

1996

1996 Consumer Legislative Digest

California Department of Consumer Affairs

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1996 CONSUMER LEGISLATIVE DIGEST

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Pete Wilson, Governor

**CALIFORNIA
DEPARTMENT OF
CONSUMER AFFAIRS**

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CONSUMER LEGISLATIVE DIGEST 1996

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Forward

The 1996 Legislative Digest contains summaries of legislation of significance to the Department of Consumer Affairs, its licensees, and consumers throughout the state. This Digest contains legislation for the second year of the 1995-1996 legislative session. While the text is edited to provide accurate and current information about each legislative proposal, readers should obtain copies of specific bills or consult relevant codes when relying on cited material.

You may obtain copies of bills by contacting your local legislator.

The Digest is organized to help you readily identify a specific bill by any of several methods: bill number, subject matter or category, or chapter number if the bill was passed by the Legislature and signed by the Governor.

The Digest presents the bills, generally, within three major categories - Consumer Protection, Occupational Regulation, and Department of Consumer Affairs. Each category contains one or more subcategories. Because of the nature of the issues addressed in a particular bill, you may find it referenced in more than one category or subcategory.

Bills which failed in committees or were "dropped" by their authors are included only for information purposes and future reference, inasmuch as the Department expects that some of these bills may be re-introduced in the 1997-1998 session. The Governor's veto message is included for each bill that was vetoed. Unless otherwise indicated, chaptered bills become effective on January 1, 1997.

Part I is organized alphabetically, by a one-line subject heading, within each subcategory. The subject heading refers you to the bill number, and indicates the disposition of the bill at the close of the 1996 legislative year.

Part II is organized numerically, by assembly or senate bill number, under each subcategory. Part II contains a short summary of each bill and its disposition at the end of the 1996 legislative year.

Part III is an Appendix containing a Bill Number Index and a Chaptered Bill Index. Each index specifies all pages in the Digest that reference the particular bill. The Appendix also includes a Department of Consumer Affairs Directory that identifies all occupations licensed or regulated by a particular board or bureau within the Department.

For brevity, the Department of Consumer Affairs has used abbreviations throughout the Digest text to reference various California Codes. You will find a key to the abbreviations in the Appendix.

Throughout the Digest text, the Department of Consumer Affairs has used a bold typeface for sections of bill summaries that are mandates for the Department and its boards and bureaus.

**DEPARTMENT OF CONSUMER AFFAIRS
1996 LEGISLATIVE DIGEST**

C O N T E N T S

I. TABLE OF BILLS	<u>PAGE</u>
A. CONSUMER PROTECTION	i
B. OCCUPATIONAL REGULATION.....	viii
Boards, Bureaus and Programs	
C. STATE AGENCIES.....	xvi

II. BILL SUMMARIES

A. CONSUMER PROTECTION	
1. Arbitration Review Program	1
2. Business and Sales	2
3. Court System and Conflict Resolution	11
4. Credit and Financial Institutions	33
5. Health and Safety	36
6. Landlord - Tenant	43
7. Local Government	45
8. Mobilehomes	46
9. New Regulatory Programs	50
10. Privacy	51
11. Products and Services	54
12. Telecommunications	59
13. Utilities	63
14. Miscellaneous	69
B. OCCUPATIONAL REGULATION (Boards, Bureaus and Programs)	
1. Accountancy	84
2. Acupuncture Committee	86
3. Architectural Examiners	87
4. Athletic Commission	88
5. Automotive Repair	91
6. Barbering and Cosmetology	102
7. Behavioral Science	106
8. Cemetery/Funeral Programs.....	107
9. Contractors	110
10. Court Reporters	124
11. Dental Examiners	127

II. BILL SUMMARIES

PAGE

B. OCCUPATIONAL REGULATION (cont.)

12. Dental Auxiliaries	129
13. Electronic and Appliance Repair	129
14. Professional Engineers and Land Surveyors	129
15. Geologists and Geophysicists	130
16. Guide Dogs for the Blind	131
17. Hearing Aid Dispensers	132
18. Home Furnishings and Thermal Insulation	133
19. Landscape Architects	134
20. Medical Board	135
21. Nursing Home Administrators	144
22. Optometry	145
23. Pharmacy	148
24. Physical Therapy	151
25. Physician Assistant	152
26. Podiatric Medicine	152
27. Psychology	155
28. Registered Nursing	156
29. Respiratory Care	158
30. Security and Investigative Services	159
31. Speech-Language Pathology and Audiology	163
32. Structural Pest Control	163
33. Tax Preparer	166
34. Veterinary Medicine and Animal Health Technicians	167
35. Vocational Nurse and Psychiatric Technician	168

C. STATE AGENCIES

1. DCA - General	169
2. State Agencies - General	170

III. APPENDIX

A. Bill Number Index	193
B. Chaptered Bill Index	198
C. DCA Directory of Occupations and Professions	200
D. Key to Abbreviations of California Code	203

**T
A
B
L
E

O
F

B
I
L
L
S**

1. TABLE OF BILLS

A. CONSUMER PROTECTION

(1) Arbitration In Review

<u>Title</u>	<u>Bill Number</u>	<u>Disposition</u>
Motor Vehicles: Consumer Affairs	AB 1383	Chapter 722
Warranties: Motor Vehicle Manufacturers	SB 2052	Failed

(2) Business and Sales

Advertising: Made in USA	AB 628	Dropped
Cable Television: Late Charges	SB 610	Chapter 666
Consumer Protection: Mortgage Brokers	SB 2045	Chapter 684
Contractors: Home Improvement Contracts	AB 2396	Chapter 985
Disabled Persons	SB 1687	Chapter 498
Employment Agencies: Continuing Contracts	SB 2030	Chapter 102
Gift Certificates	AB 2466	Chapter 933
Health Studio Contracts	AB 287	Dropped
Home Improvement Contracts	SB 2040	Failed
Home Solicitation Contracts	AB 2395	Dropped
Internet Sales	AB 3320	Chapter 785
Liability: Residential Construction Defects	AB 2959	Failed
Motor Vehicle Leases: Disclosures	AB 2344	Chapter 814
Motor Vehicles: Consumer Affairs	AB 1383	Chapter 722
Rental Car Agencies	SB 1207	Dropped
Rental Car Agencies: Collision Damage Waiver	AB 2866	Failed
Rental Car Agencies: Vehicle License Fee	SB 1070	Chapter 992
Secondhand Dealers & Pawnbrokers	AB 2759	Chapter 923
Telephone Solicitations: Nonsolicitation Register	SB 1142	Failed
Telephone Solicitations: Nonsolicitation Register	SB 1512	Failed
Travel Sellers	AB 281	Failed
Travel Sellers	AB 3066	Failed
Travel Sellers	SB 1358	Chapter 52
Warranties: Motor Vehicle Manufacturers	SB 2052	Failed

(3) Court System and Conflict Resolution

Actions and Proceedings	AB 2832	Failed
Actions: Frivolous	SB 1917	Dropped
Arbitration	AB 754	Dropped
Arbitration	SB 2058	Dropped

Attorney's Fees: Book Account	SB 897	Dropped
Attorney's Fees: Residential Improvement Defects	AB 3289	Failed
Attorney's Fees: Shareholder Derivative Actions and Securities	AB 3193	Dropped
Attorneys' Fees: Early Demand	AB 3364	Dropped
Attorneys' Fees: Public Entities	AB 3412	Failed
Attorneys: Continuing Education	AB 2721	Dropped
Attorneys: Qualifications	AB 3356	Dropped
Attorneys: State Bar of California	AB 2787	Chapter 1104
Causes of Action: Services	AB 2386	Dropped
Civil Actions	AB 3135	Failed
Civil Actions: Case Questionnaires	AB 1898	Dropped
Civil Actions: Mediation	SB 1427	Failed
Civil Procedure	SB 52	Chapter 60
Civil Procedure: Defendants Name	AB 2270	Failed
Court Proceedings: Electronic Recording	AB 2113	Dropped
Courts	AB 3471	Chapter 1159
Courts: Consolidation	SCA 4	Chapter R-36
Courts: Fees	AB 1230	Dropped
Courts: Small Claims	AB 3287	Dropped
Crimes: Elder & Dependent Adult Abuse	SB 1464	Failed
Damages: Construction Defects	SB 744	Dropped
Damages: Prejudgment Interests	SB 15	Failed
Damages: Unauthorized Use of Personal Characteristics	AB 1904	Dropped
Defamation	SB 1540	Chapter 1055
Dispute Resolution	SB 692	Dropped
Dispute Resolution: Construction Defects	AB 3009	Dropped
Dispute Resolution: Fees	AB 2953	Chapter 942
Dispute Resolution: Mediation	SB 1428	Dropped
Evidence: Business Records	AB 3001	Chapter 146
Exemplary Damages	AB 1862	Failed
Exemplary Damages: Apportionment	AB 757	Failed
Governmental Tort Liability	SB 1368	Chapter 562
Home Inspectors	SB 258	Chapter 338
Judicial Arbitration	AB 1927	Dropped
Judicial Arbitration	SB 197	Failed
Juries	AB 2922	Dropped
Juries	SB 1199	Failed
Juries: Selection	AB 1065	Dropped
Legal Services	SB 1321	Chapter 866
Liability	AB 2357	Dropped
Liability	AB 2385	Dropped
Liability: Public Entities	AB 1596	Dropped
Liability: Skating Rinks	AB 2318	Failed
Limitation of Actions	AB 2387	Dropped
Mediation Services: Confidentiality	SB 1522	Chapter 174
Mediation: Family Disputes	AB 2303	Dropped
Municipal Courts: Monetary Jurisdiction	AB 3381	Failed

Negligence	AB 947	Dropped
Negligence: Immunity from Civil Liability	SB 302	Dropped
Negligence: Noneconomic Losses	AB 1938	Dropped
Notary Public	AB 3304	Chapter 97
Notary Publics: Surety Bond	AB 3361	Chapter 79
Peremptory Challenges: Civil Cases	SB 2159	Failed
Product Liability	SB 1577	Dropped
Professional Fiduciaries: Guardians & Conservators	SB 1823	Vetoed
Professional Negligence: Joint & Several Liability	AB 1516	Dropped
Protective Proceedings: Guardians & Conservators	AB 2020	Dropped
Punitive Damages	AB 1405	Dropped
Punitive Damages	AB 2129	Dropped
Searches: Public Employees	AB 3303	Dropped
Small Claims Court	AB 2175	Dropped
Small Claims Court	AB 2567	Chapter 693
State Bar of California	SB 1413	Dropped
State Bar of California: Accreditation	SB 596	Dropped
State Bar: Examining Committee	AB 2423	Failed
State Bar: First-Year Law Student's Examination	SB 1950	Chapter 168
Trial Court Delay Reduction Act	SB 262	Dropped
Writings: Electronic Media	SB 926	Dropped

(4) Credit & Financial Institutions

Check Cashier: Personal Checks	SB 1959	Chapter 682
Checks: Insufficient Funds	AB 2459	Dropped
Checks: Insufficient Funds	AB 2643	Chapter 1000
Credit Cards: Finance Charges	SB 1871	Chapter 180
Electronic Funds Transfer	AB 393	Dropped
Motor Vehicles: Conditional Sale Contracts	SB 1576	Chapter 665
Motor Vehicles: Cosigner Notice	SB 1639	Chapter 313
Personal Identification Information	AB 2533	Dropped
Retail Installment Sales: Late Charges	SB 2050	Chapter 301

(5) Health & Safety

Abortion: Informed Consent	AB 250	Failed
Abortion: Informed Consent	AB 2774	Failed
Anatomical Gifts: Disabilities: Discrimination	AB 2861	Chapter 96
Clinical Laboratory Services	AB 2588	Chapter 1035
Health Care Coverage: Compensation: Inducements	AB 2192	Dropped
Health Care Coverage: Provider Incentives: Capitation	AB 2649	Chapter 1014
Health Care Providers: Patient Advice	AB 3013	Chapter 1089
Health Care Referrals	AB 2443	Chapter 817
Health Insurance: Health Care Practitioners: Retaliation	AB 2067	Failed

Housing: Safety: Disclosures	AB 3305	Chapter 925
Minors: Medical Care & Counseling	AB 2883	Chapter 656
Orthotic Devices	SB 2059	Dropped
Osteopathic Physicians & Surgeons: Diversion Program	AB 3265	Chapter 149
Physicians & Surgeons: Patient Advice	AB 2669	Dropped
Physicians & Surgeons: Patient Advice	SB 1847	Chapter 260
Security Bars: Fire Safety	AB 3131	Chapter 290

(6) Landlord-Tenant

Child Day Care Facilities: Family Day Care Homes	SB 1695	Chapter 449
Civil Rights: Housing: Pets	SB 2077	Dropped
Landlord-Tenant: Screening Fees	AB 2263	Chapter 525
Liability: Real Property	AB 1073	Failed
Nuisance: Controlled Substances	AB 2970	Chapter 658
Real Property: Rent Control	AB 3244	Chapter 1031
Unlawful Detainer	SB 992	Dropped

(7) Local Government

Bonds: Liens: Foreclosure	SB 1471	Chapter 625
Concealed Weapons Permits	SB 74	Failed
Housing & Land Use Omnibus	SB 1748	Chapter 799
Local Government Organization	AB 2043	Dropped
Peace Officers: Arrests: Liability	SB 1902	Dropped

(8) Mobilehomes

Civil Rights: Housing: Pets	SB 2077	Dropped
Mobilehome Parks	AB 1819	Dropped
Mobilehome Parks	AB 2995	Dropped
Mobilehome Parks: Rules & Regulations	SB 1586	Dropped
Mobilehome Residency Law	AB 765	Dropped
Mobilehome Residency Law: Rent Control	SB 1181	Chapter 392
Mobilehomes	AB 2781	Chapter 95
Mobilehomes	SB 1624	Chapter 157
Mobilehomes & Manufactured Housing: Consumer	AB 2221	Chapter 812
Mobilehomes: Age Requirements	SB 1585	Chapter 61
Mobilehomes: Local Regulation Mediation	SB 1756	Dropped
Unlawful Detainer	SB 1855	Dropped

(9) New Regulatory Programs

Home Inspectors	SB 258	Chapter 338
Hypnotherapists: Registration	AB 2696	Dropped
Naturopathic Physician Licensing	SR 28	Dropped
Recreation Therapy	AB 1127	Dropped
Recreation Therapy	AB 2853	Dropped

(10) Privacy

Civil Procedure: Personal Consumer Record	SB 1821	Chapter 679
Peace Officers: Disciplinary Investigation	AB 2176	Chapter 220
Peace Officers: Personnel Files: Public Complaints	AB 3434	Chapter 1108
Peace Officers: School Funding	AB 927	Dropped
Personal Rights: Privacy	SB 1659	Chapter 1025
Public Records: Peace Officers	AB 688	Failed
Public Utilities: Disclosure	AB 288	Failed
Student & Consumer Records	AB 1721	Chapter 879
Telephone Call Identification Service: Privacy	AB 1889	Dropped

(11) Products & Services

Athlete Agents	SB 1401	Chapter 858
Athlete Agents: Contracts	AB 1987	Chapter 857
Civil Actions: Product Liability	AB 1730	Dropped
Copyright: Contracts	AB 1389	Chapter 340
Exemplary Damages: Product Liability	AB 2880	Dropped
Liability for Defective Products	AB 408	Dropped
Limitation of Actions: Construction Defects	AB 2077	Failed
Product Liability	AB 1601	Dropped
Product Liability	AB 2022	Dropped
Product Liability Actions: Subsequent Remedial Measures	AB 410	Failed
Product Liability: Common Consumer Products	AB 972	Dropped
Product Liability: Minors	SB 1014	Dropped
Professional Fiduciaries: Guardians & Conservators	SB 1823	Vetoed

(12) Telecommunications

California Telecommunications Infrastructure Development Act	SB 1896	Chapter 300
Cellular Radio Telephone Service: Emergency Calls	AB 2075	Failed
Cellular Telephones: Unfair Trade Practices	SB 551	Dropped
Coin-Activated Telephones: Reimbursement for Use	AB 2657	Dropped
Emergency 911 Telecommunications: Liability	SB 135	Dropped

Emergency Medical Services: Funding	AB 230	Dropped
Public Utilities Act: Telecommunications Service	AB 1588	Dropped
Public Utilities Act: Telecommunications Service	AB 3154	Dropped
Public Utilities: Telecommunications	AB 2712	Dropped
Public Utilities: Telephones	SB 1035	Chapter 675
Public Utilities: Telephones	SB 2088	Dropped
Telecommunications	AB 2875	Dropped
Telecommunications Services: Rates	SB 207	Chapter 750
Telecommunications: Federal Law: Conflicts	AB 1121	Chapter 574
Telephones: Mobile Radios	SB 1032	Dropped
Telephones: Public Places: Hearing Impaired	AB 3152	Chapter 779

(13) Utilities

Crimes: Theft of Cable Television Signals	SB 623	Chapter 1131
Electric & Gas Service: Master-Meter Customers	AB 622	Chapter 424
Public Utilities Commission: Administrative Procedures	SB 960	Chapter 856
Public Utilities Commission: Judicial Review	SB 1322	Chapter 855
Public Utilities: Carriers	AB 1683	Chapter 1042
Public Utilities: Disclosure	AB 288	Failed
Public Utilities: Electrical Corporations	AB 1123	Dropped
Public Utilities: Electrical Restructuring	AB 1890	Chapter 854
Public Utilities: Enforcement Actions	AB 2713	Chapter 1065
Public Utilities: Programs: Electric Utilities: Restructuring	SB 25	Dropped
Public Utilities: Rates	AB 280	Dropped
Public Utilities: Services to Tenants	AB 1770	Chapter 24
Public Utilities: Telecommunications Service	SB 1090	Failed
Public Utility Commission	SCA 21	Failed
Utility Company Services	AB 560	Dropped

(14) Miscellaneous

Building Codes	AB 2552	Failed
Civil Rights: Affirmative Action	ACA 2	Dropped
Commission on Peace Officer Standards & Training	AB 3064	Chapter 591
Common Interest Developments	AB 1317	Chapter 1101
Common Interest Developments	AB 2166	Dropped
Common Interest Developments: Governing Documents	AB 2732	Dropped
Common Interest Developments: Motorcycles	AB 3056	Vetoed
Common Interest Developments: Reserve Funds	AB 2730	Dropped
Common Interest Developments: Reserve Funds	AB 3015	Chapter 80
Confidential Communications	AB 1803	Failed
Confidential Information: Disclosure	AB 1396	Dropped
Crimes: Elder & Dependent Adult Abuse	SB 1464	Failed
Crimes: Undocumented Aliens	AB 83	Dropped

Criminal Procedure	SB 116	Dropped
Home Inspectors	SB 258	Chapter 338
Insurance	AB 1308	Dropped
Insurance Adjusters	SB 876	Chapter 707
Limited Liability Companies	SB 141	Chapter 57
Limited Liability Partnerships	SB 1318	Chapter 351
Mechanics' Liens	SB 578	Dropped
Organ Donation	AB 1447	Dropped
Peace Officers: Arrests: Liability	SB 1902	Dropped
Peace Officers: Disciplinary Investigation	AB 2176	Chapter 220
Peace Officers: False Claims	AB 2637	Chapter 586
Peace Officers: Health Facilities	SB 1134	Failed
Peace Officers: Personnel Files: Public Complaints	AB 3434	Chapter 1108
Peace Officers: Stress Reduction Courses	SB 43	Failed
Pilotage	SB 1641	Chapter 1036
Pilotage: San Francisco Bay: Rate Recommendations	AB 484	Dropped
Pilotage: San Francisco, San Pablo & Suisun Bays	AB 2048	Dropped
Public Safety Officers: Interrogation	AB 2236	Dropped
Public Safety Officers: Procedural Bill of Rights	SB 282	Vetoed
San Francisco Bay Pilots	SB 1741	Chapter 1115
Security Officers	AB 2651	Chapter 143
Social Workers: California State University: UC	AB 2580	Dropped
Undocumented Aliens: Intimidation	AB 81	Vetoed
Vehicles	SB 49	Chapter 1109
Vehicles: Liability	AB 1242	Dropped

1. TABLE OF BILLS

B. OCCUPATIONAL REGULATION Boards, Bureaus & Programs

(1) Board of Accountancy

<u>Title</u>	<u>Bill Number</u>	<u>Disposition</u>
Accountancy Act	AB 1260	Chapter 639
Boards & Commissions	SB 1077	Chapter 1137
Boards & Commissions	SB 2031	Chapter 1136
Unprofessional Conduct: Duty to Report	AB 2676	Chapter 430

(2) Acupuncture Committee

Workers Compensation: Acupuncturists	AB 1002	Chapter 26
Workers Compensation: Acupuncturists	AB 1003	Failed

(3) Board of Architectural Examiners

Architects: Licensing	SB 1607	Chapter 184
California Board of Architectural Examiners	AB 2171	Chapter 321
Limited Liability Companies: Professions	AB 2401	Failed

(4) Athletic Commission

Boards & Commissions	SB 1077	Chapter 1137
Boards & Commissions	SB 2031	Chapter 1136
Boxing	AB 2472	Chapter 376
Boxing: Pension Fund	AB 2560	Chapter 377
Business: Cable Television: Telecast Revenues	SB 2099	Dropped
Closed-Circuit Telecasts: Pay-Per-View	SB 1288	Dropped

(5) Bureau of Automotive Repair

Air Pollution: Diesel Vehicles	AB 1675	Failed
Air Pollution: Districts: Indirect Sources	SB 1603	Failed
Air Pollution: Heavy-duty Vehicles: Smoke Emission	AB 1460	Chapter 292
Air Pollution: Motor Vehicle Fuel: Zero-Emission Vehicles	SB 1967	Failed
Air Pollution: Motor Vehicles: Fee	SB 1175	Dropped
Air Pollution: Motor Vehicles: Inspection Program	AB 30	Failed

Air Pollution: Smog Check Technicians	SB 1197	Failed
Air Pollution: South Coast District: Public Advisor...	AB 3248	Failed
Air Pollution: South Coast District: Rules & Regulations	SB 836	Chapter 993
Air Pollution: Vehicle Inspection & Maintenance	SB 1038	Dropped
Air Pollution: Vehicles	SB 928	Failed
Air Pollution: Vehicles: Repair Cost Limit	AB 260	Failed
Air Pollution: Vehicles: Tools	AB 3072	Chapter 380
Auto Repair	AB 498	Failed
Auto Repair Business: Registration & Certification	AB 2957	Failed
Energy Resources: Vehicles: Federal Oil Overcharge Funds	SB 1981	Failed
Removal of High Polluters: Electric Vehicles	AB 339	Dropped
Transportation	AB 3020	Chapter 1154
Uncertified Vehicles or Engines: Transfer of Title: Presumptions	AB 2798	Failed
Vehicle Emission Certificate Requirements: Transfer: Exemption	SB 1528	Chapter 112
Vehicle Inspection & Maintenance	AB 2515	Chapter 1088
Vehicle Inspection & Maintenance	SB 1499	Failed
Vehicle Registration: Exceptions	AB 187	Failed
Vehicle Repairs	AB 1457	Dropped
Vehicles: Department of Motor Vehicles: New Motor Vehicle Board	SB 899	Failed
Vehicles: Endorsed Salvage Certificate	SB 766	Dropped
Vehicles: Smog Impact Fee	SB 1462	Failed
Vehicles: Smog Impact Fee: Exemption	SB 1436	Failed
Vehicles: Zero-Emission	AB 2489	Failed

(6) Board of Barbering & Cosmetology

Barbering & Cosmetology	SB 1609	Dropped
Barbering & Cosmetology	SB 2094	Dropped
Barbering & Cosmetology: Licensing	SB 1745	Dropped
Barbering & Cosmetology: Licensing	SB 790	Dropped
Barbers & Cosmetologists	AB 550	Dropped
Boards & Commissions	SB 1077	Chapter 1137
Cosmetology: Establishments	SB 1182	Dropped
Natural Hairstyling	AB 2476	Failed
State Board of Barbering & Cosmetology	SB 1680	Dropped
Tattooing, Body Piercing, & Permanent Cosmetics	AB 487	Failed

(7) Board of Behavioral Science

DCA: Omnibus Bill	AB 3473	Chapter 829
Licensing Requirements	AB 3073	Chapter 739
Sexual Harassment	SB 195	Chapter 150

(8) Cemetery/Funeral Programs

Cemeteries	AB 597	Chapter 38
Cemeteries	AB 2234	Chapter 964
Cemeteries: Human Remains	AB 2237	Chapter 371
Cemeteries: Regulation	AB 2233	Chapter 370
Cemeteries: Regulation	AB 2416	Dropped
Funeral Establishments	AB 2877	Chapter 1151
Private Cemeteries: Restrictions Based on Race Ethnicity; or Gender	AB 2238	Chapter 769

(9) Contractors State License Board

Asbestos Contractors	SB 1486	Chapter 526
Building Codes	AB 2552	Failed
Business Licenses	AB 2823	Chapter 936
Construction: Contracts	SB 2066	Failed
Consumer Complaints	AB 2124	Dropped
Contractors License Fees	SB 1597	Chapter 528
Contractor: Prompt Payment	AB 147	Dropped
Contractors	AB 1455	Vetoed
Contractors	AB 1567	Dropped
Contractors	AB 2494	Chapter 282
Contractors: Building Permits	SB 1557	Chapter 712
Contractors: Complaint Information	SB 112	Dropped
Contractors: Home Improvement Contracts	AB 2396	Chapter 985
Contractors: Inspections	SB 1052	Dropped
Contractors: Licensing: Exemptions	SB 2002	Chapter 287
Contractors: Unlicensed Activity: Statutes of Limitation	AB 2958	Chapter 145
Contractors: Workers Compensation	AB 3355	Chapter 331
County Services	AB 29	Failed
Dispute Resolution: Construction Defects	AB 3009	Dropped
Employee Benefit Plans	AB 2662	Dropped
Employee Status	AB 525	Failed
Employees: Independent Contractors	SB 2146	Failed
Employment: Wages & Hours	AB 398	Failed
Geothermal Heat Exchange Wells	AB 2334	Chapter 581
Home Improvement Contracts	SB 2040	Failed
Housing: Safety: Disclosures	AB 3305	Chapter 925
Indemnity	SB 2032	Chapter 558
Labor Agency	SB 442	Dropped
Liability: Inspection of Property	AB 2899	Dropped
Liability: Residential Construction Defects	AB 2959	Failed
Limitation of Actions: Construction Defects	AB 2077	Failed
Limited Liability Companies: Professions	AB 2401	Failed
Local Agency Contracts: Eligibility	SB 2113	Dropped
Public Works: Contractors or Subcontractors: Debarment	SB 444	Dropped

Security Bars: Fire Safety	AB 3131	Chapter 290
Taxation: Employees	AB 3087	Failed
Utility Company Services	AB 560	Dropped
Water Wells: Licensed Contractors	SB 1168	Dropped
Workers Compensation	SB 245	Dropped
Works of Improvement	AB 2272	Dropped
Works of Improvement: Retention Proceeds	AB 1949	Vetoed
Works of Improvement: Waivers	AB 1236	Dropped

(10) Court Reporters Board of California

Boards and Commissions	SB 1077	Chapter 1137
Boards and Commissions	SB 2031	Chapter 1136
Court Reporters Requirements	AB 2701	Chapter 694
Court Reporters Transcripts: Copying & Use	AB 2247	Failed
Court Reporters: License	SB 413	Failed
Shorthand Reporters: Transcript Reimbursement Fund	SB 795	Chapter 895

(11) Board of Dental Examiners

Allied Dental Health Professionals	SB 570	Dropped
Dentistry: Licensure: Probation	SB 511	Chapter 492
Dentists: Licensure	SB 1479	Chapter 257

(12) Committee on Dental Auxiliaries

See Board of Dental Examiners

(13) Bureau of Electronic & Appliance Repair

Department of Consumer Affairs	AB 2520	Failed
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(14) Professional Engineers & Land Surveyors

Limited Liability Companies: Professions	AB 2401	Failed
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(15) Board of Geologists & Geophysicists

Boards & Commissions	SB 1077	Chapter 1137
Boards & Commissions	SB 2031	Chapter 1136

(16) Board of Guide Dogs for the Blind

Board of Guide Dogs: Sunset AB 2860 Failed

(17) Hearing Aid Dispensers Examining Committee

DCA Omnibus Bill AB 3473 Chapter 829
Hearing Aid Dispensers SB 1918 Dropped
Medicine SB 1592 Chapter 441

(18) Bureau of Home Furnishings & Thermal Insulation

Boards & Commissions SB 1077 Chapter 1137
Department of Consumer Affairs AB 2520 Failed

(19) Board of Landscape Architects

Landscape Architects: Scope of Practice AB 3164 Failed

(20) Medical Board

Crimes: Domestic Violence & Sexual Assault SB 1444 Chapter 1075
Healing Arts SB 1990 Dropped
Healing Arts: Medicine & Optometry SB 890 Chapter 40
Healing Arts: Prescribing Drugs or Treatments SB 1677 Dropped
Malpractice Awards AB 1727 Dropped
Medicine SB 1592 Chapter 441
Medicine SB 2081 Dropped
Medicine SB 2098 Chapter 902
Medicine: Child Lead Testing AB 2905 Dropped
Medicine: Continuing Education Requirements AB 3171 Chapter 382
Medicine: HIV Continuing Education AB 3256 Dropped
Medicine: Medical Assistants AB 2934 Failed
Medicine: Peer Review Procedures AB 1974 Chapter 644
Medicine: Telemedicine SB 1665 Chapter 864
Orthotic Devices SB 2059 Dropped
Physician Assistants AB 3111 Chapter 1030
Physicians & Surgeons: Consent for Assisted Reproduction: Consent AB 2513 Chapter 863
Physicians & Surgeons: Patient Advice SB 1847 Chapter 260
Podiatrist Assistants AB 753 Chapter 454
Volunteer Physicians and Surgeons AB 596 Failed

(21) Board of Nursing Home Administrators

DCA Omnibus Bill AB 3473 Chapter 829

(22) Board of Optometry

Healing Arts: Medicine & Optometry SB 890 Chapter 40
Optometry AB 1969 Dropped
Optometry AB 2212 Dropped
Optometry AB 2771 Chapter 328
Optometry SB 510 Dropped
Optometry SB 668 Chapter 13
Optometry SB 1536 Chapter 312
Optometry: Ancillary Personnel SB 563 Dropped
Schools: Solicitations by Licensed Optometrists AB 2478 Chapter 83

(23) Board of Pharmacy

Pharmaceutical Price Controls SJR 23 Dropped
Pharmacist: Performing Tests SB 1537 Chapter 113
Pharmacy AB 2802 Chapter 890
Pharmacy SB 922 Dropped
Pharmacy SB 959 Dropped
Pharmacy: Pharmacy Technicians AB 2925 Dropped
Pharmacy: Pharmacy Technicians SB 1553 Chapter 798

(24) Physical Therapy Board

DCA Omnibus Bill AB 3473 Chapter 829
Physical & Respiratory Therapy SB 1962 Chapter 830

(25) Physician Assistant Examining Committee

Physician Assistants AB 753 Chapter 454

(26) Board of Podiatric Medicine

DCA Omnibus Bill AB 3473 Chapter 829
Medicine SB 2098 Chapter 902
Podiatrist Assistants AB 753 Chapter 454
Physician Assistants AB 3111 Chapter 1030

(27) Board of Psychology

Health Facilities: Clinical Psychologists	AB 3141	Chapter 826
Health Facilities: Staff Privileges of Clinical Psychologist	AB 944	Failed
Psychologists: Prescribing Drugs	SB 777	Dropped
Psychology	AB 3188	Chapter 661

(28) Board of Registered Nursing

Healing Arts: Point-of-Care Laboratory Testing	SB 638	Failed
Nursing	AB 1077	Chapter 455
Nursing: Nurse-Midwives	SB 1738	Chapter 158
Registered Nurses: Clinical Nurse Specialists	AB 1176	Dropped

(29) Respiratory Care Board

Physical & Respiratory Therapy	SB 1962	Chapter 830
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(30) Bureau of Security & Investigative Services

Commission on Peace Officer Standards & Training	AB 3064	Chapter 591
Concealed Weapons Permits	AB 53	Dropped
Private Investigators: Subpoenas	AB 655	Dropped
Public Funds: Accounts Receivable	SB 263	Dropped
Repossessors	SB 1456	Chapter 624
Security Officers	AB 2651	Chapter 143
Security Services & Public Employment	SB 1375	Chapter 710
Security Services: Firearms	AB 2645	Chapter 734
Security Services: Peace Officer Exemption	AB 581	Dropped
Vehicles: Tow Truck Operators	SB 2105	Dropped

(31) Speech-Language Pathology & Audiology Examining Committee

Speech Language Pathology & Audiology	SB 1573	Dropped
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(32) Structural Pest Control Board

DCA Omnibus Bill	AB 3473	Chapter 829
Pest Control	AB 3286	Dropped
Pest Control	SB 1546	Chapter 398
Structural Pest Control: Fees	SB 530	Chapter 71

(33) Tax Preparer Program

Boards & Commissions

SB 1077

Chapter 1137

(34) Veterinary Medical Board

Veterinary Medicine

SB 1645

Chapter 404

Veterinary Medicine: Euthanasia

SB 1383

Dropped

Veterinary Medicine: Special License: Commercial Poultry

AB 3089

Dropped

(35) Board of Vocational Nurse & Psychiatric Technicians Examiners

Psychiatric Technicians

AB 1508

Dropped

1. TABLE OF BILLS

C. STATE AGENCIES

1. DCA-General

<u>Title</u>	<u>Bill Number</u>	<u>Disposition</u>
DCA Omnibus Bill	AB 3473	Chapter 829
Mediation	SB 873	Dropped
Motor Vehicles: Consumer Affairs	AB 1383	Chapter 722
State Government	SB 1763	Chapter 191

2. State Agencies-General

Administrative Adjudication: Small Business	AB 1180	Dropped
Administrative Hearings	AB 1069	Dropped
Administrative Regulations	AB 1659	Dropped
Administrative Regulations	SB 1910	Chapter 501
Administrative Regulations: Adverse Job Creation Impact	AB 1142	Dropped
Administrative Regulations: Review	AB 250	Dropped
Administrative Regulations: Review	AB 1160	Dropped
Administrative Regulations: Review	AB 2793	Failed
Administrative Regulations: State Personnel Board	AB 2772	Chapter 935
Administrative Regulations: Workers Compensation	AB 1859	Chapter 14
Capital Outlay Planning: State Agencies	AB 907	Vetoed
Claims Against the State: Overpayment	AB 1368	Chapter 941
Elections: Public Officers & Employees: Political Activities	AB 2746	Dropped
Employment Development: Task Force on Industry Skills Standards	AB 2901	Failed
Government Entities: Voluntary Release of Personal Information	AB 1580	Dropped
Industry Skills Panel	AB 469	Dropped
Legislative Oversight: Reports	AB 116	Chapter 970
Legislature: Public Records: Retention	SB 1507	Chapter 928
Open Meetings	SB 1803	Vetoed
Political Reform Act of 1974: Definition of Lobbyist	SB 834	Failed
Postsecondary Education	AB 1433	Dropped
Postsecondary Education: California Competitive Industries	AB 2397	Dropped
Postsecondary Education: Private Postsecondary & Vocational Ed. ...	AB 2960	Vetoed
Private Postsecondary & Vocational Education Act of 1989	SB 1569	Dropped
Private Postsecondary Education	AB 2544	Dropped
Private Postsecondary Educational Institutions	AB 482	Dropped
Product Liability Actions: Subsequent Remedial Measures	AB 410	Failed
Public Agencies: Contracting	AB 2363	Failed
Public Officers & Employees: Employment Preference	AB 211	Dropped
Public Records	AB 142	Dropped

Records	SB 323	Vetoed
Records: Paper Reduction Act of 1996	AB 2989	Failed
Regional Occupation Centers: Finance	AB 2235	Chapter 930
Regulatory Fees	AB 1475	Chapter 1127
Reports to the Legislature	AB 2458	Chapter 818
Searches: Public Employees	AB 3303	Dropped
State Agencies: Fines	AB 2402	Dropped
State Agencies: Written Communication	SB 1390	Dropped
State Boards & Commissions: California Progress Commission	AB 2863	Failed
State Boards & Commissions: Salaries of Members	AB 926	Chapter 1004
State Budget: Zero-Based Budgeting	SB 1753	Vetoed
State Civil Services: Quality Demonstration Project Act	AB 1553	Dropped
State Employees	AB 205	Chapter 253
State Employees: Pharmacists & Psychologists	AB 435	Dropped
State Functions: Contracting With Private Sector	SCA 20	Failed
State Funds	AB 2796	Failed
State Government: Performance Audits	AB 1390	Dropped
State Government: Performance Audits	SB 974	Dropped
State Procurement: Forced, Convict & Indentured Labor	AB 2457	Chapter 1149
State Procurement: Information Technology	SB 286	Vetoed
State Regulatory Agencies Created by Statutes: Abolition	AB 2684	Failed
State Tort Liability: Sexual Harassment	AB 777	Failed
Student Aid Commission: Collection of Accounts	AB 255	Chapter 1001
Trade & Commerce Agency: Rules & Regulations	AB 1179	Failed
Warranties: Motor Vehicle Manufacturers	SB 2052	Failed

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A. CONSUMER PROTECTION

(1) Arbitration Review Program

Bill	Summary	Disposition
AB 1383 Speier	<p>Motor Vehicles: Consumer Affairs</p> <p>As introduced, this bill would have expanded the existing Lemon Law provisions and made consumer-benefiting changes to the arbitration process. The bill was later amended so that the statute now requires the Department of Motor Vehicles (DMV) to develop, in consultation with the Department of Consumer Affairs (Department), an Internet web site to provide information to consumers who plan to purchase or have purchased a new motor vehicle. Existing law makes no provisions for the DMV to provide consumer information to vehicle purchasers.</p> <p>This statute requires the Department to assist the DMV by providing consumer information for inclusion on the web site. (Veh C § 1656.4)</p>	Chapter 722 Statutes of 1996
SB 2052 Calderon	<p>Warranties: Motor Vehicle Manufacturers</p> <p>Existing law, the Lemon Law, authorizes motor vehicle manufacturers to provide a qualified third-party dispute resolution process to resolve disputes brought by buyers or lessees of new motor vehicles. Existing law provides the circumstances under which a defective new vehicle shall be presumed to be a "lemon" and eligible for a replacement. Existing law defines a new motor vehicle for purposes of the Lemon Law as a vehicle primarily bought for personal or family use.</p> <p>This bill would have: (1) required automobile manufacturers to participate in an arbitration program or disclose the lack of arbitration to buyers in advertising; (2) doubled the period in which to invoke the Lemon Law to two years or 24,000 miles; (3) provided that a safety defect meets the lemon presumption after two or more repairs; (4) defined a safety defect; (5) expanded the definition of new motor vehicle to include a business vehicle if the person has no more than five registered vehicles; (6) required</p>	Failed Assembly Consumer Protection

parties to an arbitration hearing to have the opportunity to make oral presentations to the arbitrator; and (7) provided that a buyer would have the option of a new vehicle or restitution when a manufacturer is obligated to replace the vehicle.

(2) Business and Sales

**AB 281
Speier**

Travel Sellers

**Failed
Assembly Consumer
Protection**

Existing law establishes a restitution fund, financed by travel sellers, for victims of travel fraud. Existing law requires the fund to maintain a balance of \$1.6 million and authorizes the Travel Consumer Restitution Corporation (TCRC), which administers the fund, to make emergency assessments upon travel sellers if the fund dips below \$1.2 million.

This bill would have decreased the statutory level of the restitution fund to \$1.2 million and authorized the TCRC to make an emergency assessment upon travel sellers if the fund dips below \$1 million. (See also SB 1358 & SB 3066.)

**AB 287
Tucker**

Health Studio Contracts

Dropped

Existing law requires health studio contracts to be in writing and, among other things, to include a three-day right of rescission.

This bill would have required a health studio contract that requires any payment before the studio is open to disclose that any such payments will be deposited into an escrow account. The bill would have precluded removing any payments in the escrow account, except to refund a buyer's money, until the studio has been opened for six months.

**AB 628
Thompson**

Advertising: Made in U.S.A.

Dropped

Existing law prohibits false and misleading advertising.

Among other things, this bill would have prohibited representing that a product was made or originated in the United States when it had been substantially made outside of the United States.

AB 1383
Speier

Motor Vehicles: Consumer Affairs

Chapter 722
Statutes of 1996

As introduced, this bill would have expanded the existing Lemon Law provisions and made consumer-benefiting changes to the arbitration process. The bill was later amended so that the statute now requires the Department of Motor Vehicles (DMV) to develop, in consultation with the Department of Consumer Affairs (Department), an Internet web site to provide information to consumers who plan to purchase or have purchased a new motor vehicle. Existing law makes no provisions for the DMV to provide consumer information to vehicle purchasers.

This statute requires the Department to assist the DMV by providing consumer information for inclusion on the web site. (Veh C § 1656.4)

AB 2344
Woods

Motor Vehicle Leases: Disclosures

Chapter 814
Statutes of 1996

Existing law requires advertisements for motor vehicle leases that mention (1) the amount of any payment, (2) the number of payments, or (3) that any or no prepayment is required, to also disclose: (1) that the transaction is a lease; (2) the value of the vehicle at the start of the lease, and the customer's liability at the end of the lease, if the consumer bears the risk of depreciation; (3) the amount of any security deposit, advance payment, or other prepayment; (4) the term of the lease, the amounts and due dates or periods of payments, and the total payments; and (5) whether the consumer has the option to buy, as well as when and at what price.

