

## MEMORANDUM

<b>DATE</b>	May 4, 2017
<b>TO</b>	Policy and Advocacy Committee
<b>FROM</b>	 Konnor Leitzell Central Services Student Assistant
<b>SUBJECT</b>	Agenda Item #6(c)(42) – SB 247 (Moorlach) Professions and Vocations: License Requirement: Business: Surety Bond Requirement

### **Background:**

This bill would specify that a city, county, or city and county may not impose any licensing requirement or fee on any profession or vocation if that profession or vocation is not already subject to a city, county, or city and county licensing requirement or fee; but the city, county, or city and county may continue to regulate any profession or vocation that is subject to its licensing requirement or fee. This bill would also make other changes to the licensing laws for various other boards and bureaus under the Department of Consumer Affairs.

Previously this bill was a Spot bill that declared the intent of the Legislature to enact legislation that would reduce occupational licensing requirements within Department of Consumer Affairs' boards and/or bureaus.

**Location:** Senate Committee on Judiciary

**Status:** 4/18/2017 Set for hearing in Senate Committee on Judiciary pending receipt from Senate Committee on Business, Profession, and Economic Development.

**Votes:** 4/24/17 Senate Committee on Business, Professions and Economic Development (9-0-0) Reconsideration Granted  
 4/24/17 Senate Committee on Business, Professions and Economic Development (2-6-1)

### **Action Requested:**

No action is required at this time. Staff will be removing SB 247 (Moorlach) from its watch list as the bill does not impact the Board of Psychology or its licensees.

Attachment A: SB 247 (Moorlach) Text


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**SB-247 Professions and vocations: license requirement: business: surety bond requirement.** (2017-2018)

**SECTION 1.** *The Legislature finds and declares as follows:*

(a) *Occupational licensing laws are important tools that, when used correctly, help protect public health and safety. Many current laws, however, do little to help public health or safety and result in barriers to entry that prevent people from making a living in their chosen occupation.*

(b) *The Little Hoover Commission and the President Obama White House both released recent reports that recognized the need for extensive reform to these anticompetitive laws.*

(c) *This act is consistent with recommendations to reduce barriers to entry into occupations that do not pose a significant risk to public health and safety. Thus, this act allows hard-working Californians to enter occupations without first having to comply with prohibitively expensive licensing and education requirements that serve no public good.*

**SEC. 2.** *Section 460.5 is added to the Business and Professions Code, to read:*

**460.5.** (a) *Notwithstanding any other law, on or after January 1, 2018, a city, county, or city and county may not impose any licensing requirement or fee on any profession or vocation if that profession or vocation is not already subject to a city, county, or city and county licensing requirement or fee on January 1, 2018, but the city, county, or city and county may continue to regulate any profession or vocation that is subject to its licensing requirement or fee on January 1, 2018.*

(b) *Except as provided in subdivision (a), it is the intention of the Legislature to occupy the whole field of the licensure and regulation of professions and vocations.*

**SEC. 3.** *Section 655.2 of the Business and Professions Code is amended to read:*

**655.2.** (a) (1) No physician and surgeon or medical corporation licensed under Chapter 5 (commencing with Section 2000), nor any audiologist who is not a licensed dispensing audiologist or hearing aid dispenser shall employ any individual ~~licensed pursuant to~~ *described in* Article 8 (commencing with Section 2538.10) of Chapter 5.3 for the purpose of fitting or selling hearing aids.

(2) No individual ~~licensed pursuant to~~ *described in* Article 8 (commencing with Section 2538.10) of Chapter 5.3 shall employ any physician and surgeon or any audiologist who is not a licensed dispensing audiologist or *a* hearing aid dispenser, or contract with a medical corporation licensed under Chapter 5 (commencing with Section 2000), for the purpose of fitting or selling hearing aids.

(b) This section shall not apply to any physician and surgeon or medical corporation that contracts with or is affiliated with a comprehensive group practice health care service plan licensed pursuant to the Knox-Keene Health Care Service Plan Act, as set forth in Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code.

**SEC. 4.** *Section 2538.10 of the Business and Professions Code is amended to read:*

**2538.10.** For the purposes of this article, the following definitions shall apply:

(a) "Advertise" and its variants include the use of a newspaper, magazine, or other publication, book, notice, circular, pamphlet, letter, handbill, poster, bill, sign, placard, card, label, tag, window display, store sign, radio, or television announcement, or any other means or methods now or hereafter employed to bring to the attention of the public the practice of fitting or selling of hearing aids.

~~(b) "License" means a hearing aid dispenser's license issued pursuant to this article and includes a temporary~~

license-

~~(c) "Licensee" means a person holding a license.~~

~~(d) (b)~~ "Hearing aid" means any wearable instrument or device designed for, or offered for the purpose of, aiding or compensating for impaired human hearing.

~~(e) (c)~~ "Fund" means the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Fund.

**SEC. 5.** *Section 2538.12 of the Business and Professions Code is amended to read:*

**2538.12.** A ~~licensee- hearing aid dispenser~~ may conduct hearing screenings at a health fair or similar event by the application of a binary puretone screening at a preset intensity level for the purpose of identifying the need for further hearing or medical evaluation.

Upon the conclusion of each hearing screening, the ~~licensee- hearing aid dispenser~~ shall present to the person whose hearing was screened a written statement containing the following provisions:

"Results of a hearing screening are not a medical evaluation of your ear nor a diagnosis of a hearing disorder but are only the identification of the need for further medical or hearing evaluation."

A ~~licensee- hearing aid dispenser~~ conducting hearing screenings pursuant to this section shall not make or seek referrals for testing, fitting, or dispensing of hearing aids.

**SEC. 6.** *Section 2538.16 of the Business and Professions Code is amended to read:*

**2538.16.** The board shall keep a record of all prosecutions for violations of this ~~article and of all examinations held for applicants for licenses together with the names and addresses of all persons taking examinations and of their success or failure to pass them.~~ *article.*

**SEC. 7.** *Section 2538.17 of the Business and Professions Code is repealed.*

~~**2538.17.** The board may recommend the preparation of and administration of a course of instruction concerned with the fitting and selection of hearing aids. The board may require applicants to first complete the required course of instruction or otherwise satisfy the board that the applicant possesses the necessary background and qualifications to fit or sell hearing aids. If the board promulgates regulations to implement this section to require a course of instruction concerned with fitting and selling hearing aids, the board shall obtain the advice of persons knowledgeable in the preparation and administration of a course of instruction.~~

~~The board may publish and distribute information concerning the examination requirements for obtaining a license to engage in the practice of fitting and selling hearing aids within this state.~~

**SEC. 8.** *Section 2538.18 of the Business and Professions Code is amended to read:*

**2538.18.** All ~~holders of licenses to sell or fit hearing aids-~~ *hearing aid dispensers* shall continue their ~~education after receiving the license-~~ *education*. The board shall provide by ~~regulation, as a condition to the renewal of a license, that licensees-~~ *regulation that hearing aid dispensers* shall submit documentation satisfactory to the board that they have informed themselves of current practices related to the fitting of hearing aids by having pursued courses of study satisfactory to the board or by other means defined as equivalent by the board.

Continuing education courses shall be subject to monitoring to ensure compliance with the regulations adopted by the board pursuant to this section.

**SEC. 9.** *Section 2538.19 of the Business and Professions Code is amended to read:*

**2538.19.** (a) The board may prosecute any and all persons for any violation of this article.

(b) The board shall hear and decide all ~~matters, including, but not limited to, any contested case or any petition for reinstatement or modification of probation, or-~~ *matters or* may assign any of those matters to an administrative law judge in accordance with the Administrative Procedure Act. Except as otherwise provided in this chapter, all hearings shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

~~**SEC. 3.**~~ **SEC. 10.** *Section 2538.20 of the Business and Professions Code is repealed.*

~~2538.20. It is unlawful for an individual to engage in the practice of fitting or selling hearing aids, or to display a sign or in any other way to advertise or hold himself or herself out as being so engaged without having first obtained a license from the board under the provisions of this article. Nothing in this article shall prohibit a corporation, partnership, trust, association or other like organization maintaining an established business address from engaging in the business of fitting or selling, or offering for sale, hearing aids at retail without a license, provided that any and all fitting or selling of hearing aids is conducted by the individuals who are licensed pursuant to the provisions of this article. A person whose license as a hearing aid dispenser has been suspended or revoked shall not be the proprietor of a business that engages in the practice of fitting or selling hearing aids nor shall that person be a partner, shareholder, member, or fiduciary in a partnership, corporation, association, or trust that maintains or operates that business, during the period of the suspension or revocation. This restriction shall not apply to stock ownership in a corporation that is listed on a stock exchange regulated by the Securities and Exchange Commission if the stock is acquired in a transaction conducted through that stock exchange.~~

**SEC. 11.** *Section 2538.23 of the Business and Professions Code is amended to read:*

**2538.23.** (a) Hearing aids may be sold by catalog or direct mail provided that:

(1) The seller is ~~licensed as~~ a hearing aid dispenser in this state.

(2) There is no fitting, selection, or adaptation of the instrument and no advice is given with respect to fitting, selection, or adaptation of the instrument and no advice is given with respect to the taking of an ear impression for an earmold by the seller.

(3) The seller has received a statement which is signed by a physician and ~~surgeon, audiologist, or a hearing aid dispenser, surgeon~~ licensed by the State of ~~California~~ *California, audiologist licensed by the State of California, or a hearing aid dispenser*, which verifies that Section 2538.36 ~~and subdivision (b) of Section 2538.49 have~~ *has* been complied with.

(b) A copy of the statement referred to in paragraph (3) of subdivision (a) shall be retained by the seller for the period provided for in Section 2538.38.

(c) A ~~licensed~~ hearing aid dispenser who sells a hearing aid under this section shall not be required to comply with subdivision (b) of Section 2538.49.

**SEC. 12.** *Section 2538.24 of the Business and Professions Code is repealed.*

~~2538.24. Each person desiring to obtain a license to engage in the practice of fitting or selling hearing aids shall make application to the board. The application shall be made upon a form and shall be made in the manner as is provided by the board and shall be accompanied by the fee provided for in Section 2538.57.~~

**SEC. 13.** *Section 2538.25 of the Business and Professions Code is repealed.*

~~2538.25. (a) The board shall prepare, approve, grade, and conduct examinations of applicants for a hearing aid dispenser's license. The board may provide that the preparation and grading of the examination be conducted by a competent person or organization other than the board, provided, however, that the board shall establish the guidelines for the examination and shall approve the actual examination.~~

~~(b) Each applicant shall take and pass a written examination and a practical examination compiled at the direction of the board covering the critical tasks involved in the practice of fitting and selling hearing aids and the knowledge, skills, and abilities needed to perform those tasks safely and competently.~~

**SEC. 14.** *Section 2538.26 of the Business and Professions Code is repealed.*

~~2538.26. The board shall issue a license to all applicants who have satisfied this chapter, who are at least 18 years of age, who possess a high school diploma or its equivalent, who have not committed acts or crimes constituting grounds for denial of licensure under Section 480, and who have paid the fees provided for in Section 2538.57. No license shall be issued to any person other than an individual.~~

**SEC. 15.** *Section 2538.27 of the Business and Professions Code is repealed.*

~~2538.27. (a) An applicant who has fulfilled the requirements of Section 2538.24 and has made application therefor, may have a temporary license issued to him or her upon satisfactory proof to the board that the applicant holds a hearing aid dispenser's license in another state, that the licensee has not been subject to formal disciplinary action by another licensing authority, and that the applicant has been engaged in the fitting and sale of hearing~~

~~aids for the two years immediately prior to application.~~

~~(b) A temporary license issued pursuant to this section shall be valid for one year from date of issuance and is not renewable. A temporary license shall automatically terminate upon issuance of a license prior to expiration of the one-year period.~~

~~(c) The holder of a temporary license issued pursuant to this section who fails either license examination shall be subject to and shall comply with the supervision requirements of Section 2538.28 and any regulations adopted pursuant thereto.~~

**SEC. 16.** *Section 2538.28 of the Business and Professions Code is repealed.*

~~**2538.28.** (a) An applicant who has fulfilled the requirements of Section 2538.24, and has made application therefor, and who proves to the satisfaction of the board that he or she will be supervised and trained by a hearing aid dispenser who is approved by the board may have a temporary license issued to him or her. The temporary license shall entitle the temporary licensee to fit or sell hearing aids as set forth in regulations of the board. The supervising dispenser shall be responsible for any acts or omissions committed by a temporary licensee under his or her supervision that may constitute a violation of this chapter.~~

~~(b) The board shall adopt regulations setting forth criteria for its refusal to approve a hearing aid dispenser to supervise a temporary licensee, including procedures to appeal that decision.~~

~~(c) A temporary license issued pursuant to this section is effective and valid for six months from date of issue. The board may renew the temporary license for an additional period of six months. Except as provided in subdivision (d), the board shall not issue more than two renewals of a temporary license to any applicant. Notwithstanding subdivision (d), if a temporary licensee who is entitled to renew a temporary license does not renew the temporary license and applies for a new temporary license at a later time, the new temporary license shall only be issued and renewed subject to the limitations set forth in this subdivision.~~

~~(d) A new temporary license may be issued pursuant to this section if a temporary license issued pursuant to subdivision (c) has lapsed for a minimum of three years from the expiration or cancellation date of the previous temporary license. The bureau may issue only one new temporary license under this subdivision.~~

**SEC. 17.** *Section 2538.29 of the Business and Professions Code is repealed.*

~~**2538.29.** A temporary licensee under Section 2538.28 shall take the license examination within the first 10 months after the temporary license is issued. Failure to take the license examination within that time shall result in expiration of the temporary license, and it shall not be renewed unless the temporary licensee has first taken the licensure examination. The board, however, may in its discretion renew the temporary license if the licensee failed to take the necessary examination due to illness or other hardship.~~

**SEC. 18.** *Section 2538.30 of the Business and Professions Code is repealed.*

~~**2538.30.** (a) A temporary licensee shall not be the sole proprietor of, manage, or independently operate a business which engages in the fitting or sale of hearing aids.~~

~~(b) A temporary licensee shall not advertise or otherwise represent that he or she holds a license as a hearing aid dispenser.~~

**SEC. 19.** *Section 2538.31 of the Business and Professions Code is repealed.*

~~**2538.31.** Practical examinations shall be held by the board at least twice a year. The time and place of any practical examination shall be fixed by the board at least 45 days prior to the date it is to be held.~~

**SEC. 20.** *Section 2538.32 of the Business and Professions Code is repealed.*

~~**2538.32.** Every applicant who obtains a passing score determined by the Angoff criterion-referenced method of establishing the point in each examination shall be deemed to have passed that examination. An applicant shall pass the written examination before he or she may take the practical examination. An applicant shall obtain a passing score on both the written and the practical examination in order to be issued a license.~~

**SEC. 21.** *Section 2538.33 of the Business and Professions Code is amended to read:*

**2538.33.** (a) Before engaging in the practice of fitting or selling hearing aids, each ~~licensee~~ *hearing aid dispenser*

shall notify the board in writing of the address or addresses where he or she is to engage, or intends to engage, in the practice of fitting or selling hearing aids, and of any changes in his or her place of business within 30 days of engaging in that practice.

