candidates shall be given a license that shall be good for five years unless revoked. Licenses of incumbent county sealers, deputy county sealers, or inspectors shall be renewed upon expiration without further examination.

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

SEC. 32. Section 12203 of the Business and Professions Code is amended to read:

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

SEC. 33. Section 12205 of the Business and Professions Code is amended to read:

12205. For the purpose of receiving advice on the best and most efficacious methods of performing his or her duties and conducting his or her office, every county sealer serving in a county shall attend the annual meeting of the California Agricultural Commissioners and Sealers

Association and other meetings as the department or the board of supervisors requires.

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

SEC. 34. Section 12210.5 of the Business and Professions Code is amended to read:

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

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

SEC. 35. Section 12212 of the Business and Professions Code is amended to read:

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

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

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

(d) In counties where the secretary finds that the sealer, because of lack of equipment, is unable or fails to perform the tests as required herein, the secretary may enter into a contract with the board of supervisors of each of those counties to perform the tests. Those contracts shall provide that the county shall pay the cost of those services based upon a uniform schedule of fees developed by the secretary. The fee schedule shall be based on the approximate cost of performing those services. The contracts shall also provide that the secretary shall periodically render a bill to each county so served for the cost of services rendered, and the auditor of the county so billed shall pay the charge in the same manner in which other claims against the county are paid.

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

SEC. 36. Section 12214 of the Business and Professions Code is amended to read:

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

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

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

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

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

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

SEC. 37. Section 12314 of the Business and Professions Code is amended to read:

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

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

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

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

SEC. 38. Section 12500.5 of the Business and Professions Code is amended to read:

12500.5. The secretary by rules and regulations shall provide for submission for approval of types or designs of weights, measures, or weighing, measuring, or counting instruments or devices, used for commercial purposes, and shall issue certificates of approval of such types

or designs as he or she shall find to meet the requirements of this code and the tolerances and specifications thereunder.

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

SEC. 39. Section 12500.6 of the Business and Professions Code is amended to read:

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

The secretary may initiate proceedings pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code to determine whether the approval should be revoked or modified, and to determine the period of time that the owner or user of any accurate device for which type approval has been revoked or modified may continue to use that device for commercial purposes, pending the replacement or modification of the device.

SEC. 40. Section 12500.8 of the Business and Professions Code is amended to read:

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

SEC. 41. Section 12609 of the Business and Professions Code is amended to read:

12609. The secretary shall adopt necessary regulations to carry out the purpose of this division and for the testing of packages to verify the net quantity statements. In adopting these regulations, the secretary shall adopt by reference the packaging and labeling requirements recommended by the National Conference on Weights and Measures and published in the current edition of the National Institute of Standards and Technology Handbook 130, Uniform Packaging and Labeling Regulations, except insofar as those requirements are specifically modified, amended, or rejected by regulation by the secretary. The regulations shall include exemptions from full compliance with this chapter for good and sufficient reasons. Any exemptions affecting consumer commodities shall be in conformance with exemptions permitted by federal regulations. Any regulation, or amendment thereof, shall be adopted by the secretary in conformity with Chapter 3.5

(commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 42. Section 12610 of the Business and Professions Code is amended to read:

12610. The secretary may promulgate regulations similar to those promulgated by the United States Secretary of Health and Human Services or the Federal Trade Commission pursuant to the federal Fair Packaging and Labeling Act (Public Law 89-755; 80 Stat. 1296; 15 U.S.C. Secs. 1451-1461) effective to do the following:

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

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

SEC. 43. Section 12706 of the Business and Professions Code is amended to read:

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

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

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

SEC. 44. Section 12708 of the Business and Professions Code is amended to read:

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

SEC. 45. Section 12722 of the Business and Professions Code is amended to read:

12722. (a) In accordance with this chapter and regulations adopted by the secretary, any weighmaster may use a tare weight for a vehicle, container, or pallet that has been previously determined by a weighmaster. It is the responsibility of the party for whom the tare weight was established to maintain the tare weight within the variations prescribed by the secretary.

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

SEC. 46. Section 12723 of the Business and Professions Code is amended to read:

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

SEC. 47. Section 12727 of the Business and Professions Code is amended to read:

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

SEC. 48. Section 12735 of the Business and Professions Code is amended to read:

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

SEC. 49. Section 12736 of the Business and Professions Code is amended and renumbered to read:

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

SEC. 50. Section 13302 of the Business and Professions Code is repealed.

SEC. 51. Section 13403 of the Business and Professions Code is amended to read:

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

SEC. 52. Section 13440 of the Business and Professions Code is amended to read:

13440. (a) The department shall establish specifications for automotive spark-ignition engine fuels. The department shall adopt by reference the latest standards established by a recognized consensus organization or standards writing organization such as the ASTM International or the SAE International, for automotive spark-ignition engine fuel, except that no

specification shall be less stringent than required by any California state law.

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

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

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

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

(f) Notwithstanding any other provision of this section, gasoline sold for use in Inyo or Mono County, or the portion of Kern County lying east of the Los Angeles County Aqueduct, shall comply with the latest specification set forth in ASTM D 4814 relating to volatility class standards for the season during which the gasoline is sold for either the interior region or the southeast region of California, except that no specification shall be less stringent than is required by any California state law.

SEC. 53. Section 13450 of the Business and Professions Code is amended to read:

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

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

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

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

SEC. 54. Section 13460 of the Business and Professions Code is amended to read:

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

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

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

Viscosity Classification	Kinematic Viscosity (centistoke) by ASTM D445 at 100° C	Minimum Flash Degrees Fahrenheit
SAE 5W		305
SAE 10W		335
SAE 20W		345
SAE 20		345
SAE 30		355
SAE 40		375
SAE 50		400
SAE 60		435
Grade 70	26.1 to less than 31.7	470

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

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

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

SEC. 55. Section 13461 of the Business and Professions Code is amended to read:

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

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

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

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

SEC. 56. Section 13480 of the Business and Professions Code is amended to read:

13480. (a) It is unlawful for any person to sell any petroleum product referred to in this chapter at any place where petroleum products are kept or stored for sale, unless there is affixed to each container, receptacle, pump, dispenser, and inlet end of the fill pipe of each underground storage tank, from which or into which that product is drawn or poured out for sale or delivery, a sign or label plainly visible consisting of the name of the product, the brand, trademark, or trade name of the product, and, in the case of engine fuel and kerosene, the grade or brand name designation.

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

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

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

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

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

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

SEC. 57. Section 13710 of the Business and Professions Code is amended to read:

13710. (a) (1) The department shall establish specifications for engine coolants and antifreeze, and prediluted engine coolants and prediluted antifreeze that promote the public safety in the operation of motor vehicles.

(2) In addition to paragraph (1), if the ASTM International adopts standards for recycled engine coolants and antifreeze, the department, on or before January 1, 2002, shall establish specifications for recycled engine

coolants and antifreeze, and recycled prediluted engine coolants and antifreeze that promote the public safety in the operation of motor vehicles.

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

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

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

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

(d) Any manufacturer or packager of any product regulated by this chapter and sold in the state shall provide, upon request to duly authorized representatives of the department, documentation of any claim made upon their products' label.

SEC. 58. Sections 4.3, 4.5, and 4.7 of this bill incorporate amendments to Section 5072 of the Business and Professions Code proposed by both this bill and SB 1405. These sections shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2013, (2) each bill amends Section 5072 of the Business and Professions Code, and (3) this bill is enacted after SB 1405, in which case Section 4 of this bill shall not become operative.