This statute allows radio advertisements to omit disclosures (2) and (5), cited above, if the advertisement refers listeners to a toll-free telephone number or written advertisement where listeners can get this information. (Civ C § 2985.71)

AB 2395
Archie-Hudson

Home Solicitation Contracts

Dropped

Existing law gives the buyer of a home solicitation contract three business days to cancel the contract. Existing law defines "business day" to mean any calendar day, except Sunday and holidays.

This bill also would have excluded Saturdays from the definition of "business day."

AB 2396
Archie-Hudson

Contractors: Home Improvement Contracts

Chapter 985
Statutes of 1996

Existing law provides that a contractor cannot perform a change-order with respect to a home improvement or swimming pool construction contract unless the person contracting for the work has received a written change-order and has given written authorization for the additional work.

This statute specifies that a change-order is not enforceable unless the change-order clearly sets forth the scope of work to be done and the price to be charged. The statute also provides that failure to comply with the change-order requirements shall not preclude the recovery of compensation for work performed based on equitable remedies designed to prevent unjust enrichment. **This statute creates a new type of violation for which the Contractors State License Board may take disciplinary action.** (B&P C § 7159)

AB 2466
Goldsmith

Gift Certificates

Chapter 933
Statutes of 1996

Existing law does not regulate the redemption of gift certificates.

This statute: (1) prohibits selling gift certificates with an expiration date; (2) makes gift certificates sold without an expiration date continuously valid; and (3) requires gift certificates to be redeemable for their cash value, or replaced with a new gift certificate. (Civ C § 1749.5 and CCP § 1520.5)

AB 2759
Burton

Secondhand Dealers and Pawnbrokers

Chapter 923
Statutes of 1996

Existing law authorizes secondhand dealers to buy, sell, trade, auction or take in pawn "tangible personal property," and authorizes pawnbrokers to receive "goods" in pledge as security for a loan. This statute explicitly includes motor vehicles as "tangible personal property" and "goods" under the secondhand dealers and pawnbrokers' statutes.

Existing law authorizes the police to place a 90-day hold on property in the possession of a secondhand dealer or pawnbroker, if the property is believed to be stolen. If the property is no longer needed for a criminal investigation and is not reported stolen, the police must release the hold. If the property is reported stolen, the police must notify the owner, who has 60 days to claim the property.

This statute instead requires the police to notify the owner if the property has been reported lost or stolen, and prohibits the dealer from disposing of the property until 60 days thereafter. This statute also makes a number of other changes to the second-hand dealers and pawnbrokers laws. (B&P C §§ 21627, 21628.1, 21638.5, 21641, 21642, & 21647; Fin C §§ 21000, 21300.1, 21301, 21301.1, 21304, & 21307; and Pen C § 484.1)

AB 2866
Speier

Rental Car Agencies: Collision Damage Waiver

Failed
Assembly Judiciary

Existing law requires car rental agencies that offer collision damage waivers to disclose certain information, such as the nature and extent of the renter's liability, the fact that the renter's own insurance policy may cover the renter's liability, and other information.

This bill would, in addition, have required a disclosure in bold-face print that the damage waiver is not needed if the renter's private insurance or credit card covers the renter for damages to, or theft of, a rented vehicle.

AB 2959
Baugh

Liability: Residential Construction Defects

Failed
Senate Judiciary

Existing law allows damages to be awarded for design and construction defects for property damage, personal injury, or wrongful death. Existing law does not provide definitions for design or construction defect.

This bill would have defined a design or construction defect and provided that a builder, developer, contractor, subcontractor, seller of residential improvements or supplier shall not be held liable for loss or damage caused by a deficiency unless the deficiency met the definition of a structural defect. This bill would have created a rebuttable presumption that construction was done in accordance with accepted standards of care if there was compliance with the applicable building codes at the time of construction.

AB 3066
Frusetta

Travel Sellers

Failed
Assembly Floor

Existing law creates a restitution fund, financed by travel sellers, for victims of travel fraud. Existing law requires the fund to maintain a balance of \$1.6 million and authorizes the Travel Consumer Restitution Corporation (TCRC), which administers

the fund, to make emergency assessments upon travel sellers if the fund dips below \$1.2 million.

This bill would have decreased the statutory level of the restitution fund to \$1.2 million, and authorized the TCRC to make an emergency assessment upon travel sellers if the fund dips below \$900,000. (See also SB 1358 & AB 281.)

AB 3320
Speier

Internet Sales

Chapter 785
Statutes of 1996

Existing law requires anyone who accepts payment for goods or services which can be ordered by telephone, mail, catalog, television, radio, or other telecommunications device to do one of the following within 30 days after payment: (1) provide the goods or services ordered; (2) refund the buyer's money; (3) advise the buyer of a delay or offer a substitute, and offer the buyer a refund; or (4) provide a substitute of equal or greater quality, if the buyer can return the substitute for a refund.

This statute clarifies that these provisions also apply to sales or leases over the Internet and other electronic means of communication. (B&P C § 17538)

SB 610
Leonard

Cable Television: Late Charges

Chapter 666
Statutes of 1996

Existing law: (1) requires cable television companies to give customers at least 15 days from the date of mailing the bill to pay the charges; (2) requires cable television companies to wait at least seven days after that before assessing a late fee; (3) does not limit the amount of the late fee; and (4) allows cities and counties to adopt more stringent standards.

This statute allows cable television companies to charge a late fee of up to \$4.75 if: (1) the customer is notified of the fee when s/he signs the contract; (2) the customer is given at least 10 days notice before imposing the fee; (3) the invoice states a due date that is not earlier than the 10th day of the service period; (4) the fee is charged no earlier than 27 days after the due date; and (5) the delinquency is more than \$10.00. In addition, the statute authorizes cable television companies to charge a collection fee of up to \$10.00 if the company sends someone to the customer's home to collect payment or disconnect service and the above conditions are met. (Civ C § 53088.5)

SB 1070
Calderon

Rental Car Agencies: Vehicle License Fee

Chapter 992
Statutes of 1996

Existing law requires daily rental car rates to include all mandatory charges necessary to rent the vehicle, except taxes and any mileage charges.

This statute defines "taxes" to include: (1) sales and use taxes imposed directly upon individual rental transactions; (2) vehicle license fees (VLF) paid by the agency on the vehicle being rented; and (3) local taxes on rental transactions imposed directly on the renter. The statute requires all rental agencies to charge the VLF, and at the same rate (1/365th of the fee paid by the agency to the Department of Motor Vehicles on the vehicle being rented, per rental day). The statute requires advertisements and quotations to include a statement of the average dollar amount or range of dollar amounts that the VLF will cost per rental day. This statute will sunset on January 1, 2002. (Civ C § 1936)

SB 1142
Peace

Telephone Solicitations: Nonsolicitation Register

Failed
Assembly Utilities &
Commerce

Existing law regulates "telephonic sellers" and requires them to register with the Department of Justice. (The registration requirement does not apply to all persons who make solicitations by telephone.)

This bill would have required the Department of Consumer Affairs to establish a nonsolicitation register of persons who do not want to receive telephone solicitations, and would have prohibited telephone solicitors from calling anyone on this list.

SB 1207
Hughes

Rental Car Agencies

Dropped

Existing law regulates the rental of "passenger vehicles," defined as any motor vehicle carrying 10 or fewer persons, including motorhomes. Among other things, this law limits the renter's liability for theft, loss or damage; prohibits car rental agencies from using unfair tactics to collect on a damage claim; and requires rental car rates to include all mandatory charges necessary to rent the vehicle, except taxes and any mileage charges.

This bill would have excluded vehicles costing more than \$25,000 from these requirements.

SB 1358
Lewis

Travel Sellers

Chapter 52
Statutes of 1996

Existing law creates a restitution fund, financed by travel sellers, for victims of travel fraud. Existing law requires the fund to maintain a balance of \$1.6 million. Existing law requires the Travel Consumer Restitution Corporation (TCRC), which administers the fund, to make an annual assessment, to be determined by January 15 of each year, upon travel sellers in an amount necessary to maintain a \$1.6 million balance in the fund. If the fund has less than \$1.2 million on May 1 or October 1 of any year, the TCRC is required to make an emergency assessment upon travel sellers to restore the \$1.6 million balance.

This statute decreases the statutory level of the restitution fund from \$1.6 million to \$1.2 million, and authorizes the TCRC to make an emergency assessment upon travel sellers if the fund dips below \$900,000. The statute also deletes the current annual assessment provisions, and authorizes the TCRC to make an annual assessment only if the fund has less than \$1.2 million (rather than the current \$1.6 million) on January 15 of any year beginning with 1997. (B&P C §§ 17550.43 & 17550.44) (See also AB 281 & AB 3066.)

SB 1512
Calderon

Telephone Solicitations: Nonsolicitation Register

Failed
Senate
Appropriations

Existing law regulates telephonic sellers and requires them to register with the Department of Justice (DOJ).

This bill would have required the DOJ to maintain a list of California residents who do not want to receive telephone solicitations, and would have prohibited telephonic sellers from calling persons on this list.

SB 1687
Marks

Disabled Persons

Chapter 498
Statutes of 1996

Existing law provides that individuals with certain disabilities are entitled to equal access rights to various facilities. Persons licensed to train dogs as guide dogs, signal dogs, or service dogs, may take the dogs, for purposes of training, into places where disabled persons are required to be given access. Any person who denies or interferes with admittance to, or enjoyment of, public facilities or otherwise interferes with the rights of an individual with disabilities, is liable for actual damages in each offense. Disabled persons who are owners of and persons training the dogs are required to tag them with an assistance dog

identification and to keep them on a leash.

The statute makes numerous changes to those provisions which would: (1) permit any person who believes s/he was discriminated against pursuant to the provisions to file a complaint to the Fair Employment and Housing Agency; (2) make a violation of these provisions also a violation of the federal Americans with Disabilities Act; (3) increase the minimum amount of damages that may be assessed against the violator; (4) make the owner of such a dog liable for any provable damages, to the premises or facilities, caused by the dog; (5) require a person who applies for an assistance dog identification tag to sign an affidavit ensuring that the person understands the Penal Code provisions, and make it a misdemeanor to fraudulently obtain such a tag; and (6) require the return of the identification tag upon the death or retirement of the dog. This statute declares it to be an unlawful employment practice to deny or to aid, incite, or conspire in the denial of the rights of individuals with disabilities, including the right to be accompanied by a guide dog, signal dog, or service dog. (Civ C §§ 54, 54.1, 54.2, 54.3; F&A C §§ 30850, 30852, 30853, 30854; Gov C § 12948 & Pen C § 365.5)

SB 2030
Killea

Employment Agencies: Continuing Contracts

Chapter 102
Statutes of 1996

Existing law precludes employment agency contracts from running longer than 180 days from the date of referral or signing of the contract, whichever occurs first.

This statute allows a domestic agency operating as a registry to enter into a continuing contract, which could be terminated by either the domestic worker or the agency. (Civ C § 1812.504)

SB 2040
Hughes

Home Improvement Contracts

Failed
Assembly Judiciary

Existing law provides that a home improvement contract must contain information regarding the contractor, work to be done, payment provisions, and disclosure regarding a mechanic's lien.

This bill would have provided that any security interest in real property (such as a home) taken by a contractor to secure payment for performance of a home improvement contract is unenforceable if the contractor or salesperson omits required information from the contract. This would have prevented the use of non-judicial foreclosure when persons have used their homes to secure a home improvement contract.

SB 2045
Rosenthal

Consumer Protection: Mortgage Brokers

Chapter 684
Statutes of 1996

Existing law prohibits unfair methods of competition or deceptive trade acts or practices. Existing law prohibits a person or business from soliciting a senior citizen to encumber their home to pay for home improvement.

This statute prohibits a mortgage broker or lender from using a home improvement contractor to negotiate the terms of a mortgage loan to finance a home improvement contract, thereby eliminating a common practice used to draw unsophisticated consumers into risky or expensive loan scams. (Civ C § 1770)

SB 2052
Calderon

Warranties: Motor Vehicle Manufacturers

Failed
Assembly Consumer
Protection

Existing law, the Lemon Law, authorizes motor vehicle manufacturers to provide a qualified third-party dispute resolution process to resolve disputes brought by buyers or lessees of new motor vehicles. Existing law provides the circumstances under which a defective new vehicle shall be presumed to be a "lemon" and eligible for a replacement. Existing law defines a new motor vehicle for purposes of the Lemon Law as a vehicle primarily bought for personal or family use.

This bill would have: (1) required automobile manufacturers to participate in an arbitration program or disclose the lack of arbitration to buyers in advertising; (2) doubled the period in which to invoke the Lemon Law to two years or 24,000 miles; (3) provided that a safety defect meets the lemon presumption after two or more repairs; (4) defined a safety defect; (5) expanded the definition of new motor vehicle to include a business vehicle if the person has no more than five registered vehicles; (6) required parties to an arbitration hearing to have the opportunity to make oral presentations to the arbitrator; and (7) provided that a buyer would have the option of a new vehicle or restitution when a manufacturer is obligated to replace the vehicle.

(3) Court System and Conflict Resolution

AB 754
Morrow

Arbitration

Dropped

Existing law regarding the enforcement of arbitration agreements provides that, unless otherwise specified, in any arbitration involving a claim for damages when a person is proposed for nomination or appointment to serve as a neutral arbitrator, that person must disclose certain information concerning names of prior or pending cases s/he has arbitrated.

This bill would have recast the provisions of existing law relating to enforcement of arbitration agreements by, among other things, specifying the applicability of the provisions to neutral arbitrators proposed by the parties or party arbitrators or by specified entities, and revising the standards for disqualification of a neutral arbitrator.

AB 757
Speier

Exemplary Damages: Apportionment

Failed
Assembly Judiciary

Existing law stipulates the awarding of exemplary damages in an action for the breach of an obligation not arising from contract, where it is proven by clear and convincing evidence that the defendant has been guilty of oppression, fraud, or malice.

This bill would have enacted the Fair Damages Distribution and Litigation Reduction Act of 1995, providing for the apportionment of exemplary damages which exceed twice the amount of compensatory damages, among the plaintiff, the State Bar, and a nonprofit corporation chosen by the plaintiff.

AB 947
Knight

Negligence

Dropped

Existing law provides that each person is responsible for an injury caused to another by his or her want of ordinary care or skill in the management of his or her property or person.

This bill would have provided that in any action for damages based on negligence, the rules of contributory negligence in effect in this state immediately prior to the adoption of comparative negligence would apply if the plaintiff contributed to his or her injury by the commission of specified felonies. This bill also would have specified the circumstances under which this provision would not apply.

AB 1065
Richter

Juries: Selection

Dropped

Existing law provides that in a criminal case the court shall conduct the examination of the jurors, but the court may, upon good cause, permit the parties to supplement the examination by such further inquiry as it deems proper or shall itself submit to the jurors such additional questions by the parties as it deems proper.

This bill would have enacted the O.J. Simpson Jury Selection Act requiring that the examination of prospective jurors in criminal cases be conducted by the court by presentation to the jurors, as a group, of unspecified questions prescribed by statute and, upon good cause, such additional questions by the parties as it deems proper, to be answered in the affirmative or negative by a show of hands.

AB 1230
Isenberg

Courts: Fees

Dropped

Existing law, the Small Claims Act, provides for the enforcement of a judgment of a small claims court and requires the clerk to charge and collect specified fees.

This bill would have made a nonsubstantive change by revising and recasting the provision relating to the fee for filing a motion to vacate.

AB 1405
Brown, V.

Punitive Damages

Dropped

Existing law enables the plaintiff in an action for the breach of an obligation not arising from contract, where it is proven by clear and convincing evidence that the defendant has been guilty of oppression, fraud, or malice, to recover damages for the sake of example and by way of punishing the defendant.

Additionally, this bill would have required that these damages be imposed as a means to deter future conduct.

AB 1516
Morrow

Professional Negligence: Joint and Several Liability

Dropped

Existing law provides that in any action for personal injury, property damage, or wrongful death, based upon principles of comparative fault, the liability of each defendant for noneconomic damages shall be several only and shall not be joint.

This bill would have provided that no person may be held jointly liable to a third party for any defect in the performance of professional services for another.

AB 1596
Boland

Liability: Public Entities

Dropped

Existing law sets forth the liability of public entities for injuries caused by the acts or omissions of public employees or the dangerous condition of public property.

This bill would have provided that no court, local agency, or judge, officer, or employee thereof would be liable for any injury occurring to an individual while that individual was providing a court-ordered community service without compensation if that injury was approximately caused by a negligent act or omission other than an act or omission constituting gross negligence.

AB 1862
Morrow

Exemplary Damages

Failed
Senate Judiciary

Existing law provides for the rewarding of exemplary damages to the plaintiff in an action for the breach of an obligation not arising from contract, where it is proven by clear and convincing evidence that the defendant has been guilty of oppression, fraud, or malice.

This bill would have provided, among other things, that in any action in which exemplary damages were recoverable, the trier of fact would determine whether the defendant is liable for exemplary damages; and if the trier of fact found that a defendant was liable for exemplary damages, a separate proceeding would be conducted by the trial court to determine the amount of exemplary damages to be imposed.

AB 1898
Johnson

Civil Actions: Case Questionnaires

Dropped

Existing law provides that in order to elicit fundamental information about the other party's case, a plaintiff has the option to serve case questionnaires with the complaint.

This bill would have extended this option to the defendant and would have specified that the plaintiff has 30 days to serve the completed case questionnaire on the requesting defendant.

**AB 1904
Knox**

Damages: Unauthorized Use of Personal Characteristics

Dropped

Existing law provides that any person who, without prior consent, knowingly uses the name, voice, signature, photograph, or likeness of another or a deceased personality for commercial purposes is liable to the injured party in an amount equal to the greater of \$750 or the actual damages suffered and any profits attributable to the unauthorized use.

This bill would have increased the amount for which a violator is liable an amount equal to the greater of \$1,000 or the actual damages suffered, and any profits attributable to the unauthorized use.

**AB 1927
Cunneen**

Judicial Arbitration

Dropped

Existing law requires that all at-issue civil actions in superior court with 10 or more judges be submitted to arbitration and those actions in superior court with less than 10 judges be submitted to arbitration as provided by local rule if the amount in controversy in the opinion of the court will not exceed \$50,000 for each plaintiff.

This bill would have changed the amount to \$150,000.

**AB 1938
Morrow**

Negligence: Noneconomic Losses

Dropped

Existing law provides that in any action for *injury against a health care provider based on professional negligence*, the insured plaintiff shall be entitled to recover noneconomic losses to compensate for pain, suffering, inconvenience, physical impairment, disfigurement, and other nonpecuniary damages, but the amount of damages for those noneconomic losses shall not exceed \$250,000.

This bill would have provided that in any action for *personal injury based on negligence*, the injured plaintiff would be entitled to recover noneconomic losses to compensate for pain, suffering, inconvenience, physical impairment, disfigurement, and other nonpecuniary damages, but the amount of damages for those noneconomic losses would not exceed \$250,000.

**AB 2020
Burton**

Protective Proceedings: Guardians and Conservators

Dropped

Existing law prohibits a superior court from appointing a private professional conservator or guardian unless the conservator or guardian has filed a prescribed statement under penalty of perjury with the county clerk.

This bill would have allowed the appointment of a private professional conservator or guardian by the superior court without requiring prior registration if circumstances and justice warranted such appointment. (See also SB 1823.)

**AB 2113
Miller**

Court Proceedings: Electronic Recording

Dropped

Existing law provides that whenever an official court reporter or a temporary court reporter is unavailable to report an action or proceeding in a municipal court, the court may order that the action or proceeding be electronically recorded. Former law had established a demonstration project regarding electronic recording in superior courts which was terminated as of January 1, 1994.

This bill would have authorized the Judicial Council to authorize the use of specified electronic methods as a means of producing a verbatim record of actions and proceedings. The bill would have specified guidelines to be followed in the use of the electronic recording and would have prohibited the reduction of hours of employment for a court reporter as a result of the use of the electronic recording devices.

**AB 2129
Goldsmith**

Punitive Damages

Dropped

Existing law provides that a plaintiff may recover punitive damages in addition to actual damages in those cases where it has been proven by clear and convincing evidence that the defendant has been guilty of oppression, fraud, or malice.

This bill would have provided that a plaintiff may recover punitive damages where it has been proven beyond a reasonable doubt that the defendant has been guilty of oppression, fraud, or malice. The bill also would have restricted the pleading or awarding of punitive damages where punitive damages have been awarded in another state or federal court for the same conduct.

AB 2175
Margett

Small Claims Court

Dropped

Existing law relating to small claims court allows a defendant to appeal a judgment, and does not allow parties to be represented by legal counsel.

This bill would have provided that an appeal from a small claims court judgment would be heard by trial *de novo* (a retrial in which the case is retried as if heard for the first time) in small claims court, and would have prohibited representation by counsel on appeal or in connection with the enforcement of a judgment.

AB 2270
Thompson

Civil Procedure: Defendant's Name

Failed
Senate Judiciary

Existing law provides that, when the plaintiff is ignorant of the name of a defendant, the defendant may be designated in any pleading or proceeding by any name until his or her true name is discovered.

Among other things, this bill would have provided that if the plaintiff is ignorant of the name of the defendant, the plaintiff must state that fact in the complaint and designate that defendant by a fictitious name with an appropriate description sufficient for identification.

AB 2303
Kuehl

Mediation: Family Disputes

Dropped

Existing law sets forth the fees which may be charged with respect to actions and proceedings in the trial courts.

This bill would have specified that no fee could be charged with respect to the court-ordered mediation of issues that were the subject of an action or proceeding brought pursuant to the Family Code.

AB 2318
Goldsmith

Liability: Skating Rinks

Failed
Senate Judiciary

Existing law provides that a roller skating operator is responsible for injuries resulting from operator negligence. Existing law also provides that roller skaters may share responsibility for injuries brought about by their failure to adhere to the rules of the skating rink.

This bill would have required the responsibilities of both operators and patrons to be conspicuously posted.

AB 2357
Morrow

Liability

Dropped

Existing law provides that neither public entities nor public employees are liable to any person who participates in a hazardous recreational activity and defines hazardous recreational activities to include specific activities.

This bill would have revised the list of hazardous recreational activities to include skateboarding.

AB 2385
Brulte

Liability

Dropped

Existing law provides that an obligation imposed upon or a right created in favor of more than one person is presumed to be joint and not several. It also provides that the liability of each defendant for noneconomic damages in an action for personal injury, property damage, or wrongful death is several and not joint.

This bill would have provided that a person has only several liability for economic losses based on acts or omissions of persons rendering services, other than losses arising from personal injury, property damage, or wrongful death.

AB 2386
Brulte

Causes of Action: Services

Dropped

Existing law establishes various causes of action and creates specific exemptions from liability in certain instances.

This bill would have provided that a person is liable for a claim against a third person only if: (1) s/he had actual knowledge that the conduct of the third person was wrongful; (2) the third person intended for his or her conduct to substantially affect the claimant and the conduct did substantially affect the claimant; (3) the third person intended for his or her conduct to substantially affect the events on which the claim is based and the conduct did substantially affect the events; and (4) the third person engaged in conduct that when considered separately, constituted a breach of duty to the claimant.

AB 2387 Brulte	<u>Limitation of Actions</u>	Dropped
	Existing law specifies the period of time within which various causes of action must be brought.	
	This bill would have specified that a cause of action on a claim should have been commenced within the earlier of three years from the date of the defendant's actionable conduct or omissions or one year after the claimant discovered, or should have discovered with the exercise of reasonable diligence, the facts on which the claim was based. This bill also would have provided that no claims for noneconomic damages could be commenced after one year from the date of the defendant's actionable conduct or omissions.	
AB 2423 Knight	<u>State Bar: Examining Committee</u>	Failed Assembly Judiciary
	Existing law authorizes the examining committee of the State Bar of California to accredit law schools within California.	
	This bill would have prohibited the examining committee of the State Bar of California from accrediting law schools.	
AB 2567 Goldsmith	<u>Small Claims Court</u>	Chapter 693 Statutes of 1996
	Existing law provides that only the actual plaintiff and defendant may participate in small claims court. Exceptions are made for individuals doing business as a sole proprietorship, plaintiffs serving in the armed forces outside the state, incarcerated parties, defendants who are non-resident owners of real property, or corporations when appearing through a designated representative who is on the payroll of the corporation.	
	This statute provides that a party who is an owner of rental property may appear and participate in a small claims court action through the property agent under contract with the owner to manage the rental of that property, if specified conditions are met. (CCP § 116.540)	
AB 2721 Hannigan	<u>Attorneys: Continuing Education</u>	Dropped
	Existing law authorizes the State Bar of California to require its active members, with the exemption of retired judges, officers and elected officials of the state, and full-time professors at	

accredited law schools, to undergo a program of continuing education. Existing law also exempts full-time employees of the state from this program if they are acting within their scope of employment.

This bill would have exempted full-time employees of a city, county, or city and county from the mandatory continuing education requirement if they were acting within their scope of employment.

AB 2787
Kuehl

Attorneys: State Bar of California

Chapter 1104
Statutes of 1996

Existing law provides that the Board of Governors of the State Bar of California may order the involuntary inactive enrollment of an attorney under specified circumstances. Existing law also provides for disciplinary proceedings against members of the State Bar.

Among other things, this statute would require the Board of Governors of the State Bar to order the involuntary inactive enrollment of an attorney upon the filing of a recommendation of disbarment after hearing or default. (B&P C §§ 6007, 6044.5, 6085.5, 6090.5, 6101, 6102, 6140.7, 6147, 6148, 6200, 6201, 6202, 6203, 6204, 6204.5 & 6205)

AB 2832
Bordonaro

Actions and Proceedings

Failed
Senate Judiciary

Existing law allows any party to an action subject to judicial arbitration to elect a trial *de novo* (a retrial in which the case is retried as if heard for the first time) if dissatisfied with the arbitration decision, but imposes specified costs and fees on the electing party if s/he does not prevail at the trial *de novo*.

This bill would have authorized the court, upon the election of a trial *de novo* and upon a motion of the nonelecting party, to require the electing party to post a bond that would be adequate to cover those costs and fees likely to be awarded if he or she did not prevail at the trial *de novo*.

AB 2922
Hawkins

Juries

Dropped

Existing law provides for limited access to and the sealing of personal information regarding jurors.

This bill would have revised existing law to provide that all personal identifying information of prospective and qualifying jurors be confidential unless the court determined that the information should be made available to the public for good cause. This bill would have granted the counsel for each party to the action access to this information to the extent that would be necessary to determine whether a particular juror could serve as an impartial trier of fact.

AB 2953
Villaraigosa

Dispute Resolution: Fees

Chapter 942
Statutes of 1996

Existing law prescribes the amount of the total fee for filing the first paper in a civil action or proceeding in the municipal and superior courts. The total fee includes any dispute resolution fee imposed for the support of dispute resolution programs. Existing law encourages the use of alternative dispute resolution.

This statute provides that the board of supervisors of a county may exclude any portion of the fee imposed for the support of dispute resolution programs from the amount of the total fee for filing the first paper. The statute also states the intent of the Legislature to support the Dispute Resolution Program. (Gov C §§ 26820.6 & 72055)

AB 3001
Hawkins

Evidence: Business Records

Chapter 146
Statutes of 1996

Existing law requires business records produced pursuant to a subpoena, by a business that is neither a party to nor the place where cause of action is alleged to have arisen, to be accompanied by the affidavit of the custodian or other qualified witness. Existing law also provides that a copy of business records is admissible in evidence if certain requirements are met, including the requirement that the originals would be admissible if the custodian had been present and testified.

This statute requires the affidavit to include identity of the records and a description of the mode of preparation of the records, and revises requirements to include situations where the original would be admissible if a qualified witness, besides the primary custodian, is present and so testifies. (Evid C §§ 1561 & 1562)

AB 3009 Kaloogian	Dispute Resolution: Construction Defects	Dropped
	Existing law specifies various methods for the resolution of disputes.	
	This bill would have stated legislative intent to promote the expeditious resolution of construction defect disputes. This bill was a place holder for intended broader legislation to redefine "structural defect" that the author opted not to pursue.	
AB 3135 Baugh	Civil Actions	Failed Assembly Judiciary
	Existing law provides that if an offer made by a defendant in a civil action is not accepted and the plaintiff fails to obtain a more favorable judgment, the plaintiff shall not recover his or her costs and shall pay the defendant's costs from the time of the offer.	
	This bill would have added reasonable attorney's fees from the time of the offer to the costs recoverable under existing law and would have required a party who fails to accept an offer to post a bond to cover expected costs and attorney's fees.	
AB 3193 Vasconcellos	Attorney's Fees: Shareholder Derivative Actions and Securities	Dropped
	Existing law authorizes the State Bar of California to regulate fee agreements between attorneys and clients. In addition, existing law provides that contingent fee agreements are subject to certain restrictions as specified.	
	Among other things, this bill would have provided that an attorney who represents a plaintiff may not enter into a contingent fee agreement unless the attorney also offers the option of a fee based on hours worked for an agreed hourly fee.	
AB 3287 Miller	Courts: Small Claims	Dropped
	Existing law defines the jurisdiction of small claims court, prohibits the same person filing more than two small claims court actions for more than \$2500 in one calendar year.	
	This bill would have included subrogation actions under an insurance policy as under the jurisdiction of small claims court,	

and allowed more than two of these actions exceeding \$2500 to be filed in a calendar year.

AB 3289
Miller

Attorney's Fees: Residential Improvement Defects

Failed
Assembly Floor

Existing law authorizes the State Bar of California to regulate fee agreements between attorneys and clients. In addition, existing law provides that contingent fee agreements are subject to certain restrictions as specified.

This bill would have imposed limitations on the contingent fee that may be charged in an action seeking damages for a construction defect in a residential improvement.

AB 3303
House

Searches: Public Employees

Dropped

Existing law provides for the issuance of a search warrant by a magistrate commanding a peace officer to search for personal property. Existing law provides that a defendant may move to suppress evidence obtained as the result of an unreasonable search, when the search was outside the scope of the warrant or when there was a lack of probable cause for the warrant.

This bill would have prohibited any government employee from conducting an investigation or search entering a private property without a search warrant or consent. This would have impacted inspections and investigations conducted by the boards and bureaus of the Department of Consumer Affairs.

AB 3304
Napolitano

Notary Public

Chapter 97
Statutes of 1996

Existing law prescribes the duties of a notary public, and requires every person appointed as a notary public to file an official bond and take, subscribe, and file an oath of office in the office of the county clerk.

This statute allows California notaries public to complete out-of-state notarial certificates that will be filed outside of California. This statute also allows notaries public to take their required oath of office before another notary within their county instead of having to take the oath before the county clerk. (Civ C § 1189 and Gov C § 8213)

AB 3356
Bustamante

Attorneys: Qualifications

Dropped

Existing law, the State Bar Act, authorizes the State Bar to regulate and oversee accredited law schools and establish certain requirements that applicants must meet in order to practice law. Existing law also requires nonaccredited law schools to provide a disclosure statement to their students before accepting payment of registration fees.

This bill would have prohibited the State Bar from accrediting law schools and would have required an applicant to meet certain requirements in order to be eligible to take the final bar examination. This bill would have also repealed the requirement of providing disclosure statements to students of nonaccredited law schools.

AB 3361
Bustamante

Notary Publics: Surety Bond

Chapter 79
Statutes of 1996

Existing law requires any person appointed as a notary public to meet certain qualifications and to execute a surety bond in the sum of \$10,000.

This statute increases a surety bond from \$10,000 to \$15,000 in order to better compensate victims of a notary's misconduct. (Gov C § 8212)

AB 3364
Knowles

Attorneys' Fees: Early Demand

Dropped

Existing law authorizes the State Bar of California to regulate fee agreements between attorneys and clients. In addition, existing law provides that contingent fee agreements are subject to certain restrictions as specified.

Among other things, this bill would have required all contingency agreements for legal services to include, in writing, the actual hourly rate the contracting attorney charges for his or her services.

AB 3381
Baugh

Municipal Courts: Monetary Jurisdiction

Failed
Senate Judiciary

Existing law sets the monetary jurisdiction for the municipal courts at \$25,000 or less and for arbitration of civil actions in the Superior courts at \$50,000 for each plaintiff.

This bill would have increased the monetary jurisdiction amounts

for municipal courts to \$50,000 or less and \$100,000 for each plaintiff in arbitrations of civil actions in Superior courts.

AB 3412
Ackerman

Attorneys' Fees: Public Entities

Failed
Senate Judiciary

Existing law authorizes every trial court to order a party, the party's attorney, or both to pay any reasonable expenses incurred by another party as a result of bad faith actions or tactics that are frivolous or intended to cause unnecessary delay. A court may also award attorneys' fees to a successful party in an action if the action has resulted in the enforcement of an important right affecting the public interest.

Among other things, this bill would have repealed the provision authorizing trial courts to order payment of expenses as a result of bad faith actions or tactics. This bill would have also limited the amount awarded to the prevailing party in an action against a public entity or public official, acting in his or her official capacity.

AB 3471
Morrow

Courts

Chapter 1159
Statutes of 1996

Existing law prescribes the jurisdiction and procedures for small claims court; allows a keeper to attach personal property for a maximum of ten days; and makes a medical provider liable for expenses if they fail to make patient records available upon request.

This statute revises small claims court provisions governing destruction of records, clarifies that the ten-day maximum for which a keeper may attach property does not apply to money; requires a medical provider who fails to make patient records available to show cause for his or her actions; and revises and clarifies provisions relating to the preservation and destruction of trial court records. (CCP C §§ 116.340, 116.360, 116.370, 116.390, 116.570, 116.610, 116.820, 116.910, 405.22, 488.395, 700.070, 1985.7; and Gov C §§ 68150, 68151, 68152 & 68616)

SB 15
Lockyer

Damages: Prejudgment Interests

Failed
Assembly Judiciary

Existing law authorizes the recovery of prejudgment interest on damages in a personal injury action where the defendant does not accept an offer made by the plaintiff to compromise, and the

plaintiff then obtains a more favorable judgment.

This bill would have recast this provision to provide for such recovery of prejudgment interest on damages in wrongful death actions as well as in personal injury actions.

SB 52
Peace

Civil Procedure

Chapter 60
Statutes of 1996

Existing federal law provides that a case that has been removed by the defendant from the state court to the federal district court may be remanded to the state court for improper removal.

This statute specifies the time in which the defendant must respond following the state court's receipt of the order of remand. (CCP §§ 473 & 685.070)

SB 197
Kopp

Judicial Arbitration

Failed
Assembly Judiciary

Existing law requires municipal court districts that have adopted judicial arbitration to submit certain motor vehicle collision actions to arbitration within 120 days of the defendant's answer to the complaint. Existing law requires the amount in controversy in certain actions in superior court to be determined at a conference between the court and the parties involved, and requires the Judicial Council to adopt standards for the processing of civil and criminal actions to measure the progress of litigation in the superior court of each county.

This bill would have: (1) permitted municipal court districts that have adopted judicial arbitration to submit most civil actions to arbitration within 210 days after the defendant's answer; (2) required the amount in controversy to be determined by the court alone; and (3) required the Judicial Council to adopt standards for the processing of civil and criminal actions to measure the progress of litigation in all courts of each county. This bill was amended to repeal provisions relating to providers of homestead filing services; and provide that after January 1, 1997, all declarations of homesteads would be ineffective.

SB 258
O'Connell

Home Inspectors

Chapter 338
Statutes of 1996

Existing law does not regulate persons who perform a home inspection for a fee.

This statute creates a standard of care for home inspectors which could be considered by a court in determining liability in a legal action for breach of duty related to an inspection report. The statute also prohibits certain practices by home inspectors that present a conflict of interest and invalidates contractual provisions that would waive the standard of care. [B&P C Chapter 9.3 (commencing with Section 7195) of Division 3]

SB 262
Kelley

Trial Court Delay Reduction Act

Dropped

Existing law, the Trial Court Delay Reduction Act, requires each municipal court to establish a delay reduction program.

This bill would have provided an exemption from these delay reduction programs for any action brought on a contract for the collection of amounts due for goods and services provided under the contract, if the demand amount did not exceed \$25,000.

SB 302
Campbell

Negligence: Immunity from Civil Liability

Dropped

Existing law provides that everyone is responsible for an injury occasioned to another by his or her want of ordinary care or skill in the management of his or her property or person, except so far as the latter has, willfully or by want of ordinary care, brought the injury upon himself or herself.

This bill would have provided that in order to encourage citizens and organizations to provide free shelter and other services for homeless persons, no person, corporation, partnership, unincorporated association, public entity, or other entity that, in good faith, provides free shelter and other services for homeless persons would be liable for any civil damages as a result of any act or omission in the provision of such shelter or other services, except as to conduct constituting gross negligence.

SB 596
Petris

State Bar of California: Accreditation

Dropped

Existing law authorizes the examining committee of the State Bar to accredit law schools.

This bill would have prohibited the State Bar from accrediting law schools. The bill would have limited the Bar's activities to responsibility for admission of persons to the practice of law and discipline of its members.

SB 692 Lockyer	Dispute Resolution	Dropped
	<p>This bill was amended until it only stated the purpose of a dispute resolution system. It would have taken effect only if the bill AB 947, of the 1995-96 Regular Session, had been enacted.</p>	
SB 744 Calderon	Damages: Construction Defects	Dropped
	<p>Existing law provides that homeowners are entitled to compensation for damages caused by construction defects.</p> <p>This bill would have specified conditions under which damages would be recoverable for injury to property as a result of a construction defect.</p>	
SB 897 Leslie	Attorney's Fees: Book Account	Dropped
	<p>Existing law provides for a statutory award of attorney's fees where there is an action on a contract based on a book account. A book account is a detailed statement which constitutes the principal record of the transactions between a debtor and a creditor arising out of contract or some fiduciary relationship.</p> <p>This bill would have provided that in cases of a book account for personal, family, or household goods or services, reasonable attorney's fees would be awarded in an amount not to exceed the lesser of \$660 or 25% of the principal obligation owing under the contract. The bill also would have provided that in cases of a book account for commercial goods or services, reasonable attorney's fees would not exceed the lesser of \$1,000 or 25% of the principal obligation owing under the contract.</p>	
SB 926 Calderon	Writings: Electronic Media	Dropped
	<p>Existing law, the provisions of the Evidence Code, defines "writing" for its purposes to mean handwriting, typewriting, printing, photostating, photographing, and every other means of recording upon any tangible form of communication or representation.</p> <p>This bill would have included computer data stored on magnetic media within the definition of "writing" pertaining to the Evidence Code and the California Public Records Act.</p>	

SB 1199
Mountjoy

Juries

Existing law establishes specific requirements and procedures for summoning prospective jurors, providing orientation for new jurors, and limiting access to jurors' personal information.

This bill would have required that all, and not a portion of, summoned prospective jurors be available on a one-hour notice by telephone to appear for service unless excused for hardship; would have required a judge, and not the jury commissioner, to provide orientation for the jurors; and would have provided that the names of jurors in civil cases be made available to the public upon request.

Failed
Senate Criminal
Procedure

SB 1321
Calderon

Legal Services

Existing law authorizes the State Bar of California to regulate the practice of law and the eligibility requirements to practice law in this state.

This statute revises provisions relating to the appointment of committee members and deletes obsolete provisions; the statute also revises existing language to include the requirement of passing the Professional Responsibility portion of the Bar examination, permission for out-of-state attorneys to take the Bar examination, and extension of the Bar examination final filing deadline. (B&P C §§ 6046.5, 6046.6, 6060, 6062, & 6060.3)

Chapter 866
Statutes of 1996

SB 1368
Kopp

Governmental Tort Liability

Existing law established the procedures for filing a civil action against a public employee arising out of his or her employment.

This statute provides that a complaint for damages in a civil action brought against a publicly elected or appointed state or local officer shall allege with particularity sufficient material facts to establish the individual liability of the publicly elected or appointed state or local officer and the plaintiff's right to recover. (Gov C § 951)

Chapter 562
Statutes of 1996

SB 1413
Kopp

State Bar of California

Existing law, the State Bar Act, provides for the establishment of requirements for admission to the practice of law and the

Dropped

regulation of the practice of law by the State Bar of California.

This bill would have, after January 1, 1999, transferred all the powers, duties, and functions relating to admission to the practice of law, attorney discipline, and mandatory continuing education to the Supreme Court and all the powers, duties, and functions relating to the regulation of the practice of law to the Administrative Office of the Courts.

SB 1427
Russell

Civil Actions: Mediation

Failed
Senate Judiciary

Existing law provides procedures for filing a civil action in court.

This bill would have required the counsel for a plaintiff to provide parties and attorneys with a notice that educates the parties and attorneys about mediation and encourages them to evaluate their cases earlier for possible use of mediation. This bill also would have required that the plaintiff serve such notice on each defendant.

SB 1428
Russell

Dispute Resolution: Mediation

Dropped

Existing law established a Dispute Resolution Advisory Council within the Department of Consumer Affairs to develop and adopt rules and regulations governing local dispute resolution programs. The Advisory Council was abolished when the guidelines were enacted. The Dispute Resolution Program only oversees local programs in regard to approving proposals for local programs and giving recommendations for disbursement of grant funds to establish such programs. The Dispute Resolution Program does not regulate mediators.

This bill would have, on and after July 1, 1997, prohibited a person from holding himself or herself out as a certified mediator unless s/he was certified by a mediator-certifying organization.

SB 1464
Johannessen

Crimes: Elder and Dependent Adult Abuse

Failed
Senate Criminal
Procedure

Existing law provides that it is a felony, punishable by up to four years in prison, for any person to willfully permit elderly or dependent adults to suffer physical pain or mental suffering or cause the elderly or dependent adult to be injured or endangered.