(b) If a street address is not the address at which the ~~licensee- hearing aid dispenser~~ receives mail, the ~~licensee hearing aid dispenser~~ shall also notify the board in writing of the mailing address for each location where the ~~licensee- hearing aid dispenser~~ is to engage, or intends to engage, in the practice of fitting or selling hearing aids, and of any change in the mailing address of his or her place or places of business.

**SEC. 22.** *Section 2538.34 of the Business and Professions Code is amended to read:*

**2538.34.** (a) Every ~~licensee- hearing aid dispenser~~ who engages in the practice of fitting or selling hearing aids shall have and maintain an established retail business address to engage in that fitting or selling, routinely open for service to customers or clients. The address of the ~~licensee's- hearing aid dispenser's~~ place of business shall be registered with the ~~bureau board~~ as provided in Section 2538.33.

(b) Except as provided in subdivision (c), if a ~~licensee- hearing aid dispenser~~ maintains more than one place of business within this state, he or she shall apply for and procure a duplicate license for each branch office maintained. The application shall state the name of the person and the location of the place or places of business for which the duplicate license is desired.

(c) A hearing aid dispenser ~~may, without obtaining a duplicate license for a branch office,~~ ~~may~~ engage on a temporary basis in the practice of fitting or selling hearing aids at the primary or branch location of another ~~licensee's- hearing aid dispenser's~~ business or at a location or facility that he or she may use on a temporary basis, provided that the hearing aid dispenser notifies the board in advance in writing of the dates and addresses of those businesses, locations, or facilities at which he or she will engage in the practice of fitting or selling hearing aids.

**SEC. 23.** *Section 2538.35 of the Business and Professions Code is amended to read:*

**2538.35.** A ~~licensee- hearing aid dispenser~~ shall, upon the consummation of a sale of a hearing aid, deliver to the purchaser a written receipt, signed by or on behalf of the ~~licensee,- hearing aid dispenser,~~ containing all of the following:

(a) The date of consummation of the sale.

(b) Specifications as to the make, serial number, and model number of the hearing aid or aids sold.

(c) The address of the principal place of business of the ~~licensee,- hearing aid dispenser,~~ and the address and office hours at which the ~~licensee- hearing aid dispenser~~ shall be available for fitting or postfitting adjustments and servicing of the hearing aid or aids sold.

(d) A statement to the effect that the aid or aids delivered to the purchaser are used or reconditioned, as the case may be, if that is the fact.

~~(e) The number of the licensee's license and the name and license number of any other hearing aid dispenser or temporary licensee who provided any recommendation or consultation regarding the purchase of the hearing aid.~~

~~(f)~~ (e) The terms of any guarantee or written warranty, required by Section 1793.02 of the Civil Code, made to the purchaser with respect to the hearing aid or hearing aids.

**SEC. 24.** *Section 2538.36 of the Business and Professions Code is amended to read:*

**2538.36.** (a) Whenever any of the following conditions are found to exist either from observations by the ~~licensee hearing aid dispenser~~ or on the basis of information furnished by the prospective hearing aid user, a ~~licensee hearing aid dispenser~~ shall, prior to fitting or selling a hearing aid to any individual, suggest to that individual in writing that his or her best interests would be served if he or she would consult a licensed physician specializing in diseases of the ear or if no such licensed physician is available in the community then to a duly licensed physician:

(1) Visible congenital or traumatic deformity of the ear.

(2) History of, or active drainage from the ear within the previous 90 days.

(3) History of sudden or rapidly progressive hearing loss within the previous 90 days.



- (4) Acute or chronic dizziness.
- (5) Unilateral hearing loss of sudden or recent onset within the previous 90 days.
- (6) Significant air-bone gap (when generally acceptable standards have been established).
- (7) Visible evidence of significant cerumen accumulation or a foreign body in the ear canal.
- (8) Pain or discomfort in the ear.

(b) No referral for medical opinion need be made by any ~~licensee~~ *hearing aid dispenser* in the instance of replacement only of a hearing aid that has been lost or damaged beyond repair within one year of the date of purchase. A copy of the written recommendation shall be retained by the ~~licensee~~ *hearing aid dispenser* for the period provided for in Section 2538.38. A person receiving the written recommendation who elects to purchase a hearing aid shall sign a receipt for the same, and the receipt shall be kept with the other papers retained by the ~~licensee~~ *hearing aid dispenser* for the period provided for in Section 2538.38. Nothing in this section required to be performed by a ~~licensee~~ *hearing aid dispenser* shall mean that the ~~licensee~~ *hearing aid dispenser* is engaged in the diagnosis of illness or the practice of medicine or any other activity prohibited by the provisions of this code.

**SEC. 25.** *Section 2538.37 of the Business and Professions Code is amended to read:*

**2538.37.** No hearing aid shall be sold by ~~an individual licensed under this chapter,~~ *a hearing aid dispenser*, to a person 16 years of age or younger, unless within the preceding six months a recommendation for a hearing aid has been made by both a board-certified, or a board-eligible physician specializing in otolaryngology, and by a state licensed audiologist. A replacement of an identical hearing aid within one year shall be an exception to this requirement.

**SEC. 26.** *Section 2538.38 of the Business and Professions Code is amended to read:*

**2538.38.** A ~~licensee~~ *hearing aid dispenser* shall, upon the consummation of a sale of a hearing aid, keep and maintain records in his or her office or place of business at all times and each record shall be kept and maintained for a seven-year period. All records related to the sale and fitting of hearing aids shall be open to inspection by the bureau or its authorized representatives upon reasonable notice. The records kept shall include:

- (a) Results of test techniques as they pertain to fitting of the hearing aid.
- (b) A copy of the written receipt required by Section 2538.35 and the written recommendation and receipt required by Section 2538.36 when applicable.
- (c) Records of maintenance or calibration of equipment used in the practice of fitting or selling hearing aids.

**SEC. 27.** *Section 2538.39 of the Business and Professions Code is amended to read:*

**2538.39.** A hearing aid dispenser who is the owner, manager, or franchisee at a location where hearing aids are fit or sold, shall be responsible for the adequacy of the fitting or selling of any hearing aid fit and sold by any ~~licensee or licensees~~ *hearing aid dispenser* at that location.

**SEC. 28.** *Section 2538.40 of the Business and Professions Code is repealed.*

~~2538.40. Upon denial of an application for license, the board shall notify the applicant in writing, stating (1) the reason for the denial and (2) that the applicant has a right to a hearing under Section 2533.2 if he or she makes written request therefor within 60 days after notice of denial. Service of the notice required by this section may be made by certified mail addressed to the applicant at the latest address filed by the applicant in writing with the board in his or her application or otherwise.~~

**SEC. 29.** *Section 2538.41 of the Business and Professions Code is repealed.*

~~2538.41. Before setting aside the revocation or suspension of any license or modifying the probation of any licensee, the board may require the petitioner to pass the regular examination given for applicants for licenses.~~

**SEC. 30.** *Section 2538.42 of the Business and Professions Code is repealed.*

~~2538.42. Any person who violates any of the provisions of this article is guilty of a misdemeanor and, upon conviction thereof, shall be punished by imprisonment in the county jail for not less than 10 days nor more than~~

~~one year, or by a fine of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000), or by both such fine and imprisonment.~~

**SEC. 31.** *Section 2538.43 of the Business and Professions Code is repealed.*

~~2538.43. It is unlawful to sell or barter, or offer to sell or barter, any license issued by the board.~~

**SEC. 32.** *Section 2538.44 of the Business and Professions Code is repealed.*

~~2538.44. It is unlawful to purchase or procure by barter any license issued by the board with intent to use the same as evidence of the holder's qualification to practice the fitting or selling of hearing aids.~~

**SEC. 33.** *Section 2538.45 of the Business and Professions Code is repealed.*

~~2538.45. It is unlawful to alter with fraudulent intent in any material regard a license issued by the board.~~

**SEC. 34.** *Section 2538.46 of the Business and Professions Code is repealed.*

~~2538.46. It is unlawful to use or attempt to use any license issued by the board that has been purchased, fraudulently issued, counterfeited, or materially altered as a valid license.~~

**SEC. 35.** *Section 2538.47 of the Business and Professions Code is repealed.*

~~2538.47. It is unlawful to willfully make any false statement in a material regard in an application for an examination before the board for a license.~~

**SEC. 36.** *Section 2538.48 of the Business and Professions Code is repealed.*

~~2538.48. It is unlawful to engage in the practice of fitting or selling hearing aids in this state without having at the time of so doing a valid, unrevoked, and unexpired license or temporary license.~~

**SEC. 37.** *Section 2538.49 of the Business and Professions Code is amended to read:*

**2538.49.** It is unlawful for a ~~licensed~~ hearing aid dispenser to fit or sell a hearing aid unless he or she first does all of the following:

- (a) Complies with all provisions of state laws and regulations relating to the fitting or selling of hearing aids.
- (b) Conducts a direct observation of the purchaser's ear canals.
- (c) Informs the purchaser of the address and office hours at which the ~~licensee~~ *hearing aid dispenser* shall be available for fitting or postfitting adjustments and servicing of the hearing aid or aids sold.

**SEC. 38.** *Section 2538.50 of the Business and Professions Code is repealed.*

~~2538.50. It is unlawful to advertise by displaying a sign or otherwise or hold himself or herself out to be a person engaged in the practice of fitting or selling hearing aids without having at the time of so doing a valid, unrevoked license or temporary license.~~

**SEC. 39.** *Section 2538.51 of the Business and Professions Code is amended to read:*

**2538.51.** It is unlawful to engage in the practice of fitting or selling hearing aids without the ~~licensee~~ *hearing aid dispenser* having and maintaining an established business address, routinely open for service to his or her clients.

**SEC. 40.** *Section 2538.52 of the Business and Professions Code is amended to read:*

**2538.52.** When tests are conducted by ~~persons licensed~~ *hearing aid dispensers* under this article in connection with the fitting and selling of hearing aids, the provisions of this article shall apply.

**SEC. 41.** *Section 2538.53 of the Business and Professions Code is repealed.*

~~2538.53. (a) A license issued under this article expires at midnight on its assigned renewal date.~~

~~(b) To renew an unexpired license, the licensee shall, on or before the date of expiration of the license, apply for~~



~~renewal on a form provided by the board, accompanied by the prescribed renewal fee.~~

~~(c) Temporary license holders shall renew their licenses in accordance with Section 2538.27, and apply for that renewal on a form provided by the board, accompanied by the prescribed renewal fee for temporary licenses.~~

~~(d) Each duplicate license issued for a branch office shall expire on the same date as the permanent license of the hearing aid dispenser to whom the duplicate license was issued. These duplicate licenses shall be renewed according to subdivision (b).~~

**SEC. 42.** *Section 2538.54 of the Business and Professions Code is repealed.*

~~**2538.54.** Except as otherwise provided in this article, an expired license may be renewed at any time within three years after its expiration on filing of an application for renewal on a form prescribed by the board, and payment of all accrued and unpaid renewal fees. If the license is renewed after its expiration the licensee, as a condition precedent to renewal, shall also pay the delinquency fee prescribed by this article. Renewal under this section shall be effective on the date on which the application is filed, on the date on which the renewal fee is paid, or on the date on which the delinquency fee, if any, is paid, whichever last occurs. If so renewed, the license shall continue in effect through the date provided in Section 2538.53 which next occurs after the effective date of the renewal, when it shall expire if it is not again renewed.~~

**SEC. 43.** *Section 2538.55 of the Business and Professions Code is repealed.*

~~**2538.55.** A license which has been suspended is subject to expiration and shall be renewed as provided in this article but such renewal does not entitle the holder of the license, while it remains suspended and until it is reinstated, to engage in the fitting or selling of hearing aids, or in any other activity or conduct in violation of the order or judgment by which the license was suspended. A license which has been revoked is subject to expiration, but it may not be renewed. If it is reinstated after its expiration, the licensee, as a condition precedent to its reinstatement, shall pay a reinstatement fee in an amount equal to the renewal fee in effect on the last regular renewal date before the date on which it is reinstated, plus the delinquency fee, if any, accrued at the time of its revocation.~~

**SEC. 44.** *Section 2538.56 of the Business and Professions Code is repealed.*

~~**2538.56.** A license that is not renewed within three years after its expiration may not be renewed, restored, reissued, or reinstated thereafter, but the holder of the expired license may apply for and obtain a new license if all of the following apply:~~

~~(a) He or she has not committed acts or crimes constituting grounds for denial of licensure under Section 480.~~

~~(b) He or she pays all the fees that would be required of him or her if he or she were then applying for a license for the first time.~~

~~(c) He or she takes and passes the examination that would be required of him or her if he or she were then applying for a license for the first time, or otherwise establishes to the satisfaction of the board that he or she is qualified to engage in the practice of fitting or selling hearing aids. The board may, by regulation, provide for the waiver or refund of all or any part of the application fee in those cases in which a license is issued without an examination under this section.~~

**SEC. 45.** *Section 2538.57 of the Business and Professions Code is repealed.*

~~**2538.57.** The amount of fees and penalties prescribed by this article shall be those set forth in this section unless a lower fee is fixed by the board:~~

~~(a) The fee for applicants applying for the first time for a license is seventy-five dollars (\$75), which shall not be refunded, except to applicants who are found to be ineligible to take an examination for a license. Those applicants are entitled to a refund of fifty dollars (\$50).~~

~~(b) The fees for taking or retaking the written and practical examinations shall be amounts fixed by the board, which shall be equal to the actual cost of preparing, grading, analyzing, and administering the examinations.~~

~~(c) The initial temporary license fee is one hundred dollars (\$100). The fee for renewal of a temporary license is one hundred dollars (\$100) for each renewal.~~

~~(d) The initial permanent license fee is two hundred eighty dollars (\$280). The fee for renewal of a permanent~~

~~license is not more than two hundred eighty dollars (\$280) for each renewal.~~

~~(e) The initial branch office license fee is twenty-five dollars (\$25). The fee for renewal of a branch office license is twenty-five dollars (\$25) for each renewal.~~

~~(f) The delinquency fee is twenty-five dollars (\$25).~~

~~(g) The fee for issuance of a replacement license is twenty-five dollars (\$25).~~

~~(h) The continuing education course approval application fee is fifty dollars (\$50).~~

~~(i) The fee for official certification of licensure is fifteen dollars (\$15).~~

**SEC. 46.** *Section 2539.1 of the Business and Professions Code is amended to read:*

**2539.1.** (a) (1) On and after January 1, 2010, in addition to satisfying the licensure and examination requirements described in Sections 2532 and 2532.2, no licensed audiologist shall sell hearing aids unless he or she completes an application for a dispensing audiology license, pays all applicable fees, and passes an examination, approved by the board, relating to selling hearing aids.

