

AMENDED IN SENATE AUGUST 13, 2014

AMENDED IN ASSEMBLY APRIL 24, 2014

AMENDED IN ASSEMBLY APRIL 10, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2740

Introduced by Assembly Member Bonilla
(Principal coauthor: Senator Lieu)

February 26, 2014

An act to amend ~~Section 9810~~ *Sections 9810, 9812.5, 9830.5, 9832.5, 9847.5, 9849, 9851, 9853, 9855.9, 9860, 9862.5, and 9863* of the Business and Professions Code, relating to consumer affairs.

LEGISLATIVE COUNSEL'S DIGEST

AB 2740, as amended, Bonilla. Bureau of Electronic and Appliance Repair, Home Furnishings, and Thermal Insulation.

Existing law, *the Electronic Appliance Repair Dealer Registration Law*, provides for the licensure and regulation of electronic appliance and repair dealers by the Bureau of Electronic and Appliance Repair, Home Furnishings, and Thermal Insulation and makes a failure to comply with its provisions of a crime. Existing law establishes the ~~Bureau of Electronic and Appliance Repair, Home Furnishings, and Thermal Insulation~~ bureau under the supervision and control of the Director of Consumer Affairs. Existing law requires the director to administer and enforce those provisions relating to the licensure and regulation of electronic and appliance repair service dealers and persons engaged in various businesses associated with home furnishings. ~~Existing~~ Under existing law requires the Governor is required to appoint

a chief of the bureau to serve under the direction and supervision of the director, as specified.

This bill would *extend the operation of the act to January 1, 2019, and would* require that the powers and duties of the bureau, as provided, be subject to review by the appropriate policy committees of the Legislature as if these provisions were scheduled to be repealed on January 1, 2019. *By extending the operation of some of these provisions, the violation of which is a crime, the bill would impose a state-mandated local program.*

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

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

1 SECTION 1. (a) The Legislature finds and declares all of the
2 following:

3 (1) The Bureau of Electronic and Appliance Repair, Home
4 Furnishings, and Thermal Insulation is within the Department of
5 Consumer Affairs, its mission is “to protect and serve consumers
6 while ensuring a competent and fair marketplace,” and its mandate
7 includes making protection of the public its highest priority in
8 exercising its licensing, regulatory, and disciplinary functions.

9 (2) The California Bureau of Home Furnishings and Thermal
10 Insulation was established in 1911 in Assembly Bill 547 (Ch. 73,
11 Stats. 1911) in response to unscrupulous manufacturing practices
12 in the mattress industry, which contributed to the fires following
13 the 1906 San Francisco earthquake.

14 (3) The California Bureau of Electronic and Appliance Repair
15 was established in 1963 under the Electronic and Appliance Repair
16 Dealer Registration Law in Senate Bill 1292 (Ch. 1492, Stats.
17 1963) in response to growing concerns to consumers and law
18 enforcement agencies about fraud and negligence in the television
19 repair industry.

1 (4) In 2009, Assembly Bill 20 (Chapter 18 of the Fourth
2 Extraordinary Session of the Statutes of 2009), officially merged
3 the Bureau of Home Furnishings and Thermal Insulation with the
4 Bureau of Electronic and Appliance Repair together to create the
5 Bureau of Electronic and Appliance Repair, Home Furnishings,
6 and Thermal Insulation.

7 (5) Today, the bureau licenses and regulates over 40,000
8 businesses, including businesses that engage in the repair of
9 electronics and appliances, the sale and administration of service
10 contracts, and the manufacture, sale, or maintenance of upholstered
11 home furnishings, bedding, and thermal insulation. In addition,
12 the bureau adopts regulations and ensures compliance with the
13 law; inspects businesses and conducts investigations; conducts
14 research on, develops standards for, and tests upholstered furniture,
15 bedding, and thermal insulation products to confirm they meet
16 specified standards; handles consumer complaints; and initiates
17 disciplinary action against businesses that violate statutory or
18 regulatory requirements.

19 (6) On March 10, 2014, the Assembly Business, Professions
20 and Consumer Protection Committee and the Senate Business,
21 Professions and Economic Development Committee (the
22 committees) held a joint oversight sunset hearing and prepared a
23 background paper on the bureau.

24 (7) While the hearing and the background paper found the
25 bureau in good standing, it also identified areas for followup and
26 requested the bureau to report back to the committees on specific
27 issues, which include all of the following:

28 (A) While the bureau is in good fiscal standing, its revenues are
29 projected to stay the same over the next few years and the cost of
30 doing business is projected to rise over time, potentially leading
31 to a long-term deficit. The bureau should report to the committees
32 any planned efforts to increase its revenues and reduce its
33 expenditures, and whether, or when, it might seek a statutory fee
34 increase in the future.