This bill would have increased the maximum penalty for a conviction for this crime to 15 years to life in prison. The bill also provided that a person convicted of this crime must go to state prison and could not be granted probation or parole. As introduced, this bill would have required the Commission on Peace Officers Standards and Training (POST) to establish minimum standards for physical, mental and moral fitness for local law enforcement officers. These provisions were later amended out of the bill.

SB 1522
Greene

Mediation Services: Confidentiality

Chapter 174
Statutes of 1996

Existing law provides that when persons agree to conduct and participate in mediation for the purpose of compromising, settling, or resolving a civil dispute, anything said in the course of the mediation is not admissible in evidence or subject to discovery and all communications, negotiations, and settlement discussions by and between participants or mediators are confidential. If the testimony of a mediator is compelled in any civil action regarding anything said in the course of mediation, the court is required to award reasonable attorney's fees and costs to the mediator against the person seeking the testimony.

This statute makes existing law provisions applicable when a person consults a mediator or mediation service for the purpose of retaining mediation services. (Evid. C § 1152.5)

SB 1540
Calderon

Defamation

Chapter 1055
Statutes of 1966

Existing law defines libel as a false and unprivileged written publication that injures the reputation and slander as a false and unprivileged publication, orally uttered, that injures the reputation. Existing law also makes "privileged" any publication or broadcast made by a fair and true report in a public journal of a judicial, legislative, or other public official proceeding.

This statute makes "privileged" any communication to a public journal of a judicial, legislative, or other public official proceeding except any communication that violates Rule 5-120 of the State Bar Rules of Professional Conduct, breaches a court order, or violates any requirement of confidentiality imposed by law. (Civ C § 47)

SB 1577
Calderon

Product Liability

Dropped

Existing law provides that everyone is responsible, not only for the result of his or her willful acts, but also for an injury occasioned to another by his or her want of ordinary care or skill in the management of his or her property or person, except so far as the latter had, willfully or by want of ordinary care, brought the injury upon him or herself.

This bill would have specified that in any product liability action brought against the manufacturer or distributor of a motor vehicle, evidence of the driver's impaired operation of the motor vehicle resulting from the use of alcohol or drugs, or from the combined use of alcohol and drugs, could be admitted for the purposes of determining the comparative fault of the driver.

SB 1823
Marks

Professional Fiduciaries: Guardians and Conservators

Vetoed
September 29, 1996

Existing law sets forth a comprehensive body of law relating to conservatorship, whereby a conservator may be appointed to assist a person who is unable to properly provide for him or herself and who is unable to manage his or her financial resources or resist fraud or undue influence.

This bill would have specified certain professional standards for conservators and would have allowed a superior court to appoint a private professional conservator or guardian if circumstances and justice warrant the appointment. (See also AB 2020.)

Veto Message:

Governor Pete Wilson
To the Members of the California Senate:

I am returning Senate Bill No. 1823 without my signature.

This bill would establish professional standards for conservators and guardians and revise the definition of private professional conservators and guardians. The bill would also require the filing of specified information, on a form adopted by the Judicial Council, with the county clerk before being appointed as the conservator or guardian.

This bill is internally inconsistent and in some respects conflicts with other provisions of the Probate Code. There is no protection provided by this bill which does not already exist in law and in fact many existing protections are jeopardized by this bill.

SB 1917
Johannessen

Actions: Frivolous

Dropped

Existing law provides that every trial court may order a party and/or the party's attorney to pay any reasonable expenses incurred by another party as a result of bad-faith actions or tactics that are frivolous or solely intended to cause unnecessary delay. Existing law defines "frivolous" as meaning totally and completely without merit or for the sole purpose of harassing the opposing party.

Among other things, this bill would have changed the definition of "frivolous" to mean without merit or with the predominant, rather than sole, purpose of causing delay or harassing an opposing party.

SB 1950
Mello

State Bar: First-Year Law Student's Examination

Chapter 168
Statutes of 1996

Existing law authorizes the State Bar to establish requirements for the practice of law. One of these requirements is the taking and passing of the First-Year Law Student's Examination (Baby Bar) after the first year of law study at a nonaccredited law school. Credit for the first year or subsequent years of study at a nonaccredited law school is withheld if the student does not pass the Baby Bar.

This statute allows three consecutive attempts to pass the Baby Bar. (B&P C § 6060)

SB 2058
Calderon

Arbitration

Dropped

Existing law provides that an arbitrator has the immunity of a judicial officer from civil liability when acting in the capacity of an arbitrator. This provision remains in effect until January 1, 1997.

This bill would have extended the date of the provision that an arbitrator has the immunity of a judicial officer from civil liability when acting in the capacity of an arbitrator.

SB 2159
Leslie

Peremptory Challenges: Civil Cases

Failed
Senate Judiciary

Existing law provides that each party to a civil action is entitled to six peremptory challenges and eight peremptory challenges if there are more than two parties to each side.

This bill would have provided that each party to a civil action is entitled to three, rather than six, peremptory challenges and six, rather than eight, peremptory challenges if there are more than two parties to each side.

**SCA 4
Lockyer**

Courts: Consolidation

**Chapter R-36
Resolution Adopted**

The California Constitution provides for the establishment and jurisdiction of superior and municipal courts.

Among other things, this measure provides for the abolishment of municipal courts within a county and for the establishment of a unified Superior Court for that county upon a majority vote of Superior Court judges and a majority vote of municipal court judges within the county.

(4) Credit and Financial Institutions

**AB 393
Burton**

Electronic Funds Transfer

Dropped

Existing law prohibits the operator of an automated teller machine (ATM) from charging customers using an ATM card not issued by that operator, unless the charge is disclosed prior to completing the transaction.

This bill would have prohibited the operator of a point of sale transfer device in a retail store from charging customers to use the device.

**AB 2459
Mazzoni**

Checks: Insufficient Funds

Dropped

Existing law makes the writer of a bad check liable for the amount of the check, treble damages, and the costs of mailing a demand for payment if the writer does not pay either the amount of the check or the bad check fee charged to the recipient by his or her bank, within 30 days of the demand. The treble damages may not be less than \$100 or more than \$1,500. This bill would have extended that liability to a holder or assignee as well as to the payee and authorized reasonable attorney's fees. Existing law also requires any service fee imposed upon the writer of a bad check to be "commercially reasonable," but does not specifically limit the amount of the fee.

This bill would have allowed a service fee of up to \$35 to be imposed upon the writer of a bad check. (See also AB 2643.)

AB 2533
Miller

Personal Identification Information

Dropped

Existing law prohibits retailers from requesting or requiring customers to provide personal information (e.g., phone number, address, date of birth, etc.) to be recorded in a credit card transaction. Merchants may, however, obtain this information under special circumstances, including situations where the information is required for a special purpose incidental but related to the transaction, such as shipping, servicing, or installation, or for special orders.

This bill would have deleted the underscored language. The bill also would have prohibited merchants from using personal information for marketing purposes.

AB 2643
Bordonaro

Checks: Insufficient Funds

Chapter 1000
Statutes of 1996

Existing law makes the writer of a bad check liable for the amount of the check, treble damages, and the costs of mailing a demand for payment if the writer does not pay either the amount of the check or the bad check fee charged to the recipient by his or her bank, within 30 days of the demand. The treble damages may not be less than \$100 or more than \$1,500. Existing law also requires any service fee imposed upon a bad check to be "commercially reasonable," but does not specifically limit the amount of the fee.

This statute makes the writer of a bad check liable for treble damages plus the check amount, if the writer does not pay the amount of the check, the service charge, and the cost of mailing the demand. The statute also allows the recipient of a bad check to impose a \$25 service fee on a first bad check, and a \$35 fee for subsequent bad checks. (Civ C § 1719) (See also AB 2459.)

SB 1576
Calderon

Motor Vehicles: Conditional Sale Contracts

Chapter 665
Statutes of 1996

Existing law regulates conditional sale contracts for the purchase of a motor vehicle. The law allows lenders to calculate interest using either the precomputed or simple-interest method. (With the precomputed method, the consumer agrees to pay the total of payments, including both principal and anticipated interest, which is calculated at the inception of the contract. With the simple-interest method, the consumer agrees to pay the principal plus interest as it accrues at a certain rate.) The law limits the

amount of interest which may be charged on a contract determined by either method. Lenders may charge the greater of these formulas: (1) for precomputed contracts, 1% of the original unpaid balance, multiplied by the duration of the contract in months; or (2) for simple-interest contracts, 1-1/2% on the original balance up to \$225; 1-1/6% on the portion of the original balance from \$225 to \$900; 5/6 of 1% on the portion of the original balance from \$900 to \$1,650; and 13/24 of 1% on the portion of the original balance over \$1,650, multiplied by the duration of the contract in months.

This statute removes the interest rate ceilings on amounts over \$1,650. (Civ C § 2982)

SB 1639
Ayala

Motor Vehicles: Cosigner Notice

Chapter 313
Statutes of 1996

Existing law requires the seller or holder of a motor vehicle sales contract to give all persons liable under the contract 15 days notice of intent to dispose of a repossessed or surrendered vehicle. Existing law makes anyone liable under the contract subject to any deficiency after disposition, if (among other things) they are notified of: (1) the seller's intent to dispose of the vehicle; (2) the fact that they may be subject to liability if the sale price does not satisfy the contract balance and any other amounts due; and (3) their rights to redeem the vehicle and reinstate the contract.

This statute requires the above notice to also disclose that the parties will be liable for interest at the contract rate, or at the legal rate of interest if there is no contract rate of interest, from the date of disposition of the vehicle to the date of entry of judgment. The statute also requires creditors to inform any cosigners prior to repossessing a vehicle. A creditor who does not give this notice may not recover repossession costs from the cosigner. (Civ C §§ 2983.2 & 2983.35)

SB 1871
Wright

Credit Cards: Finance Charges

Chapter 180
Statutes of 1996

Existing law requires credit card issuers to furnish a statement to card holders by February 15 of each year, of the amount of interest paid by the cardholder during the previous year.

This statute repeals that requirement, and instead authorizes card holders to make an annual request for interest paid during the preceding year. (Civ C § 1748.5)

SB 1959
Calderon

Check Casher: Personal Checks

Chapter 682
Statutes of 1996

Existing law limits what check cashers may charge to cash a government or payroll check, to 3% of the check if the customer has identification (or 3.5% if the customer does not have identification), or \$3, whichever is more. Existing law defines "identification" as a California driver's license or California identification card. Existing law does not limit what check cashers may charge to cash a personal check.

This statute would allow check cashers to charge a fee of 12% of the check to cash a personal check. In addition, the statute authorizes check cashers to defer deposit (for up to 30 days) of a personal check of up to \$300 (i.e., make "payday loans"), and charge a fee of up to 15% of the check for this service. The statute also includes U.S. military identification as acceptable identification. (Civ C §§ 1789.30, 1789.31, 1789.33, 1789.35 & 1789.37; and Fin C § 22050)

SB 2050
Calderon

Retail Installment Sales: Late Charges

Chapter 301
Statutes of 1996

Existing law allows the seller or holder of a retail installment account or contract to charge a late fee of up to \$10, if the payment is at least 10 days late.

This statute now allows the seller or holder to charge a late fee of up to \$10 if the payment is at least 10 days late, or a late fee of up to \$15 if the payment is at least 15 days late. The seller or holder may not charge both fees. The statute requires at least 20 days to elapse between the billing date and due date in the case of a retail installment account. (Civ C §§ 1803.6 & 1810.12)

(5) Health and Safety

AB 2067
Friedman

Health Insurance: Health Care Practitioners: Retaliation

Failed
Assembly Insurance

Existing law provides for the protection against retaliation for health care practitioners who advocate for appropriate health care for their patients.

This bill would have: (1) prohibited a health care service plan, disability insurer, and nonprofit hospital service plan from preventing a physician and surgeon or health care practitioner from disclosing to a patient any information that the physician and

surgeon or health care practitioner determines to be relevant to the patient's health care; and (2) prohibited those plans and insurers from discharging, demoting, terminating a contract with, or otherwise sanctioning, a physician and surgeon or health care practitioner for advocating on behalf of a patient.

AB 2192
Figueroa

Health Care Coverage: Compensation: Inducements

Dropped

Existing law prohibits the compensation of a person retained by a health care service plan or a disability insurer to be based on a percentage of the amount by which a claim is reduced for payment or on the number of claims of the cost of services for which the person has denied authorization or payment.

This bill would have prohibited a health care service plan contract, disability insurance contract, and nonprofit hospital service plan contract from containing any incentive plan that includes specific payment to a physician, physician group, or other licensed health care practitioner, as an inducement to deny, reduce, limit, or delay medically necessary and appropriate health care services to patients.

AB 2443
Speier

Health Care Referrals

Chapter 817
Statutes of 1996

Existing law, the Physician Ownership and Referral Act of 1993, prohibits physicians and surgeons and other licensed health practitioners from referring a person for certain health care services if the licensee has a financial interest with the person, or entity, that receives the referral.

This statute provides that a financial interest shall not include the receipt of capitation payments or other fixed prepaid amounts in exchange for a promise of a licensee to provide specified health care services to specified beneficiaries. (B&P C §§ 650.01 & 650.02)

AB 2588
Morrow

Clinical Laboratory Services

Chapter 1035
Statutes of 1996

Existing law: (1) prohibits licensees of specified professions, from charging, billing, or otherwise soliciting payment from any patient, client, or customer, for any clinical laboratory service if the service was not actually rendered by that licensee or under his or her direct supervision; (2) provides an exception to the above prohibition if the patient is apprised at the first, and any

subsequent solicitation for payment of the name, address, and charges of the clinical laboratory performing the service; (3) requires a clinical laboratory to provide to each of its referring providers, upon request, a schedule of fees for services provided to patients of the referring provider; (4) provides that a violation of those provisions is a public offense punishable upon a first conviction by imprisonment in the county jail for not more than one year, or by imprisonment in the state prison, or by a fine not exceeding \$10,000, or by both imprisonment and fine; (5) provides that a second or subsequent conviction is punishable by imprisonment in the state prison.

This statute: (1) provides that the requirement for disclosure would be satisfied if the required disclosures are made to the third-party payer of the patient, client, or customer; (2) specifies, in situations where the patient is responsible for submitting the bill for the charges to the third-party payer, that the bill provided to the patient for that purpose shall include the required disclosures; (3) provides that a violation of its provisions by a physician and surgeon for a *first* offense shall be subject to the exclusive remedy of reprimand by the Medical Board of California (MBC) if both of the following conditions are met: (a) the transaction that is the subject of the violation involves a charge for a clinical laboratory service that is less than the charge would have been if the clinical laboratory providing the service billed a patient, client, or customer directly for the service and (b) the clinical laboratory charge is less than the charge listed in the clinical laboratory's schedule of fees; (4) specifies that the above provision shall not be construed to permit a physician and surgeon to charge more than he or she was charged for the laboratory service by the clinical laboratory providing the service unless the additional charge is for service actually rendered by the physician and surgeon to the patient. (B&P C § 655.5)

**AB 2649
Thompson**

Health Care Coverage: Provider Incentives: Capitation

**Chapter 1014
Statutes of 1996**

Existing law provides for the licensure and regulation of health care services plans administered by the Commissioner of Corporation. Under existing law, willful violation of any of these provisions is a misdemeanor.

This statute, among other things, prohibits a contract between a health care service plan and a physician and surgeon, physician and surgeon group, or other licensed health care practitioner from containing any incentive plan that includes specific payment

made directly, in any type or form, to a physician and surgeon, physician and surgeon group, or other licensed health care practitioner as an inducement to deny, reduce, limit, or delay specific, medically necessary, and appropriate services. (B&P C § 511; H&S C §§ 1367.10 & 1348.6; and Ins C § 10175.5)

AB 2669
Sher

Physicians and Surgeons: Patient Advice

Dropped

Existing law: (1) states that it is the public policy of the state that licensed physicians and surgeons be encouraged to advocate for medically appropriate health care for their patients; and (2) provides that the application and rendering by any person of a decision that penalizes a physician and surgeon principally for advocating for medically appropriate health care violates public policy.

This bill would have prohibited a health care service plan or its contracting entities to enter into a contract with a physician and surgeon that limits the ethical and legal responsibility of the physician and surgeon to advise patients fully about treatment options or alternative coverage arrangements, if the advice is consistent with the ethical and legal responsibilities of the physician and surgeon.

AB 2774
Morrow

Abortion: Informed Consent

Failed
Assembly Floor

Existing law does not require any specific information be presented to a pregnant woman or evidence of informed consent be obtained prior to an abortion.

This bill would have enacted the Woman's Right to Know Act, which would prohibit abortions except with the voluntary and informed consent of the pregnant woman.

AB 2861
Villaraigosa

Anatomical Gifts: Disabilities: Discrimination

Chapter 96
Statutes of 1996

Existing law, the Uniform Anatomical Gift Act, provides that an individual who is at least 18 years of age may make an anatomical gift for any of the various stated purposes, limit an anatomical gift to one or more of those purposes, or refuse to make an anatomical gift.

This statute prohibits discrimination, in any part of the organ transplant process, against a potential recipient of an anatomical

gift on the basis of that person's physical or mental disability, as defined in the federal Americans with Disabilities Act of 1990. (H&S C § 7153.2)

AB 2883
Boland

Minors: Medical Care and Counseling

Chapter 656
Statutes of 1996

Under existing law, a minor who is 12 years of age or older may consent to medical care and counseling for a drug or alcohol-related problem.

This statute amends Section 6929 of the Family Code to state the legislative intent that the state shall respect the right of a parent or legal guardian to seek medical care and counseling for a drug or alcohol-related problem of a minor child when the child does not consent to the medical care and counseling. The statute also provides that in cases where a parent or legal guardian has sought the medical care and counseling for a drug or alcohol-related problem of a minor child, the physician shall disclose medical information concerning such care to the minor's parents or legal guardian upon their request, even if the minor child does not consent to disclosure, without liability for such disclosure. (Fam C § 6929)

AB 3013
Alby

Health Care Providers: Patient Advice

Chapter 1089
Statutes of 1996

Existing law states that it is a violation of public policy for any individual, partnership, corporation, or other organization to terminate a contractual relationship with, or otherwise penalize, a health care practitioner principally for advocating for appropriate health care.

This statute: (1) prohibits health care service plans and their contracting entities from including provisions in their contracts that interfere with the ability of a physician or other provider to communicate with a patient regarding the patient's care, including, but not limited to, treatment options, alternative plans, or other coverage arrangements; (2) exempts from the above a contract provision that provides that a physician and surgeon, or other licensed health care provider, may not solicit for alternative coverage arrangements for the primary purpose of securing financial gain; (3) provides that any contractual provision which is inconsistent with the bill's provisions shall be void and unenforceable; and (4) prohibits any communication regarding treatment options from being represented or construed to expand or revise the scope of benefits or covered services under a plan or insurance contract. (B&P C § 2056.1)

AB 3131
Lee & Bates

Security Bars: Fire Safety

Chapter 290
Statutes of 1996

Existing law requires the State Fire Marshal to adopt building standards establishing minimum requirements for installation and maintenance of security bars that create a fire or panic hazard.

This statute prohibits the sale of security bars unless the packaging or labeling contains warning information explaining relevant fire safety codes to promote safety in the event of a fire. The information must direct the consumer or installer to contact the local fire department or building official to determine local safety requirements for security bars. The statute requires a contractor or installer of security bars to notify the owner of a residential dwelling of this required information prior to installing security bars. (H&S C § 13113.9)

AB 3265
Gallegos

Osteopathic Physicians and Surgeons: Diversion Program

Chapter 149
Statutes of 1996

Existing Law: (1) authorizes the Osteopathic Medical Board of California (OMB) to establish diversion evaluation committees to evaluate licensees who request participation in a diversion treatment program for drug or alcohol abuse; (2) requires the OMB to establish criteria for the acceptance, denial, or termination of participants in the diversion program; and (3) provides for the confidentiality of all board and committee records of proceedings regarding treatment of a participant in the diversion program except in the case of a criminal proceeding.

This statute: (1) adds provisions regarding the methods by which a person may participate in the diversion program; (2) provides that neither acceptance nor participation in the diversion program precludes the board from investigating or disciplining a participant for unprofessional conduct; and (3) provides an exception to the requirement of confidentiality of records if a participant withdraws or is terminated from the diversion program at a time when the person has been determined a threat to the public health and safety. (B&P C §§ 2365 & 2369)

AB 3305
Setencich and
Speier

Housing: Safety: Disclosures

Chapter 925
Statutes of 1996

Existing law regulates the safety of public swimming pools and spas but not those in private single-family residences.

This statute created the Swimming Pool Safety Act to require that all pools constructed after January 1, 1998 have a fence,

cover, alarm or other safety device. The statute also requires real estate disclosures to advise whether an existing pool or spa has a child-resistant barrier; security bars on bedroom windows have quick release mechanisms; and water heaters are anchored so that home buyers are made aware of potential hazards. [Civ C § 1102.6; and H&S C § 18942 & Chapter 5 of Part 10 of Division 104, Article 2.5 (commencing with Section 115920)]

SB 250
Haynes

Abortion: Informed Consent

Failed
Senate Health &
Human Services

Existing law does not require any specific information be presented to a pregnant woman or evidence of informed consent be obtained prior to an abortion.

This bill would have enacted the California Informed Choice Act of 1995, which would prohibit abortions except with the voluntary and informed consent of the pregnant woman.

SB 1847
Russell

Physicians and Surgeons: Patient Advice

Chapter 260
Statutes of 1996

Existing law: (1) states that it is the public policy of the state that licensed physicians and surgeons be encouraged to advocate for medically appropriate health care, as defined, for their patients; and (2) provides that the application and rendering of a decision that penalizes a physician and surgeon principally for advocating for medically appropriate health care violates public policy.

This statute prohibits any person from: (1) penalizing a physician and surgeon for advocating for medically appropriate health care for his or her patients; and (2) in any way discouraging a physician and surgeon from communicating information to a patient in furtherance of medically appropriate health care.

(B&P C § 2056)

SB 2059
Johnson

Orthotic Devices

Dropped

Existing law regulates the practice of medicine and provides that it is a misdemeanor for any person to violate certain general provisions regulating the practice of medicine.

This bill would have made it a misdemeanor for any person to advertise an orthotic device for the treatment, cure, or relief of specific disorders of the human body.

(6) Landlord-Tenant

AB 1073
Morrow

Liability: Real Property

Failed
Senate Judiciary

Existing law provides that an owner of an estate or interest in real property is not liable to any person for injury or death that occurs on the property during the course of or after the commission of specific felonies by the injured or deceased person.

Among other things, this bill would have provided that the owner of any estate or any other interest in real property is not liable to any person for any injury or death that occurs upon that property during the course of or after the commission of any criminal wrongdoing by a third person.

AB 2263
Murray, K.

Landlord-Tenant: Screening Fees

Chapter 525
Statutes of 1996

Existing law allows a property owner to charge a refundable security deposit to a tenant. Upon termination of the tenancy, the property owner may deduct reasonable costs from the security deposit to cover cleaning and repairs, as necessary.

This statute allows a property owner to charge a non-refundable screening fee of no more than \$30 to a prospective tenant for purposes of conducting a credit check. (Civ C § 1950.6)

AB 2970
Olberg

Nuisance: Controlled Substances

Chapter 658
Statutes of 1996

Existing law defines "nuisance" as anything injurious to health or offensive to the senses. Existing law also states that a tenant is guilty of an unlawful detainer if the tenant commits waste, nuisance, or uses the property for unlawful purposes.

This statute clarifies existing law by defining "nuisance" to include the illegal sale of controlled substances, and specifies this as grounds for unlawful detainer action by a landlord. (Civ C § 3479; and CCP § 1161)

AB 3244
Hawkins

Real Property: Rent Control

Chapter 1031
Statutes of 1996

Existing law allows a landlord to raise the rental amount by any amount allowable in situations where a unit has been sublet or assigned and the rental agreement prohibits subleases and assignments.

This statute allows a landlord to increase the rent to a sublessee or assignee whether or not a clause in the rental agreement prohibits subletting or assignment. (Civ C § 1954.53)

SB 992
Mountjoy

Unlawful Detainer

Dropped

Existing law provides for proceedings in unlawful detainer.

This bill would have provided that in any unlawful detainer proceeding, the tenant shall make timely payment of rent owed to the landlord according to law, directly to the court. The court would be required to deposit these payments into a separate escrow account to be disbursed by the court upon the final determination of the proceeding.

SB 1695
Kopp

Child Day Care Facilities: Family Day Care Homes

Chapter 449
Statutes of 1996

Existing law precludes property owners from prohibiting the operation of family day care homes in residential rental units.

This statute requires a tenant who operates a family day care home to notify the property owner in writing of the existence of the day care. This statute also allows a property owner to charge a higher security deposit to a tenant who operates a family day care home in residential rental units as long as the security deposit does not exceed the maximum amount allowable by law. (H&S C § 1597.40)

SB 2077
O'Connell

Civil Rights: Housing: Pets

Dropped

Existing law allows the management of a mobilehome park, a common interest development, or the landlord of real property to prohibit pets with the exception of assistance dogs for the disabled.

This bill would have provided that a pet prohibition shall not apply to persons over 62 years of age or to persons who are disabled and authorized by a healing arts professional to keep a pet. (See also Mobilehomes.)

(7) Local Government

AB 2043
Boland

Local Government Organization

Dropped

Existing law, the Cortese-Knox Local Government Reorganization Act of 1985, grants a conducting authority the ability to terminate city detachment proceedings by resolution.

This bill would have made the Cortese-Knox Local Government Reorganization Act of 1985 inapplicable to a city with a population of over two million people and when the detachment from the city is part of a reorganization that includes the entire detached territory in a city incorporation.

SB 74
Leonard

Concealed Weapons Permits

Failed
Senate Criminal
Procedure

Existing law provides for the issuance of concealed weapons licenses by the local law enforcement agencies to residents of the county in which the agency has jurisdiction.

This bill would have mandated standardized criteria for issuance of concealed weapons licenses by local law enforcement authorities.

SB 1471
Russell

Bonds: Liens: Foreclosure

Chapter 625
Statutes of 1996

Existing law prescribes a foreclosure process for the collection by a local agency of delinquent improvement bond assessments or Mello-Roos community facilities assessments.

This statute modifies the foreclosure process to require a local agency to either complete and record a notice of foreclosure or maintain a list of delinquent special tax installments that were removed from the tax roll to begin the foreclosure. (Gov C § 53356.2; and S&H C § 8833)

SB 1748
Senate Housing
and Land Use

Housing and Land Use Omnibus

Chapter 799
Statutes of 1996

Existing law generally regulates, pursuant to separate bodies of law, the areas of land use, housing and redevelopment.

This statute makes several minor statutory changes relating to housing, land use and related topics with related findings and

declarations. Provisions related to the Contractors State License Board were inserted and later deleted from this statute. (Ed C § 42238; Gov C §§ 65009, 65040.3, 65353, 65920, 66031, 65035.1, 65302.9, 65907 & 66000.5; and H&S C §§ 18025.5, 18035.1, 18075.5, 18117, 18304, 19825, 33021, 33030.5, Article 4 (commencing with Section 33250) of Chapter 3 of part 1 of Division 24, 33320.2, 33324, 33367, 33676 & 51622)

**SB 1902
Rogers**

Peace Officers: Arrests: Liability

Dropped

Existing law relieves public employees from liability for their acts or omissions while enforcing laws with due care. However, the law does not exonerate public employees from liability for false arrest. Existing law provides a peace officer may arrest a person if commanded to do so by a warrant issued by a judge. Existing law authorizes a peace officer to arrest a person without a warrant if the officer has reasonable cause to believe the person to be arrested committed a felony.

This bill would have provided that a peace officer is liable if the officer fails to execute an arrest warrant or if the officer uses unnecessary force to arrest a person. This bill would have required a peace officer to have possession of the warrant or have the warrant at the officer's place of business so that the arrested person shall be allowed to inspect the warrant prior to incarceration. This bill would have authorized a peace officer to make a warrantless arrest for a misdemeanor or a felony if the officer has probable cause. This bill would have created a cause of civil action for executing an arrest on an invalid warrant or if a peace officer used unreasonable force while making an arrest.

(8) Mobilehomes

**AB 765
Kaloogian**

Mobilehome Residency Law

Dropped

Existing law requires mobilehome park management which directly provides utility services to mobilehome owners through a master-meter service to collect a fee from homeowners in an amount sufficient to pay the average monthly utility bill.

This bill would have required such mobilehome management to deposit any differential in collected fees, and the actual bill amount, in a trust fund for the purpose of providing sub-meter service. Management would have also been required to provide homeowners with an annual written accounting of the trust fund.

AB 1819
Conroy

Mobilehome Parks

Dropped

Existing law requires mobilehome owners to provide mobilehome park management with a 30-day notice prior to filing an intent to commence a judicial action against management based on either management's alleged failure to maintain common facilities or an alleged reduction in mobilehome park services.

This bill would have required homeowners to provide notice to management within 20 days of the time the alleged failure to maintain common facilities is known to have occurred before commencing any judicial action.

AB 2221
Murray, K.

Mobilehomes and Manufactured Housing: Consumer

Chapter 812
Statutes of 1996

Existing law allows the Real Estate Commissioner to take disciplinary action against a licensee who commits specified acts in connection with the sale of a manufactured home. Existing law requires a real estate agent to conduct an inspection of residential real property and disclose his or her findings to a prospective buyer. Existing law prohibits the sale of mobilehomes containing specified health and safety defects.

This statute requires real estate agents to conduct an inspection of manufactured homes as well as real property and disclose his or her findings. This statute allows manufactured homes previously prohibited from sale due to health and safety defects to be sold if specified disclosures are made to the buyer. Additionally, this statute defines a dealer's standard of care to a purchaser of a manufactured home. (B&P C § 10177.2; Civ C § 2079; and H&S C §§ 18025, 18046 & 18046.1)

AB 2781
Cunneen

Mobilehomes

Chapter 95
Statutes of 1996

Existing law allows legal owners and junior lienholders to sell a mobilehome if the registered owner defaults, by either foreclosing, selling the mobilehome to the management of the mobilehome park, or requesting the management to evict the registered owner.

This statute allows legal owners and junior lienholders the option to sell a mobilehome to a third party upon default of the registered owner. (Civ C § 798.56a)

AB 2995
Kuykendall

Mobilehome Parks

Dropped

Existing law exempts long-term leases of mobilehome park spaces from local rent control ordinances. Currently, mobilehome owners have the option of accepting a long term lease or a month-to-month rental agreement.

This bill would have provided that mobilehome parkowners may require *prospective* mobilehome owners to accept a long term lease as a condition of tenancy in the mobilehome park.

SB 1181
Haynes

Mobilehome Residency Law: Rent Control

Chapter 392
Statutes of 1996

Existing law provides that the following criteria must be met before a mobilehome is deemed exempt from local government adopted rent control measures: (1) the rental agreement is in excess of 12 months; (2) the mobilehome must be for personal and actual residence of the homeowner; (3) the homeowner has 30 days to accept or reject the rental agreement; and (4) the homeowner has the right to void the rental agreement within 72 hours of its execution by management.

This statute provides that if a mobilehome space within a mobilehome park is not the principal residence of the mobilehome owner it shall also be deemed exempt from local rent control ordinances unless the owner is renting the mobilehome to another party, unable to rent or lease the mobilehome due to mobilehome park rules, or actively holding the mobilehome out for sale. Mobilehomes are also exempted from local rent control ordinances under this statute in instances where the legal owner has taken possession of the mobilehome from the registered owner, as in a foreclosure proceeding. (Civ C § 798.21)

SB 1585
Craven

Mobilehomes: Age Requirements

Chapter 61
Statutes of 1996

Existing law allows the management of a mobilehome park to require a mobilehome purchaser to comply with any age requirements of the park which could restrict residency if the requirements comply with the Federal Fair Housing Act, Public Law 100-430. Public Law 100-430 allows age restrictions if: (1) all documentation states the age requirement; (2) occupants of at least 80% of the dwellings are 55 or older; and (3) services/facilities are provided to meet the needs of the elderly.

This statute requires age requirements imposed by mobilehome

park management to instead comply with the Federal Fair Housing Act, Public Law 104-76 which does not include the requirement that services/facilities for the elderly are provided. (Civ C §§ 798.76, 799, 799.1, 799.3, 799.4, 799.5 & 799.7)

SB 1586
Craven

Mobilehome Parks: Rules and Regulations

Dropped

Existing law provides that a mobilehome park may not enforce a rule or regulation that is adopted and implemented without the consent of the homeowners, and denies the homeowners the right to a jury trial, or mandates binding arbitration.

This bill would have provided that any mobilehome park prohibiting the installation or use of a television antenna or satellite dish smaller than 36 inches in diameter is unenforceable.

SB 1624
Craven

Mobilehomes

Chapter 157
Statutes of 1996

Existing law allows a senior mobilehome owner requiring live-in health care to share his or her home with any person over 18 years of age without paying a fee.

This statute allows a senior mobilehome owner to share his or her home with an immediate family member who is over the age of 18 and requires live-in health care, supportive care, or supervision. (Civ C § 798.34)

SB 1756
Calderon

Mobilehomes: Local Regulation Mediation

Dropped

Existing law regulates rental agreements and other fees that may be imposed on residents of mobilehome parks.

This bill would have required any jurisdiction imposing rent control ordinances to enter into nonbinding mediation with the affected parties.

SB 1855
Kopp

Unlawful Detainer

Dropped

Existing law allows for the enforcement of judgments relating to unlawful detainer proceedings.

This bill would have provided that a defendant would have no legal right to possession of real property upon entry of an unlawful detainer judgment.

SB 2077
O'Connell

Civil Rights: Housing: Pets

Dropped

Existing law allows the management of a mobilehome park, a common interest development, or the landlord of real property to prohibit pets with the exception of assistance dogs for the disabled.

This bill would have provided that a pet prohibition shall not apply to persons over 62 years of age or to persons who are disabled and authorized by a healing arts professional to keep a pet.

(9) New Regulatory Programs

AB 2696
Burton

Hypnotherapists: Registration

Dropped

Existing law regulates various health care professionals (e.g., physicians, psychologists, and marriage, family and child counselors), whose practice may include hypnotherapy.

This bill would have required persons who offer hypnotherapy, other than those already authorized to practice hypnotherapy under their licensing acts, to register with the Department of Consumer Affairs.

AB 2853
Bordonaro

Recreation Therapy

Dropped

Existing law does not regulate recreation therapists.

This bill would have prohibited anyone who does not meet certain educational and certification requirements from representing himself or herself as a recreation therapist. (See also SB 1127.)

SB 258
O'Connell

Home Inspectors

Chapter 338
Statutes of 1996

Existing law does not regulate persons who perform a home inspection for a fee.

This statute creates a standard of care for home inspectors which could be considered by a court in determining liability in a legal action for breach of duty related to a home inspection report. The statute also prohibits certain practices by home inspectors that present a conflict of interest and invalidates provisions in a

contract for a home inspection that would waive the standard of care. [B&P C Chapter 9.3 (commencing with Section 7195) of Division 3]

SB 1127
Watson

Recreation Therapy

Dropped

Existing law does not regulate recreation therapists.

This bill would have prohibited anyone who does not meet certain educational and certification requirements from representing himself or herself as a recreation therapist. (See also AB 2853.)

SR 28
Watson

Naturopathic Physician Licensing

Dropped

This resolution would have requested the Department of Consumer Affairs, Medical Board of California, Osteopathic Medical Board, Board of Chiropractic Examiners, Acupuncture Committee, California Association of Naturopathic Physicians, California Citizens for Health, and California Medical Association to study and report to the Legislature on the state of the practice of naturopathy and the best method of establishing a naturopathic physician licensing act.

(10) Privacy

AB 288
Cannella

Public Utilities: Disclosure

Failed
Senate Judiciary

Existing law requires public utilities to provide district attorney investigators with limited customer information when the investigation is related to missing or abducted children and the investigators attests this in an affidavit.

This bill would have changed the requirement from an affidavit to a "statement of probable cause." It would also have extended the requirement for public utilities to provide consumer information to investigations related to drug trafficking or manufacturing.

AB 688
Frusetta

Public Records: Peace Officers

Failed
Senate Criminal
Procedure

Existing law prohibits a person from maliciously and with intent to obstruct justice, disseminating the telephone number of a peace officer, police dispatcher or employees of a police or sheriff's department.

This bill would have expanded that prohibition to disseminating the telephone numbers of employees of a marshal's office, state law enforcement agency or investigators of a city or district attorney.

AB 927
Bates

Peace Officers: School Funding

Dropped

As introduced, this bill would have authorized peace officers access to pupil records when conducting a criminal investigation of a pupil.

This bill was amended to authorize various school districts to accept private or business donations to pay interest on loan obligations.

AB 1721
Ducheny

Student and Consumer Records

Chapter 879
Statutes of 1996

Existing law authorizes a consumer whose personal records are being sought by a subpoena duces tecum to quash or modify it by filing a motion in court.

Among other things, this statute allows a consumer who is not a party to the civil action to object to the production of his or her personal records by serving on the subpoena requesting party and the witness a written objection specifying the grounds on which production of these records are prohibited. (Civ C § 1985.3 and Ed C §§ 49077, 49078, 76244 & 76245) (See also SB 1821.)

AB 1889
Conroy

Telephone Call Identification Service: Privacy

Dropped

Existing law directs the California Public Utilities Commission (CPUC) to require every telephone call identification service offered in this state by a telephone corporation to allow a caller, at no charge, to withhold display of the caller's telephone number.

This bill would have required the CPUC to permit telephone corporations to use call identification services. The bill would also allow a customer to withhold the display of his or her telephone number on a per call or per line basis.

AB 2176
Miller

Peace Officers: Disciplinary Investigation

Chapter 220
Statutes of 1996

Existing law provides that peace officer personnel records are confidential and shall not be disclosed in any criminal or civil proceeding except by discovery.

This statute provides that notwithstanding existing law, a department or agency that employs peace officers may release factual information concerning a disciplinary investigation of a peace officer who is the subject of a disciplinary investigation or their agent publicly makes a statement known to be false concerning the investigation or the imposition of disciplinary action. **This authority extends to the Division of Investigation, the Medical Board of California and the Board of Dental Examiners.** (Pen C § 832.7)

AB 3434
House

Peace Officers: Personnel Files: Public Complaints

Chapter 1108
Statutes of 1996

Existing law establishes procedures by which a law enforcement agency investigates citizens complaints against its personnel. Existing law requires that all complaints shall be retained for a period of five years.

This statute provides that complaints against a peace officer that are determined to be unfounded shall not be maintained in the officer's personnel records. These unfounded complaints would be maintained in other files and treated as personnel files for the purposes of discovery or disclosure. **Department of Consumer Affairs agencies employing peace officers, including the Division of Investigation, Medical Board of California and Board of Dental Examiners, would be required to comply with the provisions of this statute.** (Pen C § 832.5)

SB 1659
Peace

Personal Rights: Privacy

Chapter 1025
Statutes of 1996

The California Constitution provides that all people have certain inalienable rights, such as the right to privacy.

This statute creates the Joint Task Force on Personal Information to make recommendations as to what changes to existing law relating to the use or distribution of personal information about individuals by public and private entities are necessary to ensure that there is adequate protection of the right of privacy. This statute also exempts patient social security numbers and other information that a health facility believes could be used to

determine the identity of an individual patient from disclosure under the California Public Records Act. (H&S C § 128735)

**SB 1821
Marks**

Civil Procedure: Personal Consumer Records

**Chapter 679
Statutes of 1996**

Existing law authorizes a consumer whose personal records are being sought by a subpoena duces tecum to quash or modify it by filing a motion in court.

Among other things, this statute allows a consumer who is not a party to the civil action to object to the production of his or her personal records by serving on the subpoena requesting party and the witness a written objection specifying the grounds on which production of these records are prohibited. (Civ C § 1985.3 & 1985.6) (See also AB 1721.)

(11) Products and Services

**AB 408
Battin**

Liability for Defective Products

Dropped

Existing law provides that, unless otherwise excepted, all relevant evidence is admissible in an action for liability for a defective product.

This bill would have authorized the manufacturer or seller of an allegedly defective product to present evidence that the product was manufactured in conformity with industry manufacturing customs and standards prevailing at the time of manufacture.

**AB 410
Battin**

Product Liability Actions: Subsequent Remedial Measures

**Failed
Senate Judiciary**

Under existing law, evidence of remedial or precautionary measures taken after an event, which if taken previously, would have made the event less likely, are inadmissible to prove negligence or culpable conduct.

This bill would have made similar evidence of conduct taken to improve the safety of a product after the occurrence of an injury inadmissible in product liability actions.

**AB 972
Sher**

Product Liability: Common Consumer Products

Dropped

Existing law provides that in a product liability action, a manufacturer or seller is not liable if the product is a common

consumer product intended for personal consumption, is inherently unsafe, and is known to be unsafe by the ordinary consumer.

This bill would have specified that, in a product liability action, a manufacturer or seller is not liable if the product is a common consumer product intended for personal consumption, is inherently unsafe, and is known to be unsafe by the ordinary consumer. This provision would not immunize manufacturers or sellers of tobacco products from liability for claims based on intentional fraud and misrepresentation, or conspiracy.

AB 1389
Setencich

Copyright: Contracts

Chapter 340
Statutes of 1996

Existing federal law regulates the creation and protection of copyrights. Any ambiguity as to the nature or extent of the rights is construed in favor of the creator or owner of the work of art.