(2) The board shall issue a dispensing audiology license to a licensed audiologist who meets the requirements of paragraph (1).

~~(b) (1) On and after January 1, 2010, a licensed audiologist with an unexpired license to sell hearing aids pursuant to Article 8 (commencing with Section 2538.10) may continue to sell hearing aids pursuant to that license until that license expires pursuant to Section 2538.53, and upon that expiration the licensee shall be deemed to have satisfied the requirements described in subdivision (a) and may continue to sell hearing aids pursuant to his or her audiology license subject to the provisions of this chapter. Upon the expiration of the audiologist's license to sell hearing aids, the board shall issue him or her a dispensing audiology license pursuant to paragraph (2) of subdivision (a). This paragraph shall not prevent an audiologist who also has a hearing aid dispenser's license from maintaining dual or separate licenses if he or she chooses to do so.~~

~~(2) A licensed audiologist whose license to sell hearing aids, issued pursuant to Article 8 (commencing with Section 2538.10), is suspended, surrendered, or revoked shall not be authorized to sell hearing aids pursuant to this subdivision and he or she shall be subject to the requirements described in subdivision (a) as well as the other provisions of this chapter.~~

~~(e) (b)~~ A licensed hearing aid dispenser who meets the qualifications for licensure as an audiologist shall be deemed to have satisfied the requirements of paragraph (1) of subdivision (a) for the purposes of obtaining a dispensing audiology license.

~~(e) (c)~~ For purposes of subdivision (a), the board shall provide the hearing aid dispenser's examination provided by the former Hearing Aid Dispensers Bureau until such time as the next examination validation and occupational analysis is completed by the Department of Consumer Affairs pursuant to Section 139 and a determination is made that a different examination is to be administered.

**SEC. 47.** *Section 6980 of the Business and Professions Code is amended to read:*

**6980.** The following terms as used in this chapter have the meaning expressed in this article:

~~(a) "Branch office" means any additional physical location, other than the principal place of business of a licensee, where any locksmith service is provided. Branch office includes the California office of any out-of-state business conducting, directing, dispatching, or managing a locksmith business, service, or service providers in California. A telephone answering service or a telephone call-forwarding device, for routing calls within the immediate geographic area, shall not be deemed to be a branch office.~~

~~(b) (a)~~ "Bureau" means the Bureau of Security and Investigative Services.

~~(e) (b)~~ "Chief" means the Chief of the Bureau of Security and Investigative Services.

~~(e) (c)~~ "Department" means the Department of Consumer Affairs.

~~(e) (d)~~ "Director" means the Director of the Department of Consumer Affairs.

~~(f) (e)~~ "Employer" means a person who employs an individual for wages or salary, lists the individual on the employer's payroll records, and withholds all legally required deductions and contributions.

~~(g)~~ (f) "Employee" means an individual who works for an employer, is listed on the employer's payroll records, and is under the employer's direction and control. An independent contractor is not an employee pursuant to this chapter.

~~(h)~~ (g) "Employer-employee relationship" means an individual who works for another and where the individual's name appears on the payroll records of the employer.

~~(i) "Licensee" means a business entity, whether an individual, partnership, or corporation, licensed under this chapter.~~

~~(j)~~ (h) "Locksmith" means any person who, for any consideration or compensation whatsoever, engages, directly or indirectly and as a primary or secondary object, in the business of rekeying, installing, repairing, opening, modifying locks, or who originates keys for locks, including, but not limited to, electronic cloning of transponder keys and any other electronic programming of automotive keys and electronic operating devices, such as key fobs, door and ignition key devices, and successive electronic and other high-security key technology. A *locksmith may be a business entity, whether an individual, partnership, or corporation.* A "locksmith" does not mean a person whose activities are limited to making a duplicate key from an existing key.

~~(k)~~ (i) "Person" means any individual, firm, company, association, organization, partnership, or corporation.

~~(l) "Registrant" means an employee registered pursuant to the provisions of this chapter.~~

~~(m)~~ (j) "Lock" means any mechanical, electromechanical, electronic, or electromagnetic device, or similar device, including any peripheral hardware, that is designed to control access from one area to another, or that is designed to control the use of a device, including, but not limited to, a safe, vault, or safe deposit box.

~~(n)~~ (k) "Recombination" means changing the combination of any combination-actuated lock.

~~(o)~~ (l) "Master key system" means any system in which a lock is rekeyed so that the lock can be operated by its own individual key and can also be operated by a key that can operate other locks if the other locks cannot be operated with the lock's individual key.

~~(p)~~ (m) "Key duplication machine" means any tool whose only capability is to manufacture a new key by using an existing key as a guide, which includes, but is not limited to, any of the following:

(1) Standard key duplication machines that are limited to duplication of a metallic key from an existing metallic key, standard single- or double-sided key, including a plastic "credit card" emergency key.

(2) High-security key machines that include the duplication of restricted keys, such as sidewinders and laser cut styles of machines.

(3) Transponder cloning and reprogramming machines that transfer electronic codes and signals and successive technology to keys, fobs, and door and ignition operating devices.

~~(q)~~ (n) "Key blank" means a key that has not been altered or cut and does not include depth keys.

~~(r)~~ (o) "Pin kit" means a container that holds only the following lock parts and materials:

(1) Bottom pins.

(2) Top pins (not including master pins).

(3) Springs.

(4) Plug follower.

(5) Proprietary tools, provided by a lock manufacturer, designed for the purpose of rekeying a lock.

~~(s)~~ (p) "Locksmith tool" means (1) any tool designed for the purpose of opening, bypassing, altering, rekeying, servicing, or repairing any lock, or (2) any burglar tool, as described in Section 466 of the Penal Code.

~~(t)~~ (q) "Motor service vehicle" means any vehicle, as defined in Section 6161 of the Vehicle Code, or other mode of transportation, that is used in the business of rekeying, installing, repairing, opening, or modifying locks, or originating keys for locks.

**SEC. 48.** *Section 6980.4 of the Business and Professions Code is repealed.*

~~6980.4. The chief shall gather evidence of violations of this chapter and of any rule or regulation established under this chapter by unlicensed persons who engage in a business for which a license is required under this chapter, and shall furnish the evidence to prosecuting officers of any county, city, or city and county for the purpose of prosecuting those violations.~~

**SEC. 49.** *Section 6980.7 of the Business and Professions Code is repealed.*

~~6980.7. (a) The director may adopt and enforce rules and regulations as may be reasonable and necessary for issuing licenses to applicants, for the conduct of the licensees, or for the general enforcement of this chapter in the protection of the public.~~

~~(b) These rules and regulations shall be adopted in accordance with the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.~~

**SEC. 4. SEC. 50.** Section 6980.10 of the Business and Professions Code is repealed.

~~6980.10. (a) No person shall engage within this state in the activities of a locksmith as defined in subdivision (j) of Section 6980, unless the person holds a valid locksmith license, is registered pursuant to the provisions of this chapter, or is exempt from the provisions of this chapter.~~

~~(b) Any person who does any of the following is guilty of a misdemeanor, punishable by a fine of ten thousand dollars (\$10,000), or by imprisonment in a county jail for not more than one year, or by both that fine and imprisonment:~~

~~(1) Acts as or represents himself or herself to be a licensee under this chapter when that person is not a licensee under this chapter.~~

~~(2) Falsely represents that he or she is employed by a licensee under this chapter when he or she is not employed by a licensee under this chapter.~~

~~(3) Carries a badge, identification card, or business card, indicating that he or she is a licensee under this chapter when he or she is not a licensee under this chapter.~~

~~(4) Uses a letterhead or other written or electronically generated materials indicating that he or she is a licensee under this chapter when he or she is not a licensee under this chapter.~~

~~(5) Advertises that he or she is a licensee under this chapter when he or she is not a licensee under this chapter.~~

~~(c) A proceeding to impose the fine specified in subdivision (b) may be brought in any court of competent jurisdiction in the name of the people of the State of California by the Attorney General or by any district attorney or city attorney, or with the consent of the district attorney, the city prosecutor in any city or city and county having a full-time city prosecutor for the jurisdiction in which the violation occurred. If the action is brought by the district attorney, the penalty collected shall be paid to the treasurer of the county in which the judgment is entered. If the action is brought by a city attorney or city prosecutor, one-half of the penalty collected shall be paid to the treasurer of the city in which the judgment was entered and one-half to the treasurer of the county in which the judgment was entered. If the action is brought by the Attorney General, all of the penalty collected shall be deposited in the Private Security Services Fund.~~

**SEC. 51.** *Section 6980.12 of the Business and Professions Code is amended to read:*

**6980.12.** This chapter does not apply to the following persons:

(a) A person, or his or her agent or employee, who is the manufacturer of a product, other than locks and keys, and who installs, repairs, opens, or modifies locks or who makes keys for the locks of that product as a normal incident to its marketing.

(b) An employee who is an industrial or institutional locksmith, provided that the employee provides locksmith services only to a single employer that does not provide locksmith services for hire to the public for any consideration or compensation whatsoever.

(c) A tow truck driver who does not originate keys for locks and whose locksmith services are limited to opening motor vehicles.

(d) A person employed exclusively and regularly by a state correctional institution, or other state or federal agency, and who does not provide locksmith services for hire to the public for any consideration or compensation

whatsoever.

(e) (1) A person registered with the bureau pursuant to Chapter 11 (commencing with Section 7500) if the duties of that person's position that constitute locksmithing are ancillary to the primary duties and functions of that person's position.

(2) A person licensed, certified, or registered pursuant to Chapter 11.6 (commencing with Section 7590) if the duties of that person's position that constitute locksmithing are performed in combination with the installation, maintenance, moving, repairing, replacing, servicing, or reconfiguration of an alarm system, as defined in subdivision (n) of Section 7590.1, and limited to work on electronic locks or access control devices that are controlled by an alarm system control device, including the removal of existing hardware.

(f) An agent or employee of a retail establishment that has a primary business other than providing locksmith services, providing all of the following criteria are met:

(1) The services provided by the retail establishment are limited to rekeying and recombination of locks.

(2) All rekeying, recombination, and installation of locks must take place on the premises of the retail establishment.

(3) All rekeying, recombination, and installation services provided by the retail establishment subject to this chapter are limited to locks purchased on the retail establishment's premises and are conducted prior to purchasers taking possession of the locks.

(4) An ~~unlicensed~~ agent or employee of the retail establishment shall not advertise or represent himself or herself to be ~~licensed~~ a locksmith under this chapter, and an agent or employee of the retail establishment shall not advertise or represent himself or herself to be a locksmith.

(5) An agent or employee of the retail establishment shall not design or implement a master key system, as defined in subdivision ~~(e)~~ (l) of Section 6980.

(6) An agent or employee of the retail establishment shall not rekey, change the combination of, alter, or install any automotive locks.

(7) The retail establishment shall not have on its premises any locksmith tool, as defined in subdivision ~~(s)~~ (p) of Section 6980, other than the following:

(A) Standard key duplication machines.

(B) Key blanks.

(C) Pin kits.

(g) A law enforcement officer employed by any city, county, city and county, state, or federal law enforcement agency, if all services are performed during the course of the officer's professional duties.

(h) A firefighter or emergency medical person employed by any city, county, city and county, district, or state agency, if all services are performed during the course of duties as a firefighter or emergency medical person.

(i) A new motor vehicle dealer, as defined in Section 426 of the Vehicle Code, and an employee of a new motor vehicle dealer acting within the scope of employment at a dealership.

**SEC. 52.** *Section 6980.13 of the Business and Professions Code is amended to read:*

**6980.13.** (a) Any person who violates any provision of this chapter, or who conspires with another person to violate any provision of this chapter, or who knowingly engages a nonexempt ~~or unlicensed~~ locksmith after being notified in writing by the bureau of the individual's ~~unlicensed~~ status with the bureau, is guilty of a misdemeanor, punishable by a fine of ten thousand dollars (\$10,000), or by imprisonment in a county jail for not more than one year, or by both that fine and imprisonment, except as otherwise provided in this chapter.