35 (B) For the 2013–14 fiscal year, the Bureau’s Electronic and
36 Appliance Repair Fund and the Home Furnishings and Thermal
37 Insulation Fund are expected to spend roughly 37 percent and 19
38 percent of their budgets, respectively, on the pro rata costs to the
39 department. The bureau should advise the committees about the
40 bases upon which pro rata costs are calculated, and whether it

1 could achieve cost savings by dealing with more of its consumer
2 complaints in-house.

3 (C) Currently, electronic and appliance repair and thermal
4 insulation licenses are renewed annually, and home furnishings
5 licenses are renewed biennially. The bureau should examine the
6 pros and cons of requiring biennial renewals instead of annual
7 license renewals for all licensees.

8 (D) In its last sunset review report in 1995, the department
9 studied both the electronic and appliance repair market and the
10 home furnishings and thermal insulation market to determine
11 whether regulatory activities were appropriate, necessary, and
12 should be continued, and recommended areas of deregulation and
13 areas to monitor in order to better target resources and evaluate
14 consumer risk and impact. The bureau should conduct market
15 condition assessments to study both of these markets and determine
16 if current statutes and regulations reflect the needs of the markets,
17 where risk to consumers is the greatest, where resources could be
18 refocused or expanded, and whether continued regulation is clearly
19 necessary across all segments of these markets.

20 (E) The bureau issues a separate furniture retailer license,
21 bedding retailer license, combination furniture and bedding retailer
22 license, sanitizer license, and custom upholsterer license. The
23 bureau may consider whether it should consolidate any of its
24 licenses, and whether it should continue to regulate, or issue,
25 stand-alone licenses to sanitizers and custom upholsterers.

26 (F) The bureau has reported high product failure rates, which
27 are primarily attributed to technical violations of flammability,
28 product labeling, and feather and down standards. The bureau
29 should reexamine its testing protocols to ensure that it has the
30 information it needs to appropriately identify areas of highest risk
31 to consumers, and reexamine its standards, especially feather and
32 down and product labeling standards, to determine if some
33 standards could be relaxed, presuming there is no appreciable
34 impact on consumer safety, whether standards should be clarified
35 or better advertised, or whether penalties for violations are too low
36 to act as a proper deterrent.

37 (G) The bureau is scheduled to go live on the department's
38 BreEZe system in late 2015. The bureau should update the
39 committees on the status of its implementation of BreEZe,

1 including whether the system will accommodate the bureau's
2 current and future needs.

3 (b) It is the intent of the Legislature that the bureau examine
4 and respond to the issues and recommendations specified in
5 subparagraphs (A) to (G), inclusive, of paragraph (7) of subdivision
6 (a) that were identified in the background paper, and report back
7 to the committees by ~~March 1, 2015~~, *July 1, 2015*, with its findings.

8 SEC. 2. Section 9810 of the Business and Professions Code is
9 amended to read:

10 9810. (a) There is in the Department of Consumer Affairs a
11 Bureau of Electronic and Appliance Repair, Home Furnishings,
12 and Thermal Insulation, under the supervision and control of the
13 director. The director shall administer and enforce the provisions
14 of this chapter and Chapter 3 (commencing with Section 19000)
15 of Division 8.

16 (b) The Governor shall appoint, subject to confirmation by the
17 Senate, a chief of the bureau at a salary to be fixed and determined
18 by the director with the approval of the Director of Finance. The
19 chief shall serve under the direction and supervision of the director
20 and at the pleasure of the Governor.

21 (c) Every power granted to or duty imposed upon the director
22 under this chapter and Chapter 3 (commencing with Section 19000)
23 of Division 8 may be exercised or performed in the name of the
24 director by a deputy or assistant director or by the chief, subject
25 to conditions and limitations that the director may prescribe.

26 (d) Whenever the laws of this state refer to the Bureau of
27 Electronic Repair Dealer Registration or the Bureau of Electronic
28 and Appliance Repair, the reference shall be construed to be to the
29 Bureau of Electronic and Appliance Repair, Home Furnishings,
30 and Thermal Insulation.