This statute regulates contracts between copyright owners or performing rights societies and businesses that publicly play copyrighted music. The statute requires specific terms of the contracts, prohibits certain conduct by representatives of performing rights societies, and provides for civil penalties. (B&P C §§ 21750, 21751, 21751.5, 21752, 21753, 21754, 21755, 21756, 21757 & 21758)

AB 1601
Poochigian

Product Liability

Dropped

Existing law provides that everyone is responsible, not only for the result of his or her willful acts, but also for an injury occasioned to another by the want of ordinary care or skill in the management of his or her property or person, unless the other person has brought the injury upon himself or herself by lack of ordinary care.

This bill would have enacted the California Product Liability Reform Act of 1995 establishing specific provisions governing the determination of strict liability for design defects, and exempting prescription drug manufacturers from strict liability for design defects.

AB 1730
Morrow

Civil Actions: Product Liability

Dropped

Existing law provides that an action for death or injury caused by a defective product must be initiated within one year of injury or death.

This bill would have provided that an action for death or injury caused by a defective product must be brought within 10 years from the date of first sale, lease, or delivery for use or consumption to the initial consumer.

**AB 1987
Miller**

Athlete Agents: Contracts

**Chapter 857
Statutes of 1996**

Existing law requires athlete agents to register with the Labor Commissioner but exempts members of the State Bar if they are also acting as legal counsel for the athlete.

This statute, known as the Miller-Ayala Athlete Agents Act, repeals specific sections of Chapter 1 of Part 6 of Division 1 of the Labor Code relating to athlete agents and adds Chapter 2.5 (commencing with § 18895) to Division 8 of the Business and Professions Code. Among other things, this statute prohibits and requires specific activities relating to athlete agents and professional athletes and student athletes; provides for the recovery of damages by any professional athlete, student athlete, school, college, university, educational institution, league, conference, association, or any other person from an athlete agent through civil action if they were adversely affected by the acts of the athlete agent or an athlete agent's representative in violation of this chapter; and provides that an athlete agent or an athlete agent's representative is guilty of a misdemeanor if he or she violates any of these provisions. (B&P C §§ 6106.7 & 18895 and Lab C §§ 1500, 1510, 1511, 1512, 1513, 1514, 1515, 1515.5, 1516, 1517, 1518, 1519, 1521, 1523, 1524, 1525, 1526, 1527, 1528, 1530, 1530.5, 1531, 1531.5, 1532, 1533, 1535, 1535.5, 1535.7, 1536, 1537, 1538, 1539, 1540, 1543, 1544, 1546 & 1550) (See also SB 1401.)

**AB 2022
Knight**

Product Liability

Dropped

Existing law provides that each person is responsible for an injury caused to another by his or her want of ordinary care or skill in the management of his or her property or person.

This bill would have provided that any person convicted of any specified felonies who was injured by a product while engaged in that felony would be barred from bringing any action against any party that might otherwise be liable for that injury, under any theory of product liability, whether in tort or in contract, if: (1) the product was used in conduct that was an element of the felony; (2) the product was used by a victim or bystander against

the person in response to the person's criminal conduct; or (3) the product was stolen or was the subject of an attempted theft by the person.

AB 2077
Miller

Limitation of Actions: Construction Defects

Failed
Senate Judiciary

Existing law sets the statute of limitations for an action to recover damages for a latent construction defect at 10 years after completion of a development or improvement.

This bill would have reduced the statute of limitations for a latent construction defect to six years.

AB 2880
Baugh

Exemplary Damages: Product Liability

Dropped

Existing law provides that in an action for the breach of an obligation not arising from contract, where it is proven by clear and convincing evidence that the defendant has been guilty of oppression, fraud, or malice, the plaintiff, in addition to the actual damages, may recover damages for the sake of example and by way of punishing the defendant.

This bill would have prohibited the award of exemplary damages in product liability actions where: (1) the product was manufactured and labeled in material conformance with applicable state or federal laws; and (2) the product was licensed for manufacture by a governmental agency. The defense to exemplary damages established by this bill would not have been applicable if the plaintiff proved both of the following beyond a reasonable doubt: (1) the product manufacturer, with actual knowledge, intentionally withheld or misrepresented information required to be submitted under pertinent regulation or standards; and (2) that such information was relevant to the harm in question.

SB 1014
O'Connell

Product Liability: Minors

Dropped

Under existing law, each individual is responsible for the result of his or her willful acts or lack of ordinary care in the management of property that has caused injury to himself/herself or others.

This bill would have provided that a manufacturer, advertiser, distributor, or retail seller of a product intended and marketed primarily or exclusively for use by minors has a fiduciary duty

to a minor, or to any person who purchases the product on his or her behalf, thereby constituting a special duty of care commensurate with the reduced responsibility of the minor.

**SB 1401
Ayala**

Athlete Agents

**Chapter 858
Statutes of 1996**

Existing law requires that athlete agents register with the Labor Commissioner and exempts members of the State Bar from this registration requirement if they are also acting as legal counsel.

This statute, in conjunction with the Miller-Ayala Athlete Agents Act, prescribes that an athlete agent found liable under the act shall forfeit any right to repayment for anything of benefit or value provided to a student athlete and provides that no person shall owe an athlete agent any money or other consideration pursuant to a contract if the athlete agent fails to comply with the Miller-Ayala Athlete Agents Act. (B&P C §§ 6106.7, 18897.27, 18897.8 & 18897.9) (See also AB 1987.)

**SB 1823
Marks**

Professional Fiduciaries: Guardians and Conservators

**Vetoed
September 29, 1996**

Existing law sets forth a comprehensive body of law relating to conservatorship, whereby a conservator may be appointed to assist a person who is unable to properly provide for him or herself and who is unable to manage his or her financial resources or resist fraud or undue influence.

This bill would have specified certain professional standards for conservators and would have allowed a superior court to appoint a private professional conservator or guardian if circumstances and justice warrant the appointment. (See also AB 2020.)

Veto Message

Governor Pete Wilson
To the Members of the California Senate:

I am returning Senate Bill No. 1823 without my signature.

This bill would establish professional standards for conservators and guardians and revise the definition of private professional conservators and guardians. The bill would also require the filing of specified information, on a form adopted by the Judicial Council, with the county clerk before being appointed as the conservator or guardian.

This bill is internally inconsistent and in some respects conflicts with other provisions of the Probate Code. There is no protection provided by this bill which does not already exist in law and in fact many existing protections are jeopardized by this bill.

(12) Telecommunications

AB 230
Tucker

Emergency Medical Services: Funding

Dropped

Existing law imposes a surcharge of one-half of one percent on amounts paid by users of the intrastate telephone communication service. Revenues generated from this surcharge are deposited into the State Emergency Telephone Number Account in the General Fund. These monies are used to fund the cost of administering the 911 emergency assistance system.

This bill would have enacted the Filante-Tucker Prehospital Emergency Medical Services System Funding Act, and imposed a one percent surcharge on amounts paid by intrastate telephone communication service users. Revenues generated from the additional surcharge would be deposited into three emergency care services funds.

AB 1121
Conroy

Telecommunications: Federal Law: Conflicts

Chapter 574
Statutes of 1996

Existing law, the Public Utilities Act, prescribes the powers and duties of the California Public Utilities Commission (CPUC).

This statute provides that no provision of the Public Utilities Act that is in conflict with specified federal statutes shall apply to commercial cellular telephone services. Existing California law requires all telecommunications providers, including cellular telephone providers to file tariffs. Federal law does not require tariffs to be filed by cellular providers. This statute allows the CPUC to exempt cellular telephone providers from filing tariffs, in accordance with federal law, without first forcing a lawsuit to obtain a ruling from a state appellate court that exempts the CPUC from existing California law. (PUC §§ 247 & 490)

AB 1588
Conroy

Public Utilities Act: Telecommunications Services

Dropped

Existing law, which is legislative intent, states that all telecommunications markets under the jurisdiction of the California Public Utilities Commission (CPUC) be open to competition by January 1, 1997. The CPUC is required to ensure that the competition is fair and that a competition-neutral universal service policy is implemented.

This bill would have authorized the CPUC to exempt local exchange telephone companies serving less than 50,000 access lines from competition for up to three years.

AB 2075
Hannigan

Cellular Radio Telephone Service: Emergency Calls

Failed
Assembly Utilities
and Commerce

Existing law requires all emergency 911 calls from cellular phones be routed to the nearest California Highway Patrol (CHP) communications center.

This bill would have established a test project to determine the viability of local technology that would route 911 calls outside the CHP jurisdiction from cellular telephones to local dispatch centers.

AB 2657
Kaloogian

Coin-Activated Telephones: Reimbursement for Use

Dropped

Existing law authorizes the California Public Utilities Commission (CPUC) to regulate utilities including telephone companies.

This bill would have required the CPUC to promulgate rules and regulations to require compensation to pay phone owners for calls placed from any pay phone not paid for with the deposit of coins and fix the amount. The bill would have required the pay phone operators to be registered with the CPUC and pay a \$75 registration fee.

AB 2712
Conroy

Public Utilities: Telecommunications

Dropped

Existing law authorizes the California Public Utilities Commission (CPUC) to regulate public utilities in the state, including telephone corporations, and to do all things necessary to exercise this authority.

This bill would have required the CPUC to conform its rules, practices, and procedures to the federal Telecommunications Act of 1996. (See also AB 1121.)

AB 2875
Vasconcellos

Telecommunications

Dropped

Existing law authorizes the California Public Utilities Commission (CPUC) to regulate every public utility in the state and to do all things necessary to exercise this authority.

This bill would have required the CPUC to investigate the ability of telephone companies to provide tariff multiple-line Integrated Services Digital Network service in this state and report its findings to the Legislature.

AB 3152
Martinez

Telephones: Public Places: Hearing Impaired

Chapter 779
Statutes of 1996

Existing law requires telephone companies to provide Telecommunication Devices for the Deaf to the hearing impaired. Existing law authorizes telephone companies to impose a fee on monthly charges to fund this program. Existing law does not require public telephones in public buildings to be accessible to the hearing impaired.

This statute mandates that telephones in public places be equipped with devices to serve the hearing impaired. This statute authorizes an increase in the existing fee authorization to pay for this program. (PUC §§ 2881.01 & 2881.2)

AB 3154
Martinez

Public Utilities Act: Telecommunications Services

Dropped

Existing law declares legislative intent that a telecommunications policy for California remove barriers to open and competitive markets and encourage greater efficiency, lower prices and more consumer choice.

This bill would have additionally declared that the telecommunications policy remove barriers to both open and fair competitive markets. This bill was intended as a spot bill.

SB 135
Maddy

Emergency 911 Telecommunications: Liability

Dropped

The Warren-911 Emergency Assistance Act establishes the 911 emergency number through which the public may obtain emergency services. Statute sets forth extensive provisions regulating the liability, and exemption thereof, of public entities and their employees, and certain individuals who provide 911 emergency assistance.

This bill would have provided that no public agency or emergency 911 telecommunications system or service provider or any of their employees, directors, officers, or agents, except in cases of wanton and willful misconduct or bad faith, shall be liable for any damages in a civil action for injuries, death, or loss to

persons or property incurred by any person as a result of any act or omission while providing, adopting, implementing, maintaining, or operating an emergency 911 telecommunications system or service.

SB 207
Polanco

Telecommunications Services: Rates

Chapter 750
Statutes of 1996

Existing law requires universal telephone service and authorizes transfer payments to small independent telephone corporations serving areas where the cost of service exceeds rates charged to customers.

This statute authorizes the California Public Utilities Commission (CPUC) to adopt a competitively neutral policy whereby any telephone corporation serving a high cost area may receive transfer subsidy payments. (PUC § 739.5)

SB 551
Campbell

Cellular Telephones: Unfair Trade Practices

Dropped

Existing law provides that, notwithstanding the definition of "cost" in the Unfair Practices Act, commissions or rebates regularly earned by cellular telephone retailers may be used to reduce cellular telephone cost not exceeding ten percent of cost or \$20, whichever is greater.

This bill would have removed limitations on the amount of commissions or rebates that may be used to reduce cost for those purposes and would have extended the application of the provisions to all cellular equipment.

SB 1032
Calderon

Telephones: Mobile Radios

Dropped

Existing law grants the California Public Utilities Commission (CPUC) jurisdiction over the rates and services of telephone corporations.

This bill would have required the CPUC to study and report to the Legislature no later than January 1, 1998 on the effects of disparate state regulation of commercial mobile radio services.

SB 1035
Peace

Public Utilities: Telephones

Chapter 675
Statutes of 1996

Existing law authorizes the California Public Utility Commission (CPUC) to regulate public utilities, including telephone

corporations. Existing law authorizes the CPUC to require any caller identification service to allow the caller, at no charge, to withhold the display of the caller's telephone number. Existing law authorizes a telephone corporation to charge a fee for an unlisted telephone number.

This statute prohibits telemarketers from withholding their business telephone number from caller identification services. This statute would prohibit a telephone corporation from charging a fee for an unlisted telephone number. The statute states legislative intent that caller identification services dilute the value of an unlisted telephone number. (PUC § 2893)

SB 1896
Costa

California Telecommunications Infrastructure
Development Act

Chapter 300
Statutes of 1996

Existing law prescribes the conditions under which a city or county is authorized to impose various service fees.

This statute specifies that any fee imposed by a local agency for the installation, repair and upgrading of telecommunications facilities by a telephone corporation shall not exceed the reasonable costs of providing the service for which the fee is charged and shall not be levied for general revenue purposes. (Gov C § 50030)

SB 2088
Russell

Public Utilities: Telephones

Dropped

Existing law authorizes the California Public Utilities Commission to regulate all utilities, including telephone corporations.

This bill would have required cellular carriers to maintain accurate lists of their rates and make them available for public inspection and would require all facilities-based cellular carriers to offer service at bundled and unbundled rates.

(13) Utilities

AB 280
Battin

Public Utilities: Rates

Dropped

Existing law requires the California Public Utilities Commission to establish a standard limited allowance of gas and electricity to which residential customers are entitled in addition to the baseline quantity.

This bill would have provided that those persons 62 years of age or older are eligible to receive the additional limited allowance for gas and electricity.

AB 288
Cannella

Public Utilities: Disclosure

Failed
Senate Judiciary

Existing law requires public utilities to provide district attorney investigators with limited customer information when the investigation is related to missing or abducted children and the investigators attests this in an affidavit.

This bill would have changed the requirement from an affidavit to a "statement of probable cause." The bill would also have extended the requirement for public utilities to provide consumer information to investigations related to drug trafficking or manufacturing.

AB 560
Morrissey

Utility Company Services

Dropped

Existing law prohibits public gas and electric utilities from providing services to residential or commercial property beyond the company's meter connection to the building.

This bill would have allowed public gas and electric utility companies to work "beyond the meter" or otherwise perform work requiring a contractor's license if the employee and corporation were properly licensed as contractors, the work was substantially related to energy equipment, appliances and systems, and ratepayers do not subsidize these services. These services cannot be advertised in billings or be performed by service representatives.

AB 622
Conroy

Electric and Gas Service: Master-Meter Customers

Chapter 424
Statutes of 1996

Existing law requires the California Public Utilities Commission to set electric and gas rates for master-meter customers, such as mobilehome park owners.

This bill establishes a process that allows operators of master-metered mobilehome parks or manufactured housing communities (that provide electric or gas service to residents) to transfer ownership and operational responsibility of the utility service to the utility company that is obligated to provide service in the area. (PUC § 2791)

AB 1123
Sher

Public Utilities: Electrical Corporations

Dropped

Existing law authorizes the California Public Utilities Commission (CPUC) to supervise and regulate every public utility in the state, including the approval of utility expenses and the establishment of rates.

This bill would have required the CPUC, in adopting any order relating to the restructuring of the electrical industry, to comply with consumer protection related criteria.

AB 1683
Conroy

Public Utilities: Carriers

Chapter 1042
Statutes of 1996
Effective September 28, 1996

Existing law: (1) authorizes the California Public Utilities Commission (CPUC) to regulate public utilities including highway carriers, household goods carriers and charter-party (passenger) carriers; (2) requires the California Highway Patrol (CHP) to inspect the carrier terminals, equipment, maintenance and driver records biennially; and (3) requires employers to register their drivers in the Department of Motor Vehicles' (DMV) pull notice program to ensure that drivers whose licenses have been suspended or revoked do not continue to drive. Existing federal law preempts state regulation of prices, routes and services of motor carriers.

This bill: (1) transfers from the CPUC to the DMV, responsibilities for the registration and administration of motor carriers of property and the issuance of carrier identification and permits; (2) enhances the CHP's responsibility for safety enforcement; (3) changes the fee structure based on the number of trucks rather than the gross revenues of the trucker; and (4) transfers \$7,300,000 from the Transportation Rate Fund to the Motor Carriers Permit Fund and will be appropriated to the DMV and CHP. (B&P C § 16728; Lab C §§ 3710.3 & 3716.4; PUC §§ 1010, 1061, 1904, 2107.5, 211, 2117, 2119, 212, 213, 214.1, 214.5, 216.5, 224.6, 3501, 3901, 4000, 4001, 4005, 4006, 4007, 4008.1, 4010, 4015, 4022, 4120, 421.5, 4301, 452.1, 452.2, 454.1, 460.5, 4801, 5001, 5003.1, 5004, 5005, 5325, 586, 622, 726, 727, 728.5, 731, 768, 818.5; and R&T C § 7231)

**AB 1770
Brewer**

Public Utilities: Services to Tenants

**Chapter 24
Statutes of 1996**

Under existing law, if a tenant vacates a dwelling without paying debts to a municipal utility, the utility may charge the outstanding debt to the subsequent tenant or the dwelling's owner. Additionally, on property with a history of tenants who do not pay debts, the municipal utility may place the property owner on the bill.

This statute prohibits municipal utilities from transferring service charges to subsequent tenants or property owners but authorizes the utilities to collect a deposit from residential applicants and apply the deposit to any unpaid charges. (PUC § 10009.6, 10016, 12811.1, 12811.5 & 12822.6)

**AB 1890
Brulte**

Public Utilities: Electrical Restructuring

**Chapter 854
Statutes of 1996**

Existing law authorizes the California Public Utilities Commission to supervise and regulate every public utility in the state, including the approval of utility expenses and the establishment of rates.

This bill provides the provisions for restructuring California's electrical industry. The key issues addressed in this bill include: (1) how to handle the recovery of transition costs; (2) how the new market structure should be organized; (3) how system reliability should be ensured; (4) how the funding of current public programs should be continued; and (5) how consumers should be protected in the new electricity market. This bill creates a new electricity market structure, ending the utility monopoly and opening the market to competition, so that retail customers can choose among alternative electricity suppliers. (Civ C §§ 955.1 & 3440.1; Com C § 9104; Gov C §§ 63010, 63025.1, 63048, & 63071; and PUC §§ 216, 330, 394, 840 & 9600)

**AB 2713
Conroy**

Public Utilities: Enforcement Actions

**Chapter 1065
Statutes of 1996**

Existing law provides that designated employees of the California Public Utilities Commission's (CPUC) Safety and Enforcement Division are not peace officers, but may exercise the powers of arrest within the scope of their employment upon completion of a course in the exercise of those powers.

This statute permits those designated CPUC employees to receive state summary criminal history information and serve warrants.

The statute also requires a telephone company to disconnect the telephone service of an unlicensed household goods carrier if all other enforcement remedies have failed. (PCC §§ 830.7 & 830.11; PUC § 308.5 & 5322)

SB 25
Leonard

Public Utilities: Programs: Electric Utilities: Restructuring

Dropped

Existing law authorizes the California Public Utilities Commission (CPUC) to supervise and regulate every public utility in the state, including the approval of utility expenses and establishment of rates.

This bill would have: (1) transferred specified program functions from the CPUC to the Energy Resources Conservation and Development Commission; (2) required that all funding for those programs transferred come from the Energy Resources Programs Account; and (3) repealed contract procurement provisions set forth in the Public Utilities Code related to women, minorities and disabled veterans business enterprises.

SB 623
Peace

Crimes: Theft of Cable Television Signals

Chapter 1131
Statutes of 1996

Under existing law, it is a misdemeanor to manufacture or sell a device designed to de-scramble a nonstandard cable television signal or willfully maintain an unauthorized connection to a cable system. Existing law provides for a civil action against persons who commit theft of cable television signals.

This statute increases the penalty for theft of a cable signal or manufacture or sale of a de-scrambler to a felony and clarifies that a civil action is permitted against a person who violates the cable theft provisions, with or without a conviction. (Pen C § 593d)

SB 960
Leonard

Public Utilities Commission: Administrative Procedures

Chapter 856
Statutes of 1996

Existing law authorizes the California Public Utilities Commission (CPUC) to supervise and regulate every public utility in the state.

This statute creates a consumer advocacy division within the CPUC to represent consumer interests before the commission. The director of this division will be appointed by the Governor with confirmation by the Senate. The statute changes the

CPUC's internal proceedings by requiring greater involvement of CPUC commissioners in all aspects of the commission's decision-making process and creates three classes of cases to be heard within the CPUC: adjudication, ratesetting, and quasi-legislative. (PUC §§ 309.5, 311, 1701.1, 1701.2, 1701.3 & 1701.4)

SB 1090
Russell

Public Utilities: Telecommunications Services

Failed
Assembly Utilities
and Commerce

Existing law makes a legislative finding and declaration that a policy for telecommunications in California is the promotion of lower prices and broader consumer choice, and the avoidance of anti-competitive conduct.

This bill would have stated that it is the intent of the Legislature that switch-based cellular resale competition occur as soon as possible in order to promote competition in the provision of cellular service in California.

SB 1322
Calderon

Public Utilities Commission: Judicial Review

Chapter 855
Statutes of 1996

Existing law provides for the judicial review of decisions and findings of the California Public Utilities Commission (CPUC), and specifies that the Supreme Court is the exclusive forum for judicial review of commission proceedings.

This statute: (1) expresses legislative intent to establish the manner and scope of review of CPUC decisions; (2) broadens the bases for judicial review and reversal of quasi-judicial CPUC decisions; and (3) provides for expedited Supreme Court consideration to specified petitions. (PUC §§ 1216, 1353, 1420, 1756, 1756.2, 1757, 1757.1, 1758, 1759, 1760, 1761, 1762, 1763, 1764, 1765, 1766, 2766, 3731, 3740 & 5257)

SCA 21
Peace

Public Utility Commission

Failed
Senate Floor

Existing provisions of the California Constitution provide for a California Public Utilities Commission (CPUC) consisting of five members appointed by the Governor and approved by the Senate for staggered six-year terms.

This measure would have repealed Article XII of the California Constitution which establishes the CPUC and would have given the Legislature the power to confer authority and jurisdiction upon the CPUC.

(14) Miscellaneous

AB 81
Napolitano

Undocumented Aliens: Intimidation

Vetoed
September 29, 1996

Existing law provides that all persons within the jurisdiction of the state have the right to be free from violence, or intimidation by threat of violence, committed against their person or property because of various bases of discrimination. Existing law also prescribes enhanced prison terms for any person who commits a felony or attempts to commit a felony because of the victim's race, color, religion, nationality, country of origin, ancestry, disability, or sexual orientation.

This bill would have provided that all persons within the jurisdiction of the state have the right to be free from criminal intimidation on the basis of citizenship or legal residency in the United States. The bill would have also provided that any person who induces or attempts to induce another person to work for below minimum wage, to work in unsafe or unlawful working conditions, or to purchase food, housing, transportation, clothing, tools or any item for use in the workplace by threatening to have the person deported, is guilty of a misdemeanor.

Veto Message:

Governor Pete Wilson
To the Members of the California Assembly:

I am returning Assembly Bill No. 81 without my signature.

This bill would add a new crime to the penal code protecting illegal aliens or those presumed illegal from threats designed to induce them to work for below minimum wage, to work in unsafe or unlawful working conditions or to purchase certain goods or services by threatening to report them as undocumented aliens or to have them deported. The penalty for violation of the proposed misdemeanor is not more than one year in county jail, a \$10,000 fine or both the fine and imprisonment. In addition, the bill creates a special cause of action for illegal aliens or those presumed illegal based on the same facts.

Each of these prohibited acts is already prohibited, criminal, and subject to penalties often greater than those required under the bill.

"Obtaining money by threatening to accuse the victim of a crime constitutes extortion regardless of whether the victim has actually committed any crime" *People v. Goldstein* (1948) 48 CA2d 581. Extortion carries a penalty of 2,3, or 4 years in prison (Penal Code Section 518).

Proponents assert that this bill addresses the problem of worker enslavement.

Penal Code Section 181 criminalizes involuntary servitude and sale of slaves and provides in part that every person who holds or attempts to hold any person in involuntary servitude is guilty of a felony punishable by 2, 3, or 4 years in prison.

By creating a new misdemeanor with the elements of two existing felonies, this bill appears to provide that if a person commits acts constituting extortion or involuntary servitude, but the victim is an illegal alien a penalty of one year

in jail is sufficient.

Creating special, class specific, criminal statutes to respond to crimes generic to all persons is a questionable practice especially when the new statute imposes lower penalties.

In this instance, it also creates the illusion that reporting illegal aliens is wrong and possibly criminal. This would be unfortunate as it could have a chilling effect on appropriate enforcement of immigration laws, and could undermine the intent of Proposition 187.

Violation of the proposed statute would, under AB 81, also form the basis for a new cause of action in tort with specifically enumerated punitive damages and penalties. Again there is no lack of tort theories upon which to sue including conversion, false imprisonment and intentional infliction of emotional harm as well as actions for discrimination and civil rights violations. This civil provision limits the recovery of illegal aliens to three times actual damages while those just presumed illegal may sue for unlimited punitive damages plus a \$25,000 civil penalty.

All persons should be free from civil and criminal victimization while in California. The penalty should be no different if the victim is a California resident, a visitor from another state or nation, a convict, a citizen, or an illegal alien.

AB 83
Napolitano

Crimes: Undocumented Aliens

Dropped

Existing law provides that all persons within the jurisdiction of the state have the right to be free from violence, or intimidation by threat of violence, committed against their person or property because of various bases of discrimination. Existing law also prescribes enhanced prison terms for any person who commits a felony or attempts to commit a felony because of the victim's race, color, religion, nationality, country of origin, ancestry, disability, or sexual orientation.

This bill would have provided that any person who coerces or attempts to coerce another person to work for below minimum wage, to work in unsafe or unlawful working conditions, or to purchase food, housing, transportation, clothing, tools, or any item for use in the workplace, by threatening to report the person as an undocumented alien or threatening to have the person deported shall be punished by imprisonment in the state prison or in a county jail.

AB 484
Burton

Pilotage: San Francisco Bay: Rate Recommendations

Dropped

Existing law, until January 1, 1996, requires the Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun to provide for hearings to be conducted by an administrative law judge to determine issues relating to pilotage rates.

This bill would have repealed that law effective January 1, 1997.

AB 1242
Bordonaro

Vehicles: Liability

Dropped

Existing law prohibits insurance fraud and requires Californians to purchase vehicle insurance coverage.

This bill would have stated legislative findings and declarations that reforms need to be enacted to prevent insurance fraud, enhance vehicle safety, make it affordable for Californians to purchase vehicle insurance coverage, and reduce the number of litigated vehicle accident claims.

AB 1308
Cunneen

Insurance

Dropped

Existing law prevents insurers from setting coverage limitations for covered damage to an insured dwelling if the policy provides for guaranteed replacement coverage.

This bill would have prevented insurers from setting coverage limitations for building code upgrades to an insured dwelling if the policy provides for guaranteed replacement coverage.

AB 1317
Speier

Common Interest Developments

Chapter 1101
Statutes of 1996

Existing law provides that any member of the managing association of a common interest development may attend meetings of the board of directors of that association, except when the board adjourns to executive session.

This statute will require the board of directors of the managing association of a common interest development, to permit any member of the association to speak at any meeting of the association of the board of directors, except for meetings of the board held in executive session.(Civ C §§ 1354, 1363.05, 1366.3 & 1367)

AB 1396
Poohigian

Confidential Information: Disclosure

Dropped

Existing law prohibits the malicious attempt to obstruct justice by disseminating the address or telephone number of a peace officer, police dispatcher or their families. Existing law provides that home addresses of individuals contained in Department of Motor Vehicle records are confidential if so requested by the individual.

This bill would have extended the provisions to protect non-sworn employees of the Department of Justice authorized to conduct investigations or appear in court.

AB 1447
Baca

Organ Donation

Dropped

Existing law, the Uniform Anatomical Gift Act (Act), provides the procedure for organ donation. The Act specifies the circumstances under which organs can be removed and specifies the persons who may authorize the donation of organs from the deceased. The Act defines the protocol by which hospitals can identify potential donors and specifies emergency or hospital personnel that are permitted to search clothing for a document identifying a person as a donor, among other things. The Act provides that it is unlawful to sell human organs for purposes of transplantation and for valuable consideration with specified exemptions.

This bill would have established the Baca Organ Donor Benefit Act which would require all general acute care hospitals, with certain exceptions to, at or near the time of death of a patient of the hospital, offer to pay the interment, cremation, or other lawful funeral expenses, up to \$5,000, for that patient if the individual's family or legal representative has made an anatomical gift.

AB 1803
Campbell

Confidential Communications

Failed
Senate Judiciary

Existing law provides that confidential communications between a patient and a physician and between a patient and a psychotherapist are generally privileged, unless otherwise excepted or terminated.

This bill would have excepted from the physician-patient privilege and the psychotherapist-patient privilege confidential communications between a deceased subject of an inquest or inquiry and his or her physician or psychotherapist when sought by a coroner for the purpose of inquiry into and determination of the circumstances, manner, and cause of death, or when sought for the sole purpose of being introduced as evidence at a coroner's inquest proceeding.

AB 2048
Hauser

Pilotage: San Francisco, San Pablo and Suisun Bays

Dropped

Existing law requires the Board of Pilot Commissioners to arrange for the conduct of hearings by an administrative law

judge (ALJ) to determine pilotage rates for recommendation to the Legislature and for the board to hold hearings to determine whether to accept or reject the ALJ's findings, conclusions, and proposals for the rate changes.

This bill would have reenacted a former law that was repealed on January 1, 1996, that arranged for an ALJ to determine pilotage rates in the San Francisco, San Pablo, and Suisun Bays, effective until January 1, 1998.

AB 2166
Miller

Common Interest Developments

Dropped

Existing law requires, until January 1, 1997, that a prospective managing agent of a common interest development (CID) provide a written statement to the board of directors of a homeowner's association regarding the status of any professional licenses or certifications held by said agent or general partners of the managing agent.

This bill would have extended this requirement and have required disclosure of the dates that the licenses/certifications are valid. This bill also would have required the owner to provide a prospective purchaser with a preliminary list of defects and would have specified provisions of notices and settlement agreements regarding damages to common areas.

AB 2176
Miller

Peace Officers: Disciplinary Investigation

Chapter 220
Statutes of 1996

Existing law provides that peace officer personnel records are confidential and shall not be disclosed in any criminal or civil proceeding except by discovery.

This statute provides that notwithstanding existing law, a department or agency that employs peace officers may release factual information concerning a disciplinary investigation of a peace officer who is the subject of a disciplinary investigation or their agent publicly makes a statement known to be false concerning the investigation or the imposition of disciplinary action. **This authority extends to the Division of Investigation, the Medical Board of California and the Board of Dental Examiners.** (Pen C § 832.7)

AB 2236
Conroy

Public Safety Officers: Interrogation

Dropped

The Public Safety Officers' Procedural Bill of Rights specifies procedures to be followed whenever a public safety officer is investigated or interrogated for alleged misconduct.

This bill would have: (1) dictated conditions under which an officer may be interrogated by a superior; (2) defined interrogation; (3) required an officer be provided with a tape recording of any interrogation; (4) mandated an officer be presented with all evidence against him or her prior to an interrogation; (5) provided an officer must be informed in writing of his or her right to legal counsel at the interrogation; (6) required notification prior to searching an officer's locker; and (7) created punitive damages of up to \$10,000 on any agency that violates the Public Safety Officers Procedural Bill of Rights.

AB 2552
Battin

Building Codes

Failed
Senate Housing and
Land Use

Under existing law, a residential improvement made as a result of a defect in the construction of a home must be made in accordance with building codes applicable at the time the improvement is made. Existing law authorizes local agencies to permit the replacement of original materials and use of original methods of construction to repair an existing building as long as the building complies with the California Building Standards Code and the rules and regulations of the Department of Housing and Community Development and does not become or continue to become a substandard building.

This bill would have excluded from the damages recoverable by a person for injury to real or personal property due to a construction defect, the cost of repairs resulting from a change in the applicable building codes in effect at the time of original construction. This bill would have required local agencies to permit repair of existing buildings using original materials and methods of repair that complies with the applicable building standards in effect at the time of the original construction, as long as the building does not become substandard or create a serious life safety concern.

AB 2580
Ducheny

Social Workers: California State University: UC

Dropped

Existing law defines an approved school of social work to mean a school that is accredited by the Commission on Accreditation

of the Council on Social Work Education.

This bill would have permitted, on or after January 1, 2000, only an individual who possessed a degree from an approved school of social work, or from an institution that was in candidacy status as determined by the Council on Social Work Education, to use the designation "social worker."

AB 2637
Bowler

Peace Officers: False Claims

Chapter 586
Statutes of 1996

Existing law makes it a misdemeanor to file an allegation of misconduct against any peace officer when the allegation is known to be false.

This statute makes it a misdemeanor for any person to file a civil claim against a peace officer or a lien against the peace officer's property knowing the claim or lien to be false with intent to harass the officer. (PCC § 148.6)

AB 2651
Hawkins

Security Officers

Chapter 143
Statutes of 1996

Existing law establishes various categories of peace officers and other public officers, and specifies their duties and powers. Existing law requires persons performing the duties of a security guard for a private patrol operator to be licensed with the Bureau of Security and Investigative Services (BSIS).

This statute authorizes county sheriffs to employ sheriff's security officers to provide security at county facilities. The sheriff's security officer is authorized to possess a firearm and other weapons and may issue citations, but may not exercise the powers of arrest. The sheriff's security officer is exempt from registration with the BSIS and all training requirements imposed by the BSIS. (PCC §§ 831.4 & 12002)

AB 2730
Hawkins

Common Interest Developments: Reserve Funds

Dropped

Existing law requires the board of directors of an association managing a common interest development to review certain documents on at least a quarterly basis and to review the latest account statements as prepared by designated financial institutions.

This bill would have required the review of an association's operating accounts, the reconciliation of the reserve accounts, the current year's actual reserve revenues and expenses as compared to previous years accounts, review of the latest account statements prepared by the financial institution designated, and review of the income and expense statement for the operating reserve accounts on at least a quarterly basis.

**AB 2732
Hawkins**

Common Interest Developments: Governing Documents

Dropped

Existing law requires the governing association of a common interest development to prepare and distribute certain documents to all members. The operating budget must be submitted to the members at least 90 days prior to the beginning of the fiscal year.

This bill would have required that documents describing the association's policies and practices in enforcing lien rights and summarizing the insurance coverage also be prepared and distributed to members at least 60 days prior to the fiscal year.

**AB 3015
Hawkins**

Common Interest Developments: Reserve Funds

**Chapter 80
Statutes of 1996**

Existing law prohibits the board of directors of the governing association of a common interest development from spending funds designated as reserve funds for any purpose other than the repair, restoration, replacement, or maintenance of the major components which the association is obligated to repair. A review of the reserve accounts is required at least once every three years.

This statute will revise and recast existing provisions and require the board to visually inspect those areas which the association is obligated to maintain using a prescribed formula if the current replacement value is greater than one-half of the gross budget. (Civ C § 1365.5)

**AB 3056
Brulte**

Common Interest Developments: Motorcycles

**Vetoed
September 27, 1996**

Existing law defines and regulates common interest developments and provides that these developments be managed by an association. The law also provides for rights of ingress, egress, and support through the common areas of the common interest developments.

This bill would have provided that with respect to certain governing documents of a common interest development that were initially approved and implemented on or after January 1, 1997, any provision therein which prohibited the operation of any motorcycle by a resident or homeowner within the development would have been void and unenforceable.

Veto Message:

Governor Pete Wilson
To the Members of the California Assembly

I am returning Assembly Bill No. 3056 without my signature.

This bill would prohibit a common interest development from establishing or adopting rules which would ban the use of motorcycles within the project.

Common interest developments use covenants, conditions, and restrictions (CC&Rs) to govern the development and maintenance of common areas. These CC&Rs represent a set of terms of a private contract between knowing adults.

The Supreme Court has validated the concept that CC&Rs are private contracts between homeowners and their associations. This bill serves no public purpose that warrants interference in those private contracts.

AB 3064
Hawkins

Commission on Peace Officer Standards and Training

Chapter 591
Statutes of 1996

Existing law requires the Commission on Peace Officer Standards and Training (POST) to adopt rules establishing the minimum standards relating to the recruitment and training of local law enforcement public safety dispatchers. Existing law requires the POST to develop a law enforcement accreditation program by July 1, 1996.

This statute requires the POST to establish by December 31, 1997 a certification program for law enforcement records supervisors. This statute provides the POST is not required to establish a law enforcement certification program until funding for this program is approved by the Legislature. This bill was amended to transfer authority to approve the course of training for the use of tear gas by security guards from the POST to the Department of Consumer Affairs. This provision was later removed. (Pen C §§ 13510.3 & 13551)

AB 3434
House

Peace Officers: Personnel Files: Public Complaints

Chapter 1108
Statutes of 1996

Existing law establishes procedures by which a law enforcement agency investigates citizens complaints against its personnel. Existing law requires that all complaints shall be retained for a period of five years.

This statute provides that complaints against a peace officer that are determined to be unfounded shall not be maintained in the officer's personnel records. These unfounded complaints would be maintained in other files and treated as personnel files for the purposes of discovery or disclosure. **The Department of Consumer Affairs' agencies employing peace officers, including the Division of Investigation, Medical Board of California and Board of Dental Examiners, are required to comply with the provisions of this statute. (Pen C § 832.5)**

**ACA 2
Richter**

Civil Rights: Affirmative Action

Dropped

The California Constitution provides that a person may not be disqualified from entering or pursuing a business, profession, vocation, or employment because of sex, race, creed, color, or national or ethnic origin.

This constitutional amendment would have prohibited the state or any of its political subdivisions from using race, sex, color, ethnicity, or national origin as a criterion for either discriminating against, or granting preferential treatment to, any individual or group in the operation of the state's system of public employment, public education, or public contracting.

**SB 43
Solis**

Peace Officers: Stress Reduction Courses

**Failed
Assembly Public
Safety**

Existing law requires the Commission on Peace Officer Standards and Training (POST) to develop guidelines and training courses for peace officers on various work-related subjects.

This bill would have required the POST to implement an optional course of instruction to help law enforcement officers deal with stress. As introduced by Senator Johnston, this bill would have limited a sheriff's or police chief's authority to issue concealed weapons permits to persons living in the sheriff's or police chief's jurisdiction, eliminating the existing county-wide issuing authority. These provisions were later amended out of the bill.

**SB 49
Lockyer**

Vehicles

**Chapter 1109
Statutes of 1996**

Existing law prohibits insurance fraud and requires Californians to purchase vehicle insurance coverage.

This statute states legislative findings and declarations that reforms need to be enacted to prevent insurance fraud, enhance vehicle safety, make it affordable for Californians to purchase vehicle insurance coverage, and reduce the number of litigated vehicle accident claims. (Uncodified) (See also AB 1242.)

SB 116
Marks

Criminal Procedure

Dropped

Existing law does not set specific deadlines for return of property seized by law enforcement.

This bill would have required property seized by law enforcement agencies to be returned within 90 days if no criminal or civil forfeiture action is commenced.

SB 141
Beverly

Limited Liability Companies

Chapter 57
Statutes of 1996

Existing law (Limited Liability Company Act) authorizes the formation of limited liability companies in California and provides that limited liability companies have all powers of a natural person and may engage in any lawful business activities, except those specified in the law.

This statute makes numerous changes to the Limited Liability Company Act such as requiring limited liability companies to file with county recorders as well as with the Secretary of State, allowing the assignment of a membership or economic interest with the consent of a majority in interest of the members, and requiring the Secretary of State to notify a limited liability company filing a certificate of cancellation that the company will be dissolved only if the Franchise Tax Board notifies the Secretary of State that certain taxes and fees imposed on the company have been paid. (CCP § 699.720; Corp C §§ 1113, 15642, 17001, 17005, 17051, 17052, 17054, 17061, 17100, 17101, 17103, 17154, 17158, 17201, 17250, 17251, 17254, 17301, 17303, 17350, 17352, 17356 & 17450; Lab C § 3351; and R&T C §§ 18633.5 & 23092)

SB 258
O'Connell

Home Inspectors

Chapter 338
Statutes of 1996

Existing law does not regulate persons who perform a home inspection for a fee.

This statute creates a standard of care for home inspectors which could be considered by a court in determining liability in a legal

action for breach of duty related to an inspection report. The statute also prohibits certain practices by home inspectors that present a conflict of interest and invalidates contractual provisions that would waive the standard of care. [B&P C Chapter 9.3 (commencing with Section 7195) of Division 3]

SB 282
Petris

Public Safety Officers: Procedural Bill of Rights

Vetoed
September 30, 1996

Existing law, the Public Safety Officers Procedural Bill of Rights, provides for an administrative appeal for punitive action or denial of promotion on grounds other than merit.

This bill would have prohibited a public agency from taking punitive action against a public safety officer for any act of misconduct if the allegation is not completed within one year of discovery and would have prohibited unfounded public complaints from being maintained in a public safety officer's general personnel file. (See also AB 3434.)

Veto Message

Governor Pete Wilson
To the Members of the California Senate:

I am returning Senate Bill No. 282 without my signature.