(b) A proceeding to impose the fine specified in subdivision (a) may be brought in any court of competent jurisdiction in the name of the people of the State of California by the Attorney General or by any district attorney or city attorney, or with the consent of the district attorney, the city prosecutor in any city or city and county having a full-time city prosecutor for the jurisdiction in which the violation occurred. If the action is brought by the district attorney, the penalty collected shall be paid to the treasurer of the county in which the judgment is entered. If the action is brought by a city attorney or city prosecutor, one-half of the penalty collected shall be

paid to the treasurer of the city in which the judgment was entered and one-half to the treasurer of the county in which the judgment was entered. If the action is brought by the Attorney General, all of the penalty collected shall be deposited in the Private Security Services Fund.

(c) Any person who is convicted of a violation of this section ~~or Section 6980.10~~ shall not be ~~issued~~ a ~~license~~ *locksmith* for a period of one year following a first ~~conviction and shall not be issued a license for a period of five years following a second or subsequent conviction of this section or Section 6980.10 or any combination of those sections:~~ *conviction*.

(d) It is the intent of the Legislature that the prosecuting officer of any county or city shall prosecute all violations of this chapter occurring within his or her jurisdiction.

**SEC. 53.** *Section 6980.14 of the Business and Professions Code is amended to read:*

**6980.14.** (a) The superior court in and for the county where any person has engaged or is about to engage in any act that constitutes a violation of this chapter, ~~or where any person engages in the business of a locksmith after the revocation or expiration of any license or during the period of suspension of any license,~~ may, upon application of the chief or any ~~person licensed~~ *locksmith* under these provisions or any association representing those ~~licensees~~ *locksmiths* or any member of the general public, issue an injunction or other appropriate order restraining this conduct and may impose civil fines not exceeding ten thousand dollars (\$10,000). The proceedings under this section shall be governed by Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure, except that there shall be no requirement to allege facts necessary to show or tending to show lack of adequate remedy at law or irreparable injury.

(b) During the period of revocation, expiration, or suspension, any business telephone number used to conduct, direct, operate, dispatch, manage, or utilize an ~~illegal, nonexempt,~~ *illegal* or ~~unlicensed nonexempt~~ *locksmith* business, *locksmith* service, service provider, or related activity, may be disconnected by ruling of the chief.

(c) The superior court for the county in which any person has engaged in any act that constitutes a violation of this chapter may, upon a petition filed by the chief with the approval of the director, order this person to make restitution to persons injured as a result of the violation.

(d) The court may order a person subject to an injunction or restraining order, provided for in subdivision (a), or subject to an order requiring restitution pursuant to subdivision (c), to reimburse the bureau for expenses incurred by the bureau in its investigation related to its petition.

(e) A proceeding to impose the fine specified in subdivision (a) and enjoin the ~~unlicensed~~ operation may be brought in any court of competent jurisdiction in the name of the people of the State of California by the Attorney General or by any district attorney or city attorney, or with the consent of the district attorney, the city prosecutor in any city or city and county having a full-time city prosecutor for the jurisdiction in which the violation occurred. If the action is brought by the district attorney, the penalty collected shall be paid to the treasurer of the county in which the judgment is entered. If the action is brought by a city attorney or city prosecutor, one-half of the penalty collected shall be paid to the treasurer of the city in which the judgment was entered and one-half to the treasurer of the county in which the judgment was entered. If the action is brought by the Attorney General, all of the penalty collected shall be deposited in the Private Security Services Fund.

(f) The remedy provided for by this section shall be in addition to any other remedy provided for in this chapter.

**SEC. 54.** *Section 6980.15 of the Business and Professions Code is amended to read:*

**6980.15.** No person engaged in performing any ~~service requiring a license under this chapter~~ *locksmith service* may bring or maintain any action in any court of this state for the collection of compensation for the performance of any act or agreement, without alleging and proving, that the person was ~~duly licensed~~ *a locksmith* at all times during the performance of the act or agreement.

**SEC. 55.** *Section 6980.17 of the Business and Professions Code is repealed.*

~~**6980.17.** (a) An application for a locksmith license shall be made in writing to, and filed with, the chief in the form as may be required by the director, and shall be accompanied by the application fee prescribed by this chapter. The chief may require the submission of any other relevant information, evidence, statements, or documents.~~

~~(b) Every application for a locksmith license shall state, among other things that may be required, the name of the applicant, the name under which the applicant will do business, and the location by street, number, and city of the office of the business for which the license is sought.~~



~~(c) No license shall be issued in any fictitious name that may be confused with, or that is similar to, any federal, state, county, or municipal governmental function or agency, or to any law enforcement agency, or in any name that may tend to describe any business function or enterprise not actually engaged in by the applicant.~~

~~(d) No license shall be issued in any fictitious name that is misleading or would constitute false advertising.~~

**SEC. 56.** *Section 6980.19 of the Business and Professions Code is repealed.*

~~**6980.19.** If the applicant for a license is an individual, the application shall state the full name of the individual, the full residence address of the applicant, and that the applicant is to be personally and actively in charge of the business for which the license is sought. The application shall be subscribed, verified, and signed by the applicant, under penalty of perjury.~~

**SEC. 57.** *Section 6980.20 of the Business and Professions Code is repealed.*

~~**6980.20.** If the applicant for a license is a partnership, the application shall state the true names and addresses of all the general partners and the name of the partner to be actively in charge of the business for which the license is sought. The application shall be subscribed, verified, and signed under penalty of perjury by all of the general partners.~~

**SEC. 58.** *Section 6980.21 of the Business and Professions Code is repealed.*

~~**6980.21.** (a) If the applicant for a license is a corporation, the application shall state the true names and complete residence addresses of the chief executive officer, secretary, chief financial officer, and any other corporate officer who will be active in the business to be licensed. The corporation identification number issued by the Secretary of State shall be indicated on the application. The application shall also state the name and address of a designated person to be actively in charge of the business for which the license is sought. The application shall be subscribed, verified, and signed by a duly authorized officer of the applicant under penalty of perjury.~~

~~(b) Except as herein otherwise provided, no individual shall be placed in active charge of the business if the individual has ever had a license revoked for cause or has ever been disqualified from further employment in the locksmith business pursuant to this chapter.~~

**SEC. 59.** *Section 6980.22 of the Business and Professions Code is repealed.*

~~**6980.22.** No new or original license shall be issued to any applicant pending final disposition of any disciplinary action previously filed against the person or applicant or partner, or officer of the applicant, or pending final disposition of any disciplinary action related to the locksmith business previously filed in another state against the person or applicant or partner, or officer of the applicant.~~

**SEC. 60.** *Section 6980.24 of the Business and Professions Code is repealed.*

~~**6980.24.** The director shall issue a license, the form and content of which shall be determined in accordance with Section 164. In addition, the director shall issue a "Certificate of Licensure" to any licensee, upon request, with the fee prescribed in this chapter. A "Certificate of Licensure" shall include an embossed seal of the State of California and the signature of the chief or his or her designated representative.~~

**SEC. 61.** *Section 6980.26 of the Business and Professions Code is repealed.*

~~**6980.26.** (a) Each locksmith license, together with the current renewal certificate, if any, shall at all times be conspicuously displayed at the place of business, each branch office, and in each mobile service vehicle for which the license is issued.~~

~~(b) The director may assess a fine of two hundred fifty dollars (\$250) per violation of subdivision (a). These fines shall be deposited in the Private Security Services Fund.~~

**SEC. 62.** *Section 6980.27 of the Business and Professions Code is repealed.*

~~**6980.27.** Every locksmith license shall expire at 12 midnight of the last day of the month two years following the date of issuance unless renewed; provided however, that the bureau may establish procedures, pursuant to Sections 152.5 and 152.6, for the administration of a staggered license renewal program. To renew an unexpired license or registration, the licensee shall apply for renewal on a form prescribed by the director, pay any and all fines assessed by the chief or the director which are not pending appeal, and pay the renewal fee prescribed by~~

~~this chapter. On renewal, such evidence of renewal of the license or registration as the director may prescribe shall be issued to the licensee. The bureau shall send to each licensee a notice of renewal at least 45 calendar days prior to the expiration of each unexpired license.~~

**SEC. 63.** *Section 6980.28 of the Business and Professions Code is repealed.*

~~**6980.28.** A locksmith license not renewed within three years following its expiration may not be renewed thereafter. Renewal of the license within three years, or issuance of an original license thereafter, shall be subject to payment of any and all fines assessed by the chief or the director which are not pending appeal and all other applicable fees.~~

**SEC. 64.** *Section 6980.29 of the Business and Professions Code is repealed.*

~~**6980.29.** A suspended locksmith license is subject to expiration and shall be renewed as provided in this article, but renewal of the license does not entitle the licensee, while the license remains suspended and until it is reinstated, to engage in the licensed activity, or in any other activity or conduct in violation of the order or judgment by which the license was suspended. The bureau shall not issue a license renewal certificate on a suspended license until the period of suspension has terminated.~~

**SEC. 65.** *Section 6980.30 of the Business and Professions Code is repealed.*

~~**6980.30.** A locksmith whose license has been canceled pursuant to this article, may obtain a new license only upon compliance with all of the provisions of this chapter relating to the issuance of an initial license.~~

**SEC. 66.** *Section 6980.31 of the Business and Professions Code is repealed.*

~~**6980.31.** No license issued pursuant to this chapter shall be transferred to another person.~~

**SEC. 67.** *Section 6980.32 of the Business and Professions Code is repealed.*

~~**6980.32.** Every licensee shall notify the bureau, in writing, within 30 days, of any change of residence or business address.~~

**SEC. 68.** *Section 6980.33 of the Business and Professions Code is amended to read:*

**6980.33.** A ~~licensee,~~ *locksmith*, or a partner or officer of a ~~licensee,~~ *locksmith*, shall carry a valid pocket identification card, issued by the bureau pursuant to Section 6980.23, and either a valid driver's license issued pursuant to Section 12811 of the Vehicle Code or a valid identification card issued pursuant to Section 13000 of the Vehicle Code, at all times the ~~licensee,~~ *locksmith*, or partner or officer, is engaged in the work of a locksmith, as defined in this chapter, whether on or off the premises of the ~~licensee's~~ *locksmith's* place of business. Every person, while engaged in any ~~activity for which licensure is required,~~ *locksmith activity* shall display his or her valid pocket card, and driver's license or identification card, as provided by regulation.

**SEC. 69.** *Section 6980.34 of the Business and Professions Code is repealed.*

~~**6980.34.** (a) Every application for a locksmith license in which the person applying desires to have the license issued under a fictitious business name shall include a certified copy of the fictitious business name statement filed with the county clerk pursuant to Chapter 5 (commencing with Section 17900) of Part 3 of Division 7.~~

~~(b) A licensee desiring to operate a locksmith business under one or more fictitious business names shall apply and qualify for an initial license for each fictitious business name.~~

~~(c) No licensee shall indicate, or cause to be indicated, in any printed matter, or in any directory or listing, that he or she conducts a locksmith business under any name, other than the name for which he or she is licensed.~~

~~(d) An application for a license for an additional fictitious business name shall be in the same form, and the applicant shall meet the same requirements, as for an initial license.~~

**SEC. 70.** *Section 6980.35 of the Business and Professions Code is repealed.*

~~**6980.35.** A licensee desiring to operate a locksmith business at a location other than the principal place of business as shown on the license shall apply for a branch office registration for each additional location as set forth in this chapter.~~

**SEC. 71.** *Section 6980.37 of the Business and Professions Code is repealed.*

~~6980.37. A licensee who maintains or proposes to maintain a branch office as defined in this article, shall apply and qualify for a branch office registration.~~

**SEC. 72.** *Section 6980.38 of the Business and Professions Code is repealed.*

~~6980.38. An application for a branch office registration under this article shall be on a form prescribed by the director and shall be accompanied by the fee as set forth in this chapter.~~

**SEC. 73.** *Section 6980.39 of the Business and Professions Code is repealed.*

~~6980.39. An application for a branch office registration shall include:~~

~~(a) The full name and address of, and the telephone number at, the principal licensed location, and the license number of the applicant.~~

~~(b) The address of, and the telephone number at, the branch office.~~

**SEC. 74.** *Section 6980.40 of the Business and Professions Code is repealed.*

~~6980.40. Upon receipt of the application for a branch office registration, the chief shall issue a "Branch Office Registration." The registration shall be posted in a conspicuous place at the branch office location.~~

**SEC. 75.** *Section 6980.41 of the Business and Professions Code is repealed.*

~~6980.41. Every branch office registration issued under this chapter shall be subject to the same renewal provisions which apply to a license as provided in this chapter.~~

**SEC. 76.** *Section 6980.42 of the Business and Professions Code is amended to read:*

**6980.42.** (a) Within seven days after commencing employment, any employee of a locksmith who is ~~not currently registered with the bureau and who is~~ performing the services of a locksmith shall submit to the bureau ~~a completed application for registration,~~ two classifiable fingerprint cards, one set of which shall be forwarded to the Federal Bureau of Investigation for purposes of a background ~~check, and the appropriate registration fee.~~ *check.* No application is required to be submitted if the employee terminated employment within seven days. "Within seven days" means 168 hours from the time an employee provides any service for which he or she shall be compensated by a ~~licensee:~~ *locksmith.*

~~(b) Except as provided in subdivision (c), an employee of a licensee may be assigned to work with a temporary registration card issued by the licensee until the bureau issues a registration card or denies the application for registration. A temporary registration card shall in no event be valid for more than 120 days. However, the director may extend the expiration date beyond the 120 days if there is an abnormal delay in processing applications for locksmith employees. For purposes of this section, the 120-day period shall commence on the date the applicant signs the application.~~

~~(c) An employee who has been convicted of a crime prior to applying for a position as a locksmith employee performing the services of a locksmith shall not be issued a temporary registration card and shall not be assigned to work as a locksmith until the bureau issues a permanent registration card. This subdivision shall apply only if the applicant for registration has disclosed the conviction to the bureau on his or her application form, or if the fact of the conviction has come to the attention of the bureau through official court or other governmental documents.~~

~~(d) (b)~~ The bureau may impose a fee not to exceed three dollars (\$3) for processing classifiable fingerprint cards submitted by applicants, excluding those submitted into an electronic fingerprint system using electronic fingerprint technology.