31 (e) Notwithstanding any other law, the powers and duties of the
32 Bureau of Electronic and Appliance Repair, Home Furnishings,
33 and Thermal Insulation, as set forth in this chapter and Chapter 3
34 (commencing with Section 19000) of Division 8, shall be subject
35 to review by the appropriate policy committees of the Legislature.
36 The review shall be performed as if this chapter and Chapter 3
37 (commencing with Section 19000) of Division 8 were scheduled
38 to be repealed on January 1, 2019.

39 SEC. 3. *Section 9812.5 of the Business and Professions Code*
40 *is amended to read:*

1 9812.5. The director shall gather evidence of violations of this
2 chapter and of any regulation established hereunder by any service
3 contractor, whether registered or not, and by any employee, partner,
4 officer, or member of any service contractor. The director shall,
5 on his or her own initiative, conduct spot check investigations of
6 service contractors throughout the state on a continuous basis. This
7 section shall remain in effect only until January 1, ~~2015~~, 2019, and
8 as of that date is repealed, unless a later enacted statute, that is
9 enacted before January 1, ~~2015~~, 2019, deletes or extends that date.

10 *SEC. 4. Section 9830.5 of the Business and Professions Code*
11 *is amended to read:*

12 9830.5. (a) Each service contractor shall pay the fee required
13 by this chapter for each place of business operated by him or her
14 in this state and shall register with the bureau upon forms
15 prescribed by the director. The forms shall contain sufficient
16 information to identify the service contractor, including name,
17 address, retail seller's permit number, if a permit is required under
18 the Sales and Use Tax Law (Part 1 (commencing with Section
19 6001) of Division 2 of the Revenue and Taxation Code), a copy
20 of the certificate of qualification as filed with the Secretary of State
21 if the service contractor is a foreign corporation, and other
22 identifying data to be prescribed by the bureau. If the business is
23 to be carried on under a fictitious name, that fictitious name shall
24 be stated. If the service contractor is a partnership, identifying data
25 shall be stated for each partner. If the service contractor is a private
26 company that does not file an annual report on Form 10-K with
27 the Securities and Exchange Commission, data shall be included
28 for each of the officers and directors of the company as well as for
29 the individual in charge of each place of the service contractor's
30 business in the State of California, subject to any regulations the
31 director may adopt. If the service contractor is a publicly held
32 corporation or a private company that files an annual report on
33 Form 10-K with the Securities and Exchange Commission, it shall
34 be sufficient for purposes of providing data for each of the officers
35 and directors of the corporation or company to file with the director
36 the most recent annual report on Form 10-K that is filed with the
37 Securities and Exchange Commission.

38 **A**

39 (b) A service contractor who does not operate a place of business
40 in this state but who sells, issues, or administers service contracts

1 in this state, shall hold a valid registration issued by the bureau
2 and shall pay the registration fee required by this chapter as if he
3 or she had a place of business in this state.

4 ~~This~~

5 (c) ~~This~~ section shall remain in effect only until January 1, ~~2015,~~
6 ~~2019,~~ and as of that date is repealed, unless a later enacted statute,
7 that is enacted before January 1, ~~2015,~~ ~~2019,~~ deletes or extends
8 that date.

9 *SEC. 5. Section 9832.5 of the Business and Professions Code*
10 *is amended to read:*

11 9832.5. (a) Registrations issued under this chapter shall expire
12 no more than 12 months after the issue date. The expiration date
13 of registrations shall be set by the director in a manner to best
14 distribute renewal procedures throughout the year.

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

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

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

25 (e) For purposes of implementing the distribution of the renewal
26 of registrations throughout the year, the director may extend, by
27 not more than six months, the date fixed by law for renewal of a
28 registration, except that, in that event, any renewal fee that may
29 be involved shall be prorated in such a manner that no person shall
30 be required to pay a greater or lesser fee than would have been
31 required had the change in renewal dates not occurred.

32 (f) This section shall remain in effect only until January 1, ~~2015,~~
33 ~~2019,~~ and as of that date is repealed, unless a later enacted statute,
34 which is enacted before January 1, ~~2015,~~ ~~2019,~~ deletes or extends
35 that date.

36 *SEC. 6. Section 9847.5 of the Business and Professions Code*
37 *is amended to read:*

38 9847.5. (a) Each service contractor shall maintain those
39 records as are required by the regulations adopted to carry out the
40 provisions of this chapter for a period of at least three years. These

1 records shall be open for reasonable inspection by the director or
2 other law enforcement officials.

3 ~~This~~

4 (b) *This* section shall remain in effect only until January 1, ~~2015~~,
5 2019, and as of that date is repealed, unless a later enacted statute,
6 that is enacted before January 1, ~~2015~~, 2019, deletes or extends
7 that date.