This bill would prohibit a public agency from taking punitive action against a public safety officer for any act, omission, or other allegation of misconduct if the investigation of the allegation is not completed within one year of discovery, as specified; and would prohibit unfounded complaints by members of the public from being maintained in a public safety officer's general personnel file, as defined.

This bill is one of two addressing the matter of unsubstantiated complaints maintained in the personnel files of peace officers. Entrusted with extraordinary authority and extraordinary responsibility, officers must exercise both under the most trying and often dangerous circumstances. It is not surprising that peace officers, especially in high crime areas, generate more commendations and complaints than other civil servants. Some complaints are without merit, some are frivolous, a few are malicious, most reflect a genuine disagreement. The desire to expunge meritless claims from personnel records is understandable.

This bill seeks to address concerns regarding meritless claims by providing that complaints determined to be "unfounded" can be removed from the officer's general personnel file. AB 3434, signed this day, takes a responsive but less speculative approach by requiring that "frivolous" complaints be removed from the officers's general personnel file. Disputes over interpretation of the term "unfounded" would likely result in inconsistent application and litigation while the term "frivolous" provides greater potential for uniform implementation. Senior law enforcement officials are concerned that complaints unproven, but not frivolous, will be removed from file before they might disclose a pattern of confrontations and a possible need for additional training or discipline.

This bill also makes an earnest attempt to responsibly limit the period during which an agency may act upon a complaint and, with exceptions, would cut that period to one year.

While I would consider reform in this area, it must remain balanced and carefully crafted.

Peace officers command tremendous power. They are the personification of the authority of the state. Being a peace officer is a privilege, and while it is altogether fitting that officers have protections as well as responsibilities, their disciplinary system must be fair and forthright so that public confidence may be maintained.

SB 578
Alquist

Mechanics' Liens

Dropped

Existing law provides that mechanics, contractors, artisans, architects, and other specified skilled workers shall have a lien, a legal claim on a property as security for payment of labor, furnished materials, appliances or leased equipment.

This bill would have extended this provision to apply to appraisers.

SB 876
Rosenthal

Insurance Adjusters

Chapter 707
Statutes of 1996

Existing law requires persons acting as insurance adjusters to be licensed by the Insurance Commissioner.

This statute provides that in the event of an emergency, unlicensed out-of-state adjusters may work in California as long as they register with the Insurance Commissioner and work under the direct supervision of a licensed adjuster to ensure competent handling of disaster claims. The statute provides an exemption for building contractors, engineers and other technical experts who provide professional evaluation to an adjuster. The statute authorizes the Insurance Commissioner to issue restricted licenses to applicants or licensees subject to denial or revocation. (Ins C §§ 14021, 14022, 14022.5, 14026.5, 14061, 14063 & 14064.)

SB 1134
Hayden

Peace Officers: Health Facilities

Failed
Assembly Public
Safety

Existing law requires the Commission on Peace Officer Standards and Training (POST) to adopt rules establishing the minimum standards and certification for peace officers.

This bill would have required POST to develop a course of instruction in responding to and enforcement of laws governing the access and security of health care facilities and hospitals for all current and potential peace officers.

SB 1318
Calderon

Limited Liability Partnerships

Chapter 351
Statutes of 1996

Existing law (The Limited Liability Company Act) authorizes the formation of limited liability companies in California and provides that limited liability companies have all powers of a natural person and may engage in any lawful business activities, except those specified in the law.

Among other things, this statute deletes the provisions in present law relating to the reservation of limited liability partnership names. (Corp C §§ 15048, 15049 & 15052)

SB 1464
Johannessen

Crimes: Elder and Dependent Adult Abuse

Failed
Senate Criminal
Procedure

Existing law provides that it is a felony, punishable by up to four years in prison, for any person to willfully permit elderly or dependent adults to suffer physical pain or mental suffering or cause the elderly or dependent adult to be injured or endangered.

This bill would have increased the maximum penalty for a conviction for this crime to 15 years to life in prison. The bill also provided that a person convicted of this crime must go to state prison, may not be granted probation or parole. As introduced, this bill would have required the Commission on Peace Officers Standards and Training (POST) to establish minimum standards for physical, mental and moral fitness for local law enforcement officers. These provisions were later amended out of the bill.

SB 1641
Marks

Pilotage

Chapter 1036
Statutes of 1996

Existing law makes it a misdemeanor for a person to pilot a vessel into or out of any port or harbor of the Bays of San Francisco, San Pablo, and Suisun, or to act as a pilot for ship movements or special operations in any of those bays if the person does not hold a license as a pilot or an inland pilot or the person is not the master or owner of the vessel. Persons piloting vessels when a state-licensed pilot is prevented from joining or refuses to join the vessel are exempted from the prohibition.

This statute will delete the exception for the master or owner of the vessel and instead except from that provision the master of a vessel who has relieved the pilot to ensure the safe operation of the vessel. The statute will recast and revise the exception for persons piloting vessels when a state-licensed pilot is prevented from joining or refuses to join the vessel under certain circumstances and would provide that no pilotage fees are required to be paid if a state-licensed pilot refuses to join the vessel under

the recast provisions. This statute will include inland pilots in the provisions of existing law and will require that every foreign vessel, and every vessel bound between a foreign port and the Bays, and every vessel sailing under a register between any port of the Bays and any other US port, unless otherwise provided by law. (H&N C §§ 1126 & 1127)

**SB 1741
Johnston**

San Francisco Bay Pilots

**Chapter 1115
Statutes of 1996**

Existing law provides a Board of Pilot Commissioners that licenses pilots that operate in the Bays of San Francisco, San Pablo, and Suisun. The rates of pilotage for vessels entering or leaving those bays are negotiated annually by the Board, industry, the public, and the pilots and submitted to the Legislature for approval.

This statute will increase the rates for pilotage using the rates as established and in effect as of December 1, 1996. The statute provides for incremental increases of four percent on January 1, 1997; a three percent increase on January 1, 1998; and a three percent increase on January 1, 1998. (H&N C §§ 1190 and 1191)

**SB 1902
Rogers**

Peace Officers: Arrests: Liability

Dropped

Existing law provides that a public employee is not liable for his or her act or omission when exercising due care in the enforcement of any law, but the law does not exonerate a public employee from liability for false arrest. Existing law provides a peace officer may arrest a person if commanded to do so by a warrant issued by a judge. Existing law authorizes a peace officer to arrest a person without a warrant if the officer has reasonable cause to believe the person to be arrested committed a felony.

This bill would have provided that a peace officer is liable if the officer fails to execute an arrest warrant or if the officer uses unnecessary force to arrest a person. This bill would have required a peace officer to have possession of the warrant or have the warrant at the officer's place of business so that the arrested person shall be allowed to inspect the warrant prior to incarceration. This bill would have authorized a peace officer to make a warrantless arrest for a misdemeanor or a felony if the officer has probable cause. This bill would have created a cause of civil action for executing an arrest on an invalid warrant or if a peace officer used unreasonable force while making an arrest.

B. OCCUPATIONAL REGULATION Boards, Bureaus and Programs

(1) Board of Accountancy

AB 1260
Machado

Accountancy Act

Chapter 639
Statutes of 1996

Existing law authorizes the Board of Accountancy (BOA) to prepare a register of licensees, requires the BOA to mail the register to all licensees and other interested parties, and specifies the contents of the register. **This statute instead requires the BOA to maintain a register of licensees and to make the register available to licensees and the public, but no longer specifies the contents of the register.**

Existing law also requires the BOA to adopt regulations defining the basic requirements for continuing education (CE). **This statute requires the BOA to adopt CE regulations requiring: (1) all licensees to take a CE course on the Accountancy Act and rules of professional conduct every six years; (2) inactive licensees to take a CE course on the Accountancy Act and rules of professional conduct before reentering public practice; and (3) licensees who provide audit, review or other attestation services, or who issue compiled financial statement reports, to complete 24 CE hours prior to renewal, in accounting and auditing related to reporting on financial statements.**

Existing law allows non-licensees to work for a certified public accountant (CPA), a public accountant (PA), or a CPA or PA partnership, if the employee works under the control and supervision of a licensee and does not issue any statement in his or her name. This statute in addition allows non-licensees to work for a CPA or PA corporation under those circumstances. (B&P C §§ 5009, 5027, 5036 & 5053)

AB 2676
Pringle

Unprofessional Conduct: Duty to Report

Chapter 430
Statutes of 1996

Existing law requires the licensees of certain licensing boards (e.g., the Medical Board of California) to report conviction of certain crimes and disciplinary actions against their license by another state or country.

This statute requires certified public accountants and public accountants to report to the Board of Accountancy conviction of certain crimes, disciplinary action against their license by another state or country, or suspension of their right to practice before any governmental agency. (B&P C § 5063)

SB 1077
Greene

Boards and Commissions

Chapter 1137
Statutes of 1996

Existing law provides for the various licensing and regulatory boards, bureaus, commissions and programs in the Department of Consumer Affairs (Department) including the Board of Accountancy, Board of Registration for Geologists and Geophysicists, Court Reporters Board, Athletic Commission, Board of Barbering and Cosmetology, Bureau of Home Furnishings and Thermal Insulation and the Tax Preparers Program. In the 1996, several of these agencies were reviewed by the Joint Legislative Sunset Review Committee (Committee) and the Department to evaluate the consumer protection value of these agencies and to recommend whether to continue or abolish the program and to identify efficiencies.

This statute implements the recommendations of the Committee and Department. Key components of this statute include: (1) **repealing the Tax Preparer Program and instead implementing a system of requirements for bonding, continuing education and other requirements for tax preparers to be enforced by civil and criminal actions brought by consumers or state and local law enforcement agencies;** (2) **requiring the Board of Accountancy to review its experience and continuing education requirements and making the Board more accountable for licensure examinations and discipline of licensees by making the administrative and exam committees advisory only;** (3) **deregulating the waterbed industry and exempting antique furniture dealers and exercise equipment manufacturers from unnecessary licensure by the Bureau of Home Furnishings and Thermal Insulation (BHFTI). The statute also consolidates the existing 11 BHFTI license classes into eight;** (4) **reducing the Board of Geology's composition from eight to seven members with a public majority and providing that all committees including non-board members are solely advisory;** (5) **increasing penalties for court reporters who provide late transcripts; and** (6) **deregulating boxing announcers, box office employees, doormen, ticket sellers and takers and ushers currently licensed by the State Athletic Commission. [B&P C §§ 5004, 5005, 5020, 5023, 5024, 5029, 7313, 7353, 7396, 7810, 7814, 7817, 7823, 7824, 8025,**

Chapter 20.6 (commencing with Section 9891 of Division 3), 18602, 18612, 18641, 18814, 19004, 19006, 19008.1, 19008.2, 19011.1, 19051, 19052, 19053, 19053.1, 19054, 19055, 19057, 19059, 19060.6, 19071, 19072, 19072.5, 19080, 19124, 19155, 19161, 19170, Article 17 (commencing with Section 18890 of Chapter 2 of Division 8) & Chapter 14 (commencing with Section 22250 of Division 8); Civ C § 1940.5; Gov C § 69944]

SB 2031
Ayala,
Boatwright, &
Johannessen

Boards and Commissions

Chapter 1136
Statutes of 1996

Existing law provides for the licensing and regulation of accountants, geologists and geophysicists, court reporters and for oversight of the sport of boxing by the Athletic Commission under the umbrella of the Department of Consumer Affairs. The provisions of law that created these boards will become in-operative on July 1, 1997, and will be repealed thereafter, unless extended by the Legislature.

This statute extends the sunset dates for: the Board of Accountancy until July 1, 2001, to be repealed as of January 1, 2002; the Board of Registration for Geologists and Geophysicists until July 1, 2001 to be repealed as of January 1, 2002; the Court Reporters Board of California until July 1, 1999, to be repealed on January 1, 2000; and the State Athletic Commission until July 1, 2001 to be repealed on January 1, 2002. (B&P C §§ 5000, 5015.6, 7810, 7815.5, 8000, 8005, 18602, & 18613)

(2) Acupuncture Committee

AB 1002
Burton

Workers' Compensation: Acupuncturists

Chapter 26
Statutes of 1996

Existing law includes "acupuncturists" in the definition of "physician" for purposes of treating employees entitled to workers' compensation medical benefits. This provision is to remain in effect until January 1, 1997.

This statute extends the repeal date of January 1, 1997, to January 1, 1999. (Lab C § 3209.3)

AB 1003
Burton

Workers' Compensation: Acupuncturists

Failed
Assembly Insurance

Existing law prohibits an acupuncturist from determining a disability for purposes of workers' compensation and disability benefits.

This bill would have provided that acupuncturists certified as qualified medical evaluators may determine disability for purposes of workers' compensation and for purposes of unemployment compensation disability insurance.

(3) Board of Architectural Examiners

AB 2171
Davis

California Board of Architectural Examiners

Chapter 321
Statutes of 1996

Existing law requires the Board of Architectural Examiners to adopt rules governing the examination of applicants for licenses to practice architecture in this state.

This statute will require the Board of Architectural Examiners, by rule or regulation, to adopt rules of professional conduct for architects that are not inconsistent with state or federal law. Every person who holds a license issued by the board would be governed and controlled by these rules. (B&P C § 5526)

AB 2401
Miller

Limited Liability Companies: Professions

Failed
Senate Business and
Professions

Existing law authorizes various professions to practice as a sole proprietorship, partnership, firm, or corporation.

This bill would have authorized the practice of architecture, building contracting, engineering, and land surveying by a limited liability company.

SB 1607
Leslie

Architects: Licensing

Chapter 184
Statutes of 1996

Existing law provides for a Board of Architectural Examiners to license and regulate persons engaged in the practice of architecture.

This statute will define "responsible control" by an architect, and will make conforming changes to incorporate that term into various provisions of the Architects Practice Act. (B&P C §§ 5500.1, 5535.1, 5535.3, 5536, 5536.1, 5536.2, 5539, 5560, 5573, 5580, 5582.1, 5585, 5600, 5600.3, 5603, 5604, 65536.2 & 6627)

(4) Athletic Commission

**AB 2472
Hoge**

Boxing

**Chapter 376
Statutes of 1996**

Existing law requires that the State Athletic Commission license and regulate amateur and professional boxers and martial arts fighters. Existing law also authorizes the State Athletic Commission to deny or revoke a license for medical reasons.

This statute requires any person who is applying for a license or a license renewal as a boxer or martial arts fighter to provide documentary evidence that he or she has received a negative human immunodeficiency virus (HIV) and hepatitis type B virus (HBV) test within 30 days prior to the date of application or renewal.

This statute requires the State Athletic Commission to notify the applicant or licensee in writing of his or her right to a closed appeal hearing if the application or renewal is denied, suspended, or revoked. The statute also authorizes an applicant or licensee whose license has been denied, suspended, or revoked because of his or her HIV or HBV status to appeal the decision within 30 days of receiving such notification.
(B&P C § 18712)

**AB 2560
Setencich**

Boxing: Pension Fund

**Chapter 377
Statutes of 1996**

Existing law provides that the State Athletic Commission license and regulate professional and amateur boxers and martial arts fighters.

This statute requires the State Athletic Commission to establish a method by which a pension plan for professional boxers would be financed. (B&P C §§ 18684, 18711, 18800, 18881, 18882, 18883, 18887, & 18888)

**SB 1077
Greene**

Boards and Commissions

**Chapter 1137
Statutes of 1996**

Existing law provides for the various licensing and regulatory boards, bureaus, commissions and programs in the Department of Consumer Affairs (Department) including the Board of Accountancy, Board of Registration for Geologists and Geophysicists, Court Reporters Board, Athletic Commission, Board of Barbering and Cosmetology, Bureau of Home Furnishings and

Thermal Insulation and the Tax Preparers Program. In the 1996, several of these agencies were reviewed by the Joint Legislative Sunset Review Committee (Committee) and the Department to evaluate the consumer protection value of these agencies and to recommend whether to continue or abolish the program and to identify efficiencies.

This statute implements the recommendations of the Committee and Department. Key components of this statute include: (1) **repealing the Tax Preparer Program and instead implementing a system of requirements for bonding, continuing education and other requirements for tax preparers to be enforced by civil and criminal actions brought by consumers or state and local law enforcement agencies;** (2) **requiring the Board of Accountancy to review its experience and continuing education requirements and making the Board more accountable for licensure examinations and discipline of licensees by making the administrative and exam committees advisory only;** (3) **deregulating the waterbed industry and exempting antique furniture dealers and exercise equipment manufacturers from unnecessary licensure by the Bureau of Home Furnishings and Thermal Insulation (BHFTI). The statute also consolidates the existing 11 BHFTI license classes into eight;** (4) **reducing the Board of Geology's composition from eight to seven members with a public majority and providing that all committees including non-board members are solely advisory;** (5) **increasing penalties for court reporters who provide late transcripts; and** (6) **deregulating boxing announcers, box office employees, doormen, ticket sellers and takers and ushers currently licensed by the State Athletic Commission. [B&P C §§ 5004, 5005, 5020, 5023, 5024, 5029, 7313, 7353, 7396, 7810, 7814, 7817, 7823, 7824, 8025, Chapter 20.6 (commencing with Section 9891 of Division 3), 18602, 18612, 18641, 18814, 19004, 19006, 19008.1, 19008.2, 19011.1, 19051, 19052, 19053, 19053.1, 19054, 19055, 19057, 19059, 19060.6, 19071, 19072, 19072.5, 19080, 19124, 19155, 19161, 19170, Article 17 (commencing with Section 18890 of Chapter 2 of Division 8) & Chapter 14 (commencing with Section 22250 of Division 8); Civ C § 1940.5; Gov C § 69944]**

**SB 1288
Alquist**

Closed-Circuit Telecasts: Pay-Per-View

Dropped

Existing law provides for the State Athletic Commission (Commission) to regulate boxing and martial arts events.

This bill would have required a promoter or producer of a pay-per-view telecast of a boxing or martial arts contest to pay to the Commission a fee of 5% of his or her gross receipts attributable to the pay-per-view telecast fees. The bill would have also required that the cable television system operator whose pay-per-view facilities are being utilized to collect this fee from the promoter or producer of the telecast and to forward the fee to the Commission

SB 2031
Ayala,
Boatwright, &
Johannessen

Boards and Commissions

Chapter 1136
Statutes of 1996

Existing law provides for the licensing and regulation of accountants, geologists and geophysicists, court reporters and for oversight of the sport of boxing by the Athletic Commission under the umbrella of the Department of Consumer Affairs. The provisions of law that created these boards will become inoperative on July 1, 1997, and will be repealed thereafter, unless extended by the Legislature.

This statute extends the sunset dates for: the Board of Accountancy until July 1, 2001, to be repealed as of January 1, 2002; the Board of Registration for Geologists and Geophysicists until July 1, 2001 to be repealed as of January 1, 2002; the Court Reporters Board of California until July 1, 1999, to be repealed on January 1, 2000; and the State Athletic Commission until July 1, 2001 to be repealed on January 1, 2002. (B&P C §§ 5000, 5015.6, 7810, 7815.5, 8000, 8005, 18602 & 18613)

SB 2099
Kopp

Business: Cable Television: Telecast Revenues

Dropped

Existing law authorizes the State Athletic Commission to license and regulate professional and amateur boxers and martial arts fighters, their managers and promoters.

This bill would have required a promoter who charges or receives a fee for televising a boxing or martial arts contest on pay-per-view to pay to the State Athletic Commission a 5% fee of the total gross receipts received from the pay-per-view subscribers of the telecast.

(5) Bureau of Automotive Repair

AB 30
Katz

Air Pollution: Motor Vehicles: Inspection Program

Failed
Senate
Transportation

Existing law requires all motor vehicles powered by internal combustion engines that are registered in designated areas of the state to biennially obtain a certificate of compliance or non-compliance with vehicle emission standards, but exempts certain vehicles from those requirements. Documentation that a motor vehicle is exempt may not be based solely on the owner's statement that the vehicle is in an exempt category.

This bill would have instead stated that the documentation should not be based solely on the owner's statement and would have made various technical changes in those provisions.

AB 187
Machado

Vehicle Registration: Exceptions

Failed
Senate
Appropriations

Existing law provides that if a vehicle's registration is not to be renewed prior to the expiration, the owner must file a certification that the vehicle will not be operated.

This bill would have exempted specified trailers, motor trucks, truck tractors, and combinations of motor vehicles, from the above certification requirements.

AB 260
Richter

Air Pollution: Vehicles: Repair Cost Limit

Failed
Senate Floor

Existing law: (1) requires that consumers whose vehicles do not comply with the emissions standards, make the necessary repairs, up to a minimum repair cost requirement, for the purpose of obtaining a smog certificate; and (2) authorizes the Department of Consumer Affairs to issue waivers when a motorist has exceeded the cost limit for repairs and the vehicle is not in compliance with the emissions standards.

This bill would have provided that there be no cost limit for repairs necessary to bring a vehicle into compliance with the emissions standards and no repair waivers would be issued, for 1998 or subsequent model year vehicles.

AB 339
Richter

Removal of High Polluters: Electric Vehicles

Dropped

Existing law authorizes the State Air Resources Board (ARB) to adopt and implement motor vehicle emission standards. The ARB has adopted regulations that require each vehicle manufacturer's sales fleet of passenger cars and light-duty trucks to be composed of at least 2% zero-emission vehicles commencing in the 1998 model year, 5% in 2001 and 2002, and 10% commencing in 2003.

This bill would have expressed the intent of the Legislature to establish an incentive for automobile manufacturers to remove vehicles that are high polluters from highway use in lieu of producing electric vehicles pursuant to the ARB's regulations.

AB 1457
Granlund

Vehicle Repairs

Dropped

Existing law establishes the motor vehicle inspection and maintenance program implemented by the Department of Consumer Affairs, and authorizes the State Air Resources Board (ARB) to certify new motor vehicles and new motor vehicle engines. All motor vehicle manufacturers of specified vehicles are required to provide certain emission control service information.

This bill would have required any person, including any manufacturer or dealer, who sells, leases, or transfers ownership of a motor vehicle that may not be repaired by an independent automotive repair dealer due to the inaccessibility of emissions-related parts, tools, or information, to provide the transferee with a specified notice and affix a prescribed decal to the motor vehicle. This bill would have required the ARB, in conjunction with the Bureau of Automotive Repair, to determine the inaccessibility of emissions-related parts, tools, or information.

AB 1460
Morrissey

Air Pollution: Heavy-duty Vehicles: Smoke Emissions

Chapter 292
Statutes of 1996

Existing law: (1) requires the State Air Resources Board (ARB) to develop a test procedure that is capable of detecting excessive smoke emissions from heavy-duty diesel motor vehicles for purposes of a roadside inspection program; (2) provides for enforcement of the inspection program by requiring the vehicle owner to correct deficiencies and pay civil penalties for violating ARB regulations; and (3) requires the ARB to adopt standards for excessive smoke emissions.

This statute: (1) prohibits the use of any heavy-duty motor vehicle that emits excessive smoke; (2) requires the ARB to adopt regulations to ensure no false failures and ensure that the ARB will remedy false failures without penalty to the vehicle owner; (3) requires the ARB to enforce the prohibition against the use of heavy-duty motor vehicles with excessive smoke emission; (4) allows the ARB to issue a citation requiring the owner of the vehicle to correct deficiencies (within 45 Days) as specified in the citation; and (5) imposes civil penalties on the owner of the vehicle that is in violation of the provisions of this bill (any schoolbus is exempt from this penalty for the first citation). (H&S C § 44011.6)

AB 1675
Goldsmith

Air Pollution: Diesel Vehicles

Failed
Assembly Floor

Existing law requires the State Air Resources Board (ARB) to adopt regulations to require inspections of heavy-duty diesel motor vehicles for excessive emissions of smoke. Existing law also declares that it is the intent of the Legislature that the ARB act expeditiously to reduce certain emissions from diesel vehicles. Existing law imposes prescribed requirements on the operation of terminals by motor carriers, including the provision of maintenance records, as defined.

This bill would have prohibited the operation of a heavy-duty diesel powered truck engine or truck tractor older than the 1987 model year, except for specified emergency or military vehicles, on and after specified dates, unless the owner or operator of the vehicle made a declaration that the vehicle complies with one or more of specified requirements. The bill would have prohibited the registration of other specified pre-1987 diesel trucks and truck tractors, except as specified. This bill would have required the ARB to commence not later than July 15, 1997, and complete on or before July 15, 1998, a study on the restrictions added by the bill and related specified matters. The bill would have required the ARB to publish a specified yearly notice. The bill would have required those maintenance records to include those heavy-duty diesel truck or truck tractor declarations of compliance.

AB 2489
Firestone

Vehicles: Zero-Emission

Failed
Senate
Appropriations

Existing law, the Personal Income Tax Law and the Bank and Corporation Tax Law, allows credits against the taxes imposed by those laws for the cost of the conversion of a vehicle to a

low-emission motor vehicle that meets specified requirements.

This bill would have enacted the High-Occupancy Zero-Emission Vehicle Development Incentive Program Act requiring the State Air Resources Board (ARB), in consultation with the State Energy Resources Conservation and Development Commission and the Trade and Commerce Agency, to adopt standards for high-occupancy zero-emission vehicles to qualify for a sales tax exemption. The bill would have, until January 1, 1999, exempted high-occupancy zero-emission vehicles, as defined, that are certified by the ARB from certain state, but not local, sales and use taxes. The bill would have taken effect immediately as a tax levy.

AB 2515
Bowler

Vehicle Inspection and Maintenance

Chapter 1088
Statutes of 1996
Effective September 29, 1996

Existing law establishes a motor vehicle inspection and maintenance program in which vehicles are tested and repaired by licensed smog check stations. Existing law requires the Department of Consumer Affairs (Department) to establish a network of privately operated test-only stations pursuant to contract, and to require a specified percentage of vehicles to be tested at test-only stations. Existing law requires the Department to design and establish the equipment necessary to operate a centralized computer data base and computer network which is readily accessible by all licensed smog check technicians on a real-time basis and requires the data base and network to be designed with specified capabilities. Existing law requires each smog check station to transmit prescribed data to the Department's centralized data base.

This statute authorizes, rather than requires, the Department to establish a network of privately operated test-only facilities, and **requires the Department, if it increases the capacity of the program for testing at test-only facilities, to afford stations that are licensed and certified, as specified, the opportunity to perform the required inspections. The statute requires initial contracts for the establishment of test-only facilities to terminate not later than 7 years from the date of execution. The statute requires the Department to develop a program for the voluntary certification of licensed smog check stations pursuant to which consumers, whose vehicles fail an emissions test at a test-only facility, would be given the option of services at a single location and prescribes related matters. The statute also authorizes the Department to conduct a pilot program to allow vehicles initially identified as gross polluters**

to be repaired and issued a certificate of compliance by a licensed and certified station and would make related changes. **The statute deletes provisions relating to impoundment of vehicles.** The statute authorizes the Department to enter into a contract for telecommunication, programming, data analysis, data processing, and other services necessary to operate and maintain the data base and network and to charge a licensed smog check station a transaction fee for each transmittal of data to the data base, as specified. **The statute makes a conforming change regarding fees charged to the Department by the New Motor Vehicle Board.** The statute is an urgency measure. (H&S C §§ 44000.5, 44010.5, 44014.2, 44014.4, 44014.5, 44015, 44033, 44037.2 & 44081; & Veh C § 3016)

AB 2798
Baldwin

Uncertified Vehicles or Engines: Transfer of Title: Presumptions

Failed
Senate
Transportation

Existing air pollution laws prohibit certain transactions regarding uncertified vehicles or engines, and for those purposes, provides that it is conclusively presumed that the equitable or legal title to any motor vehicle with an odometer reading of 7,500 miles or more has been transferred to an ultimate purchaser, except as specified, and that the title to any motor vehicle with an odometer reading of less than 7,500 miles has not been transferred to an ultimate purchaser.

This bill would have changed those relevant odometer readings in the case of a motorcycle to 1,300 miles or more, and less than 1,300 miles.

AB 2957
Speier

Auto Repair Business: Registration and Certification

Failed
Assembly
Appropriations

Under existing law, the Automotive Repair Act, a person engaged in automotive repair is generally required to register with the Director of Consumer Affairs, unless exempt from the requirement.

This bill would have required the Department of Consumer Affairs to develop standards for the registration of automotive repair dealers, as specified. The bill would have provided that the registration application would require applicants to list certain information under penalty of perjury.

AB 3020
Bowler

Transportation

Chapter 1154
Statutes of 1996

Relevant existing law establishes a pilot program, only if voted on and approved by the affected air districts, the San Diego County Air Pollution Control District and the Ventura County Air Pollution Control District, consisting of requirements for odometer checks, annual smog checks, and reduction of target pollution miles.

This statute repeals the sections of law relating to the pilot program and revises sections regarding the establishment and use of a vehicle smog index system. (H&S C §§ 43705, 44001, 44001.6, 44001.7, 44011, 44012, 44013.5, 44015, 44037.1, 44225.1, 44236.1, 44251, 44255 & 44256)

AB 3072
Granlund

Air Pollution: Vehicles: Tools

Chapter 380
Statutes of 1996

Existing law establishes the motor vehicle inspection and maintenance program implemented by the Department of Consumer Affairs (Department) and authorizes the State Air Resources Board to certify new motor vehicles and new motor vehicle engines. Existing law requires manufacturers of all 1980 and newer model-year motor vehicles to provide certain emission control service information for the inspection, test, and repair of those vehicles, and requires the Department to periodically conduct surveys to determine whether the service information requirements are being fulfilled by actual field availability of the information.

This statute modifies that survey requirement to require the Department to periodically conduct surveys to determine whether the service information and tool requirements imposed by federal and state law are being fulfilled by actual field availability of the information and tools.

(H&S C § 44036.2)

AB 3248
Napolitano

Air Pollution: South Coast District: Public Advisor and Local Government and Small Business Assistance

Failed
Senate
Appropriations

Relevant existing law allows additional funds to be deposited into the High Polluter Repair or Removal Account (HPRRA).

Among other things, this bill would have required that all monies subvented to the south coast district by the State Air Resources Board (ARB) pursuant to Section 39802 of the Health and Safety Code would be used only in the south coast district, on or before January 1, 1999, in accordance with Section 44901 of the Health

and Safety Code (the HPRRA provision) for the repair or replacement of high-emitting vehicles to achieve the emission reductions required by the 1994 California State Implementation Plan. The south coast district could not establish any new fee or charge or increase any existing fee or charge to replace revenue allocated pursuant to this section.

SB 498
Kelley

Auto Repair

**Failed
Assembly
Appropriations**

Existing law provides for the registration of automobile repair dealers. Existing law provides for the Bureau of Automotive Repair and requires automotive repair dealers to register with the Director of Consumer Affairs. Existing law provides for the refusal to validate, or the invalidation of, a registration for various causes, including the failure to comply with the law relating to automotive repair. Existing law provides for the licensure of official brake and lamp adjusting stations, and provides that no license as a brake or lamp adjuster shall be issued or renewed unless the applicant has demonstrated experience and qualifications.

This bill would have provided that a registration would cease to be valid one year after it was issued rather than on June 30 of each year. This bill would have also authorized disciplinary action for failure to comply with laws relating to air quality, and it would have provided that the violation of those laws is grounds for refusal to validate, or for invalidation of, all licenses issued pursuant to those laws. This bill would have authorized the imposition of a fee for the brake examination and the lamp examination to recover the actual costs of these examinations. This bill would have changed the fee for the issuance of a duplicate license from \$2 to an amount necessary to cover expenses, not to exceed \$25. This bill would have deleted provisions for the Better Auto Repair Program, a pilot project that terminated on December 31, 1987.

SB 766
Alquist

Vehicles: Endorsed Salvage Certificate

Dropped

Under existing law, the owner, owner's agent, or salvage pool is required to obtain a properly endorsed salvage certificate prior to the sale or disposal of a total loss salvage vehicle.

This bill would have required that, prior to the sale of a total loss salvage vehicle that has been previously sold or disposed of, as described above, to a person who is not a licensed dealer or

automobile dismantler or salvage pool, the vehicle be registered under the Vehicle Code.

SB 836
Lewis

Air Pollution: South Coast District: Rules and Regulations

Chapter 993
Statutes of 1996

Existing law, the Lewis-Presley Air Quality Management Act, establishes the South Coast Air Quality Management District with specified powers and duties relating to the control of air pollution.

This statute declares specified existing rules of the south coast district void and requires the district to amend another specified rule in a prescribed manner relative to the use of voluntary rideshare and other replacement measures to achieve emission reductions. The statute requires the south coast district to provide \$1,500,000 annually to the Regional Transportation Agencies Coalition or its successor for allocation to regional or county rideshare agencies, as prescribed. (H&S C §§ 40458 & 44243.5)

SB 899
Polanco

Vehicles: Department of Motor Vehicles: New Motor Vehicle Board

Failed
Assembly
Transportation

Existing law creates within the Department of Motor Vehicles a New Motor Vehicle Board (Board), which adjudicates disputes between new motor vehicle franchisees and their respective franchisers and hears appeals on decisions of the department affecting new motor vehicle dealers. The board also mediates disputes between consumers of new motor vehicles and the vehicle dealers, distributors, and manufacturers.

This bill would have revised the procedures applicable to the board's proceedings.

SB 928
Peace

Air Pollution: Vehicles

Failed
Senate
Transportation

Existing law, which is to become operative only if specified conditions are met, establishes a pilot program consisting of requirements for odometer checks, annual smog checks, and reduction of target pollution miles, applicable in the San Diego County Air Pollution Control District and the Ventura County Air Pollution Control District. Existing law imposes various requirements on the State Air Resources Board (ARB), the Department of Consumer Affairs, and the Bureau of Automotive

Repair relative to the pilot program and to the determination and use of a vehicle smog index.

This bill would have made various changes in those provisions, including extending the pilot program to any air pollution control district or air quality management district that would have elected to participate in the program and would have provided procedures for the issuance by the ARB of a decal or sticker to owners of collector cars indicating that the vehicle had been retrofitted to reduce emissions.

SB 1038
Johannessen

Air Pollution: Vehicle Inspection and Maintenance

Dropped

Existing law establishes the vehicle inspection and maintenance program administered, in part by the Department of Consumer Affairs (Department). Existing law requires the Department to act as a clearinghouse to provide access to vendors who possess service information generated by vehicle manufacturers, requires manufacturers to provide, or cause to be provided, emission control service information, and requires the Department to direct licensed smog check stations and technicians to private diagnostic assistance service information vendors or intermediaries for needed emissions-related information.

This bill would have required the Department to adopt and implement regulations for the purpose of collecting and disseminating any information that is necessary to ensure the long-term success of the program.

SB 1175
Killea

Air Pollution: Motor Vehicles: Fee

Dropped

Existing law authorizes air pollution control districts and air quality management districts to impose motor vehicle registration fees to be used to control vehicular air pollution. Existing law designates the State Air Resources Board (Board) as the state agency responsible for the preparation of the state implementation plan (SIP) required under federal law.

This bill would have authorized the ARB to impose an unspecified motor vehicle registration fee to be collected by the Department of Motor Vehicles. The fee revenues would have been deposited in the SIP Account, which the bill would have created in the General Fund, and used, upon appropriation, to fund components of the state implementation plan relating to mobile source pollution, as specified.

SB 1197
Russell

Air Pollution: Smog Check Technicians

Failed
Senate
Transportation

Existing law requires the Department of Consumer Affairs (DCA) to establish requirements for the training of smog check technicians.

This bill would have created the Technician Training Fund to be administered jointly by the Bureau of Automotive Repair and the Employment Training Panel in the Employment Development Department. The bill would have required the money in the fund to be used for training smog check technicians. The bill would have authorized the panel to enter into an interagency agreement with the DCA to administer the fund.

SB 1436
Kelley

Vehicles: Smog Impact Fee: Exemption

Failed
Senate
Appropriations

Existing law generally requires any person registering a 1975 or subsequent model year gasoline-powered motor vehicle or a 1980 or subsequent model year diesel-powered vehicle last registered outside this state to pay a \$300 smog impact fee to the Department of Motor Vehicles at the time of registration.

This bill would have exempted from the fee a vehicle that is sold through a dealer conducting a wholesale motor vehicle auction, as prescribed.

SB 1462
Johannessen

Vehicles: Smog Impact Fee

Failed
Senate
Appropriations

Existing law generally requires any person registering a 1975 or subsequent model year gasoline-powered motor vehicle or a 1980 or subsequent model year diesel-powered vehicle last registered outside this state to pay a \$300 smog impact fee to the Department of Motor Vehicles at the time of registration.

This bill would have repealed those provisions.

SB 1499
Johnson

Vehicle Inspection and Maintenance

Failed
Senate
Transportation

Existing law establishes a motor vehicle inspection and maintenance program in which vehicles are tested and repaired by licensed smog check stations. Existing law requires the Department of Consumer Affairs (DCA) to establish a network of test-only stations pursuant to contract, and to require a specified percentage of vehicles to be tested at test-only stations.

This bill would have deleted the provisions that require the establishment of, and testing at, test-only stations, except as specified.

SB 1528
Rogers

Vehicle Emission Certificate Requirements: Transfer: Exemption

Chapter 112
Statutes of 1996

Existing law requires a certificate of compliance or noncompliance with motor vehicle emission standards to be submitted to the Department of Motor Vehicles upon the initial registration of a vehicle and upon the transfer of registration of a vehicle, with specified exceptions.

This statute makes the requirement regarding the submission of the certificate upon transfer of a vehicle inapplicable when the transferer is the sibling of the transferee. (H&S C § 4000.1)

SB 1603
Lewis

Air Pollution: Districts: Indirect Sources

Failed
Senate Floor

Existing law authorizes air quality management districts to establish programs to identify gross polluters and other high-emitting vehicles whose emissions could be reduced by repair, using remote sensing or other methods, and to provide financial incentives to encourage the repair or scrapping of those vehicles.

This bill would have authorized those programs to require that vehicles be tested at a smog check facility and to be repaired, as prescribed.

SB 1967
Kopp

Air Pollution: Motor Vehicle Fuel: Zero-Emission Vehicles

Failed
Senate
Transportation

Existing law authorizes the State Air Resources Board (ARB) to adopt motor vehicle emission standards and fuel specifications for the control of air contaminants. The ARB has adopted standards governing the content of motor vehicle fuel and regulations requiring manufacturers to produce and deliver zero-emission vehicles in a specified percentage by a specified date.

This bill would have required the ARB to advance the date for the mandatory production and delivery of zero-emission vehicles by one year for every 15 days or fraction thereof that reformulated motor vehicle fuel standards are suspended and nonconforming fuel is authorized for sale.

**SB 1981
Hurt**

Energy Resources: Vehicles: Federal Oil Overcharge Funds

**Failed
Senate Energy,
Utilities &
Communications**

Under existing law, funds in the Petroleum Violation Escrow Account, as defined in federal law, consisting of federal oil overcharge funds, have been disbursed to this state by the federal government and deposited in the Federal Trust Fund in the State Treasury, a continuously appropriated fund.

This bill would have, to the extent permitted by federal law, appropriated \$4,500,000 of those funds, without regard to fiscal year. Four million dollars of those funds would have been appropriated to the Department of Consumer Affairs and the State Air Resources Board for the purchase of higher-emitting vehicles to achieve energy cost savings and emission reductions. \$500,000 of those funds would have been appropriated to the Department of General Services to establish a data base for the evaluation of life-cycle costs and cost savings of state-owned alternative-fueled vehicles.

(6) Board of Barbering and Cosmetology

**AB 487
Brown, V.**

Tattooing, Body Piercing, and Permanent Cosmetics

**Failed
Assembly Health**

Existing law does not regulate persons providing tattooing, body piercing, or permanent cosmetic services within the state.

This bill would have directed the State Department of Health Services to establish sterilization, sanitation, and safety standards for persons providing tattooing, body piercing, or permanent cosmetics services, and to distribute those standards to the county health departments.

**AB 550
Morrissey**

Barbers and Cosmetologists

Dropped

Existing law requires persons engaging in the practice of barbering, cosmetology, and electrolysis to be appropriately licensed by the Board of Barbering and Cosmetology (Board).

This bill would have sunset the Board as a governing body; eliminated licensure for instructors, establishments, and mobile units; eliminated approval of schools and curricula; eliminated prerequisites for entry into the profession, making licensure contingent upon passage of an examination only; replaced the routine inspection program with targeted enforcement and consumer education; caused the new Barbering and Cosmetology

Program to undergo regulatory review March 1, 1999, and sunset the program January 1, 2001 absent substantiation for its continued existence.

This bill originally would have required barbers to sterilize tools in a prescribed manner; however, it was amended to carry out the recommendations of the Administration relating to the sunset of the Board as described above.

AB 2476
Archie-Hudson

Natural Hairstyling

Existing law requires any person who provides treatment to the hair of another person for compensation to be licensed as a barber or a cosmetologist by the Board of Barbering and Cosmetology.

This bill would have created a specialty hair braiding license within the field of cosmetology. The hair braiding license would have allowed license holders to perform limited hair services with an emphasis on braiding and weaving the hair.

Failed
Assembly
Appropriations

SB 790
Hughes

Barbering and Cosmetology: Licensing

The Barbering and Cosmetology Act provides that it is unlawful for any person, firm, or corporation to engage in barbering, cosmetology, or electrolysis without a valid current license issued by the State Board of Barbering and Cosmetology.

This bill would have required the State Board of Barbering and Cosmetology to establish a course of study and separate license for hairstylists, and a temporary permitting program for shampoo assistants.