**SEC. 77.** *Section 6980.44 of the Business and Professions Code is amended to read:*

**6980.44.** The application shall be verified and shall include the following:

(a) The full name, residence address, telephone number, and date of birth of the employee.

(b) The name, address, *and* telephone number, and ~~license number of the employer, and the~~ *the* date the

employment commenced.

(c) A statement as to whether the employee has been arrested or convicted of a misdemeanor, excluding minor traffic violations.

(d) A statement as to whether the employee has been convicted of a felony.

**SEC. 78.** *Section 6980.47 of the Business and Professions Code is amended to read:*

**6980.47.** If the director determines that continued employment of an ~~applicant or registrant,~~ *employee*, in his or her current capacity, may present an undue hazard to public safety, the ~~licensee,~~ *locksmith*, upon proper notification from the director, shall suspend the ~~applicant or registrant~~ *employee* from employment in that capacity.

**SEC. 79.** *Section 6980.48 of the Business and Professions Code is amended to read:*

**6980.48.** (a) Upon determining that the applicant is qualified ~~for registration~~ pursuant to this chapter, the bureau shall issue a pocket ~~registration~~ card to the employee. The applicant may request to be issued an enhanced pocket card that shall be composed of durable material and may incorporate technologically advanced security features. The bureau may charge a fee sufficient to reimburse the department for costs for furnishing the enhanced pocket card. The fee charged may not exceed the actual cost for system development, maintenance, and processing necessary to provide the service, and may not exceed six dollars (\$6). If the applicant does not request an enhanced card, the department shall issue a standard card at no cost to the applicant.

(b) The ~~registrant~~ *employee* shall carry a valid ~~registration~~ card issued by the bureau under this section, and either a valid driver's license issued pursuant to Section 12811 of the Vehicle Code or a valid identification card issued pursuant to Section 13000 of the Vehicle Code, at all times the ~~registrant~~ *employee* is engaged in the work of a locksmith whether on or off the premises of the ~~licensee's~~ *locksmith's* place of business. Every person, while engaged in any ~~activity for which licensure is required,~~ *locksmith activity*, shall display his or her valid pocket card, and driver's license or identification card, as provided by regulation.

**SEC. 80.** *Section 6980.49 of the Business and Professions Code is repealed.*

~~**6980.49.** A licensee shall at all times be responsible for ascertaining that his or her employees subject to registration are currently registered or have made proper application for registration as provided in this article. The licensee shall not have in his or her employment a person performing the services of a locksmith whose registration has expired, or been revoked, denied, suspended, or canceled.~~

**SEC. 81.** *Section 6980.50 of the Business and Professions Code is repealed.*

~~**6980.50.** (a) All registrations shall be placed on a cyclical renewal and shall expire two years following the date of issuance or assigned renewal date.~~

~~(b) At least 60 days prior to the expiration of a registration, a registrant who desires to renew his or her registration shall forward to the bureau a copy of his or her current registration card, along with the renewal fee as set forth in this chapter.~~

~~(c) The licensee shall provide to any employee information regarding procedures for renewal of registration.~~

~~(d) An expired registration may still be renewed within 30 days from the date of expiration provided the registrant pays a delinquency fee provided by this chapter. A registration not renewed within 30 days following its expiration may not be renewed thereafter. The holder of an expired registration may obtain a new registration only on compliance with all the provisions of this chapter relating to the issuance of an original registration. The holder of an expired registration shall not engage in any activity requiring registration under this chapter until the bureau issues a renewal or new registration.~~

~~(e) If the renewed registration card has not been delivered to the registrant, prior to the date of expiration of the prior registration, the registrant may present evidence of renewal to substantiate continued registration, for a period not to exceed 90 days after the date of expiration.~~

~~(f) A registration shall not be renewed until any and all fines, not pending appeal, assessed by the chief or the director have been paid.~~

**SEC. 82.** *Section 6980.53 of the Business and Professions Code is amended to read:*

**6980.53.** A locksmith ~~licensed by the bureau~~ shall be subject to the provisions of Sections 466.6 and 466.8 of the Penal Code requiring verification of identification of clients and maintenance of work orders containing required client information. A copy of each work order completed pursuant to Sections 466.6 and 466.8 of the Penal Code shall be retained for two years, shall include the name ~~and license number~~ of the locksmith performing the service, and shall be open to inspection by the bureau or any peace officer during business hours or submitted to the bureau upon request.

**SEC. 83.** *Section 6980.54 of the Business and Professions Code is amended to read:*

**6980.54.** (a) A locksmith ~~licensed by the bureau~~ shall be subject to the provisions of Section 466.6 of the Penal Code, and shall be able to duplicate any key for any vehicle from another key.

(b) A locksmith ~~licensed by the bureau~~ shall be subject to the provisions of Section 466.8 of the Penal Code, and shall be able to duplicate any key for a residence, commercial establishment, or personal property from another key, except as follows:

(1) Duplication is prohibited when a key is stamped, imprinted, marked, or incised with the wording "Do Not Duplicate" or "Unlawful To Duplicate" and includes the originator's company name and telephone number.

(2) Duplication is prohibited when a key is a Restricted Key or a High Security Key and includes the originator's company name and telephone number or registration number.

**SEC. 84.** *Section 6980.55 of the Business and Professions Code is amended to read:*

**6980.55.** (a) Any locksmith who knowingly and willfully opens any residence, or commercial establishment for another by any method involving an on-site inspection of a door or entrance, whether or not for compensation, shall obtain the street address of the residence or commercial establishment, and the signature of the person for whom the residence or commercial establishment was opened on a work order form. The following information regarding the person requesting entry to the residence or commercial property shall be recorded on a work order form:

(1) Name.

(2) Address.

(3) Telephone Number.

(4) Date of Birth.

(5) Driver's license or identification number. A copy of each work order form shall be retained for two years, shall include the name ~~and license number~~ of the locksmith performing the service, and shall be open for inspection by any peace officer or by the bureau during business hours or submitted to the bureau upon request.

(b) Any locksmith who makes keys capable of opening a motor vehicle or personal property registered under the Vehicle Code for another by any method, whether or not for compensation, shall obtain the name, date of birth, and driver's license number or identification number of the person requesting entrance, and the registration or identification number of the vehicle or personal property registered under the Vehicle Code for which entrance is requested. This information together with the date the service was performed, and the signature of the person requesting entrance, shall be set forth on a work order. A copy of each work order form shall be retained for two ~~years, shall include the license number of the locksmith performing the service,~~ *years* and shall be open for inspection by a peace officer or by the bureau during business hours or submitted to the bureau upon request.

**SEC. 85.** *Section 6980.58 of the Business and Professions Code is amended to read:*

**6980.58.** A *licensee locksmith* shall at all times be responsible for those actions of his or her employees performed in violation of this chapter, when acting within the course and scope of his or her employment.

**SEC. 86.** *Section 6980.59 of the Business and Professions Code is repealed.*

~~**6980.59.** (a) A licensee shall notify the bureau within 30 days of any change of its officers required to be named pursuant to Section 6980.21 and of the addition of any new partners. Applications, on forms prescribed by the director, shall be submitted by all new officers and partners. The director may deny the application of a new officer or partner if the director determines that the officer or partner has committed any act which constitutes~~

~~grounds for the denial of a license pursuant to Section 6980.71.~~

~~(b) A Notice of Warning shall be issued for the first violation of this section. Thereafter, the director shall assess a fine of five hundred dollars (\$500) for each subsequent violation of this section.~~

**SEC. 87.** *Section 6980.60 of the Business and Professions Code is repealed.*

~~**6980.60.** No licensee or employee shall conduct business from any location other than the location for which a license or branch office registration was issued.~~

**SEC. 88.** *Section 6980.61 of the Business and Professions Code is repealed.*

~~**6980.61.** No licensee shall conduct a business as an individual, partnership, or corporation, unless the licensee holds a valid license issued to the same individual, partnership, or corporation.~~

**SEC. 89.** *Section 6980.62 of the Business and Professions Code is amended to read:*

**6980.62.** (a) Each licensee *locksmith* shall maintain a file or record containing the name, address, commencing date of employment, and position of each employee, and the date of termination of employment when an employee is terminated. The files and records, together with usual payroll records, shall be available for inspection by the bureau, and copies thereof and information pertaining thereto or contained therein shall be submitted to the bureau upon written request.

(b) A licensee *locksmith* shall respond to the bureau's request to forward copies of the files or records and information pertaining thereto or contained therein within 30 days of the bureau's request.

**SEC. 90.** *Section 6980.63 of the Business and Professions Code is repealed.*

~~**6980.63.** Within seven days, each licensee shall verify proof of current and valid registration issued by the bureau for each employee who is subject to registration, or shall require an employee to complete and submit an application for registration, pursuant to Section 6980.42, after employing an individual who does not possess a current and valid registration from the bureau.~~

**SEC. 91.** *Section 6980.64 of the Business and Professions Code is amended to read:*

**6980.64.** (a) Every advertisement by a licensee *locksmith* soliciting or advertising business shall contain his or her business name, business address, or business telephone ~~number, and license number as they appear in the records of the bureau.~~ *number.*

(b) For the purpose of this section, "advertisement" includes any business card, stationery, brochure, flyer, circular, newsletter, fax form, printed or published paid advertisement in any media form, directory listing, or telephone book listing.

(c) The director may assess a fine of five hundred dollars (\$500) for the first violation of this section and one thousand dollars (\$1,000) for each subsequent violation. These fines shall be deposited in the Private Security Services Fund.

**SEC. 92.** *Section 6980.65 of the Business and Professions Code is repealed.*

~~**6980.65.** No licensee or person shall aid and abet an unlicensed or nonexempt locksmith in any activity for which a license is required. For purposes of this section, to aid or abet includes, but is not limited to, the falsification of documents or facilitation of the acquisition of locksmith tools. Any licensee or person found in violation of this section shall be subject to Section 6980.14. A person shall not be subject to this section if he or she reasonably relied on a copy of a license, registration, pocket registration, or pocket identification card.~~

**SEC. 93.** *Section 6980.68 of the Business and Professions Code is amended to read:*

**6980.68.** No licensee *locksmith* shall willfully or deliberately disregard any building or safety laws of the state or any political subdivision thereof.

**SEC. 94.** *Section 6980.69 of the Business and Professions Code is amended to read:*

**6980.69.** No licensee *locksmith* shall fail in any material respect to complete the installation, repair, opening, or modification of a lock for the price stated in the contract for services.



**SEC. 95.** *Section 6980.71 of the Business and Professions Code is repealed.*

~~**6980.71.** (a) The director may deny a license or registration regulated by this chapter on the grounds that the applicant has done any of the following:~~

~~(1) Knowingly made a false statement of fact required to be revealed in the application for a license;~~

~~(2) Been convicted of a crime. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which the bureau is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code;~~

~~(3) Committed any act involving dishonesty, fraud, or deceit, with the intent to substantially benefit himself, herself, or another, or to substantially injure another;~~

~~(4) Committed any act which, if done by a licensee, would be grounds for suspension or revocation of a license;~~

~~(5) Been refused a license under this chapter or had a license revoked;~~

~~(6) Been an officer, partner, or manager of any person who has been refused a license under this chapter or whose license has been suspended or revoked;~~

~~(b) The bureau may deny a license or registration pursuant to this section only if the crime or act is substantially related to the qualifications, functions, or duties of the license or registration for which application has been made;~~

~~(c) The denial of a license or registration shall be in writing and shall describe the basis for the denial. The denial shall inform the applicant that if he or she desires a hearing in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, the review shall be requested within 30 days of the issuance of the denial;~~

~~(d) Notwithstanding any other provision of this chapter, no person shall be denied a license or registration solely on the basis that he or she has been convicted of a felony, if he or she has obtained a certificate of rehabilitation pursuant to Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code, or solely on the basis that he or she has been convicted of a misdemeanor, if he or she has met all applicable requirements of the criteria of rehabilitation as provided in Section 6980.72;~~

**SEC. 96.** *Section 6980.72 of the Business and Professions Code is repealed.*

~~**6980.72.** (a) When considering the denial, suspension, or revocation of a license or registration for which application has been made under this chapter, the chief, in evaluating the rehabilitation of the applicant and his or her present eligibility for a license or registration, shall consider all the following criteria:~~

~~(1) The nature and severity of the act or crime under consideration as grounds for denial;~~

~~(2) The applicant's total criminal record;~~

~~(3) Evidence of any act committed subsequent to the act or crime under consideration as grounds for denial, suspension, or revocation which also could be considered as grounds for denial under Section 6980.71;~~

~~(4) The time that has elapsed since commission of the act or crime referred to in paragraph (1) or (2);~~

~~(5) The extent to which the applicant has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against the applicant;~~

~~(6) Evidence, if any, of rehabilitation submitted by the applicant;~~

~~(b) When considering a petition for reinstatement of a license or registration, the chief shall evaluate evidence of rehabilitation, considering those criteria of rehabilitation listed in subdivision (a);~~

**SEC. 97.** *Section 6980.73 of the Business and Professions Code is repealed.*

~~**6980.73.** (a) The license or registration of a locksmith shall be automatically suspended if the locksmith is convicted of any crime which is substantially related to the functions, duties, and responsibilities of a locksmith. The automatic suspension shall be effectuated by the mailing of a notice of conviction and suspension of license~~

~~to be sent by the bureau to the licensee at his or her address of record.~~

~~(b) The notice shall contain a statement of preliminary determination by the director or his or her designee that the crime stated is reasonably related to the functions, duties, and responsibilities of a locksmith.~~

~~(c) In enacting this section, the Legislature finds and declares that locksmiths convicted of crimes reasonably related to the functions, duties, and responsibilities of a locksmith shall be subject to automatic suspension of their license and that summary suspension is justified by compelling state interests of public safety and security within the meaning of the California Supreme Court's decision in *Eye Dog Foundation v. State Board of Guide Dogs for the Blind*, 67 Cal. 2d 536.~~