8 *SEC. 7. Section 9849 of the Business and Professions Code,*
9 *as amended by Section 99 of Chapter 332 of the Statutes of 2012,*
10 *is amended to read:*

11 9849. (a) The expiration of a valid registration shall not
12 deprive the director of jurisdiction to proceed with any
13 investigation or hearing on a cease and desist order against a service
14 dealer or service contractor or to render a decision to suspend,
15 revoke, or place on probation a registration.

16 ~~This~~

17 (b) *This* section shall remain in effect only until January 1, ~~2015~~,
18 2019, and as of that date is repealed, unless a later enacted statute,
19 that is enacted before January 1, ~~2015~~, 2019, deletes or extends
20 that date.

21 *SEC. 8. Section 9849 of the Business and Professions Code,*
22 *as amended by Section 100 of Chapter 332 of the Statutes of 2012,*
23 *is amended to read:*

24 9849. (a) The expiration of a valid registration shall not
25 deprive the director of jurisdiction to proceed with any
26 investigation or hearing on a cease and desist order against a service
27 dealer or to render a decision to suspend, revoke, or place on
28 probation a registration.

29 ~~This~~

30 (b) *This* section shall become operative on January 1, ~~2015~~.
31 2019.

32 *SEC. 9. Section 9851 of the Business and Professions Code,*
33 *as amended by Section 101 of Chapter 332 of the Statutes of 2012,*
34 *is amended to read:*

35 9851. (a) The superior court in and for the county wherein
36 any person carries on, or attempts to carry on, business as a service
37 dealer or service contractor in violation of the provisions of this
38 chapter, or any regulation thereunder, shall, on application of the
39 director, issue an injunction or other appropriate order restraining
40 that conduct.

1 The

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

7 This

8 (c) This section shall remain in effect only until January 1, ~~2015~~,
9 2019, and as of that date is repealed, unless a later enacted statute,
10 that is enacted before January 1, ~~2015~~, 2019, deletes or extends
11 that date.

12 SEC. 10. Section 9851 of the Business and Professions Code,
13 as amended by Section 102 of Chapter 332 of the Statutes of 2012,
14 is amended to read:

15 9851. (a) The superior court in and for the county wherein
16 any person carries on, or attempts to carry on, business as a service
17 dealer in violation of the provisions of this chapter, or any
18 regulation thereunder, shall, on application of the director, issue
19 an injunction or other appropriate order restraining that conduct.

20 The

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

26 This

27 (c) This section shall become operative on January 1, ~~2015~~.
28 2019.

29 SEC. 11. Section 9853 of the Business and Professions Code,
30 as amended by Section 103 of Chapter 332 of the Statutes of 2012,
31 is amended to read:

32 9853. (a) A plea or verdict of guilty or a conviction following
33 a plea of nolo contendere made to a charge substantially related
34 to the qualifications, functions, and duties of a service dealer or
35 service contractor is deemed to be a conviction within the meaning
36 of this article. The director may suspend, revoke, or place on
37 probation a registration, or may deny registration, when the time
38 for appeal has elapsed, or the judgment of conviction has been
39 affirmed on appeal or when an order granting probation is made
40 suspending the imposition of sentence, irrespective of a subsequent

1 order under Section 1203.4 of the Penal Code, allowing that person
2 to withdraw his or her plea of guilty and to enter a plea of not
3 guilty, or setting aside the verdict of guilty, or dismissing the
4 accusation, information, or indictment.

5 This

6 (b) This section shall remain in effect only until January 1, ~~2015,~~
7 2019, and as of that date is repealed, unless a later enacted statute,
8 that is enacted before January 1, ~~2015, 2019,~~ deletes or extends
9 that date.

10 SEC. 12. Section 9853 of the Business and Professions Code,
11 as amended by Section 104 of Chapter 332 of the Statutes of 2012,
12 is amended to read:

13 9853. (a) A plea or verdict of guilty or a conviction following
14 a plea of nolo contendere made to a charge substantially related
15 to the qualifications, functions, and duties of a service dealer is
16 deemed to be a conviction within the meaning of this article. The
17 director may suspend, revoke, or place on probation a registration,
18 or may deny registration, when the time for appeal has elapsed, or
19 the judgment of conviction has been affirmed on appeal or when
20 an order granting probation is made suspending the imposition of
21 sentence, irrespective of a subsequent order under Section 1203.4
22 of the Penal Code allowing that person to withdraw his or her plea
23 of guilty and to enter a plea of not guilty, or setting aside the verdict
24 of guilty, or dismissing the accusation, information, or indictment.