Dropped

SB 1077
Greene

Boards and Commissions

Existing law provides for the various licensing and regulatory boards, bureaus, commissions and programs in the Department of Consumer Affairs (Department) including the Board of Accountancy, Board of Registration for Geologists and Geophysicists, Court Reporters Board, Athletic Commission, Board of Barbering and Cosmetology, Bureau of Home Furnishings and Thermal Insulation, and the Tax Preparers Program. In 1996, several of these agencies were reviewed by the Joint Legislative Sunset Review Committee (Committee) and the Department to

Chapter 1137
Statutes of 1996

evaluate the consumer protection value of these programs to recommend continuation or abolishment of the programs and to identify efficiencies.

This statute implements the recommendations of the Committee and Department. Key components of this statute include: (1) **repealing the Tax Preparer Program and instead implementing a system of requirements for bonding, continuing education and other requirements for tax preparers to be enforced by civil and criminal actions brought by consumers or state and local law enforcement agencies;** (2) **requiring the Board of Accountancy (Board) to review its experience and continuing education requirements and making the Board more accountable for licensure examinations and discipline of licensees by making the administrative and exam committees advisory only;** (3) **deregulating the waterbed industry and exempting antique furniture dealers and exercise equipment manufacturers from unnecessary licensure by the Bureau of Home Furnishings and Thermal Insulation (BHFTI). The statute also consolidates the existing 11 BHFTI license classes into eight;** (4) **reducing the Board of Geology's composition from eight to seven members with a public majority and providing that all committees including committees composed of non-board members are solely advisory;** (5) **increasing penalties for court reporters who provide late transcripts; and** (6) **deregulating boxing announcers, box office employees, doormen, ticket sellers and takers and ushers currently licensed by the State Athletic Commission. [B&P C §§ 5004, 5005, 5020, 5023, 5024, 5029, 7313, 7353, 7396, 7810, 7814, 7817, 7823, 7824, 8025, Chapter 20.6 (commencing with Section 9891 of Division 3), 18602, 18612, 18641, 18814, 19004, 19006, 19008.1, 19008.2, 19011.1, 19051, 19052, 19053, 19053.1, 19054, 19055, 19057, 19059, 19060.6, 19071, 19072, 19072.5, 19080, 19124, 19155, 19161, 19170, Article 17 (commencing with Section 118890 of Chapter 2 of Division 8) & Chapter 14 (commencing with Section 22250 of Division 8); Civ C § 1940.5; Gov C § 69944]**

**SB 1182
Haynes**

Cosmetology: Establishments

Dropped

Existing law requires any person, firm, or corporation desiring to operate an establishment in which barbering, cosmetology, or electrolysis is performed to obtain a license from the State Board of Barbering and Cosmetology.

This bill would have required that any person, firm, or corporation who leased a booth or other space within a barbering and/or cosmetology establishment obtain a license from the State Board of Barbering and Cosmetology. The licensee would have been liable for any infraction that occurred within his/her booth space that was discovered during any inspection by the board. The bill would also have required licensees to provide proof of general liability and cosmetology malpractice insurance to the establishment owner.

SB 1609
Petris

Barbering and Cosmetology

Dropped

Existing law allows the Board of Barbering and Cosmetology (Board) to deny an application for licensure for specified reasons, provides for the expiration of an apprentice license two years after date of issue or three months after completion of required training, requires applicants to possess a social security number, and provides that a licensee may renew an expired license within a five- year period upon payment of the current renewal fee.

This bill would have added subversion of the licensing examination to the list of reasons the Board may deny an application for licensure, allowed the Board to extend the expiration of an apprentice license for good cause, allowed the Board to exempt persons who are unable to obtain a social security number from the social security number requirement for application, required a licensee who renews an expired license to pay all accrued renewal and delinquency fees, set minimum time periods for which a person must wait before petitioning the Board for reinstatement of a license, and repealed duplicative or superseded provisions.

SB 1680
Hughes

State Board of Barbering and Cosmetology

Dropped

Existing law provides for the sunset of the Board governing structure of the Board of Barbering and Cosmetology on July 1, 1997.

This bill would have authorized the Department of Consumer Affairs (DCA) to establish a curriculum council to advise the DCA on curriculum and testing for the professions of barbering and cosmetology.

SB 1745
Hughes

Barbering and Cosmetology: Licensing

Dropped

Existing law requires persons engaging in the practice of barbering, cosmetology, and electrolysis to be licensed by the Board of Barbering and Cosmetology (Board).

As introduced, this bill would have created a new license category for hairstylists, created a temporary permit for shampoo assistants, and allowed an applicant who passed the written examination to gain work experience with a provisional license in lieu of taking the practical examination.

SB 2094
Haynes

Barbering and Cosmetology

Dropped

Existing law provides for the sunset of the governing structure of the Board of Barbering and Cosmetology on July 1, 1997.

This bill would have authorized the Department of Consumer Affairs to create an industry council to advise the DCA on issues relating to the professions of barbering and cosmetology.

(7) Board of Behavioral Science

AB 3073
Granlund

Licensing Requirements

Chapter 739
Statutes of 1996

Existing law allows the Board of Behavioral Science Examiners (BBSE) to issue a marriage, family, and child counselor (MFCC) license to persons licensed out of state, if their state's requirements are substantially equivalent to California's requirements. This statute instead allows the BBSE to issue an MFCC license to people licensed out of state if: (1) their state's education and supervised experience requirements are substantially equivalent to California's requirements; (2) the applicant has held the license for at least two years; and (3) the applicant passes the California licensing examinations.

Existing law: (1) requires MFCC applicants to have 3,000 hours of supervised experience as an MFCC intern or trainee; (2) requires supervision to include one hour of direct contact per week; and (3) requires MFCC trainees to "also" get one hour of supervisor contact for every five hours of client contact, and MFCC interns to "also" get one hour of supervisor contact for every 10 hours of client contact. This statute deletes the word "also" in the third provision, so that the one-hour-per-week supervision requirement will not be in addition to the specific ratios for MFCC interns and trainees mentioned in (2).

(B&P C §§ 4980.43 & 4980.80)

AB 3473
Morrissey

Department of Consumer Affairs: Omnibus Bill

Chapter 829
Statutes of 1996

Existing law authorizes the Board of Behavioral Science Examiners (BBSE) to recover investigative costs against a licensee who violates certain provisions of the licensing acts administered by the BBSE.

This statute repeals that law, in order to enable the BBSE to use the general cost recovery statute in B&P C § 125.3. (B&P C § 125.3 allows boards under the Department of Consumer Affairs to recover investigative costs for any violation of the licensing acts which they administer.) (B&P C § 4990.17)

This statute also changes the name of the Board of Behavioral Science Examiners to the Board of Behavioral Sciences. (Affects numerous sections of B&P C § 4980 et seq. and § 4990 et seq.)

SB 195
Costa

Sexual Harassment

Chapter 150
Statutes of 1996

Existing law authorizes a cause of action for sexual harassment when the plaintiff and defendant have a business, service, or professional relationship. Existing law includes the relationship between a patient and psychotherapist, marriage, family and child counselor (MFCC), licensed clinical social worker (LCSW), and other professionals. Existing law does not define "psychotherapist" for purposes of this provision.

This statute deletes the references to MFCCs and LCSWs, and incorporates a definition of "psychotherapist" from B&P C § 728, which includes MFCCs and LCSWs, as well as other health care professionals. (Civ C § 51.9)

(8) Cemetery/Funeral Programs

AB 597
Speier

Cemeteries

Chapter 38
Statutes of 1996

Existing law provides for the regulation of cemetery authorities under the direction of the Department of Consumer Affairs. The law also provides for the examination of a cemetery authority's endowment care fund and authorizes the imposition of a fee, not to exceed \$100 per day if the examination extends over two days.

This statute provides for loans of \$2,550,000 from special funds within the Department of Consumer Affairs to the Cemetery

Fund, to be repaid no later than January 1, 2001. The statute also eliminates the \$100 per day limit on the examination of endowment care fund fee and instead provides for the recovery of reasonable and necessary costs of the examination. (B&P C §§ 210, 9652 & 9652.1)

AB 2233
Murray, W.

Cemeteries: Regulation

Chapter 370
Statutes of 1996

Existing law provides for the regulation of licensed cemetery authorities and provides for the examination of endowment care funds established by those cemeteries.

This statute provides that if a cemetery authority fails to file the report concerning the condition of its endowment care fund, or if the report is materially not in compliance with law, or the fund is not materially in compliance with the law, the cemetery authority may be required to appoint a bank or trust company as trustee provided that the cemetery authority has received written notice of the violation and given the opportunity to correct the violation and there has been a finding of a material violation in an administrative hearing. (H&S C §§ 8731 & 8733.5)

AB 2234
Murray, W.

Cemeteries

Chapter 964
Statutes of 1996

Existing law provides for the regulation of licensed cemetery authorities and provides for the examination of endowment care funds established by those cemeteries. The law also imposes a fine for a late endowment care fund report and imposes a fee for each burial, entombment, inurnment, or cremation performed by a cemetery authority.

This statute authorizes the imposition of fines of up to \$400 for late endowment reports and will also increase the fees for each burial, entombment, inurnment and cremation performed by a licensed cemetery authority. The fee increase will remain in effect until loans authorized by prior legislation are repaid, but no later than April 1, 2003. This statute will exempt applicants for a cemetery salesperson's license from the written examination requirement. (B&P C §§ 9701.5, 9765 & 9786)

AB 2237
Murray, W.

Cemeteries: Human Remains

Chapter 371
Statutes of 1996

Existing law prohibits a person from knowingly or willfully interring the remains of more than one body in a single burial

plot, or placing a casket or other human remains on an already occupied grave.

This statute provides that the statute of limitations for a violation of this provision shall begin to run at the time the violation is discovered. Because this statute would change the statute of limitations for a violation of the provisions governing human remains, it would change the definition of a crime, thereby imposing a state-mandated local program. (H&S C § 8113.7)

AB 2238
Murray, W.

Private Cemeteries: Restrictions Based on Race Ethnicity, or Gender

Chapter 769
Statutes of 1996

Existing law permits a private cemetery to limit the use of all property within its borders.

This statute prohibits a private cemetery from restricting or limiting the use of its property based on race, ethnicity, or gender. Native American tribal burial grounds or cemeteries are exempt from this provision. (H&S C § 8301)

AB 2416
McDonald

Cemeteries: Regulation

Dropped

Existing law provides for the regulation of licensed cemetery authorities and provides for the examination of the endowment care funds established by those cemeteries.

This bill would have required the Department of Consumer Affairs to audit endowment care funds of cemeteries and to make available to the public reports of those audits.

AB 2877
Davis

Funeral Establishments

Chapter 1151
Statutes of 1996

Existing law provides for the Funeral Directors and Embalmers Law, administered by the Department of Consumer Affairs (DCA), to license and regulate funeral directors and embalmers.

This statute will provide for the licensing of funeral establishments in addition to funeral directors and embalmers, and will require a licensed funeral establishment to employ a licensed funeral director. Licensed funeral establishments, within close proximity of each other, would be permitted to allow one funeral director to manage, direct, and control more than one facility with DCA approval. The statute imposes additional educational

requirements for funeral directors. Persons who are employed by, or are agents of, a licensed funeral director and who consults with a family of a deceased person or its representatives concerning the arranging of funeral services to receive will be required documented training and instruction on the laws, rules, and regulations pertaining to applicable subjects. The statute provides that any violation of the Funeral Directors and Embalmers Law is a misdemeanor, creating new crimes, and thus imposes state-mandated local programs. (B&P C §§ 7615, 7616, 7617, 7618, 7619, 7621, 7622, 7624, 7628, 7630, 7641, 7643, 7649, 7660, 7662, 7664, 7665, 7666, 7667, 7668, 7669, 7670, 7711, 7716, 7717, 7717.5, 7718, 7729, 7735, 7736, 7737, 7737.3, 7738, 7739, 7740.5, 7745; add 7616.2, 7617.1, 7619.2, 7619.3, 7622.2, 7622.3 7635 & 7651)

(9) Contractors State License Board

**AB 29
Katz**

County Services

**Failed
Senate Local
Government**

As introduced, this bill addressed local contracts for construction inspection services.

The bill was later amended and the construction provisions that impacted the Department of Consumer Affairs were removed. The bill was rewritten to amend the existing list of counties authorized to enter into contracts with private industry to provide services.

**AB 147
Murray, K.**

Contractor: Prompt Payment

Dropped

Existing law provides for prompt payment to subcontractors by a prime contractor when the prime contractor receives a progress payment or other proceed from a public agency. There are penalties for failure to make these required payments.

This bill would have extended prompt payment requirements and penalties to providers of services to a prime contractor or subcontractor on public works projects.

**AB 398
Aguiar**

Employment: Wages and Hours

**Failed
Senate Industrial
Relations**

Existing law authorizes the Industrial Welfare Commission (IWC) to adopt wage orders and regulations for, among other things, determining when overtime compensation must be paid.

This bill would have prohibited the IWC from requiring an employer to pay overtime based upon the number of hours worked in a day.

AB 525
Aguiar

Employee Status

Existing law defines a person as an employee for the purposes of determining eligibility for unemployment compensation benefits.

This bill would have stated legislative intent that taxicab drivers not be considered employees for unemployment eligibility determination and would have made conforming changes.

Failed
Senate Industrial
Relations

AB 560
Morrissey

Utility Company Services

Existing law prohibits public gas and electric utilities from providing services to residential or commercial property beyond the company's meter connection to the building.

This bill would have allowed these utility companies to work "beyond the meter" or otherwise perform work requiring a contractor's license if the employee and corporation are properly licensed as contractors, the work is substantially related to energy equipment, appliances and systems, and ratepayers do not subsidize these services. These services can not be advertised in billings or be performed by service representatives.

Dropped

AB 1236
Morrow

Works of Improvement: Waivers

Under existing law, a prime contractor can have a subcontractor or supplier sign a waiver of future claims against the contractor upon payment of progress payments and other proceeds.

This bill would have revised the actual waiver form and clarify what the release can and cannot cover or affect.

Dropped

AB 1455
Cortese

Contractors

The Contractors State License Law provides for the licensing and regulation of general and specialty contractors by the Contractors State License Board (CSLB).

This bill would have modified the holding in Home Depot U.S.A., Inc. v. CSLB, 41 Cal. App. 4th 1592 (1996) to authorize the CSLB to limit a general building contractor from performing work comprising less than three unrelated building

Vetoed
September 29, 1996

trades or crafts for which a specialty license is established. The Home Depot decision invalidated CSLB regulations limiting general contractors.

Veto Message

Governor Pete Wilson
To the Members of the California Assembly:

I am returning Assembly Bill No. 1455 without my signature.

This bill would authorize the Contractors State Licensing Board (CLSB) to adopt by regulations specialty license classifications which had been used up until the CSLB was legally challenged by Home Depot regarding the inconsistency of the "general Contractor" definition.

Not all of the current 42 specialty classifications which require special licensure are in the best interest of the building industry or the public. Requiring additional years of experience, testing and delay for individuals in trades where there is no consumer risk limits work options for general contractors, drives prices up to consumers, and is simply anti-business and anti-competitive.

Conversely, for those specialty trades which do pose health or safety risks to consumers, I am requesting that the Contractors State Licensing Board submit a legislative proposal in January which includes only specialty classes which have consumer protection needs.

In the interim, I would call on the building industry to take advantage of the additional opportunities for business in a responsible manner without delving into areas which do require specific skill or training and which may result in potential public risk.

AB 1567
Thompson

Contractors

Dropped

Existing law requires a one-year period before a contractor may apply for reinstatement following a suspension.

This bill would have authorized a contractor to apply for license reinstatement within 180 days of a suspension.

AB 1949
Conroy

Works of Improvement: Retention Proceeds

Vetoed
September 25, 1996

Existing law contains provisions relating to the performance of public works contracts including provisions for the withholding and timely disbursement of retention proceeds and the making of specified progress payments on state construction projects.

This bill would have, until January 1, 2000, limited the retention on public works contracts to five percent of the contract price.

Veto Message:

Governor Pete Wilson
To the Members of the California Assembly:

I am returning Assembly Bill No. 1949 without signature.

In an attempt to expedite the payments to subcontractors working on public construction projects, this bill unnecessarily places at risk the taxpayers of California. Currently the marketplace has established the private sector retention rate on construction contracts at 10 percent because of the financial risks associated with ensuring that subcontractors perform and complete their part of the construction project. The careful stacking of the trades that occurs in a construction project is both a logistical and financial balancing act. Any delays by one subcontractor can delay the other trades working on the project. Unfortunately, the business practices of a few contractors/subcontractors has led to the establishment of a 10 percent retention rate in the marketplace.

The state has a fiduciary responsibility to the California taxpayers to use their money wisely and that includes not incurring unnecessary risks. The state's construction projects for schools, universities, community colleges, prisons, and state office facilities involves billions of dollars. The private sector is able to choose its contractors/subcontractors based on experience, reliability, quality of work and reasonableness of price. However, the state is required to use low bidder and therefore incurs more potential risks than the private sector in its construction contracts.

Although I appreciate the concerns of subcontractors regarding the timelines involved in recovering their retention funds upon completion of projects, I have a higher duty to protect the interest of the taxpayer in ensuring that publicly-funded projects are completed on budget and without delay. Furthermore, at a time when government is being asked to operate more like the private sector, attempting to place a mandatory cap in statute - and thereby hampering the ability of public agencies to adequately protect themselves from risk - is not the correct path to reform in this area. Government agencies must be able to protect public contraction projects from unnecessary risks in a manner similar to the private sector.

AB 2077
Miller

Limitation of Actions: Construction Defects

Failed
Senate Judiciary

Existing law sets the statute of limitations for an action to recover damages for a latent construction defect at 10 years after completion of a development or improvement.

This bill would have reduced the statute of limitations for a latent construction defect to six years.

AB 2124
Frusetta

Consumer Complaints

Dropped

Under existing law, a contractor's license is not required when the aggregate contract price of a project, including labor, materials and all other items, is less than \$300.

This bill would have increased the exemption threshold to \$1,000. The bill was later amended and recast as a spot bill making technical changes to existing law that authorizes the Director of the Department of Consumer Affairs to receive complaints from consumers.

AB 2272
Thompson

Works of Improvement

Dropped

Existing law provides for the timely reimbursement of retention proceeds by the owner from the original contractor or by the original contractor from any subcontractor related to contracts for the performance of private works of improvement.

This bill would have expanded existing law to make it apply to contracts between contractors and subcontractors. Additionally, the bill would have capped retention proceeds at five percent of the contract price.

AB 2334
Cortese

Geothermal Heat Exchange Wells

Chapter 581
Statutes of 1996

Existing law requires every person who drills, abandons or destroys a water well, cathodic protection well, or groundwater monitoring well to file a notice with the Department of Water Resources (DWR) when beginning work and a report upon completion. Existing law also requires these persons to be licensed with the Contractors State License Board (CSLB) as a C-57 Water Well Contractor.

This statute eliminates the preliminary notice requirement. The statute requires the DWR to develop recommended standards for the construction, maintenance and destruction of geothermal heat exchange wells and requires adoption of those standards by the DWR and local agencies. Persons who drill, maintain or destroy geothermal heat exchange wells must also be licensed with the CSLB as C-57 Water Well Contractors. **This statute adds to the provisions of law that if violated by a contractor are cause for discipline by the Contractors State License Board.** (W C § 13700, 13701, 13713, 13750.5, 13751, 13750, 13752 & 13800.5)

AB 2396
Archie-Hudson

Contractors: Home Improvement Contracts

Chapter 985
Statutes of 1996

Existing law provides that a contractor cannot perform a change-order with respect to a home improvement or swimming pool construction contract unless the person contracting for the work has received a written change-order and has given written authorization for the additional work.

This statute specifies that a change-order is not enforceable unless the change-order clearly sets forth the scope of work to be done and the price to be charged. The statute also provides that failure to comply with the change-order requirements shall not preclude the recovery of compensation for work performed based

on equitable remedies designed to prevent unjust enrichment. **This statute adds to the provisions of law that if violated by a contractor are cause for discipline by the Contractors State License Board. (B&P C § 7159)**

**AB 2401
Miller**

Limited Liability Companies: Professions

**Failed
Senate Business &
Professions**

Existing law authorizes various professions to practice as a sole proprietorship, partnership, firm, or corporation.

This bill would have authorized the practices of architecture, contracting, engineering, and land surveying by a limited liability company.

**AB 2494
Margett**

Contractors

**Chapter 282
Statutes of 1996**

Existing law requires a contractor who has been disciplined two or more times in a 10-year period to disclose that information in all contracts. Under existing law, a contractor must disclose this information in writing prior to entering into a contract to perform work on a residential property with four or fewer units. Existing law requires a violation of these provisions to be subject to fines.

This statute changes existing law to require a contractor to disclose when they have had their license suspended or revoked two or more times in an eight-year period. Additionally, this statute would change the penalties for a violation so that violations of the discipline disclosure would be subject to a fine, but all other disclosure required in a contract would be subject to other authorized disciplinary action by the Contractors State License Board (CSLB). **This statute modifies existing provisions of law that must be enforced by the CSLB and modifies penalties that the CSLB may use to discipline contractors for violation of disclosure provisions in contracts. (B&P C §§ 7030, 7030.1 & 7099.2)**

**AB 2552
Battin**

Building Codes

**Failed
Senate Housing &
Land Use**

Under existing law, a residential improvement made as a result of a defect in the construction of a home must be made in accordance with building codes applicable at the time the improvement is made. Existing law authorizes local agencies to permit the replacement of original materials and use of original methods of construction to repair an existing building as long as the building complies with the California Building Standards

Code and the rules and regulations of the Department of Housing and Community Development and does not become or continue to become a substandard building.

This bill would have excluded from the damages recoverable by a person for injury to real or personal property due to a construction defect, the cost of repairs resulting from a change in the applicable building codes in effect at the time of original construction. This bill would have required local agencies to permit repair of existing buildings using original materials and methods of repair that comply with the applicable building standards in effect at the time of the original construction, as long as the building does not become substandard or create a serious life safety concern.

AB 2662
Thompson

Employee Benefit Plans

Dropped

Existing law provides that construction union trust funds may impose and enforce liens on property when contractors do not make required contributions to those trust funds to pay for their employees' fringe benefits.

This bill would have eliminated these lien rights in response to decisions by the California Supreme Court and the Ninth Circuit of the Federal Court of Appeals, which have held that the statutes creating the rights are preempted by federal law.

AB 2823
Harvey

Business Licenses

Chapter 936
Statutes of 1996

Existing law authorizes a city or county to license businesses conducted within their respective jurisdictions and to set license fees. Existing law authorizes the Contractors State License Board(CSLB) to license and regulate contractors.

This statute requires a city or county, before it issues a business license to a contractor, to verify that the person is licensed with the CSLB. **The CSLB has existing toll-free numbers and Internet access to assist cities and counties in complying with this statute.** (B&P C §§ 16000 & 16100)

AB 2899
Hawkins

Liability: Inspection of Property

Dropped

Existing law provides that a public employee is not liable for injury caused by failure to make an inspection or making an inadequate inspection of any property for the purpose of deter-

mining whether the property constitutes a health or safety hazard.

This bill would have defined a public employee for these purposes as a contractor or other designee of a public entity who performs building inspections on behalf of the public entity.

AB 2958
Harvey

Contractors: Unlicensed Activity: Statutes of Limitation

Chapter 145
Statutes of 1996

Existing law provides that it is a misdemeanor for any person to act in the capacity of a contractor without having a license. A violation must be prosecuted within three years of the date of the contract, completion, or abandonment of work.

This statute extends the statute of limitations from three years to four years and provides that the statute of limitations applies to the prosecution of bid activity by an unlicensed contractor. **By increasing the statute of limitations for unlicensed activity and applying it to bid activity, this statute creates minor additional enforcement workload for the Contractors State License Board.** (B&P C §§ 7028 and 7028.9)

AB 2959
Baugh

Liability: Residential Construction Defects

Failed
Senate Judiciary

Existing law allows damages to be awarded for design and construction defects for property damage, personal injury, or wrongful death. Existing law does not provide definitions for design or construction defects.

This bill would have defined a design or construction defect and provided that a builder, developer, contractor, subcontractor, seller of residential improvements, or supplier shall not be held liable for loss or damage caused by a deficiency unless the deficiency met the definition of a structural defect. This bill would have created a rebuttable presumption that construction was done in accordance with accepted standards of care if there was compliance with the applicable building codes at the time of construction.

AB 3009
Kaloogian

Dispute Resolution: Construction Defects

Dropped

Existing law specifies various methods for the resolution of disputes.

This bill would have stated legislative intent to promote the expeditious resolution of construction defect disputes. This bill was a placeholder for intended broader legislation to redefine "structural defect" that the author opted not to pursue.

AB 3087
House

Taxation: Employees

Failed
Senate Industrial
Relations

Existing law requires employers to make specified payments and withholdings from wages paid for employment. Existing law excludes services performed by independent contractors.

This bill would have established a rebuttable presumption that a person who is identified in a written contract as an independent contractor is excluded from unemployment taxation.

AB 3131
Lee & Bates

Security Bars: Fire Safety

Chapter 290
Statutes of 1996

Existing law requires the State Fire Marshal to adopt building standards establishing minimum requirements for installation and maintenance of security bars that create a fire or panic hazard.

This statute prohibits the sale of security bars unless the packaging or labeling contains warning information explaining relevant fire safety codes to promote safety in the event of a fire. The information must direct the consumer or installer to contact the local fire department or building official to determine local safety requirements for security bars. The statute requires a contractor or installer of security bars to notify the owner of a residential dwelling of this required information prior to installing security bars. (H&S C § 13113.9)

AB 3305
Setencich and
Speier

Housing: Safety: Disclosures

Chapter 925
Statutes of 1996

Existing law regulates the safety of public swimming pools and spas but not those in private single-family residences.

This statute creates the Swimming Pool Safety Act which requires that all pools constructed after January 1, 1998 have a fence, cover, alarm, or other safety device. The statute also requires real estate disclosures to identify whether an existing pool or spa has a child-resistant barrier, whether security bars on bedroom windows have quick release mechanisms, and whether water heaters are anchored so that home buyers are made aware of potential hazards. [Civ C § 1102.6; H&S C § 18942 &

AB 3355
Firestone

Contractors: Workers Compensation

Chapter 331
Statutes of 1996

Existing law exempts from workers' compensation requirements applicants or licensees of the Contractors State License Board (CSLB) who have no employees, provided a statement attesting to the no-employee status is filed with the CSLB.

This statute provides that the filing of a false statement regarding whether a contractor has employees is cause for disciplinary action. **This statute clarifies the CSLB's authority to discipline an applicant or licensee for a false workers' compensation statement.** (B&P C § 7125)

SB 112
Hurt

Contractors: Complaint Information

Dropped

As introduced, this bill would have limited disclosure of violations and citations against contractors. As finally amended by Senator Johnston, the bill concerned a local government issue.

This bill would have specified voter approval of proposed city reorganization within designated territorial boundaries and would have clarified how the governing authority would confirm the majority vote.

SB 245
Peace

Workers' Compensation

Dropped

Under existing law, the failure of an employer to secure the payment of worker's compensation is a misdemeanor.

This bill would have increased the penalty for failure to secure workers' compensation to a felony.

SB 442
Solis

Labor Agency

Dropped

Existing law provides for the Department of Industrial Relations (DIR) to administer and enforce laws related to labor standards.

This bill would have abolished the Department of Industrial Relations and created the Labor Agency from existing departments and boards with labor related missions. The bill would have shifted the Contractor's State License Board from the Department of Consumer Affairs to the new agency.

SB 444
Solis

Public Works: Contractors or Subcontractors: Debarment

Dropped

Existing law requires contractors and subcontractors to pay prevailing wages, as determined by the Director of Industrial Relations, on all public works projects. The Labor Commissioner is required to debar for a period of up to three years, any contractor or subcontractor who is in violation of this requirement with intent to defraud.

This bill would have extended the provisions for debarment from public works contracts to contractors who are convicted of a second or subsequent violation for: tax fraud, making false statements to insurance companies to reduce workers' compensation insurance, violation for paying wages in cash without an itemized statement, and of operating without worker's compensation insurance.

SB 1052
Solis

Contractors: Inspections

Dropped

Existing law authorizes the Contractors State License Board (CSLB) to investigate complaints filed with the board. The Registrar of Contractors may appoint representatives to carry out these duties. Under existing law, a CSLB representative must obtain a search warrant to inspect or investigate a work site if the owner or contractor refuses access.

This bill would have provided that upon presenting appropriate credentials to a contractor, CSLB representatives would have free access to a place where a contractor conducts work to enforce the Contractors State License Law. The bill would have authorized CSLB representatives to obtain statistics or physical evidence in the possession of a contractor that are directly related to the investigation.

SB 1168
Rogers

Water Wells: Licensed Contractors

Dropped

Existing law prohibits the construction alteration, destruction or abandonment of water wells unless the person responsible for the task has a C-57 Water Well Licensed Contractors license issued by the Contractors State License Board.

This bill would have exempted employees of the County of Inyo or the City of Los Angeles when constructing, altering, destroying, or abandoning monitoring wells located within the Owens Valley Groundwater Basin. As introduced, the bill would have applied the exemption to all public agencies.

SB 1486
Claderon

Asbestos Contractors

Chapter 526
Statutes of 1996

Existing law requires persons engaged in the practice of asbestos consultant or site surveillance technician to be certified by the Division of Occupational Safety and Health (Cal-OSHA). Existing law requires licensing and regulation of building contractors and asbestos abatement contractors. Existing law prohibits an asbestos consultant or site surveillance technician from having a financial interest in the general contractor or certified asbestos abatement contractor hired for the same project.

This statute requires a building owner to make a good faith effort to determine if asbestos is present before engaging in asbestos-related work. This statute provides that a licensed contractor or certified asbestos abatement contractor taking samples to prepare a bid, determine exposure for employees, or determine if a contract has been properly completed is not required to be certified by Cal-OSHA. The statute exempts a consultant or technician from having a financial interest in a licensed contractor or asbestos abatement contractor when no more than 12 bulk samples are removed for the three reasons stated above. The statute authorizes a contractor to communicate the results of any sampling to the building owner and to charge for the cost of the testing. (B&P C §§ 7180 & 7187)

SB 1557
Mountjoy

Contractors: Building Permits

Chapter 712
Statutes of 1996

Existing law prohibits a contractor from bidding for the installation or removal of an underground storage tank without certification in hazardous substance removal. Existing law provides that a prime contractor or subcontractor who fails to pay another subcontractor or motor carrier may be assessed a penalty of 2% of the amount due per month for every month a payment is not made. Existing law provides that the official copy of plans maintained by a local building department shall be open for inspection only on the premises of the building department and may be duplicated only with written permission of affected parties or the order of a court.

This statute would amend existing law to reflect an existing exemption from hazardous substance certification for contractors bidding for the installation or removal of an underground storage tank. The statute would clarify that the 2% penalty assessed on

a contractor who fails to pay a subcontractor or motor carrier is to be paid to the subcontractor or carrier. This statute provides that the official copy of building plans may be duplicated upon the request of a state agency. (B&P C §§7028.1, 7108.5 & 7108.6; H&S C § 19851)

SB 1597
Hurt

Contractors License Fees

Chapter 528
Statutes of 1996

Under existing law, the Contractors State License Board (CSLB) lacks authority to adjust license fees paid by contractors to reduce an excessive reserve fund nor does the law define an excessive reserve.

This statute requires the CSLB on or before July 1, 1997, and biennially thereafter, to reduce the amount of license fees to be collected in order that revenues are at a level sufficient to maintain the board's reserve fund at approximately three months of annual authorized board expenditures. The Legislature also states intent that this authority be used only to lower fees through a fee reduction or a system of credits. **This statute requires the CSLB to take steps to reduce its reserve fund as specified. A system of credits would need to be devised if the CSLB chooses that alternative to reduce the reserve.** (B&P C § 7138.1)

SB 2002
Ayala

Contractors: Licensing: Exemptions

Chapter 287
Statutes of 1996

Existing law provides for licensure and regulation of contractors by the Contractors State License Board.

This statute exempts a surety company from being licensed as a general contractor when the surety must hire a contractor to finish an incomplete contract on which the surety has issued a performance bond. (B&P C § 7044.2)

SB 2032
Mountjoy

Indemnity

Chapter 558
Statutes of 1996

Existing law provides that any agreement in a construction contract with a public agency that purports to relieve the public agency from liability for active negligence is void and unenforceable.

This statute provides that any additional insured endorsement with a public agency shall not provide coverage for the agency's

active negligence. The statute further provides that a construction contract that requires the contractor to purchase insurance to cover the active negligence of a public agency is invalid. (Ins C § 11580.04)

SB 2040
Hughes

Home Improvement Contracts

Failed
Assembly Judiciary

Existing law provides that a home improvement contract must contain information regarding the contractor, work to be done, payment provisions, and disclosure regarding a mechanics' lien.

This bill would have provided that any security interest in real property (such as a home) taken by a contractor to secure payment for performance of a home improvement contract is unenforceable if the contractor or salesperson omits required information from the contract. This would have prevented the use of non-judicial foreclosure when persons have used their homes to secure a home improvement contract. (B&P C § 7159)

SB 2066
Haynes

Construction: Contracts

Failed
Senate Judiciary

Existing law, Chapter 1249 of Statutes of 1993, revised the forms for a conditional and unconditional waiver and release upon a progress payment under a construction contract. This release does not cover retentions retained before or after the release.

This bill would have declared that provisions of Chapter 1249 are retroactive to any lien action to recover money earned, including progress payments for work accomplished and for change orders and unpaid retention moneys. This bill would have superseded the court's decision in Halbert Lumber, Inc. v. Lucky Stores, Inc. 6 Cal. App.4th 1233.

SB 2113
Haynes

Local Agency Contracts: Eligibility

Dropped

Existing law authorizes state agencies to suspend any person convicted of various crimes from bidding on public works or services contraction. The length of the suspension - up to three years - is determined by the agency after a hearing.

This bill would have extended these provisions to local government agencies which currently cannot suspend or debar a contractor from bidding.

SB 2146
Marks

Employees: Independent Contractors

Failed
Assembly Labor & Employment

Existing law requires employers to make specified payments and withholdings from wages. These payments and withholdings are to be paid to the Employment Development Department (EDD). Existing law excludes services performed by independent contractors from these requirements.

This bill would have required the EDD to convene a task force of small business and labor representatives to make recommendations to change regulations and administrative procedures to expedite EDD determinations and communications regarding the status of workers as independent contractors.

(10) Court Reporters Board

AB 2247
Miller

Court Reporters' Transcripts: Copying and Use

Failed
Senate Judiciary

Existing law authorizes any court, party, or person who has purchased a court reporter's transcript to reproduce a copy or portion thereof as an exhibit pursuant to court order or rule, or for internal use, but prohibits the provision or sale of a copy to any other party or person.

This bill would have authorized a court that had purchased a transcript to make copies of it as an exhibit, for internal use, or for use by a county counsel, district attorney, or court-appointed counsel.

AB 2701
Thompson

Court Reporters Requirements

Chapter 694
Statutes of 1996

Existing law provides for a Court Reporters Board within the Department of Consumer Affairs to license and regulate shorthand reporters.

This statute provides for the: (1) revision of the requirements for admission to the examination; (2) revision of the certificate renewal requirements; and (3) suspension, revocation or denial of a license if the licensee/applicant fails to notify the board of a conviction of a crime or failure to comply with certain requirements. It provides for the withdrawal of recognition of a court reporting school for failure to comply with requirements and to specify teacher requirements. (B&P C §§ 8001, 8018, 8020, 8024, 8024.2, 8025 & 8027)

SB 413
Beverly

Court Reporters: License

Failed
Assembly Judiciary

The Court Reporters Board of California regulates the examination and licensure of court reporters.

This bill would have provided that obtaining a passing grade on the California Court Reporters Association's mock certified shorthand reporter examination together with successful completion of the nonmachine skill requirement established by the Board of Court Reporters would qualify a person to take the examination to become a certified shorthand reporter.

SB 795
Beverly

Shorthand Reporters: Transcript Reimbursement Fund

Chapter 895
Statutes of 1996
Signed September 24, 1996

Existing law provided for a Transcript Reimbursement Fund, administered by the Court Reporters Board of California, for the purpose of reimbursing the costs incurred by indigent and low-income persons relating to shorthand reporting services. The provisions were repealed as of June 30, 1996.

This statute will reenact the repealed provisions of the Transcript Reimbursement Fund. The statute took effect immediately.
(B&P C §§ 8008, 8030.2, 8030.4, 8030.6 & 8030.8)

SB 1077
Greene

Boards and Commissions

Chapter 1137
Statutes of 1996

Existing law provides for the various licensing and regulatory boards, bureaus, commissions and programs in the Department of Consumer Affairs (Department) including the Board of Accountancy, Board of Registration for Geologists and Geophysicists, the Court Reporters Board, the Athletic Commission, the Board of Barbering and Cosmetology, the Bureau of Home Furnishings and Thermal Insulation and the Tax Preparers Program. During the 1996 legislative session, several of these agencies were reviewed by the Joint Legislative Sunset Review Committee (Committee) and the Department to evaluate the consumer protection value of these agencies and to recommend whether to continue or abolish the program and to identify efficiencies.

This statute implements the recommendations of the Committee and Department. Key components of this statute include: (1) **repealing the Tax Preparer Program and instead implementing a system of requirements for bonding, continuing education and other requirements for tax preparers to be enforced by civil and criminal actions brought by consumers**

or state and local law enforcement agencies; (2) requiring the Board of Accountancy to review its experience and continuing education requirements and making the Board more accountable for licensure examinations and discipline of licensees by making the administrative and exam committees advisory only; (3) deregulating the waterbed industry and exempting antique furniture dealers and exercise equipment manufacturers from unnecessary licensure by the Bureau of Home Furnishings and Thermal Insulation (BHFTI). The statute also consolidates the existing 11 BHFTI license classes into eight; (4) reducing the Board of Geology's composition from eight to seven members with a public majority and providing that all committees including non-board members are solely advisory; (5) increasing penalties for court reporters who provide late transcripts; and (6) deregulating boxing announcers, box office employees, doormen, ticket sellers and takers and ushers currently licensed by the State Athletic Commission. [B&P C §§ 5004, 5005, 5020, 5023, 5024, 5029, 7313, 7353, 7396, 7810, 7814, 7817, 7823, 7824, 8025, Chapter 20.6 (commencing with Section 9891 of Division 3), 18602, 18612, 18641, 18814, 19004, 19006, 19008.1, 19008.2, 19011.1, 19051, 19052, 19053, 19053.1, 19054, 19055, 19057, 19059, 19060.6, 19071, 19072, 19072.5, 19080, 19124, 19155, 19161, 19170, Article 17 (commencing with Section 118890 of Chapter 2 of Division 8) & Chapter 14 (commencing with Section 22250 of Division 8); Civ C § 1940.5; Gov C § 69944]

SB 2031
Ayala,
Boatwright, &
Johannessen

Boards and Commissions

Existing law provides for the licensing and regulation of accountants, geologists and geophysicists, court reporters and for oversight of the sport of boxing by boards and commissions under the umbrella of the State Department of Consumer Affairs. The provisions of law that created these boards will become inoperative on July 1, 1997, and will be repealed thereafter, unless extended by the Legislature.

This statute extends the sunset dates for: the Board of Accountancy until July 1, 2001, to be repealed as of January 1, 2002; the Board of Registration for Geologists and Geophysicists until July 1, 2001 to be repealed as of January 1, 2002; the Court Reporters Board of California until July 1, 1999, to be repealed on January 1, 2000; and the State Athletic Commission until July 1, 2001 to be repealed on January 1, 2002. (B&P C §§ 18602, 18613, 5000, 5015.6, 7810, 7815.5, 8000 & 8005)

Chapter 1136
Statutes of 1996

(11) Board of Dental Examiners

**SB 511
Leslie**

Dentistry: Licensure: Probation

**Chapter 492
Statutes of 1996**

Existing law, the California Dental Practices Act (Business and Professions Code Section 1600 et seq. [the Act]), provides for the licensure and regulation of dentists and dental auxiliaries, to be administered by the Board of Dental Examiners (BDE). Specifically, the Act: (1) authorizes the BDE to deny an application to take an examination for licensure as a dentist or dental auxiliary or an application for registration as a dental corporation, under prescribed conditions; (2) provides that the BDE may issue a probationary license to an applicant only after a Statement of Issues is filed. The Statement of Issues is a part of the administrative adjudication process [formal hearing before an administrative law judge]; (3) authorizes any BDE member to inquire of any applicant for examination regarding his qualifications or experience; (4) defines "unprofessional conduct" by a person licensed under the Act; (5) specifies the conditions under which a person whose license, certificate or permit has been revoked or suspended or who has been placed on probation, may petition the BDE for reinstatement or modification or termination of probation; (6) provides that it is a misdemeanor to perform certain acts relating to the practice of dentistry; and (7) provides for the licensure and regulation of health care service plans by the Commissioner of Corporations.

This statute: (1) authorizes the BDE to, at any time prior to licensure, deny the issuance of a license to an applicant for licensure as a dentist or dental auxiliary; (2) permits the BDE to, in its sole discretion, issue a probationary license to an applicant for licensure as a dentist or dental auxiliary. As a term or condition of issuing the probationary license, the applicant shall be required to comply with board requirements as specified in the bill; and (3) requires applicants for licensure by the BDE to furnish fingerprint cards for submission to state and federal criminal justice agencies to establish the identity of the applicant and to determine whether the applicant has a record of any criminal convictions. (B&P C §§ 1628.5, 1628.7, 1629, 1680, 1686 & 1700; and H&S C § 1367.05)

SB 570
Rosenthal

Allied Dental Health Professionals

Dropped

Existing law, the Dental Practice Act, defines "dental auxiliaries" as persons who may perform certain dental supportive services under the direct or general supervision of a licensed dentist. Dental auxiliaries, except dental assistants, are required to be licensed. The Board of Dental Examiners (BDE), with the advisory input of the Committee on Dental Auxiliaries, licenses auxiliaries and regulates provisions of the Dental Practice Act.