**SEC. 98.** *Section 6980.74 of the Business and Professions Code is repealed.*

~~**6980.74.** (a) The bureau may suspend or revoke a license issued pursuant to this chapter for acts including, but not limited to, any of the following acts which shall also be unlawful:~~

~~(1) Misrepresentation or concealment of a material fact in a license application;~~

~~(2) Interference with authorized personnel engaged in the enforcement or administration of this chapter;~~

~~(3) Knowingly using or permitting the use of any of his or her skills, tools, or facilities for the commission of any crime;~~

~~(4) Conviction of a crime substantially related to the qualifications, functions, or duties of a locksmith;~~

~~(5) A violation of this chapter or the rules and regulations adopted under the authority of this chapter.~~

~~(b) The bureau may suspend or revoke a license issued to a corporation or to a partnership for the commission of any act listed in subdivision (a) by an officer of the corporation or by a partner in the partnership.~~

**SEC. 99.** *Section 6980.76 of the Business and Professions Code is repealed.*

~~**6980.76.** The proceedings of the bureau to deny a license application, or to revoke or suspend a license, shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code.~~

**SEC. 100.** *Section 6980.79 of the Business and Professions Code is repealed.*

~~**6980.79.** The fees prescribed by this chapter are those fixed in the following schedule:~~

~~(a) A locksmith license application fee may not exceed thirty dollars (\$30);~~

~~(b) An original license and renewal fee for a locksmith license may not exceed forty-five dollars (\$45);~~

~~(c) A branch office registration fee and branch office renewal fee may not exceed thirty-five dollars (\$35);~~

~~(d) Notwithstanding Section 163.5, the reinstatement fee as required by Section 6980.28 is the amount equal to the renewal fee plus a penalty of 50 percent thereof.~~

~~(e) An initial registration fee for an employee may not exceed twenty dollars (\$20);~~

~~(f) A registration renewal fee for an employee performing the services of a locksmith may not exceed twenty dollars (\$20);~~

~~(g) The fingerprint processing fee is that amount charged the bureau by the Department of Justice.~~

~~(h) All applicants seeking a license pursuant to this chapter shall also remit to the bureau the fingerprint fee that is charged to the bureau by the Department of Justice.~~

~~(i) The fee for a "Certificate of Licensure" may not exceed twenty dollars (\$20);~~

~~(j) A delinquency fee is the amount equal to the renewal fee plus a penalty of 50 percent thereof.~~

**SEC. 101.** *Section 6980.80 of the Business and Professions Code is repealed.*

~~**6980.80.** The initial application fee is considered an earned fee at the time an application for a license is received by the bureau. No refund shall be made to the applicant in the event that the applicant is found to lack the~~

~~required qualifications, or is otherwise denied a license pursuant to this chapter.~~

**SEC. 102.** *Section 6980.82 of the Business and Professions Code is amended to read:*

**6980.82.** The director shall furnish one copy of ~~the licensing law- this chapter~~ and rules and regulations to any ~~applicant or licensee- locksmith~~ without charge. The director shall charge and collect a fee equivalent to the cost of producing such laws, rules and regulations, manuals, or guides, plus sales tax for each additional copy which may be furnished on request to any ~~applicant or licensee,- locksmith~~, and for each copy furnished on request to any other person. All moneys derived pursuant to this section, except for any sales tax collected, shall be used to cover the costs of producing copies of these laws, rules and regulations, manuals, or guides. All moneys collected for sales tax shall be remitted to the State Board of Equalization.

**SEC. 103.** *Section 6980.83 of the Business and Professions Code is repealed.*

~~**6980.83.** Application or licensee fees shall not be refunded except in accordance with Section 158.~~

**SEC. 104.** *Section 6980.84 of the Business and Professions Code is repealed.*

~~**6980.84.** (a) There shall be a separate budget and expenditure statement, and a separate revenue statement, outlining all moneys derived from, and expended for, the licensing and regulation of locksmiths and registrants in accordance with the provisions of this chapter.~~

~~(b) If, at the end of any fiscal year, the moneys derived from the licensing of locksmiths and registrants is in surplus in an amount equal or greater than the moneys necessary for the regulation of locksmiths and registrants for the next two fiscal years, license or other fees shall be reduced during the following fiscal year by an amount that will reduce any surplus moneys derived from the licensing of locksmiths and registrants to an amount less than the moneys expended for the regulation of locksmiths and registrants for the next two fiscal years.~~

**SEC. 105.** *Section 7048.5 is added to the Business and Professions Code, to read:*

**7048.5.** *This chapter does not apply to any work or operation by a C-27 landscaping contractor or D-49 tree service contractor on one undertaking or project by one or more contracts, the aggregate contract price which for labor, materials, and all other items is less than five thousand dollars (\$5,000).*

~~**SEC. 6.**~~**SEC. 106.** Section 7316 of the Business and Professions Code is amended to read:

**7316.** (a) The practice of barbering is all or any combination of the following practices:

- (1) Shaving or trimming the beard or cutting the hair.
- (2) Giving facial and scalp massages or treatments with oils, creams, lotions, or other preparations either by hand or mechanical appliances.
- (3) Singeing, shampooing, arranging, dressing, curling, waving, chemical waving, hair relaxing, or dyeing the hair or applying hair tonics.
- (4) Applying cosmetic preparations, antiseptics, powders, oils, clays, or lotions to scalp, face, or neck.
- (5) Hairstyling of all textures of hair by standard methods that are current at the time of the hairstyling.

(b) The practice of cosmetology is all or any combination of the following practices:

- (1) Arranging, dressing, curling, waving, machineless permanent waving, permanent waving, cleansing, cutting, shampooing, relaxing, singeing, bleaching, tinting, coloring, straightening, dyeing, applying hair tonics to, beautifying, or otherwise treating by any means, the hair of any person.
- (2) Massaging, cleaning, or stimulating the scalp, face, neck, arms, or upper part of the human body, by means of the hands, devices, apparatus or appliances, with or without the use of cosmetic preparations, antiseptics, tonics, lotions, or creams.
- (3) Beautifying the face, neck, arms, or upper part of the human body, by use of cosmetic preparations, antiseptics, tonics, lotions, or creams.
- (4) Removing superfluous hair from the body of any person by the use of depilatories or by the use of tweezers, chemicals, or preparations or by the use of devices or appliances of any kind or description, except by the use of

light waves, commonly known as rays.

(5) Cutting, trimming, polishing, tinting, coloring, cleansing, or manicuring the nails of any person.

(6) Massaging, cleansing, treating, or beautifying the hands or feet of any person.

(c) Within the practice of cosmetology there exist the specialty branches of skin care and nail care.

(1) Skin care is any one or more of the following practices:

(A) Giving facials, ~~applying makeup,~~ giving skin care, removing superfluous hair from the body of any person by the use of depilatories, tweezers or waxing, or applying eyelashes to any person.

(B) Beautifying the face, neck, arms, or upper part of the human body, by use of cosmetic preparations, antiseptics, tonics, lotions, or creams.

(C) Massaging, cleaning, or stimulating the face, neck, arms, or upper part of the human body, by means of the hands, devices, apparatus, or appliances, with the use of cosmetic preparations, antiseptics, tonics, lotions, or creams.

(2) Nail care is the practice of cutting, trimming, polishing, coloring, tinting, cleansing, manicuring, or pedicuring the nails of any person or massaging, cleansing, or beautifying from the elbow to the fingertips or the knee to the toes of any person.

(d) The practice of barbering and the practice of cosmetology do not include any of the following:

(1) The mere sale, fitting, or styling of wigs or hairpieces.

(2) Natural hair braiding. Natural hair braiding is a service that results in tension on hair strands or roots by twisting, wrapping, weaving, extending, locking, or braiding by hand or mechanical device, provided that the service does not include haircutting or the application of dyes, reactive chemicals, or other preparations to alter the color of the hair or to straighten, curl, or alter the structure of the hair.

(3) Threading. Threading is a technique that results in removing hair by twisting thread around unwanted hair and pulling it from the skin and the incidental trimming of eyebrow hair.

(e) Notwithstanding paragraph (2) of subdivision (d), a person who engages in natural hairstyling, which is defined as the provision of natural hair braiding services together with any of the services or procedures defined within the regulated practices of barbering or cosmetology, is subject to regulation pursuant to this chapter and shall obtain and maintain a ~~barbering or~~ cosmetology license as applicable to the services respectively offered or performed.

(f) Electrolysis is the practice of removing hair from, or destroying hair on, the human body by the use of an electric needle only.

"Electrolysis" as used in this chapter includes electrolysis or thermolysis.

**SEC. 7. SEC. 107.** Section 7317 of the Business and Professions Code is amended to read:

**7317.** Except as provided in this article, it is unlawful for any person, firm, or corporation to engage in ~~barbering,~~ cosmetology, or electrolysis for compensation without a valid, unexpired license issued by the board, or in an establishment or mobile unit other than one licensed by the board, or conduct or operate an establishment, or any other place of business in which ~~barbering, cosmetology,~~ *cosmetology* or electrolysis is practiced unless licensed under this chapter. Persons licensed under this chapter shall limit their practice and services rendered to the public to only those areas for which they are licensed. Any violation of this section is subject to an administrative fine and may be subject to a misdemeanor.

**SEC. 108.** *Section 7321 of the Business and Professions Code is amended to read:*

**7321.** The board shall admit to examination for a license as a cosmetologist to practice cosmetology any person who has made application to the board in proper form, paid the fee required by this chapter, and is qualified as follows:

(a) Is not less than 17 years of age.

(b) Has completed the 10th grade in the public schools of this state or its equivalent.

(c) Is not subject to denial pursuant to Section 480.

(d) Has done any of the following:

(1) Completed a course in cosmetology from a school approved by the board.

(2) Practiced cosmetology as defined in this chapter outside of this state for a period of time equivalent to the study and training of a qualified person who has completed a course in cosmetology from a school the curriculum of which complied with requirements adopted by the board. Each three months of practice shall be deemed the equivalent of 100 hours of training for qualification under paragraph (1) of this subdivision.

(3)  ~~Holds a license as a barber in this state and has~~ *Has* completed a cosmetology crossover course in a school approved by the board.

(4) Completed a barbering course in a school approved by the board and has completed a cosmetology crossover course in a school approved by the board.

(5) Completed the apprenticeship program in cosmetology specified in Article 4 (commencing with Section 7332).

**SEC. 109.** *Section 7321.5 of the Business and Professions Code is repealed.*

~~7321.5. The board shall admit to examination for a license as a barber to practice barbering, any person who has made application to the board in proper form, paid the fee required by this chapter, and is qualified as follows:~~

~~(a) Is not less than 17 years of age.~~

~~(b) Has completed the 10th grade in the public schools of this state or its equivalent.~~

~~(c) Is not subject to denial pursuant to Section 480.~~

~~(d) Has done any of the following:~~

~~(1) Completed a course in barbering from a school approved by the board.~~

~~(2) Completed an apprenticeship program in barbering approved by the board as conducted under the provisions of the Shelley-Maloney Apprenticeship Labor Standards Act of 1939, Chapter 4 (commencing with Section 3070) of Division 3 of the Labor Code.~~

~~(3) Practiced barbering as defined in this chapter outside of this state for a period of time equivalent to the study and training of a qualified person who has completed a course in barbering from a school the curriculum of which complied with requirements adopted by the board. Each three months of practice shall be deemed the equivalent of 100 hours of training for qualification under paragraph (1).~~

~~(4) Holds a license as a cosmetologist in this state and has completed a barber crossover course in a school approved by the board.~~

~~(5) Completed a cosmetology course in a school approved by the board and has completed a barber crossover course in a school approved by the board.~~

~~(6) Completed comparable military training as documented by submission of Verification of Military Experience and Training (V-MET) records.~~

**SEC. 110.** *Section 7334 of the Business and Professions Code is amended to read:*

**7334.** (a) The board may license as an apprentice in ~~barbering,~~ cosmetology, skin care, or nail care any person who has made application to the board upon the proper form, has paid the fee required by this chapter, and who is qualified as follows:

(1) Is over 16 years of age.

(2) Has completed the 10th grade in the public schools of this state or its equivalent.

(3) Is not subject to denial pursuant to Section 480.

(4) Has submitted evidence acceptable to the board that any training the apprentice is required by law to obtain shall be conducted in a licensed establishment and under the supervision of a licensee approved by the board.

(b) The board may license as an apprentice in electrolysis any person who has made application to the board

upon the proper form, has paid the fee required by this chapter, and who is qualified as follows:

- (1) Is not less than 17 years of age.
- (2) Has completed the 12th grade or an accredited senior high school course of study in schools of this state or its equivalent.
- (3) Is not subject to denial pursuant to Section 480.
- (4) Has submitted evidence acceptable to the board that any training the apprentice is required by law to obtain shall be conducted in a licensed establishment and under the supervision of a licensee approved by the board.
- (c) All persons making application as an apprentice in barbering shall also complete a minimum of 39 hours of preapprentice training in a facility approved by the board prior to serving the general public.
- (d) All persons making application as an apprentice in cosmetology, skin care, nail care, or electrology shall also complete minimum preapprentice training for the length of time established by the board in a facility approved by the board prior to serving the general public.
- (e) Apprentices may only perform services on the general public for which they have received technical training.
- (f) Apprentices shall be required to obtain at least the minimum hours of technical instruction and minimum number of practical operations for each subject as specified in board regulations for courses taught in schools approved by the board, in accordance with Sections 3074 and 3078 of the Labor Code.

**SEC. 111.** *Section 7396 of the Business and Professions Code is amended to read:*

**7396.** The form and content of a license issued by the board shall be determined in accordance with Section 164.

The license shall prominently state that the holder is licensed as a ~~barber~~, cosmetologist, esthetician, manicurist, electrologist, or apprentice, and shall contain a photograph of the licensee.