25 This

26 (b) This section shall become operative on January 1, ~~2015.~~
27 2019.

28 SEC. 13. Section 9855.9 of the Business and Professions Code
29 is amended to read:

30 9855.9. This article shall remain in effect only until January
31 1, ~~2018, 2019,~~ and as of that date is repealed, unless a later enacted
32 statute, that is enacted before January 1, ~~2018, 2019,~~ deletes or
33 extends that date.

34 SEC. 14. Section 9860 of the Business and Professions Code,
35 as amended by Section 105 of Chapter 332 of the Statutes of 2012,
36 is amended to read:

37 9860. (a) The director shall establish procedures for accepting
38 complaints from the public against any service dealer or service
39 contractor.

40 This

1 (b) *This* section shall remain in effect only until January 1, ~~2015~~,
2 2019, and as of that date is repealed, unless a later enacted statute,
3 that is enacted before January 1, ~~2015~~, 2019, deletes or extends
4 that date.

5 *SEC. 15. Section 9860 of the Business and Professions Code,*
6 *as amended by Section 106 of Chapter 332 of the Statutes of 2012,*
7 *is amended to read:*

8 9860. (a) The director shall establish procedures for accepting
9 complaints from the public against any service dealer.

10 ~~This~~

11 (b) *This* section shall become operative on January 1, ~~2015~~.
12 2019.

13 *SEC. 16. Section 9862.5 of the Business and Professions Code*
14 *is amended to read:*

15 9862.5. (a) If a complaint indicates a possible violation of
16 this chapter or of the regulations adopted pursuant to this chapter,
17 the director may advise the service contractor of the contents of
18 the complaint and, if the service contractor is so advised, the
19 director shall make a summary investigation of the facts after the
20 service contractor has had reasonable opportunity to reply thereto.

21 ~~This~~

22 (b) *This* section shall remain in effect only until January 1, ~~2015~~,
23 2019, and as of that date is repealed, unless a later enacted statute,
24 that is enacted before January 1, ~~2015~~, 2019, deletes or extends
25 that date.

26 *SEC. 17. Section 9863 of the Business and Professions Code,*
27 *as amended by Section 108 of Chapter 332 of the Statutes of 2012,*
28 *is amended to read:*

29 9863. (a) If, upon summary investigation, it appears probable
30 to the director that a violation of this chapter, or the regulations
31 thereunder, has occurred, the director, in his or her discretion, may
32 suggest measures that in the director's judgment would compensate
33 the complainant for the damages he or she has suffered as a result
34 of the alleged violation. If the service dealer or service contractor
35 accepts the director's suggestions and performs accordingly, the
36 director shall give that fact due consideration in any subsequent
37 disciplinary proceeding. If the service dealer or service contractor
38 declines to abide by the suggestions of the director, the director
39 may investigate further and may institute disciplinary proceedings
40 in accordance with the provisions of this chapter.

1 This

2 (b) This section shall remain in effect only until January 1, ~~2015,~~
3 2019, and as of that date is repealed, unless a later enacted statute,
4 that is enacted before January 1, ~~2015,~~ 2019, deletes or extends
5 that date.

6 SEC. 18. Section 9863 of the Business and Professions Code,
7 as amended by Section 109 of Chapter 332 of the Statutes of 2012,
8 is amended to read:

9 9863. (a) If, upon summary investigation, it appears probable
10 to the director that a violation of this chapter, or the regulations
11 thereunder, has occurred, the director, in his or her discretion, may
12 suggest measures that in the director’s judgment would compensate
13 the complainant for the damages he or she has suffered as a result
14 of the alleged violation. If the service dealer accepts the director’s
15 suggestions and performs accordingly, the director shall give that
16 fact due consideration in any subsequent disciplinary proceeding.
17 If the service dealer declines to abide by the suggestions of the
18 director, the director may investigate further and may institute
19 disciplinary proceedings in accordance with the provisions of this
20 chapter.

21 This

22 (b) This section shall become operative on January 1, ~~2015.~~
23 2019.

24 SEC. 19. No reimbursement is required by this act pursuant
25 to Section 6 of Article XIII B of the California Constitution because
26 the only costs that may be incurred by a local agency or school
27 district will be incurred because this act creates a new crime or
28 infraction, eliminates a crime or infraction, or changes the penalty
29 for a crime or infraction, within the meaning of Section 17556 of
30 the Government Code, or changes the definition of a crime within
31 the meaning of Section 6 of Article XIII B of the California
32 Constitution.

O