This bill would have deleted the reference to dental auxiliaries and would replace it with the term "allied dental health professionals," (including conforming changes). It would have established a new licensing category of registered dental hygienist in alternative practice, and authorized a registered individual to independently perform specified dental hygiene services without any supervision by a dentist.

SB 1479
Lewis

Dentists: Licensure

Chapter 257
Statutes of 1996

Existing law: (1) provides for the licensure and regulation of the practice of dentistry by the Board of Dental Examiners (BDE); (2) requires the BDE to establish a diversion program for rehabilitation of licensees impaired by alcohol or drug abuse; (3) requires the BDE to establish criteria for licensee participation in diversion treatment and supervision by a diversion evaluation committee (DEC); (4) provides that only those licensees who have voluntarily requested diversion shall participate in the diversion program; and (5) provides for the confidentiality of all board and committee records of proceedings regarding treatment of a participant in the diversion program except in the case of a criminal proceeding.

This statute: (1) adds provisions regarding the methods by which a licensee may participate in the diversion program; (2) provides that neither acceptance nor participation in the diversion program precludes the BDE from investigating or disciplining a participant for unprofessional conduct; (3) provides an exception to the requirement of confidentiality of the records if a participant withdraws or is terminated from the diversion program at a time when the DEC determines that he or she presents a threat to the public health and safety; (4) requires each participant to sign an agreement of understanding regarding the above exception; (5) provides that a licensee who is terminated from the program for failure to comply with its requirements is subject to disciplinary action by the BDE for acts committed before, during, or after the

licensee's participation; (6) requires the DEC to report to the BDE any termination of a licensee who has been under investigation by the BDE; and (7) requires the licensee to bear all costs related to his or her participation in the diversion program unless they are waived by the BDE.

(B&P C §§ 1695.1, 1697 & 1698)

(12) Committee on Dental Auxiliaries

See Board of Dental Examiners

(13) Bureau of Electronic and Appliance Repair

AB 2520
Kaloogian

Department of Consumer Affairs

Failed
Senate Business and
Professions

Under existing law the electronic and appliance repair and home furnishings industries are licensed and regulated by the Bureau of Electronic and Appliance Repair and the Bureau of Home Furnishings and Thermal Insulation respectively.

This bill would have deregulated the electronic repair industry and placed consumer protection provisions into the Civil Code. The bill would also have extended the delinquency period for appliance repair registrations from two to three years. The bill would have revised provisions of the Home Furnishings Act by deregulating the waterbed industry; creating exemptions from licensure for antique dealers and exercise equipment manufacturers; and reducing the number of license classes from 11 to 8. The BHFTI provisions of this bill were later amended into SB 1077.

(14) Professional Engineers and Land Surveyors

AB 2401
Miller

Limited Liability Companies: Professions

Failed
Senate Business &
Professions

Existing law authorizes various professions to practice as a sole proprietorship, partnership, firm, or corporation.

This bill would have authorized the practices of architecture, contracting, engineering, and land surveying by a limited liability company.

(15) Board of Geologists and Geophysicists

SB 1077
Greene

Boards and Commissions

Chapter 1137
Statutes of 1996

Existing law provides for the various licensing and regulatory boards, bureaus, commissions and programs in the Department of Consumer Affairs (Department) including the Board of Accountancy, Board of Registration for Geologists and Geophysicists, the Court Reporters Board, the Athletic Commission, the Board of Barbering and Cosmetology, the Bureau of Home Furnishings and Thermal Insulation and the Tax Preparers Program. In the 1996, several of these agencies were reviewed by the Joint Legislative Sunset Review Committee (Committee) and the Department to evaluate the consumer protection value of these agencies and to recommend whether to continue or abolish the program and to identify efficiencies.

This statute implements the recommendations of the Committee and Department. Key components of this statute include: (1) **repealing the Tax Preparer Program and instead implementing a system of requirements for bonding, continuing education and other requirements for tax preparers to be enforced by civil and criminal actions brought by consumers or state and local law enforcement agencies;** (2) **requiring the Board of Accountancy to review its experience and continuing education requirements and making the Board more accountable for licensure examinations and discipline of licensees by making the administrative and exam committees advisory only;** (3) **deregulating the waterbed industry and exempting antique furniture dealers and exercise equipment manufacturers from unnecessary licensure by the Bureau of Home Furnishings and Thermal Insulation (BHFTI). The statute also consolidates the existing 11 BHFTI license classes into eight;** (4) **reducing the Board of Geology's composition from eight to seven members with a public majority and providing that all committees including non-board members are solely advisory;** (5) **increasing penalties for court reporters who provide late transcripts; and** (6) **deregulating boxing announcers, box office employees, doormen, ticket sellers and takers and ushers currently licensed by the State Athletic Commission. [B&P C §§ 5004, 5005, 5020, 5023, 5024, 5029, 7313, 7353, 7396, 7810, 7814, 7817, 7823, 7824, 8025, Chapter 20.6 (commencing with Section 9891 of Division 3), 18612, 18641, 18814, 18602, 19004, 19006, 19008.1,**

19008.2, 19011.1, 19051, 19052, 19053, 19053.1, 19054, 19055, 19057, 19059, 19060.6, 19071, 19072, 19072.5, 19080, 19124, 19155, 19161, 19170, Article 17 (commencing with Section 118890 of Chapter 2 of Division 8) & Chapter 14 (commencing with Section 22250 of Division 8); Civ C § 1940.5; Gov C § 69944]

SB 2031
Ayala,
Boatwright, &
Johannessen

Boards and Commissions

Chapter 1136
Statutes of 1996

Existing law provides for the licensing and regulation of accountants, geologists and geophysicists, court reporters and for oversight of the sport of boxing by boards and commissions under the umbrella of the State Department of Consumer Affairs. The provisions of law that created these boards will become inoperative on July 1, 1997, and will be repealed thereafter, unless extended by the Legislature.

This statute extends the sunset dates for: the Board of Accountancy until July 1, 2001, to be repealed as of January 1, 2002; the Board of Registration for Geologists and Geophysicists until July 1, 2001 to be repealed as of January 1, 2002; the Court Reporters Board of California until July 1, 1999, to be repealed on January 1, 2000; and the State Athletic Commission until July 1, 2001 to be repealed on January 1, 2002. (B&P C §§ 18602, 18613, 5000, 5015.6, 7810, 7815.5, 8000 & 8005)

(16) Board of Guide Dogs for the Blind

AB 2860
Morrissey

Board of Guide Dogs: Sunset

Failed
Senate Business &
Professions

Existing law, the Board of Guide Dogs for the Blind (Board) is scheduled to become inoperative on July 1, 1997 and will be repealed on January 1, 1998, unless extended by future legislation. The Board regulates the operation of licensed guide dog schools. The Board is currently involved in a five year pilot project to arbitrate disputes between guide dog users and guide dog training schools. This pilot project is scheduled to terminate on January 1, 1999.

This bill would have required a licensed guide dog training school to offer follow-up services for problems that interfere with the ability of the guide dog user to travel safely and effectively. This bill would also have deleted the repeal date for the arbitration program for disputes between guide dog users and guide dog training schools.

(17) Hearing Aid Dispensers Examining Committee

AB 3473
Morrissey

Department of Consumer Affairs: Omnibus Bill

Chapter 829
Statutes of 1996

Existing law authorizes the Hearing Aid Dispensers Examining Committee (HADEC) to deny, limit, suspend or revoke a license, or impose probation upon a licensee for a number of reasons, including violation of any provision of the practice act.

This statute in addition authorizes the HADEC to take disciplinary action for violations of any regulation adopted by the HADEC. (B&P C § 3401)

SB 1592
Rosenthal

Medicine

Chapter 441
Statutes of 1996

Existing law: (1) requires the Medical Board of California (MBC) to create a Committee on Affiliated Healing Arts Professions; (2) requires physicians and surgeons to *immediately* report any change of address to the MBC; and (3) authorizes the Hearing Aid Dispensers Examining Committee (HADEC) to make recommendations to the MBC and requires the MBC to adopt rules and regulations as may be necessary to enable the MBC to carry into effect these provisions.

This statute: (1) deletes the provision which requires the MBC to create a Committee on Affiliated Healing Arts Professions; (2) requires physicians and surgeons, to report each change of address within 30 days to the MBC, and also requires physicians and surgeons to report each change of name to the MBC within 30 days; and (3) deletes the provision requiring the MBC to make and promulgate rules and regulations recommended by the HADEC, and instead authorizes the HADEC to adopt, amend, or repeal, in accordance with the Administrative Procedure Act, regulations necessary to enable the HADEC to effect laws relating to the practice of fitting or selling hearing aids, subject to the review and approval of the MBC. (B&P C §§ 2015, 2021 and 3328)

SB 1918
Johannessen
and Rosenthal

Hearing Aid Dispensers

Dropped

Existing law provides that the laws governing the licensure of hearing aid dispensers neither license nor prohibit the *testing* of hearing. However, existing law provides that the provisions apply to tests conducted by licensed hearing aid dispensers in

connection with the fitting and selling of hearing aids.

This bill would have provided that the laws governing hearing aid dispensers not be construed to prevent a dispenser from engaging in testing of hearing *in connection with* the fitting and selling of hearing aids.

(18) Bureau of Home Furnishings and Thermal Insulation

AB 2520
Kaloogian

Department of Consumer Affairs

Failed
Senate Business and
Professions

Under existing law the electronic and appliance repair and home furnishings industries are licensed and regulated by the Bureau of Electronic and Appliance Repair and the Bureau of Home Furnishings and Thermal Insulation (BHFTI) respectively.

This bill would have deregulated the electronic repair industry and placed consumer protection provisions into the Civil Code. The bill would also have extended the delinquency period for appliance repair registrations from two to three years. The bill would have revised provisions of the Home Furnishings Act by deregulating the waterbed industry; creating exemptions from licensure for antique dealers and exercise equipment manufacturers; and reducing the number of license classes from 11 to 8. The BHFTI provisions were later amended into SB 1077.

SB 1077
Greene

Boards and Commissions

Chapter 1137
Statutes of 1996

Existing law provides for the various licensing and regulatory boards, bureaus, commissions and programs in the Department of Consumer Affairs (Department) including the Board of Accountancy, Board of Registration for Geologists and Geophysicists, Court Reporters Board, Athletic Commission, Board of Barbering and Cosmetology, Bureau of Home Furnishings and Thermal Insulation and the Tax Preparers Program. In the 1996, several of these agencies were reviewed by the Joint Legislative Sunset Review Committee (Committee) and the Department to evaluate the consumer protection value of these agencies and to recommend whether to continue or abolish the program and to identify efficiencies.

This statute implements the recommendations of the Committee and Department. Key components of this statute include: (1) **repealing the Tax Preparer Program and instead implementing a system of requirements for bonding, continuing**

education and other requirements for tax preparers to be enforced by civil and criminal actions brought by consumers or state and local law enforcement agencies; (2) requiring the Board of Accountancy to review its experience and continuing education requirements and making the Board more accountable for licensure examinations and discipline of licensees by making the administrative and exam committees advisory only; (3) deregulating the waterbed industry and exempting antique furniture dealers and exercise equipment manufacturers from unnecessary licensure by the Bureau of Home Furnishings and Thermal Insulation (BHFTI). The statute also consolidates the existing 11 BHFTI license classes into 8; reduces the Board of Geology's composition from eight to seven members with a public majority and provides that all committees including non-board members are solely advisory; increases penalties for court reporters who provide late transcripts; and deregulates boxing announcers, box office employees, door-men, ticket sellers and takers and ushers currently licensed by the State Athletic Commission. (B&P C §§ 5004, 5005, 5020, 5023, 5024, 5029, 7313, 7353, 7396, 7810, 7814, 7817, 7823, 7824, 8025, Chapter 20.6 (commencing with Section 9891 of Division 3), 18602, 18612, 18641, 18814, 19004, 19006, 19008.1, 19008.2, 19011.1, 19051, 19052, 19053, 19053.1, 19054, 19055, 19057, 19059, 19060.6, 19071, 19072, 19072.5, 19080, 19124, 19155, 19161, 19170, Article 17 (commencing with Section 118890 of Chapter 2 of Division 8) & Chapter 14 (commencing with Section 22250 of Division 8); Civ C § 1940.5; Gov C § 69944)

(19) Board of Landscape Architects

**AB 3164
Campbell**

Landscape Architects: Scope of Practice

**Failed
Assembly Consumer
Protection**

Existing law: (1) establishes the California State Board of Landscape Architects to regulate the practice of landscape architecture in this state; (2) defines the scope of practice of a landscape architect; and (3) exempts persons engaged in specified activities from the requirement of certification.

This bill would have: (1) revised and recast the scope of practice of a landscape architect; and (2) revised, recast, and extended the above exemption to include, among others, architects, engineers, and licensed contractors working within the scope of their registration or classification, as specified.

(20) Medical Board

**AB 596
Knight**

Volunteer Physicians and Surgeons

**Failed
Senate Judiciary**

Existing law exempts a physician and surgeon from civil damages as a result of certain acts or omissions of the physician and surgeon who in good faith: (1) renders emergency care at the scene of an emergency; (2) renders emergency obstetrical services; (3) renders emergency medical care at the request of another physician and surgeon; or (4) gives emergency instructions to paramedics.

This bill would have provided that a physician and surgeon who, in good faith and without compensation or consideration, renders voluntary medical services at an emergency shelter or at transitional housing would not be held liable for any injury or death caused by an act or omission of the physician and surgeon in rendering the medical services when the act or omission did not constitute gross negligence, recklessness, or willful misconduct.

**AB 753
Morrow**

Podiatrist Assistants

**Chapter 454
Statutes of 1996**

Existing law provides for the licensure of podiatrists, physicians and surgeons, and physician assistants by the Board of Podiatric Medicine, the Medical Board of California, and the Physician Assistant Examining Committee, respectively. Under existing law, a licensed physician assistant may perform certain prescribed services under the supervision of a licensed physician and surgeon provided the physician and surgeon is approved to supervise the physician assistant by the Medical Board of California or the Osteopathic Medical Board of California.

This statute authorizes a physician assistant performing medical services under the supervision of a physician and surgeon to assist a podiatrist who is a partner, shareholder, or employee in the same medical group as the supervising physician and surgeon. The statute requires a physician assistant to assist a doctor of podiatric medicine according to patient-specific orders from the supervising physician and surgeon; requires the supervising physician and surgeon to be physically available to the physician assistant for consultation when assistance is provided; and provides that the physician assistant assisting the podiatrist shall be limited to performing those duties included within the scope of practice of the podiatrist. (B&P C §§ 3500, 3502 & 3503)

AB 1727
Bustamante

Malpractice Awards

Dropped

Existing law requires court clerks to report to the appropriate licensing board when certain healing arts licensees are convicted of a crime or held liable for death or personal injury resulting in a judgment over \$30,000. Existing law requires the Medical Board to maintain this and other information about its licensees on file.

This bill would have required the board to annually prepare a report to inform the public of all malpractice judgment awards of \$50,000 or more.

AB 1974
Friedman, B.

Medicine: Peer Review Procedures

Chapter 644
Statutes of 1996

Existing law: (1) requires the chief officer of any peer review body and the chief administrator of any licensed health care facility or clinic to file a report ("805 report") to the appropriate licensing board when a physician and surgeon's, podiatrist's, clinical psychologist's, or dentist's staff privileges are terminated, revoked, or restricted for a medical disciplinary cause or reason; (2) provides for the establishment of diversion committees by the Division of Medical Quality of the Medical Board of California, and specifies the duties of those committees; (3) authorizes a licensing board to order a licentiate to be examined by one or more physicians or psychologists whenever it appears the licentiate may be unable to practice his or her profession safely because of mental or physical illness.

This statute: (1) requires the Division of Medical Quality to investigate the underlying circumstances of any report received pursuant to the provisions specified in (1) , above, within 30 days; (2) requires peer review bodies that review physicians to report certain information regarding investigations of physicians who may be suffering from a disabling mental or physical condition, within 15 days of initiating an investigation to the diversion program of the Medical Board; (3) requires the Medical Board to develop a short form for this purpose; and (4) requires the diversion program administrator to monitor the peer review body's investigation. (B&P C §§ 821.5, 821.6 & 2220)

AB 2513
Speier

Physicians and Surgeons: Consent for Assisted
Reproduction: Consent

Chapter 863
Statutes of 1996

Existing law: (1) requires physicians and surgeons to comply with prescribed informed consent requirements relating to sterilization procedures, treatment of breast cancer, silicon implants, and collagen injections; (2) provides that it is unprofessional conduct for a physician and surgeon to fail to do so; and (3) provides that any person who violates the law relating to enforcement of the Medical Practices Act is guilty of a misdemeanor.

This statute: (1) requires a physician and surgeon who removes sperm or ova from a patient to obtain a prescribed written consent from the patient before the sperm or ova are used for a purpose other than reimplantation in the same patient or implantation in the spouse of the patient; (2) provides that a violation of the requirement constitutes unprofessional conduct, but not a misdemeanor; (3) requires a physician and surgeon who fails to obtain the required consent a second time to be assessed a civil penalty of not less than \$1,000 and not more than \$5,000, plus court costs, to be paid to the individual whose required consent was not obtained; and (4) requires a separate penalty to be assessed for each individual from whom the consent was not obtained; provides that the penalties contained in the statute shall be available in addition to any other remedies that may be available under other provisions of law. (B&P C § 2260)

AB 2905
McDonald

Medicine: Child Lead Testing

Dropped

Existing law provides for the licensure and regulation of the practice of medicine and provides that certain acts or omissions by a physician and surgeon constitute unprofessional conduct.

This bill would have provided that it is unprofessional conduct for a physician and surgeon who practices pediatrics to fail to recommend that a child be tested for high lead counts in his or her bloodstream.

AB 2934
House

Medicine: Medical Assistants

Failed
Assembly Health

Existing law provides for the licensure and regulation of the practice of medicine by the Medical Board of California and establishes the authorized activities of a medical assistant. Existing law does not allow the administration of local anesthetic agents by a medical assistant.

This bill would have provided an exception to this prohibition for topical agents used for ophthalmic purposes that are not controlled substances, as defined. The bill would have prohibited a medical assistant from removing a foreign body from the eye.

AB 3111
Margett

Physician Assistants

Chapter 1030
Statutes of 1996

Existing law: (1) provides for the licensure of physician assistants by the Physician Assistant Examining Committee (PAEC) which is established within the Medical Board of California (MBC); (2) requires the PAEC to: (a) establish standards for training and education programs for physician assistants and (b) approve physicians and surgeons who meet guidelines established by the committee to supervise physician assistants; and (3) provides that no physician and surgeon shall supervise more than 2 physician assistants.

This statute: (1) allows a physician and surgeon to delegate various orthopaedic medical tasks to individuals who have completed training as orthopaedic physician assistants and who are working under the supervision and direction of a physician and surgeon; (2) exempts from the PAEC's licensure requirements, those assistants who perform only those tasks which may be delegated to them under existing law; (3) defines "orthopaedic physician assistant" to mean an individual who meets all of the following requirements: (a) successful completion of training as an orthopaedic physician assistant from an approved California orthopaedic physician assistant's program in any year between 1971 and 1974, inclusive; (b) continuous experience as an orthopaedic physician assistant upon completion of the approved orthopaedic physician assistant's program, which may include experience in the United States Armed Forces; and (c) successful fulfillment of the certification requirements of the National Board for Certification of Orthopaedic Physician Assistants; and (4) specifies that nothing in these provisions shall authorize any individual to hold himself or herself out as a licensed physician assistant in violation of Section 3503. (B&P C § 2077)

AB 3171
Martinez

Medicine: Continuing Education Requirements

Chapter 382
Statutes of 1996

Existing law requires the Division of Licensing of the Medical Board of California (MBC) to *consider* including continuing education requirements in numerous subject areas.

This statute requires the Division of Licensing to *consider*

including an additional continuing education course in the special care needs of individuals and their families facing certain end-of-life issues. (B&P C § 2191)

AB 3256
Mazzoni

Medicine: HIV Continuing Education

Dropped

Existing law: (1) provides for the licensure and regulation of physicians and surgeons; (2) requires the Medical Board of California (MBC) to adopt and administer standards for continuing education (CE) for physicians and surgeons; and (3) mandates that boards regulating certain professions, including physicians and surgeons, shall *consider* including a requirement for training in the area of assessment and treatment of patients who have or are at risk to be exposed to acquired immune deficiency syndrome (AIDS).

This bill would have: (1) provided that the MBC's Division of Licensing require every physician and surgeon whose practice includes at least 25% in obstetrics and gynecology to receive CE in the physical manifestations of human immunodeficiency virus (HIV) and AIDS; and (2) required the Division of Licensing, in consultation with the Office of AIDS of the State Department of Health Services (DHS) to develop guidelines regarding the type of education required and the number of hours of education required.

SB 890
Leslie

Healing Arts: Medicine and Optometry

Chapter 40
Statutes of 1996
Effective May 3, 1996

Existing law: (1) requires an optometrist who is certified to use therapeutic pharmaceutical agents to ensure that any of his or her patients who receive therapeutic pharmaceutical agent services have access to emergency care 24 hours per day, 7 days per week; and (2) requires a physician and surgeon to ensure that all of the patients for whom he or she is providing care have access to emergency medical care 24 hours per day, 7 days per week.

This statute repeals the above provisions. This statute took effect immediately as an urgency statute. (B&P C §§ 2042 & 3041.3)

SB 1444
Solis

Crimes: Domestic Violence and Sexual Assault

Chapter 1075
Statutes of 1996

Existing law provides that a physician and surgeon's certificate shall be suspended automatically during the time that the holder of the certificate is incarcerated after the conviction of a felony.

Existing law additionally provides a hearing procedure to determine whether the felony was substantially related to the qualifications, functions, or duties of the physician and surgeon for purposes of determining the length of the suspension. Under existing law, specified crimes are conclusively presumed to be substantially related to the qualifications, functions, or duties of a physician and surgeon for these purposes, and a hearing is not required with respect to a conviction for these crimes.

This bill will make numerous changes to existing law relative to domestic violence and sexual assault. Specific to this department, this statute adds Penal Code Section 262 (spousal rape) to the list of crimes that are conclusively presumed to be substantially related to the qualifications, functions, or duties of a physician and surgeon for the purposes of Section 2236.1. The remainder of SB 1444 is not within the purview of the Department of Consumer Affairs. (B&P C § 2236.1)

SB 1592
Rosenthal

Medicine

Chapter 441
Statutes of 1996

Existing law: (1) requires the Medical Board of California (MBC) to create a Committee on Affiliated Healing Arts Professions; (2) requires physicians and surgeons to *immediately* report any change of address to the MBC; and (3) authorizes the Hearing Aid Dispensers Examining Committee (HADEC) to make recommendations to the MBC and requires the MBC to adopt rules and regulations as may be necessary to enable the MBC to carry into effect these provisions.

This statute: (1) deletes the provision which requires the MBC to create a Committee on Affiliated Healing Arts Professions; (2) requires physicians and surgeons, to report each change of address within 30 days to the MBC, and also requires physicians and surgeons to report each change of name to the MBC within 30 days; and (3) deletes the provision requiring the MBC to make and promulgate rules and regulations recommended by the HADEC, and instead authorizes the HADEC to adopt, amend, or repeal, in accordance with the Administrative Procedure Act, regulations necessary to enable the HADEC to effect laws relating to the practice of fitting or selling hearing aids, subject to the review and approval of the MBC. (B&P C §§ 2015, 2021 and 3328)

SB 1665
Thompson

Medicine: Telemedicine

Chapter 864
Statutes of 1996

Existing law: (1) provides that the Medical Practice Act does not apply to any *practitioner* from outside this state, when in actual consultation with a licensed *practitioner* of this state; (2) provides that any practitioner from outside this state shall not open an office, appoint a place to meet patients, or receive calls from patients within the limits of this state; (3) provides for the licensure and regulation of physicians and surgeons; (4) regulates health care service plans, disability insurers, and nonprofit hospital service plans; (5) provides that a violation of the provisions governing health care service plans is subject to criminal sanction; (6) establishes the Medi-Cal Program which provides for health care services for individuals who meet certain financial eligibility criteria; and (7) establishes procedures regarding the maintenance of a patient's medical records and for the patient's access to medical records.

This statute: (1) provides that the Medical Practice Act does not apply to any practitioner located outside this state, when in actual consultation, *whether within this state or across state lines*, with a licensed practitioner of this state; (2) provides that a physician and surgeon located outside this state shall not have ultimate authority over the care of a patient who is located within this state; (3) enacts the "Telemedicine Development Act of 1996"; (4) requires the health care practitioner who has ultimate authority over the care or primary diagnosis of the patient, prior to providing health care services through telemedicine, to obtain the verbal and written informed consent of the patient, and would provide that failure to do so would constitute unprofessional conduct; (5) requires health care service plans, disability insurers, nonprofit hospital service plans, and the Medi-Cal Program to adopt, by July 1, 1997, reimbursement policies to compensate health care providers who provide health care services through telemedicine; and (6) states the Legislative intent that all medical information transmitted through telemedicine be maintained as part of the patient's medical record. (B&P C §§ 2060 & 2290.5; H&S C §§ 1367, 1374.13, 1375.1, & 123149.5; Ins C §§ 10123.13 & 10123.85; and W&I C § 14132.72)

SB 1677
Greene

Healing Arts: Prescribing Drugs or Treatments

Dropped

Existing law: (1) provides that clearly excessive prescribing or administering of drugs or treatment is unprofessional conduct for specified health professionals; and (2) prescribes certain criminal

sanctions for any person who engages in repeated acts of clearly *excessive* prescribing of drugs or treatment.

This bill would have provided that the standard for determining unprofessional conduct with respect to the prescription of controlled substances for relief of pain by a licensed physician and surgeon, shall be the same as the standard for the prescription of controlled substances for intractable pain.

SB 1847
Russell

Physicians and Surgeons: Patient Advice

Chapter 260
Statutes of 1996

Existing law: (1) states that it is the public policy of the state that licensed physicians and surgeons be encouraged to advocate for medically appropriate health care, as defined, for their patients; and (2) provides that the application and rendering of a decision that penalizes a physician and surgeon principally for advocating for medically appropriate health care violates public policy.

This statute prohibits any person from: (1) penalizing a physician and surgeon for advocating for medically appropriate health care for his or her patients; and (2) in any way discouraging a physician and surgeon from communicating information to a patient in furtherance of medically appropriate health care.
(B&P C § 2056)

SB 1990
Watson

Healing Arts

Dropped

Existing Law: (1) authorizes the holder of a physician's and surgeon's certificate to use drugs or devices in or upon human beings and to sever or penetrate the tissues of human beings and to use any and all other methods in the treatment of diseases, injuries, deformities, and other physical and mental conditions; (2) provides that licensing provisions shall not discriminate against any particular school of medicine or surgery, school or college of podiatric medicine, or any other treatment; (3) prohibits the sale, offering for sale, holding for sale, delivery, giving, prescribing, or administering of any drug, medicine, compound, or device to be used in the diagnosis, treatment, alleviation, or cure of cancer unless federal or state approval has been granted; (4) prohibits false advertisement regarding any food, drug, device, or cosmetic; (5) prohibits any advertisement that a drug or device has any effect on certain conditions; and (6) excludes from the prohibitions in 4 and 5, above: (a) any advertisement disseminated only to members of certain healing arts professions and (b) any advertisement that appears only in scientific periodicals of those professions or disseminated only

for the purpose of public health education by persons not commercially interested in the drug or device.

This bill would have: (1) included diagnoses within the provision in (1) of "existing law", above, and would have provided that the authorized methods include conventional or nonconventional methods; (2) precluded licensing provisions from preventing the use of any system, method, or mode of treatment, whether conventional or nonconventional, that has been shown to be effective, and consistent with the patient's informed consent; (3) required that in the investigation of complaints involving issues of specialty clinical practice, or issues of nonconventional clinical practice, experts in the specialty or nonconventional practice be consulted; (4) required health care licensees to keep in their possession all patient and treatment records for 7 years, and would limit responsibility for records in related proceedings to those records; (5) required certain disclosures to be given to health care patients by physicians and surgeons and primary care practitioners who elect to provide nonconventional health care services; (6) deleted the treatment or alleviation of cancer from the prohibition in (3) of "existing law," above; and (7) provided that the prohibition in (5) of "existing law," above, shall not apply to accurate and truthful reporting by a health care licensee of the results of a licensee's administration of a medical treatment in a medical or scientific journal, or at professional seminars, conventions, or meetings, if the reporting licensee has no financial interest in the wholesale of the drug or device.

SB 2059
Johnson

Orthotic Devices

Dropped

Existing law regulates the practice of medicine and provides that it is a misdemeanor for any person to violate certain general provisions regulating the practice of medicine.

This bill would have made it a misdemeanor for any person to advertise an orthotic device for the treatment, cure, or relief of specific disorders of the human body.

SB 2081
Leslie

Medicine

Dropped

Existing law, the Medical Practice Act, provides that a medical assistant may perform technical supportive services upon the specific authorization and supervision of a licensed physician and surgeon, or licensed podiatrist. Existing law defines technical supportive services, in part, as simple routine medical tasks and procedures that may be safely performed by a medical assistant

with limited training.

This bill would have revised this definition to expressly include simple routine functions and services.

SB 2098
Kopp

Medicine

Chapter 902
Statutes of 1996

Existing law: (1) requires every entry of judgment, settlement agreement, or arbitration award over \$30,000 of a claim or action for damages for death or personal injury caused by the negligence, error or omission in practice or the unauthorized rendering of professional services, by a physician and surgeon or doctor of podiatric medicine or osteopath, when that judgment, settlement agreement, or arbitration award is entered against, or paid by, the employer of that licensee, to be reported to the appropriate board; and (2) requires any person who practices medicine to obtain a license from the Medical Board of California (MBC) and authorizes the MBC to take action against any licensee who is charged with unprofessional conduct.

This statute: (1) includes awards in any claim or action *alleging* the negligence, error, omission, or unauthorized practice within the requirement in (1) of "existing law", above; (2) authorizes the MBC to develop a proposed registration program that would, if implemented, permit a physician and surgeon or doctor of podiatric medicine located outside this state to practice medicine or podiatric medicine across state lines, subject to certain requirements, including the payment of fees; and (3) provides that upon implementation of the proposed registration program, the practice of medicine from this state into another state or country without meeting the legal requirements of that state or country for the practice of medicine would constitute unprofessional conduct. (B&P C §§ 803.2, 2052.5 & 2234)

(21) Board of Nursing Home Administrators

AB 3473
Morrissey

Department of Consumer Affairs: Omnibus Bill

Chapter 829
Statutes of 1996

Existing law designates the practice act of the Board of Nursing Home Administrators as the "Nursing Home Administrator's Licensing Act."

This statute deletes the word "Licensing" from the title of the act. (B&P C § 3901)

(22) Board of Optometry

AB 1969
Isenberg

Optometry

Dropped

Existing law defines the practice of optometry and authorizes the State Board of Optometry (Board) to examine and license optometrists and to regulate optometric practice. Under existing law the practice of optometry includes, among other things, the examination of the human eye or its appendages; the analysis of the human vision system, either subjectively or objectively; the determination of the powers or range of human vision; and the use of topical agents for the sole purpose of examination of the human eye.

This bill would have permitted optometrists to use pharmaceuticals for examining and treating the human eye or its appendages and adnexa for any disease or pathological condition. It would have authorized an optometrist to write a prescription and to furnish drugs and devices under certain conditions, which is similar to the authority for dentists, podiatrists, and veterinarians. (See also SB 510.)

AB 2212
Tucker

Optometry

Dropped

Existing law provides for the regulation of the practice of optometry and requires each optometrist to have a license for his or her office or other place where he or she practices optometry. Existing law also requires an optometrist to have a branch office license for each additional office or other place where the optometrist practices optometry.

This bill would have provided that any licensed optometrist who has an office for his or her regular practice of optometry may operate a nonprofit mobile office, without any additional license or certificate if the mobile office exclusively provides optometric care that is free of charge for all persons who receive the care from the mobile office.

AB 2478
Murray, K.

Schools: Solicitations by Licensed Optometrists

Chapter 83
Statutes of 1996

Existing law prohibits a licensed dentist who provides voluntary dental health screening programs for pupils on school premises from soliciting a pupil, or the pupil's parent or guardian, or encouraging, or advising treatment or consultation for the pupil by

the licensed dentist, or any entity in which the licensed dentist has a financial interest, for any condition discovered in the course of the dental health screening.

This statute extends the prohibition in existing law with respect to licensed dentists to also include licensed optometrists.
(Ed C § 51520)

AB 2771
Alpert

Optometry

Chapter 328
Statutes of 1996

Existing law: (1) requires an optometrist to renew his or her license by January 31 of each year; (2) provides for a fee not to exceed \$150 for the annual renewal of registration; and (3) requires the Director of the Department of Consumer Affairs to pay \$8 from each optometrist's annual renewal fee to the University of California, for a specified purpose.

This statute: (1) provides that an optometrist's license must be renewed every two years; (2) specifies that the optometrist's license will expire at 12 p.m. on the last day of his or her birth month following its original issuance and thereafter at 12 p.m. on the last day of the licensee's birth month every two years; (3) specifies that the biennial renewal fee shall not exceed \$300; and (4) **requires the Director of the Department of Consumer Affairs to pay \$16 from each optometrist's biennial renewal fee to the University of California, for a specified purpose.**
(B&P C §§ 3146, 3148 & 3152)

SB 510
Maddy

Optometry

Dropped

Existing law defines the practice of optometry and authorizes the State Board of Optometry to examine and license optometrists and to regulate optometric practice. Under existing law the practice of optometry includes the examination of the human eye or its appendages; the analysis of the human vision system, either subjectively or objectively; the determination of the powers or range of human vision; and the use of topical agents for the sole purpose of examination of the human eye.

This bill would have permitted optometrists to use pharmaceuticals for examining and treating the human eye or its appendages for any disease or pathological condition. It would authorize an optometrist to write a prescription and to furnish drugs and devices under certain conditions, which is similar to the authority for dentists, podiatrists, and veterinarians. (See also AB 1969.)

SB 563
Calderon

Optometry: Ancillary Personnel

Dropped

Existing law provides that it is unlawful for a person to engage in the practice of optometry without first obtaining a certificate of registration from the State Board of Optometry.

This bill would have authorized ancillary personnel who work under the supervision of an optometrist to assist in the preparation of the patient and the preliminary collection of data. The bill would have prohibited an optometrist from permitting ancillary personnel to collect data requiring the exercise of professional judgment or skill of an optometrist, including performing any subjective refraction procedures, contact tonometry, or data analysis, or prescribing and determining any treatment plan.

SB 668
Polanco

Optometry

Chapter 13
Statutes of 1996
Effective February 20, 1996

Existing law: (1) provides for the licensure and regulation of approximately 7500 optometrists by the State Board of Optometry (Board); (2) defines the practice of optometry; and (3) requires a licensed optometrist, as a condition of license renewal, to complete 20 hours of formal continuing optometric education (CE) annually.

This statute provides for: (1) the certification of optometrists to diagnose and treat specified conditions of the human eye or its appendages; (2) the use of specified types or classes of therapeutic pharmaceutical agents (TPAs) by optometrists; and (3) the use of specified procedures by optometrists. The statute excludes from the practice of optometry: (1) surgery, as defined, that is not specifically authorized by the bill; and (2) the treatment of children under one year of age with therapeutic pharmaceutical agents. The statute requires specified education, training, and examination of optometrists in order to obtain the Board certification, and **requires the Board to issue a certificate to applicants who meet these prescribed requirements.** This statute took effect immediately as an urgency statute. (B&P C §§ 2042, 2266, 3026.5, 3027.5, 3041, 3041.1, 3041.2, 3041.3, 3059, 3096.5, 3108, 3109, 3152.5, 4033, 4036, 4049, 4051 and 4052)

SB 890
Leslie

Healing Arts: Medicine and Optometry

Chapter 40
Statutes of 1996
Effective May 3, 1996

Existing law: (1) requires an optometrist who is certified to use therapeutic pharmaceutical agents to ensure that any of his or her patients who receive therapeutic pharmaceutical agent services

have access to emergency care 24 hours per day, seven days per week; and (2) requires a physician and surgeon to ensure that all of the patients for whom he or she is providing care have access to emergency medical care 24 hours per day, seven days per week.

This statute repeals the above provisions. This statute took effect immediately as an urgency statute. (B&P C §§ 2042 & 3041.3)

SB 1536
Lewis

Optometry

Chapter 312
Statutes of 1996
Effective July 29, 1996

Existing law: (1) requires any optometrist who has an office for the practice of optometry to be registered to practice optometry; (2) requires any optometrist who has more than one office to have a branch office license for each additional office; and (3) requires that an optometrist be in personal attendance at each of his or her offices 50% of the time during which such office is open for the practice of optometry.

This statute: (1) provides that an optometrist shall not be deemed to have an additional office solely by reason of the optometrist's participation in an individual practice association (IPA), as defined; (2) provides that an IPA shall not be deemed to have an additional office solely by reason of the IPA's creation or operation; and (3) provides that it shall not be construed to exempt an optometrist who is a member of an IPA and who practices optometry in more than one physical location, from the requirement of obtaining a branch office license for each of those locations. This statute took immediate effect as an urgency statute. (B&P C § 3077)

(23) Board of Pharmacy

AB 2802
Granlund

Pharmacy

Chapter 890
Statutes of 1996

Existing law authorizes the Board of Pharmacy to license and regulate pharmacists, pharmacy technicians, pharmacies, non-resident pharmacies, wholesale distributors, wholesale exemptees, out-of-state distributors, clinics, medical device retailers, veterinary food animal drug retailers, and hypodermic needle and syringe distributors.

This bill repeals the existing pharmacy law and reenacts a revised and reorganized version of the law. This bill does not change any substantive requirements or restrictions and declares that it is the

intent of the Legislature that the provisions of this bill be construed as a continuation of the current version of the pharmacy law. (B&P C §§ 2078, 4001, 4003, 4115, 4324, 4336 & 4365; and Ch 9, Div 2 [§§ 4000 et seq.]

AB 2925
Battin

Pharmacy: Pharmacy Technicians

Dropped

Existing law defines a pharmacy technician as an individual who assists and is under the direct supervision of a registered pharmacist.

This bill would have allowed general acute care hospitals to use pharmacy technicians to check the work of other pharmacy technicians if specified requirements were met by the pharmacy technician and the hospital. Specifically, this bill would have authorized pharmacy technicians to check unit dose cassettes and floor and ward stocks filled by other pharmacy technicians.

SB 922
Mello

Pharmacy

Dropped

Existing law requires the Board of Pharmacy to adopt regulations that apply the same requirements or standards for oral consultation to certain out-of-state pharmacies as applied to certain in-state-pharmacies, and precludes the regulations from resulting in any unnecessary delay in patients receiving their medication.

This bill would have provided that the regulations should not result in any unnecessary expense to the patients receiving their medication.

SB 959
Mello

Pharmacy

Dropped

Existing law provides for the licensing and regulation of pharmacists by the Board of Pharmacy.

This bill would have stated legislative intent to prohibit pharmacists from receiving compensation for dispensing prescription drugs beyond a predetermined fee established by the patient's insurer.

SB 1537
Kelley

Pharmacist: Performing Tests

Chapter 113
Statutes of 1996

Existing law: (1) provides for the licensing and regulation of pharmacists by the Board of Pharmacy; and (2) prohibits a

person from performing a clinical laboratory test or examination classified as "waived" (simple or low risk) or "moderate complexity" under the federal Clinical Laboratory Improvement Amendments of 1988, unless the clinical laboratory test or examination is performed under the overall operation and administration of the laboratory director.

This bill adds a pharmacist who orders drug therapy related laboratory tests as specified in the pharmacy law, to the list of persons authorized to perform a "waived" or "moderate complexity" clinical laboratory test or examination.
(B&P C § 1206.5)

SB 1553
Kelley

Pharmacy: Pharmacy Technicians

Chapter 798
Statutes of 1996

Existing law: (1) defines a pharmacy technician as an individual who assists and is under the direct supervision of a registered pharmacist; (2) requires pharmacy technicians be registered by the Board of Pharmacy (Board); and (3) exempts pharmacy technicians who assist in filling prescriptions for an inpatient of a hospital or for an inmate of a correctional facility from the Board's registration requirements.

This bill: (1) provides that effective July 1, 1997, pharmacy technicians who assist in filling prescriptions for inpatients of a hospital or for inmates in a correctional facility, will be required to be registered with the Board; (2) provides that pharmacy technicians who assist in the filling of prescriptions for an inpatient of a hospital or for an inmate of a correctional facility would not be subject to the direct supervision and control requirements; and (3) exempts pharmacy technicians who work in correctional facilities from the registration requirements during their first year of employment. (B&P C §§ 4008.5 & 4115)

SJR 23
Dills

Pharmaceutical Price Controls

Dropped

This resolution would have memorialized the President and the Congress to enact legislation encouraging pharmaceutical companies to eliminate price inequities so that the cost of prescription drugs in the United States is comparable to that in Canada and Mexico and, if the voluntary program fails, to impose mandatory price controls.

(24) Physical Therapy Board

AB 3473
Morrissey

Department of Consumer Affairs: Omnibus Bill

Chapter 829
Statutes of 1996

This statute changes the name of the Physical Therapy Examining Committee to the Physical Therapy Board. (Affects numerous sections of B&P C § 2600 et seq.)