**SEC. 112.** *Section 7403 of the Business and Professions Code is amended to read:*

**7403.** (a) Notwithstanding any other provision of law, the board may revoke, suspend, or deny at any time any license required by this chapter on any of the grounds for disciplinary action provided in this article. The proceedings under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the board shall have all the powers granted therein.

- (b) The board may deny a license to an applicant on any of the grounds specified in Section 480.
- (c) In addition to the requirements provided in Sections 485 and 486, upon denying a license to an applicant, the board shall provide a statement of reasons for the denial that does the following:
  - (1) Evaluates evidence of rehabilitation submitted by the applicant, if any.
  - (2) Provides the board's criteria relating to rehabilitation, formulated pursuant to Section 482, that takes into account the age and severity of the offense, and the evidence relating to participation in treatment or other rehabilitation programs.
  - (3) If the board's decision was based on the applicant's prior criminal conviction, justifies the board's denial of a license and conveys the reasons why the prior criminal conviction is substantially related to the qualifications, functions, or duties of a ~~barber or~~ cosmetologist.
- (d) Commencing July 1, 2009, all of the following shall apply:
  - (1) If the denial of a license is due at least in part to the applicant's state or federal criminal history record, the board shall, in addition to the information provided pursuant to paragraph (3) of subdivision (c), provide to the applicant a copy of his or her criminal history record if the applicant makes a written request to the board for a copy, specifying an address to which it is to be sent.
    - (A) The state or federal criminal history record shall not be modified or altered from its form or content as provided by the Department of Justice.
    - (B) The criminal history record shall be provided in such a manner as to protect the confidentiality and privacy of the applicant's criminal history record and the criminal history record shall not be made available by the board to any employer.



(C) The board shall retain a copy of the applicant's written request and a copy of the response sent to the applicant, which shall include the date and the address to which the response was sent.

(2) The board shall make this information available upon request by the Department of Justice or the Federal Bureau of Investigation.

(e) Notwithstanding Section 487, the board shall conduct a hearing of a license denial within 90 days of receiving an applicant's request for a hearing. For all other hearing requests, the board shall determine when the hearing shall be conducted.

(f) In any case in which the administrative law judge recommends that the board revoke, suspend, or deny a license, the administrative law judge may, upon presentation of suitable proof, order the licensee to pay the board the reasonable costs of the investigation and adjudication of the case. For purposes of this section, "costs" include charges by the board for investigating the case, charges incurred by the office of the Attorney General for investigating and presenting the case, and charges incurred by the Office of Administrative Hearings for hearing the case and issuing a proposed decision.

(g) The costs to be assessed shall be fixed by the administrative law judge and shall not, in any event, be increased by the board. When the board does not adopt a proposed decision and remands the case to an administrative law judge, the administrative law judge shall not increase the amount of any costs assessed in the proposed decision.

(h) The board may enforce the order for payment in the superior court in the county where the administrative hearing was held. This right of enforcement shall be in addition to any other rights the board may have as to any licensee directed to pay costs.

(i) In any 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 for payment.

(j) Notwithstanding any other provision of law, all costs recovered under this section shall be deposited in the board's contingent fund as a scheduled reimbursement in the fiscal year in which the costs are actually recovered.

**SEC. 113.** *Section 7423 of the Business and Professions Code is amended to read:*

**7423.** The amounts of the fees required by this chapter relating to licenses for individual practitioners are as follows:

(a) (1) Cosmetologist application and examination fee shall be the actual cost to the board for developing, purchasing, grading, and administering the examination.

(2) A cosmetologist initial license fee shall not be more than fifty dollars (\$50).

(b) (1) An esthetician application and examination fee shall be the actual cost to the board for developing, purchasing, grading, and administering the examination.

(2) An esthetician initial license fee shall not be more than forty dollars (\$40).

(c) (1) A manicurist application and examination fee shall be the actual cost to the board for developing, purchasing, grading, and administering the examination.

(2) A manicurist initial license fee shall not be more than thirty-five dollars (\$35).

~~(d) (1) A barber application and examination fee shall be the actual cost to the board for developing, purchasing, grading, and administering the examination.~~

~~(2) A barber initial license fee shall be not more than fifty dollars (\$50).~~

~~(e)~~ (d) (1) An electrologist application and examination fee shall be the actual cost to the board for developing, purchasing, grading, and administering the examination.

(2) An electrologist initial license fee shall be not more than fifty dollars (\$50).

~~(f)~~ (e) An apprentice application and license fee shall be not more than twenty-five dollars (\$25).

~~(g)~~ (f) The license renewal fee for individual practitioner licenses that are subject to renewal shall be not more than fifty dollars (\$50).

~~(h)~~ (g) Notwithstanding Section 163.5 the license renewal delinquency fee shall be 50 percent of the renewal fee in effect on the date of renewal.

~~(i)~~ (h) Any preapplication fee shall be established by the board in an amount sufficient to cover the costs of processing and administration of the preapplication.

**SEC. 8.**~~SEC. 114.~~ Section 7533 of the Business and Professions Code is amended to read:

**7533.** Each licensee shall file with the bureau the complete address of his or her principal place of business including the name and number of the street, or, if the street where the business is located is not numbered, the number of the post office box. The director may require the filing of other information for the purpose of identifying the principal place of business. *A California office is not required to comply with this section.*

**SEC. 9.**~~SEC. 115.~~ Section 7672 of the Business and Professions Code is repealed.

~~**7672.** A person shall not dispose of or offer to dispose of any cremated human remains unless registered as a cremated remains disposer by the bureau. This article shall not apply to any person, partnership, or corporation holding a certificate of authority as a cemetery, crematory license, cemetery broker's license, cemetery salesperson's license, or funeral director's license, nor shall this article apply to any person having the right to control the disposition of the cremated remains of any person or that person's designee if the person does not dispose of or offer to dispose of more than 10 cremated human remains within any calendar year.~~

**SEC. 116.** *Section 7672.1 of the Business and Professions Code is repealed.*

~~**7672.1.** (a) Registration shall be on the form prescribed by the bureau and shall include, but not be limited to, the full name of the registrant, business and residence addresses, description and identification of aircraft or boats which may be used in dispensing cremated human remains, and the area to be served. Each registration application shall be accompanied by the cremated remains disposer fee.~~

~~(b) Every registered cremated remains disposer who dispenses human remains by air shall post a copy of his or her current pilot's license, and the address of the cremated remains storage area at his or her place of business. Every registered cremated remains disposer who dispenses human remains by boat shall post a copy of his or her current boating license and the address of the cremated remains storage area at his or her place of business.~~

**SEC. 117.** *Section 7672.2 of the Business and Professions Code is amended to read:*

**7672.2.** The bureau shall prepare and deliver to each ~~registered~~ cremated remains disposer a booklet that includes, but is not limited to, the following information: ~~details about the registration and renewal requirements for cremated remains disposers; requirements for~~ *requirements for* obtaining state permits to dispose of cremated human remains; state storage requirements, if any; statutory duties pursuant to this article, and other applicable state laws.

**SEC. 118.** *Section 7672.6 of the Business and Professions Code is amended to read:*

**7672.6.** (a) Every cremated remains disposer shall do both of the following:

(1) Dispose of cremated remains within 60 days of the receipt of those remains, unless a written signed reason for a delay is presented to the person with the right to control the disposition of the remains under Section 7100 of the Health and Safety Code.

(2) Provide the bureau with the address and telephone number of any storage facility being used by the ~~registrant~~ *cremated remains disposer* to store cremated remains. Cremated remains shall be stored in a place free from exposure to the elements, and shall be responsibly maintained until disposal. The bureau and its representatives shall conduct, on an annual basis, random inspections of the operations of 5 to 10 percent of the ~~registered~~ cremated remains disposers, and is authorized to inspect any place used by a cremated remains disposer for the storage of cremated remains without notice to the cremated remains disposer.

(b) A violation of the requirements of this section is grounds for disciplinary action.

**SEC. 119.** *Section 7672.8 of the Business and Professions Code is repealed.*

~~**7672.8.** All cremated remains disposer registrations shall expire at midnight on September 30 of each year. A person desiring to renew his or her registration shall file an application for renewal on a form prescribed by the bureau accompanied by the required fee. A registration that has expired may be renewed within five years of its~~

~~expiration upon payment of all accrued and unpaid renewal fees. The bureau shall not renew the registration of any person who has not filed the required annual report until he or she has filed a complete annual report with the department.~~

**SEC. 120.** *Section 7672.9 of the Business and Professions Code is repealed.*

~~**7672.9.** If a person fails to apply for renewal of his or her cremated remains disposer registration prior to midnight of September 30 of the year for which the registration was issued, no renewal shall be issued except upon payment of the delinquent renewal fee required under Section 7729.2.~~

**SEC. 121.** *Section 7672.10 of the Business and Professions Code is repealed.*

~~**7672.10.** Any person who scatters cremated human remains without a valid registration and who is not otherwise exempt from this article shall be guilty of a misdemeanor. The remains of each person scattered shall constitute a separate violation.~~

**SEC. 122.** *Section 7730.1 of the Business and Professions Code is repealed.*

~~**7730.1.** The cremated remains disposer registration fee shall be one hundred dollars (\$100).~~

**SEC. 123.** *Section 7730.2 of the Business and Professions Code is repealed.*

~~**7730.2.** The renewal fee for a cremated remains disposer registration shall be fifty dollars (\$50).~~

**SEC. 124.** *Section 19051 of the Business and Professions Code is amended to read:*

**19051.** Every upholstered-furniture retailer, unless he or she holds an importer's license, a furniture and bedding manufacturer's license, a wholesale furniture and bedding dealer's license, ~~a custom upholsterer's license,~~ or a retail furniture and bedding dealer's license shall hold a retail furniture dealer's license.

(a) This section does not apply to a person whose sole business is designing and specifying for interior spaces, and who purchases specific amenable upholstered furniture items on behalf of a client, provided that the furniture is purchased from an appropriately licensed importer, wholesaler, or retailer. This section does not apply to a person who sells "used" and "antique" furniture as defined in Sections 19008.1 and 19008.2.

(b) This section does not apply to a person who is licensed as a home medical device retail facility by the State Department of Health Services, provided that the furniture is purchased from an appropriately licensed importer, wholesaler, or retailer.

**SEC. 125.** *Section 19059.5 of the Business and Professions Code is amended to read:*

**19059.5.** Every sanitizer shall hold a sanitizer's license unless he or she is licensed as a home medical device retail facility by the State Department of Health Services or as an upholstered furniture and bedding manufacturer, retail furniture and bedding dealer, *or* retail bedding ~~dealer, or custom upholsterer.~~ *dealer.*

**SEC. 126.** *Section 19060.6 of the Business and Professions Code is amended to read:*

**19060.6.** (a) Except as provided in subdivision (b), every person who, on his or her own account, advertises, solicits or contracts to manufacture, repair or renovate upholstered furniture or bedding, and who either does the work himself or herself or has others do it for him or her, shall obtain the particular license required by this chapter for the particular type of work that he or she solicits or advertises that he or she will do, regardless of whether he or she has a shop or factory.

(b) Every person who, on his or her own account, advertises, solicits or contracts to repair or renovate upholstered furniture and who does not do the work himself or herself nor have employees do it for him or her ~~but does have the work done by a licensed custom upholsterer need not obtain a license as a custom upholsterer but~~ shall obtain a license as a retail furniture dealer. However, nothing in this section shall exempt a retail furniture dealer from complying with Sections 19162 and 19163.

~~**SEC. 10.**~~ **SEC. 127.** *Section 19052 of the Business and Professions Code is repealed.*

~~**19052.** Every custom upholsterer, unless he or she holds a furniture and bedding manufacturer's license, shall hold a custom upholsterer's license.~~

**SEC. 128.** Section 19170 of the Business and Professions Code is amended to read:

**19170.** (a) The fee imposed for the issuance and for the biennial renewal of each license granted under this chapter shall be set by the chief, with the approval of the director, at a sum not more nor less than that shown in the following table:

	Maximum fee	Minimum fee
Importer's license .....	\$940	\$120
Furniture and bedding manufacturer's license .....	940	120
Wholesale furniture and bedding dealer's license .....	675	120
Supply dealer's license .....	675	120
<del>Custom upholsterer's license .....</del>	<del>450</del>	<del>80</del>
Sanitizer's license .....	450	80
Retail furniture and bedding dealer's license .....	300	40
Retail furniture dealer's license .....	150	20
Retail bedding dealer's license .....	150	20

(b) Individuals who, in their own homes and without the employment of any other person, make, sell, advertise, or contract to make pillows, quilts, quilted pads, or comforters are exempt from the fee requirements imposed by subdivision (a). However, these individuals shall comply with all other provisions of this chapter.

(c) Retailers who only sell "used" and "antique" furniture as defined in Sections 19008.1 and 19008.2 are exempt from the fee requirements imposed by subdivision (a). Those retailers are also exempt from the other provisions of this chapter.

(d) A person who makes, sells, or advertises upholstered furniture and bedding as defined in Sections 19006 and 19007, and who also makes, sells, or advertises furniture used exclusively for the purpose of physical fitness and exercise, shall comply with the fee requirements imposed by subdivision (a).

(e) A person who has paid the required fee and who is licensed ~~either~~ as an upholstered furniture and bedding manufacturer ~~or a custom upholsterer~~ under this chapter shall not be required to additionally pay the fee for a sanitizer's license.

~~SEC. 11.~~ **SEC. 129.** Section 1812.600 of the Civil Code is repealed.

~~**1812.600.** (a) Every auctioneer and auction company shall maintain a bond issued by a surety company admitted to do business in this state. The principal sum of the bond shall be twenty thousand dollars (\$20,000). A copy of the bond shall be filed with the Secretary of State.~~

~~(b) The bond required by this section shall be in favor of, and payable to, the people of the State of California and shall be for the benefit of any person or persons damaged by any fraud, dishonesty, misstatement, misrepresentation, deceit, unlawful acts or omissions, or failure to provide the services of the auctioneer or auction company in performance of the auction by the auctioneer or auction company or its agents, representatives, or employees while acting within the scope of their employment.~~

~~(c) (1) No auctioneer or auction company shall conduct any business without having a current surety bond in the amount prescribed by this section and without filing a copy of the bond with the Secretary of State.~~

~~(2) Thirty days prior to the cancellation or termination of any surety bond required by this section, the surety shall send a written notice of that cancellation or termination to both the auctioneer or auction company and the Secretary of State, identifying the bond and the date of cancellation or termination.~~

~~(3) If any auctioneer or auction company fails to obtain a new bond and file a copy of that bond with the Secretary of State by the effective date of the cancellation or termination of the former bond, the auctioneer or auction company shall cease to conduct any business unless and until that time as a new surety bond is obtained and a copy of that bond is filed with the Secretary of State.~~

~~(d) A deposit may be made in lieu of a bond as set forth in Section 995.710 of the Code of Civil Procedure. When a deposit is made in lieu of the bond, the person asserting the claim against the deposit shall establish the claim by furnishing evidence to the Secretary of State of a money judgment entered by a court together with evidence that the claimant is a person described in subdivision (b).~~

~~(e) When a claimant has established the claim with the Secretary of State, the Secretary of State shall review and approve the claim and enter the date of approval on the claim. The claim shall be designated an "approved claim."~~

~~(f) When the first claim against a particular deposit has been approved, it shall not be paid until the expiration of a period of 240 days after the date of its approval by the Secretary of State. Subsequent claims that are approved by the Secretary of State within the same 240-day period shall similarly not be paid until the expiration of the 240-day period. Upon expiration of the 240-day period, the Secretary of State shall pay all approved claims from that 240-day period in full unless the deposit is insufficient, in which case each approved claim shall be paid a pro rata share of the deposit.~~

~~(g) When the Secretary of State approves the first claim against a particular deposit after the expiration of a 240-day period, the date of approval of that claim shall begin a new 240-day period to which subdivision (f) shall apply with respect to any amount remaining in the deposit.~~

~~(h) After a deposit is exhausted, no further claims shall be paid by the Secretary of State. Claimants who have had their claims paid in full or in part pursuant to subdivision (f) or (g) shall not be required to return funds received from the deposit for the benefit of other claimants.~~

~~(i) When a deposit has been made in lieu of a bond, the amount of the deposit shall not be subject to attachment, garnishment, or execution with respect to an action or judgment against the auctioneer or auction company, other than as to that amount that is no longer needed or required for the purpose of this section that otherwise would be returned to the auctioneer or auction company by the Secretary of State.~~

~~(j) The Secretary of State shall retain a cash deposit for two years from the date the Secretary of State receives written notification from the assignor of the deposit that the assignor has ceased to engage in the business of an auctioneer or auction company or has filed a bond pursuant to subdivision (a), provided that there are no outstanding claims against the deposit. Written notification to the Secretary of State shall include all of the following: (1) name, address, and telephone number of the assignor; (2) name, address, and telephone number of the bank at which the deposit is located; (3) account number of the deposit; and (4) a statement whether the assignor is ceasing to engage in the business of an auctioneer or auction company or has filed a bond with the Secretary of State. The Secretary of State shall forward an acknowledgment of receipt of the written notice to the assignor at the address indicated in the notice, specifying the date of receipt of the written notice and anticipated date of release of the deposit, provided there are no outstanding claims against the deposit.~~

~~(k) A judge of a superior court may order the return of the deposit prior to the expiration of two years upon evidence satisfactory to the judge that there are no outstanding claims against the deposit or order the Secretary of State to retain the deposit for a specified period beyond the two years pursuant to subdivision (j) to resolve outstanding claims against the deposit.~~

~~(l) If an auctioneer or auction company fails to perform any of the duties specifically imposed upon him or her pursuant to this title, any person may maintain an action for enforcement of those duties or to recover a civil penalty in the amount of one thousand dollars (\$1,000), or for both enforcement and recovery.~~

~~(m) In any action to enforce these duties or to recover civil penalties, or for both enforcement and recovery, the prevailing plaintiff shall be entitled to reasonable attorney's fees and costs, in addition to the civil penalties provided under subdivision (l).~~

~~(n) Notwithstanding the repeal of Chapter 3.7 (commencing with Section 5700) of Division 3 of the Business and Professions Code by the act adding this chapter, any cash security in lieu of the surety bond formerly required and authorized by former Chapter 3.7 (commencing with Section 5700) of Division 3 of the Business and Professions Code, shall be transferred to, and maintained by, the Secretary of State.~~

~~(o) The Secretary of State shall charge and collect a filing fee not to exceed the cost of filing the bond or deposit~~

~~filed in lieu of a bond as set forth in Section 995.710 of the Code of Civil Procedure.~~

~~(p) The Secretary of State shall enforce the provisions of this chapter that govern the filing and maintenance of bonds and deposits in lieu of bonds.~~

**SEC. 130.** *Section 1812.607 of the Civil Code is amended to read:*

**1812.607.** Every auction company and auctioneer shall do all of the following:

(a) Disclose his or her name, trade or business name, ~~telephone number,~~ and ~~bond~~ *telephone* number in all advertising of auctions. A first violation of this subdivision is an infraction subject to a fine of fifty dollars (\$50); a second violation is subject to a fine of seventy-five dollars (\$75); and a third or subsequent violation is subject to a fine of one hundred dollars (\$100). This section shall not apply to business cards, business stationery, or to any advertisement that does not specify an auction date.

(b) Post a sign, the dimensions of which shall be at least 18 inches by 24 inches, at the main entrance to each auction, stating that the auction is being conducted in compliance with Section 2328 of the Commercial Code, Section 535 of the Penal Code, and the provisions of the California Civil Code. A first violation of this subdivision is an infraction subject to a fine of fifty dollars (\$50); a second violation is subject to a fine of seventy-five dollars (\$75); and a third or subsequent violation is subject to a fine of one hundred dollars (\$100).

(c) Post or distribute to the audience the terms, conditions, restrictions, and procedures whereby goods will be sold at the auction, and announce any changes to those terms, conditions, restrictions, and procedures prior to the beginning of the auction sale. A first violation of this subdivision is an infraction subject to a fine of fifty dollars (\$50); a second violation is subject to a fine of one hundred dollars (\$100); and a third or subsequent violation is subject to a fine of two hundred fifty dollars (\$250).

(d) Notify the Secretary of State of any change in address of record within 30 days of the change. A violation of this subdivision is an infraction subject to a fine of fifty dollars (\$50).

(e) Notify the Secretary of State of any change in the officers of a corporate license within 30 days of the change. A violation of this subdivision is an infraction subject to a fine of fifty dollars (\$50).

(f) Notify the Secretary of State of any change in the business or trade name of the auctioneer or auction company within 30 days of the change. A violation of this subdivision is an infraction subject to a fine of fifty dollars (\$50).

(g) Keep and maintain, at the auctioneer's or auction company's address of record, complete and correct records and accounts pertaining to the auctioneer's or auction company's activity for a period of not less than two years. The records shall include the name and address of the owner or consignor and of any buyer of goods at any auction sale engaged in or conducted by the auctioneer or auction company, a description of the goods, the terms and conditions of the acceptance and sale of the goods, all written contracts with owners and consignors, and accounts of all moneys received and paid out, whether on the auctioneer's or auction company's own behalf or as agent, as a result of those activities. A first violation of this subdivision is a misdemeanor subject to a fine of five hundred dollars (\$500); and a second or subsequent violation is subject to a fine of one thousand dollars (\$1,000).

(h) Within 30 working days after the sale transaction, provide, or cause to be provided, an account to the owner or consignor of all goods that are the subject of an auction engaged in or conducted by the auctioneer or auction company. A first violation of this subdivision is a misdemeanor subject to a fine of five hundred dollars (\$500); and a second or subsequent violation is subject to a fine of one thousand dollars (\$1,000).

(i) Within 30 working days after a sale transaction of goods, pay or cause to be paid all moneys and proceeds due to the owner or the consignor of all goods that were the subject of an auction engaged in or conducted by the auctioneer or auction company, unless delay is compelled by legal proceedings or the inability of the auctioneer or auction company, through no fault of his or her own, to transfer title to the goods or to comply with any provision of this chapter, the Commercial Code, or the Code of Civil Procedure, or with any other applicable provision of law. A first violation of this subdivision is a misdemeanor subject to a fine of one thousand dollars (\$1,000); a second violation is subject to a fine of one thousand five hundred dollars (\$1,500); and a third or subsequent violation is subject to a fine of two thousand dollars (\$2,000).

(j) Maintain the funds of all owners, consignors, buyers, and other clients and customers separate from his or her personal funds and accounts. A violation of this subdivision is an infraction subject to a fine of two hundred fifty dollars (\$250).



(k) Immediately prior to offering any item for sale, disclose to the audience the existence and amount of any liens or other encumbrances on the item, unless the item is sold as free and clear. For the purposes of this subdivision, an item is "free and clear" if all liens and encumbrances on the item are to be paid prior to the transfer of title. A violation of this subdivision is an infraction subject to a fine of two hundred fifty dollars (\$250) in addition to the requirement that the buyer be refunded, upon demand, the amount paid for any item that is the subject of the violation.

(l) Within two working days after an auction sale, return the blank check or deposit of each buyer who purchased no goods at the sale. A first violation of this subdivision is an infraction subject to a fine of one hundred dollars (\$100); and a second or subsequent violation is subject to a fine of two hundred fifty dollars (\$250).

(m) Within 30 working days of any auction sale, refund that portion of the deposit of each buyer that exceeds the cost of the goods purchased, unless delay is compelled by legal proceedings or the inability of the auctioneer or auction company, through no fault of his or her own, to transfer title to the goods or to comply with any provision of this chapter, the Commercial Code, or the Code of Civil Procedure, or with other applicable provisions of law, or unless the buyer violated the terms of a written agreement that he or she take possession of purchased goods within a specified period of time. A first violation of this subdivision is an infraction subject to a fine of one hundred dollars (\$100); and a second or subsequent violation is subject to a fine of two hundred fifty dollars (\$250).

**SEC. 131.** *Section 1812.608 of the Civil Code is amended to read:*

**1812.608.** In addition to other requirements and prohibitions of this title, it is a violation of this title for any person to do any of the following:

(a) Fail to comply with any provision of this code, or with any provision of the Vehicle Code, the Commercial Code, any regulation of the Secretary of State, the Code of Civil Procedure, the Penal Code, or any law administered by the State Board of Equalization, relating to the auctioneering business, including, but not limited to, sales and the transfer of title of goods.

(b) Aid or abet the activity of any other person that violates any provision of this title. A violation of this subdivision is a misdemeanor subject to a fine of one thousand dollars (\$1,000).

(c) Place or use any misleading or untruthful advertising or statements or make any substantial misrepresentation in conducting auctioneering business. A first violation of this subdivision is a misdemeanor subject to a fine of five hundred dollars (\$500); and a second or subsequent violation is subject to a fine of one thousand dollars (\$1,000).

(d) Sell goods at auction before the auctioneer or auction company involved has first entered into a written contract with the owner or consignor of the goods, which contract sets forth the terms and conditions upon which the auctioneer or auction company accepts the goods for sale. The written contract shall include all of the following:

(1) The auctioneer's or auction company's name, trade or business name, business address, and business telephone number.

(2) An inventory of the item or items to be sold at auction.

(3) A description of the services to be provided and the agreed consideration for the services, which description shall explicitly state which party shall be responsible for advertising and other expenses.

(4) The approximate date or dates when the item or items will be sold at auction.

(5) A statement as to which party shall be responsible for insuring the item or items against loss by theft, fire, or other means.

~~(6) A disclosure that the auctioneer or auction company has a bond on file with the Secretary of State. A first violation of this subdivision is an infraction subject to a fine of two hundred fifty dollars (\$250); a second violation is subject to a fine of five hundred dollars (\$500); and a third or subsequent violation is subject to a fine of one thousand dollars (\$1,000).~~

(e) Sell goods at auction before the auctioneer or auction company involved has first entered into a written contract with the auctioneer who is to conduct the auction. A first violation of this subdivision is an infraction subject to a fine of one hundred dollars (\$100); and a second or subsequent violation is subject to a fine of two hundred fifty dollars (\$250).

(f) Fail to reduce to writing all amendments or addenda to any written contract with an owner or consignor or an auctioneer. A first violation of this subdivision is an infraction subject to a fine of one hundred dollars (\$100); and a second or subsequent violation is subject to a fine of two hundred fifty dollars (\$250).

(g) Fail to abide by the terms of any written contract required by this section. A first violation of this subdivision is an infraction subject to a fine of one hundred dollars (\$100); and a second or subsequent violation is subject to a fine of two hundred fifty dollars (\$250).

(h) Cause or allow any person to bid at a sale for the sole purpose of increasing the bid on any item or items being sold by the auctioneer, except as authorized by Section 2328 of the Commercial Code or by this title. A violation of this subdivision includes, but is not limited to, either of the following:

(1) Stating any increased bid greater than that offered by the last highest bidder when, in fact, no person has made such a bid.

(2) Allowing the owner, consignor, or agent thereof, of any item or items to bid on the item or items, without disclosing to the audience that the owner, consignor, or agent thereof has reserved the right to so bid.

A violation of this subdivision is an infraction subject to a fine of one hundred dollars (\$100).

(i) Knowingly misrepresent the nature of any item or items to be sold at auction, including, but not limited to, age, authenticity, value, condition, or origin. A violation of this subdivision is an infraction subject to a fine of two hundred fifty dollars (\$250). In addition, it shall be required that the buyer of the misrepresented item be refunded the purchase price of the item or items within 24 hours of return to the auctioneer or auction company of the item by the buyer, provided that the item is returned within five days after the date of the auction sale.

(j) Misrepresent the terms, conditions, restrictions, or procedures under which goods will be sold at auction. A violation of this subdivision is an infraction subject to a fine of seventy-five dollars (\$75).

(k) Sell any item subject to sales tax without possessing a valid and unrevoked seller's permit from the State Board of Equalization. A violation of this subdivision is an infraction subject to a fine of five hundred dollars (\$500).