SB 1962
O'Connell

Physical and Respiratory Therapy

Chapter 830
Statutes of 1996

Existing law: (1) provides for the licensure and regulation of approximately 17,900 physical therapists, and approval and regulation of approximately 3,900 physical therapist assistants by the Physical Therapy Examining Committee of California (PTEC); (2) provides that a violation of the laws governing the practice of physical therapy is subject to criminal sanction and disciplinary action by the PTEC; (3) provides for the licensure and regulation of respiratory care practitioners by the Respiratory Care Board of California (RCB); (4) requires that the renewal fee for a respiratory care license be established by the RCB at not more than \$200; (5) provides for an inactive license for a respiratory care practitioner; and (6) requires the RCB to establish the application and renewal fee for an inactive license in an amount not to exceed \$150.

This statute: (1) establishes requirements for physical therapist patient records; (2) authorizes a graduate of an approved physical therapist education program to perform as a physical therapist license applicant pending the result of the licensing examination; (3) authorizes a person holding an approval as a physical therapist assistant to use the title "physical therapist assistant," "physical therapy assistant," or the letters "P.T.A." or any other words, letters, or figures that indicate the person is an approved physical therapy assistant; (4) requires a physical therapist assistant to be subject to approval instead of licensure; (5) requires applicants for approval as a physical therapist assistant to demonstrate knowledge of the laws and regulations governing the practice of physical therapy by passing an examination that reasonably tests the applicant's knowledge of these laws and regulations; (6) authorizes a graduate of an approved physical therapist assistant education program to perform as a physical therapist assistant applicant pending the results of the examination; (7) specifies that an applicant may only qualify once to perform as a physical therapist license applicant or a physical therapist assistant applicant; (8) provides that a person

whose license or approval has been revoked or suspended or who has been placed on probation, may petition the PTEC for reinstatement or modification of the penalty, after specified minimum periods of time have elapsed from the decision ordering the disciplinary action; (9) increases certain application, licensure, approval, and renewal fees for physical therapists and physical therapist assistants; and (10) requires the fee for an inactive respiratory care practitioner license to be the same as the renewal fee for the license to practice respiratory care. (B&P C §§ 2620.7, 2636.5, 2639, 2640, 2655.4, 2655.11, 2655.71, 2655.91, 2655.93, 2661.7, 2688 & 3775.5)

(25) Physician Assistant Examining Committee

**AB 753
Morrow**

Physician Assistants

**Chapter 454
Statutes of 1996**

Existing law provides for the licensure of podiatrists, physicians and surgeons, and physician assistants by the Board of Podiatric Medicine, the Medical Board of California, and the Physician Assistant Examining Committee, respectively. Under existing law, a licensed physician assistant may perform certain prescribed services under the supervision of a licensed physician and surgeon provided the physician and surgeon is approved to supervise the physician assistant by the Medical Board of California or the Osteopathic Medical Board of California.

This statute authorizes a physician assistant performing medical services under the supervision of a physician and surgeon to assist a podiatrist who is a partner, shareholder, or employee in the same medical group as the supervising physician and surgeon. The statute requires a physician assistant to assist a doctor of podiatric medicine according to patient-specific orders from the supervising physician and surgeon; requires the supervising physician and surgeon to be physically available to the physician assistant for consultation when assistance is provided; and provides that the physician assistant assisting the podiatrist shall be limited to performing those duties included within the scope of practice of the podiatrist. (B&P C §§ 3500, 3502 & 3503)

(26) Board of Podiatric Medicine

**AB 753
Morrow**

Podiatrist Assistants

**Chapter 454
Statutes of 1996**

Existing law provides for the licensure of podiatrists, physicians and surgeons, and physician assistants by the Board of Podiatric

Medicine, the Medical Board of California, and the Physician Assistant Examining Committee, respectively. Under existing law, a licensed physician assistant may perform certain prescribed services under the supervision of a licensed physician and surgeon provided the physician and surgeon is approved to supervise the physician assistant by the Medical Board of California or the Osteopathic Medical Board of California.

This statute authorizes a physician assistant performing medical services under the supervision of a physician and surgeon to assist a podiatrist who is a partner, shareholder, or employee in the same medical group as the supervising physician and surgeon. The statute requires a physician assistant to assist a doctor of podiatric medicine according to patient-specific orders from the supervising physician and surgeon; requires the supervising physician and surgeon to be physically available to the physician assistant for consultation when assistance is provided; and provides that the physician assistant assisting the podiatrist shall be limited to performing those duties included within the scope of practice of the podiatrist. (B&P C §§ 3500, 3502 and 3503)

AB 3111
Margett

Physician Assistants

Chapter 1030
Statutes of 1996

Existing law: (1) provides for the licensure of physician assistants by the Physician Assistant Examining Committee (PAEC) which is established within the Medical Board of California (MBC); (2) requires the PAEC to: (a) establish standards for training and education programs for physician assistants and (b) approve physicians and surgeons who meet guidelines established by the PAEC to supervise physician assistants; and (3) provides that no physician and surgeon shall supervise more than two physician assistants.

This statute (1) allows a physician and surgeon to delegate various orthopaedic medical tasks to individuals who have completed training as orthopaedic physician assistants and who are working under the supervision and direction of a physician and surgeon; (2) exempts from the PAEC's licensure requirements, those assistants who perform only those tasks which may be delegated to them under existing law; (3) defines "orthopaedic physician assistant" to mean an individual who meets all of the following requirements: (a) successful completion of training as an orthopaedic physician assistant from an approved California orthopaedic physician assistant's program in any year between 1971 and 1974, inclusive; (b) continuous experience as an

orthopaedic physician assistant upon completion of the approved orthopaedic physician assistant's program, which may include experience in the United States Armed Forces; and (c) successful fulfillment of the certification requirements of the National Board for Certification of Orthopaedic Physician Assistants; (4) specifies that nothing in its provisions shall authorize any individual to hold himself or herself out as a licensed physician assistant in violation of Section 3503. (B&P C § 2077)

AB 3473
Morrissey

Department of Consumer Affairs: Omnibus Bill

Chapter 829
Statutes of 1996

Existing law requires the Board of Podiatric Medicine (BPM) to meet at least once a year in the counties of Sacramento, Los Angeles, and San Francisco, and allows the BPM to convene other meetings as necessary.

This statute instead authorizes the BPM to "convene from time to time as it deems necessary." Existing law also restricts when applicants who have failed the podiatrist licensing examination may re-take the examination. This statute repeals that provision because it conflicts with B&P C § 135, which prohibits boards and other entities under the Department of Consumer Affairs from imposing any limitations upon applicants who want to re-take an examination. (B&P C §§ 2467 & 2490)

SB 2098
Kopp

Medicine

Chapter 902
Statutes of 1996

Existing law: (1) requires every entry of judgment, settlement agreement, or arbitration award over \$30,000 of a claim or action for damages for death or personal injury caused by the negligence, error or omission in practice or the unauthorized rendering of professional services, by a physician and surgeon or doctor of podiatric medicine or osteopath, when that judgment, settlement agreement, or arbitration award is entered against, or paid by, the employer of that licensee, to be reported to the appropriate board; (2) requires any person who practices medicine to obtain a license from the Medical Board of California (MBC) and authorizes the MBC to take action against any licensee who is charged with unprofessional conduct.

This statute: (1) includes awards in any claim or action *alleging* the negligence, error, omission, or unauthorized practice within the requirement in (1) of "existing law," above; (2) authorizes the MBC to develop a proposed registration program that would, if implemented, permit a physician and surgeon or doctor of

podiatric medicine located outside this state to practice medicine or podiatric medicine across state lines, subject to certain requirements, including the payment of fees; (3) provides that upon implementation of the proposed registration program, the practice of medicine from this state into another state or country without meeting the legal requirements of that state or country for the practice of medicine would constitute unprofessional conduct. (B&P C §§ 803.2, 2052.5 & 2234)

(27) Board of Psychology

**AB 944
Gallegos**

Health Facilities: Staff Privileges of Clinical Psychologists

**Failed
Assembly Health**

Existing law provides for the licensure and regulation of health facilities by the State Department of Health Services.

This bill would have required the rules of a health facility to include provisions for the use of the facility by, and staff privileges for, duly licensed clinical psychologists. The bill would also have required that every patient who is admitted to a health facility by a clinical psychologist undergo a complete history and physical examination.

**AB 3141
Gallegos**

Health Facilities: Clinical Psychologists

**Chapter 826
Statutes of 1996**

Existing law provides for the licensure and regulation of health facilities by the State Department of Health Services.

This statute requires a state owned and operated health facility to establish rules and regulations for consideration of applications submitted by clinical psychologists for medical staff membership and clinical privileges in such facility. (H&S C § 1316.5)

**AB 3188
House**

Psychology

**Chapter 661
Statutes of 1996**

Existing law provides that it shall not be construed to restrict or prevent activities of a psychological nature on the part of persons who are salaried employees of accredited or approved academic institutions or public schools.

This statute requires salaried employees of any school district, who administer psychological testing or engage in activities of a psychological nature, to possess a valid and current credential as a school psychologist issued by the Commission on Teacher

Credentialing or act under the supervision of a credentialed school psychologist. This statute also requires that individually administered tests of intellectual or emotional functioning be administered only by a credentialed school psychologist. (Ed C §§ 49422 & 56320)

SB 777
Polanco

Psychologists: Prescribing Drugs

Dropped

Existing law provides for the regulation of psychologists by the Board of Psychology and defines the practice of psychology. Existing law also excludes the prescribing of drugs from the practice of psychology.

Among other things, this bill would have required the Board of Psychology to establish and administer a certification program to grant licensed psychologists prescriptive authority for certain drugs and would have required each applicant for certification to satisfy specific education and training requirement.

(28) Board of Registered Nursing

AB 1077
Hannigan

Nursing

Chapter 455
Statutes of 1996

Existing law provides that under the supervision of a physician and surgeon, nurse practitioners (NPs) certified by the Board of Registered Nursing (Board) may furnish drugs (excluding controlled substances) and devices to essentially healthy persons in specific settings. As a condition for furnishing drugs and devices, the NP is issued a furnishing number by the Board which indicates that the NP has completed specific training and educational requirements.

This statute: (1) authorizes NPs certified by the Board to furnish drugs and devices, in accordance with standards or protocols established and approved by the NP and supervising physician and surgeon; (2) allows NPs to furnish drugs or devices to essentially healthy persons in a broader range of settings; (3) allows NPs to furnish Schedule III through Schedule V controlled substances under the Uniform Controlled Substances Act, but requires that Schedule III controlled substances may only be furnished according to protocol that is patient-specific and approved by the treating or supervising physician and surgeon; (4) requires that a copy of the NP's standardized procedure relating to controlled substances be provided upon

request to any licensed pharmacist who dispenses drugs and devices; and (5) defines the term "furnishing" for purposes related to the provisions of this statute. (B&P C § 2836.1)

AB 1176
Cunneen

Registered Nurses: Clinical Nurse Specialists

Dropped

Existing law requires the Board of Registered Nursing (Board) to examine, license and regulate registered nurses and to certify the following advanced practices: (1) nurse anesthetists; (2) nurse midwives; and (3) nurse practitioners.

This bill would have prohibited any person from declaring himself/herself a certified nurse specialist (CNS) unless s/he was a registered nurse licensed by the Board and met the standards for a CNS. This bill would have charged the Board with establishing, implementing and enforcing the CNS titling act.

SB 638
Alquist

Healing Arts: Point-Of-Care Laboratory Testing

Failed
Assembly
Appropriations

Existing law: (1) defines the scope of practice for registered nurses; (2) authorizes the Board of Registered Nursing to examine, license and regulate registered nurses; and (3) authorizes the Department of Health Services to license and regulate clinical laboratories and laboratory technologists.

This bill would have: (1) authorized registered nurses, nurse anesthetists, nurse midwives, or nurse practitioners, along with other health care personnel providing direct patient care, to use point-of-care laboratory testing devices in a health care facility or in a location where a laboratory license or registration has been issued; (2) defined a point-of-care laboratory testing device; (3) clarified the meaning of health care personnel; (4) identified the health care personnel required to demonstrate their competency in using the testing device; and (5) described the required components of the program that would determine the competency of personnel.

SB 1738
Wright

Nursing: Nurse-Midwives

Chapter 158
Statutes of 1996
Effective July 11, 1996

Existing law requires the Board of Registered Nursing to license and regulate certified nurse-midwives (CNMs) and provides that CNM is not authorized to practice medicine and surgery, but is allowed to perform certain functions under the supervision of a physician and surgeon.

This statute broadens the scope of practice for CNMs by allowing them to perform and repair episiotomies and to repair first-degree and second-degree lacerations of the perineum in a licensed acute care hospital or a licensed alternative birthing center if the following conditions are met: (1) the CNM's supervising physician and surgeon and backup physician and surgeon are credentialed to perform obstetrical care in the facility; (2) the episiotomies are performed according to protocols developed and approved by the supervising physician, the CNM, the director of the obstetrics or family practice department (or an equivalent person), the facility administrator and, if applicable, the interdisciplinary practices committee; and (3) the protocols contain procedures to ensure that all complications are referred immediately to a physician and surgeon, ensure immediate care of patients in need of care beyond the CNM's scope of practice and establish the number of CNMs that a supervising physician and surgeon may supervise. (B&P C § 2746.52)

(29) Respiratory Care Board

SB 1962
O'Connell

Physical and Respiratory Therapy

Chapter 830
Statutes of 1996

Existing law: (1) provides for the licensure and regulation of approximately 17,900 physical therapists, and approval and regulation of approximately 3,900 physical therapist assistants by the Physical Therapy Examining Committee of California (PTEC); (2) provides that a violation of the laws governing the practice of physical therapy is subject to criminal sanction and disciplinary action by the PTEC; (3) provides for the licensure and regulation of respiratory care practitioners by the Respiratory Care Board of California (RCB); (4) requires that the renewal fee for a respiratory care license be established by the RCB at not more than \$200; (5) provides for an inactive license for a respiratory care practitioner; and (6) requires the RCB to establish the application and renewal fee for an inactive license in an amount not to exceed \$150.

This statute: (1) establishes requirements for physical therapist patient records; (2) authorizes a graduate of an approved physical therapist education program to perform as a physical therapist license applicant pending the result of the licensing examination; (3) authorizes a person holding an approval as a physical therapist assistant to use the title "physical therapist assistant," "physical therapy assistant," or the letters "P.T.A." or any other words, letters, or figures that indicate the person is an approved

physical therapy assistant; (4) requires a physical therapist assistant to be subject to approval instead of licensure; (5) requires applicants for approval as a physical therapist assistant to demonstrate knowledge of the laws and regulations governing the practice of physical therapy by passing an examination that reasonably tests the applicant's knowledge of these laws and regulations; (6) authorizes a graduate of an approved physical therapist assistant education program to perform as a physical therapist assistant applicant pending the results of the examination; (7) specifies that an applicant may only qualify once to perform as a physical therapist license applicant or a physical therapist assistant applicant; (8) provides that a person whose license or approval has been revoked or suspended or who has been placed on probation, may petition the PTEC for reinstatement or modification of the penalty, after specified minimum periods of time have elapsed from the decision ordering the disciplinary action; (9) increases certain application, licensure, approval, and renewal fees for physical therapists and physical therapist assistants; and (10) requires the fee for an inactive respiratory care practitioner license to be the same as the renewal fee for the license to practice respiratory care. (B&P C §§ 2620.7, 2636.5, 2639, 2640, 2655.4, 2655.11, 2655.71, 2655.91, 2655.93, 2661.7, 2688 & 3775.5)

(30) Bureau of Security and Investigative Services

AB 53
Murray, W

Concealed Weapons Permits

Dropped

Existing law provides for the issuance of concealed weapons licenses by local law enforcement agencies to residents of the county in which the agency has jurisdiction.

This bill would have authorized the Director of the Department of Consumer Affairs to issue concealed firearms permits to certain licensees of the Bureau of Security and Investigative Services including private investigators, private security services licensees and alarm company operators. A Concealed Weapons Permit Board consisting of law enforcement representatives would be created by this bill to review applications and make recommendations to the Director. The bill would have exempted permit holders from the existing prohibitions against carrying a firearm at public meetings, in certain state buildings and on school grounds.

AB 581
Hoge

Security Services: Peace Officer Exemption

Dropped

Existing law requires persons working in various security services professions to pass training specified by the Bureau of Security and Investigative Services in order to become licensed by the Bureau. Active duty peace officers are exempt from these requirements.

This bill would have clarified exemptions for peace officers from training and qualifications required of security services professionals in the use of firearms and powers to arrest.

AB 655
McPherson

Private Investigators: Subpoenas

Dropped

Existing law prohibits private investigators from issuing subpoenas.

This bill would have authorized court-appointed private investigators to issue subpoenas to gather information on behalf of a defendant. The bill would also have provided that private investigators are learned professionals.

AB 2645
Morrissey

Security Services: Firearms

Chapter 734
Statutes of 1996

Existing law requires persons licensed by the Bureau of Security and Investigative Services (BSIS) to obtain a permit to carry a firearm in the course of business or employment for which he or she is licensed. Existing law requires investigation and screening as a condition of issuance of the firearms permit. The firearms permit is issued for a period of one year.

This statute authorizes the firearms permit to be renewed biennially and adjusts renewal fees to reflect the longer period. The statute also authorizes the submission of fingerprints to the U.S. Federal Bureau of Investigation for any applicant when determining firearms eligibility. **BSIS will need to adjust its data system and licensing procedures to comply with this statute.** (B&P C §§ 7583.32, 7588, 7596.7 & 7599.70; Pen C § 12001)

AB 2651
Hawkins

Security Officers

Chapter 143
Statutes of 1996

Existing law establishes various categories of peace officers and other public officers, and specifies their duties and powers. Existing law requires persons performing the duties of a security guard for a private patrol operator to be licensed with the Bureau of Security and Investigative Services (BSIS).

This statute authorizes county sheriffs to employ sheriff's security officers to provide security at county facilities. The sheriff's security officer is authorized to possess a firearm and other weapons and may issue citations, but may not exercise the powers of arrest. The sheriff's security officer is exempt from registration with the BSIS and all training requirements imposed by the BSIS. (Pen C §§ 831.4 & 12002)

AB 3064
Hawkins

Commission on Peace Officer Standards and Training

Chapter 591
Statutes of 1996

Existing law requires the Commission on Peace Officer Standards and Training (POST) to adopt rules establishing the minimum standards relating to the recruitment and training of local law enforcement public safety dispatchers. Existing law requires the POST to develop a law enforcement accreditation program by July 1, 1996.

This statute requires the POST to establish by December 31, 1997, a certification program for law enforcement records supervisors. This statute provides the POST is not required to establish a law enforcement certification program until funding for this program is approved by the Legislature. This bill was amended to transfer authority to approve the course of training for the use of tear gas by security guards from the POST to the Department of Consumer Affairs. That provision was later removed. (Pen C §§ 13510.3 & 13551)

SB 263
Kelley

Public Funds: Accounts Receivable

Dropped

Existing law provides consumers specific protections and rights to which debt collectors must adhere. Existing law also authorizes local government to assign debt to private debt collectors under certain circumstances.

This bill would have required out-of-state debt collectors, doing business in California, to maintain an office in this state and would have limited the bond required of debt collectors by

private agencies to 150 percent of the money due during an average two-month period. (Gov C § 16588)

SB 1375
Peace

Security Services and Public Employment

Chapter 710
Statutes of 1996

Existing law requires private security professionals to be registered by the Bureau of Security and Investigative Services (BSIS) and complete training in the use of firearms and powers of arrest. Peace officers who work for a private employer off-duty as a security professional are exempt from registration and training requirements. Existing law provides that the violation for an unlicensed private investigator or private patrol operator is a misdemeanor punishable by a fine of up to \$1,000 and/or imprisonment. Existing law prohibits law enforcement officers from engaging in off-duty employment that is noncompatible with their duties as an officer. The employing agency is authorized to determine compatible outside employment.

This statute requires peace officers who are employed as armed security guards to be licensed with the BSIS. This statute increases the maximum fine for a conviction as an unlicensed private investigator or private patrol operator to \$10,000 and the penalty for knowingly hiring an unlicensed investigator or patrol operator to \$5,000. This statute provides that a person convicted of unlicensed activity as a private investigator or private patrol operator is prohibited from being issued a license for one year, increasing to five years for subsequent violations. This statute also requires local law enforcement agencies to adopt rules regarding outside employment by its peace officers and provides that the determination of outside employment that is incompatible with a peace officer's duties may not be part of a collective bargaining agreement. **This bill will result in additional workload for the BSIS licensing and enforcement divisions to ensure compliance with registration requirements by previously exempt peace officers.** (B&P C §§ 7522, 7522.1, 7523, 7523.5, 7582.2, 7582.3, 7582.4, 7583.6 & 7583.22; Gov C § 1126)

SB 1456
Kelley

Repossessors

Chapter 624
Statutes of 1996

Existing law provides for the licensure and regulation of repossessors and repossession agencies.

This statute (1) deletes the obsolete requirement that a reposessor acting as a debt collector conform with the repealed Debt

Collectors Act; (2) requires written authorization from a repos-
sessor to release property recovered from property covered by a
security interest to anyone other than the debtor consumer; and
(3) changes the terms "consumer" and "registered owners" to
"debtors" throughout the Collateral Recovery Act. **This bill
creates an additional cause for disciplinary action for the
Bureau of Security and Investigative Services.** (B&P C §§
7500.1, 7501.7, 7507.4, 7507.9, 7507.10, 7507.13, 7508.2 and
7508.3)

SB 2105
Hayden

Vehicles: Tow Truck Operators

Dropped

Existing law authorizes local authorities to adopt rules and re-
gulations regarding the licensing and regulation of tow truck
drivers whose principal place of business is within the juris-
diction of the local authority.

This bill would have made tow truck operators who provide
service within the jurisdiction of the local authority subject to
licensing and regulation.

(31) Speech-Language Pathology and Audiology Examining Committee

SB 1573
Rogers

Speech Language Pathology and Audiology

Dropped

Existing law: (1) provides for the licensure of speech-language
pathologists and the licensure of audiologists; (2) prohibits the
practice of speech-language pathology without a license; and (3)
defines the practice of audiology to include, among other
activities, the planning, directing, conducting, supervising, or
participating in programs of identification of auditory disorders,
hearing conservation, aural habilitation, and rehabilitation.

This bill would have included planning, directing, conducting,
supervising, or participating in programs of cerumen manage-
ment within the definition of the practice of audiology.

(32) Structural Pest Control Board

AB 3286
Miller

Pest Control

Dropped

Existing law requires structural pest control companies to
provide the owner and tenant with a written notice advising of
the work to be done, including the pesticide or pesticides to be

used, specified warnings, and telephone numbers for information or emergency numbers in case of exposure to chemicals. This notice may be given by mail, by posting or by personal delivery.

This bill would have required the notice to be posted in a conspicuous place at the site of fumigation. In the case of Branch 2, Branch 3 or wood roof cleaning and treatment registered company applications, the notice would have been required to be given to the owner or owner's agent and tenant by first-class mail, posting in a conspicuous place on the property, or personal delivery.

AB 3473
Morrissey

Department of Consumer Affairs: Omnibus Bill

Chapter 829
Statutes of 1996

Existing law authorizes the Structural Pest Control Board (SPCB) to suspend a license or levy a fine for violations of the act or the SPCB's regulations. This statute authorizes the SPCB to deny renewal or withhold service to a licensee or registered company that fails to comply with an order of suspension or pay a fine within 30 days, unless the citation is being contested. (B&P C §§ 8617 & 8656)

Existing law (the Budget Act of 1995) also requires the SPCB to enact legislation prohibiting licensees from recommending or performing pest control corrective work in excess of that required to eliminate the condition. **This statute enacts that prohibition.** A violation would be a misdemeanor, punishable by up to six months in county jail and/or a fine of up to \$10,000. (B&P C § 8666)

SB 530
Kelley

Structural Pest Control: Fees

Chapter 71
Statutes of 1996

Existing law: (1) provides for a two-year pilot project (to be repealed effective January 1, 1997) that requires the Director of the Department of Pesticide Regulation to contract with the Los Angeles County Agricultural Commissioner to perform increased structural fumigation inspection and enforcement activities; and (2) requires the fumigator to provide a fumigation notice to the fire department serving the area in which the fumigation is to be conducted. This notice is to be provided not less than two hours prior to the time of the fumigation and only if requested by the fire department.

This statute expands the pilot project by including the counties of Orange and San Diego and extends the repeal date to January

1, 1999. In addition, this statute: (1) makes it mandatory for the fumigator to provide a fumigation notice to the fire department serving in the area in which the fumigation is to be conducted; (2) requires that fumigators who perform a structural fumigation in the counties of Los Angeles, Orange or San Diego, pay a five dollar fumigation fee to the county agricultural commissioner for each treatment conducted; and 3) requires that the fumigation fees collected by the county be used specifically for funding enforcement activities. (B&P C §§ 8505.5, 8698, 8698.1, 8698.5 & 8698.6)

SB 1546
Lewis

Pest Control

Chapter 398
Statutes of 1996

Existing law: (1) authorizes a registered pest control company to subcontract structural pest control work and allows the consumer to either accept the proposed subcontractor or choose an appropriate person or entity to perform the work; (2) does not release the prime contractor or the subcontractor from responsibility for or from disciplinary action; (3) requires that a notice be given to the consumer prior to being billed by the registered company for subcontracted work not actually rendered by the registered company; and (4) requires that the notice shall be given to the consumer prior to authorizing subcontracted work.

This statute: (1) prohibits a registered company from subcontracting structural fumigation work without the written consent of the consumer and allows the consumer to either authorize the proposed subcontracted work or contract directly with another registered company licensed to perform the work; (2) provides that when the consumer subcontracts directly with a registered company, the prime contractor shall not be responsible for any act or omission in the performance of the subcontractor's work; (3) requires a registered company, when billing for subcontracted work, to provide a written notice to the consumer for any structural fumigation work not actually rendered by the registered company; (4) revises the information that is provided in the written notice; (5) changes the language of the inspection report, which applies only to wood destroying pests or organisms; (6) revises the certification of fumigation services filling requirements for Branch 1 and Branch 3 registered companies; and (7) makes clarifying technical and conforming revisions to the B&P Code relating to the Department of Consumer Affairs. (B&P C §§ 8514, 8514.5, 8516 & 8519.5)

(33) Tax Preparer Program

SB 1077
Greene

Boards and Commissions

Chapter 1137
Statutes of 1996

Existing law provides for the various licensing and regulatory boards, bureaus, commissions and programs in the Department of Consumer Affairs (Department) including the Board of Accountancy, Board of Registration for Geologists and Geophysicists, Court Reporters Board, Athletic Commission, Board of Barbering and Cosmetology, Bureau of Home Furnishings and Thermal Insulation, and the Tax Preparers Program. In 1996, several of these agencies were reviewed by the Joint Legislative Sunset Review Committee (Committee) and the Department to evaluate the consumer protection value of these agencies, to recommend whether to continue or abolish the program, and to identify efficiencies.

This statute implements some of the recommendations of the Committee and Department. Key components of this statute include: **(1) repealing the Tax Preparer Program and instead implementing a system of requirements for bonding, continuing education and other requirements for tax preparers, to be enforced by civil and criminal actions brought by consumers or state and local law enforcement agencies; (2) requiring the Board of Accountancy to review its experience and continuing education requirements and making the Board more accountable for licensure examinations and discipline of licensees by making the administrative and exam committees advisory only; (3) deregulating the waterbed industry, exempting antique furniture dealers and exercise equipment manufacturers from unnecessary licensure by the Bureau of Home Furnishings and Thermal Insulation (BHFTI), and consolidating the existing 11 BHFTI license classes into eight; (4) reducing the Board of Geology's composition from eight to seven members with a public majority and providing that all committees, including non-board members, are solely advisory; (5) increasing penalties for court reporters who provide late transcripts; and (6) deregulating boxing announcers, box office employees, doormen, and ticket sellers, takers, and ushers currently licensed by the State Athletic Commission. [B&P C §§ 5004, 5005, 5020, 5023, 5024, 5029, 7313, 7353, 7396, 7810, 7814, 7817, 7823, 7824, 8025, Chapter 20.6 (commencing with Section 9891 of Division 3), 18612, 18641, 18814, 18602, 19004, 19006, 19008.1, 19008.2, 19011.1, 19051, 19052, 19053, 19053.1, 19054,**

19055, 19057, 19059, 19060.6, 19071, 19072, 19072.5, 19080, 19124, 19155, 19161, 19170, Article 17 (commencing with Section 118890 of Chapter 2 of Division 8) and Chapter 14 (commencing with Section 22250 of Division 8); Civ C § 1940.5; Gov C § 69944)

(34) Veterinary Medical Board

AB 3089
House

Veterinary Medicine: Special License: Commercial Poultry

Dropped

Existing law requires any person practicing veterinary medicine to be licensed by the Board of Veterinary Medicine.

This bill would have created a separate license category for the practice of veterinary medicine in the commercial poultry industry.

SB 1383
Kelley

Veterinary Medicine: Euthanasia

Dropped

Existing law allows a person who is employed by a public pound or humane society and has received the proper training to administer sodium pentobarbital for the euthanasia of sick, injured, homeless or unwanted domestic pets.

This bill would have required the Board of Veterinary Medicine to set the training standards for this practice. This bill also would have allowed public pounds or humane societies employing properly trained persons to apply for a license from the federal Drug Enforcement Administration which would allow the direct purchase of sodium pentobarbital.

SB 1645
Ayala

Veterinary Medicine

Chapter 404
Statutes of 1996

Existing law requires applicants for licensure to take an examination, consisting of a state examination and a national examination. The filing fee for the national examination is set at \$250, based on the examination vendor's processing costs; however, this fee is not sufficient to allow the Board of Veterinary Medicine Board (Board) to recover its actual costs.

This statute sets the maximum amount of the national examination filing fee at \$325, and provides that upon the sunset of the Board the maximum filing fee shall be reduced to \$250.
(B&P C § 4905)

(35) Board of Vocational Nurse and Psychiatric Technicians Examiners

**AB 1508
Brown, V.**

Psychiatric Technicians

Dropped

Existing law: (1) provides for the licensure and regulation of psychiatric technicians by the Board of Vocational Nurse and Psychiatric Technician Examiners; (2) provides that if adequate medical and nursing supervision by a professional nurse or nurses is provided, nursing service may be given by attendants, psychiatric technicians, or psychiatric technician interim permittees in institutions under the jurisdiction of certain state entities; and (3) requires the director of the state entity to determine what constitutes adequate supervision.

This bill would have authorized attendants, psychiatric technicians, and psychiatric technician interim permittees who are under the jurisdiction of certain state entities to provide nursing services to patients or clients provided there is adequate medical and nursing supervision by a licensed physician and surgeon or registered nurse.

C. STATE AGENCIES

(1) DCA General

AB 1383
Speier

Motor Vehicles: Consumer Affairs

Chapter 722
Statutes of 1996

Existing law makes no provision for the Department of Motor Vehicles (DMV) to provide con consumer information to vehicle purchasers. As introduced, this bill would have amended the existing Lemon Law provisions to expand the presumption and make consumer-benefiting changes to the arbitration process. The bill was later amended so that the statute requires the DMV to develop, in consultation with the Department of Consumer Affairs (Department), an Internet web site to provide information to consumers who plan to purchase or have purchased a new motor vehicle.

This statute requires the Department to assist the DMV by providing consumer information for inclusion on the web site. (Veh C § 1656.4)

AB 3473
Morrissey

Department of Consumer Affairs: Omnibus Bill

Chapter 829
Statutes of 1996

Existing law gives the Department of Consumer Affairs (DCA) possession and control of all records, books, papers, offices, equipment, supplies, funds, appropriations and other property held for the benefit or use of all of the entities and officers in the department, except for examination questions prior to scheduled examinations.

This statute gives the DCA possession and control of examination questions when authorized by a board. This statute also makes substantive changes to the licensing acts administered by the Board of Behavioral Science Examiners, Hearing Aid Dispensers Examining Committee, Board of Nursing Home Administrators, Physical Therapy Examining Committee, Board of Podiatric Medicine, and Structural Pest Control Board. For summaries of these changes (purely technical changes are not included in this digest), please refer to legislation affecting each specific board. (B&P C § 110)

SB 873
Russell

Mediation

Dropped

Under existing law, there was in the Division of Consumer Services of the Department of Consumer Affairs a Dispute Resolution Advisory Council. That council completed its duties by January 1, 1989. Among those duties, the council adopted rules and regulations relative to dispute resolution programs established in counties.

This bill would have, through a private organization, provided for the certification of individuals who meet certain education and training requirements and who also wish to hold themselves out to the public as a "certified mediator."

SB 1763
Committee on
Budget and
Fiscal Review

State Government

Chapter 191
Statutes of 1996
Effective July 20, 1996

Existing law, until July 1, 1996, authorized the Department of Consumer Affairs (Department), with agreement from the State Personnel Board, to waive specific civil service statutes, and required the Department to design a pilot alternative competitive examination, appointment, and discipline process as part of the State's performance based budget pilot project.

This bill reenacts those provisions until July 1, 1997. **In addition, the Department is required to implement alternative competitive examination, appointment and discipline processes following a State Personnel Board hearing.** (B&P C § 117; Gov C §§ 11808 & 11808.1)

(2) State Agencies General

AB 116
Speier

Legislative Oversight: Reports

Chapter 970
Statutes of 1996
Effective September 27, 1996

Existing law requires or requests that state and local agencies prepare and submit reports to the Governor or to the Legislature, or both.

This statute provides that no state or local agency will be required to prepare and submit any written report to the Legislature or the Governor until October 1, 1999, unless the report is required by a court, federal law, regulation, or the Budget Act. A specified list of reports will still be required. The act will be repealed on January 1, 2000. (Gov C § 7550.5)

AB 142
Bowen

Public Records

Dropped

The California Public Records Act requires that records subject to disclosure under the act be made available to the public upon request.

This bill would have provided that any agency having information that constitutes an identifiable public record in an electronic format shall, unless otherwise prohibited by law, make that information available to the public in an electronic format upon request.

AB 205
Cannella

State Employees

Chapter 253
Statutes of 1996

Existing law permits the Director of the Department of Personnel Administration to authorize higher allowances than those provided by current regulations for reimbursement of traveling expenses of officers and employees of the state while traveling on official state business in the greater Los Angeles metropolitan area during, or immediately before or after, the 1984 Olympics.

This statute repeals this provision. (Gov C § 19821)

AB 211
Richter

Public Officers and Employees: Employment Preferences

Dropped

Existing law requires all state agencies, school districts, and community college districts to establish an affirmative action plan.

This bill would have repealed these affirmative action requirements.

AB 250
Baldwin

Administrative Regulations: Review

Dropped

Existing law provides that state agencies develop regulations to implement statutes passed by the Legislature that apply to the specified areas under the agency's jurisdiction. All regulations are subject to review by the Office of Administrative Law (OAL) under specified procedures.

This bill would have required the OAL and the Secretary of Trade and Commerce (Secretary), on or before January 1, 1997,

to recommend to the Legislature the suspension or repeal of all state regulations determined by the OAL and the Secretary to be more stringent than federal regulations on the same subject.
(Gov C § 11340.4)

AB 255
Speier

Student Aid Commission: Collection of Accounts

Chapter 1001
Statutes of 1996

Existing law provides for the Accounts Receivable Management Act, which permits a state agency to contract with a private debt collector for assignment or sale of its accounts receivable. The Act requires all state agencies to report to the Legislature and the Franchise Tax Board on a variety of aspects regarding their accounts receivable collection process and recommendations to improve the process. The Act will sunset as of January 1, 1999.

This statute eliminates the January 1, 1999, repeal date of the Accounts Receivable Management Act, thereby making the Act permanent. The statute requires the Student Aid Commission to contract with the Franchise Tax Board for collection of its delinquent student loan accounts under certain conditions. The provisions relating to the Student Aid Commission's delinquent accounts receivable will sunset January 1, 2002. (Gov C §§ 16583.5, 16583.7, 16584 & 16587; and R&T C § 19532 & 19568)

AB 410
Battin

Product Liability Actions: Subsequent Remedial Measures

Failed
Senate Judiciary

Under existing law, evidence of remedial or precautionary measures taken after an event, which if taken previously, would have made the event less likely, are inadmissible to prove negligence or culpable conduct.

This bill would have made similar evidence of conduct taken to improve the safety of a product after the occurrence of an injury inadmissible in product liability actions.

AB 435
Rainey

State Employees: Pharmacists and Psychologists

Dropped

Existing law, the Ralph C. Dills Act, contains provisions governing the relationship between the state and public employee organizations with respect to wages, hours, and other terms and conditions of employment.

This bill would have required the State Personnel Board (Board), to create no more than one bargaining unit representing pharmacist employees and no more than one bargaining unit representing psychologist employees, but it would authorize the Board to create one bargaining unit that represents both pharmacist and psychologist employees.

AB 469
Vasconcellos

Industry Skills Panel

Dropped

Under existing law, various state agencies and boards regulate professions, provide job training, and review labor issues.

This bill would have established the advisory California Industry Skills, Standards and Certification Panel to review labor force licensing, certification and sanction procedures in California.

AB 482
Goldsmith

Private Postsecondary Educational Institutions

Dropped

Existing law, the Private Postsecondary and Vocational Education Reform Act of 1989, establishes standards and requirements for the approval of private postsecondary educational institutions to award degrees and diplomas in California.

This bill would have provided that if an institution's cohort default rate on guaranteed student loans for any year, as determined by the United States Department of Education, exceeds 10% but is less than 20%, the institution may request the Student Aid Commission to recalculate the cohort default rate for that year. The bill would have authorized the Commission to conduct a recalculation of an institution's cohort default rate for these purposes.

AB 777
Speier

State Tort Liability: Sexual Harassment

Failed
Assembly Judiciary

Existing law provides for the liability of the state for the tortious acts of its officers and employees.

This bill would have enacted, among other things, special provisions governing the liability of the state for acts of sexual harassment by its officers and employees.

AB 907
Vasconcellos

Capital Outlay Planning: State Agencies

Vetoed
September 25, 1996

Existing law provides that no funds appropriated for capital

outlay may be expended by any state agency until the Department of Finance (Department) and the State Public Works Board have approved preliminary plans for the project to be financed from the appropriation for capital outlay. Further, existing law requires the Department to prepare a report projecting the state's potential need for the financing of major capital outlay projects and infrastructure projects from January 1, 1991, through December 31, 2000. The report is updated annually and submitted to the Governor, the Treasurer, and the Legislature for their use in planning and policymaking for the state.

This bill would have required each state agency to prepare and submit annually to the Department of Finance a list of its capital outlay needs (project costs exceeding \$250,000). The bill would have required the Department to prepare and submit annually to the Legislature a multi-year capital outlay master plan that is a compilation of the five year lists submitted by state agencies. The plan would have served as a supplement to the Governor's Budget.

Veto Message:

Governor Pete Wilson
To the Members of the California Assembly:

I am returning Assembly Bill No. 907 without signature.

This bill would require each state agency to annually prepare and submit to the Department of Finance, a list of the capital outlay needs of state agencies for the next five years. Further, the bill requires the Department of Finance to then annually prepare and submit to the Legislature a multi-year capital outlay master plan compiling and prioritizing the lists submitted by state agencies.

This bill is unnecessary. Every year, the Department of Finance issues a report describing the state's potential capital outlay needs over a ten-year period. The report contains potential funding sources and is sufficient for strategic planning purposes. It is unnecessary to require the Department of Finance to compile an inventory as well.

Moreover, individual department capital outlay needs and forecasts often change quickly in response to Legislative and Administrative policy changes which affect program needs as well as budgetary constraints. Supplying this information annually - and having the Department of Finance continually attempt to prioritize a vast array of often incompatible capital-outlay projects - may result in more confusion than clarity.

**AB 926
Rainey**

State Boards and Commissions: Salaries of Members

**Chapter 1004
Statutes of 1996**

Existing law establishes the salaries of nonelected members of various state boards and commissions and requires that the salary be increased in any year in which a general salary increase is provided for state employees. The amount of increase shall not exceed the percentage of the general salary increases provided for state employees during that year.

This statute authorizes the Department of Personnel Administration to establish and adjust the salaries of specified nonelected members of state boards and commissions, except as otherwise provided by law. (Gov. C §§ 11563.8, 11563.9 & 11565.5)

AB 1069
Hauser

Administrative Hearings

Dropped

The Administrative Procedure Act contains provisions relating to the preparation of decisions by an administrative law judge (ALJ) in contested disciplinary decisions. The ALJ is required to submit a proposed decision in a case to the agency for review and possible adoption.

This bill would have: (1) provided that the decision prepared by the administrative law judge is final unless the agency filing the accusation petitions for judicial review; (2) deleted the provision for granting a reconsideration to either party after the decision becomes effective; and (3) added language to provide that a petition for judicial review could be filed within a specific time period after the decision is adopted by the agency or within a specified time after the decision is delivered to the agency, or after the decision is served by the agency on each party.

AB 1142
Baldwin

Administrative Regulations: Adverse Job Creation Impact

Dropped

The Administrative Procedure Act contains provisions relating to the adoption, review, and approval of regulations adopted by state agencies.

This bill would have prohibited all regulations adopted by a state agency that have been determined by the Office of Administrative Law to have a substantial adverse job creation impact from remaining in effect for more than four years from the date of filing with the Secretary of State.

AB 1160
Morrissey

Administrative Regulations: Review

Dropped

The Administrative Procedure Act contains provisions relating to the adoption, review, and approval of regulations adopted by state agencies.

This bill would have required the Office of Administrative Law (OAL) and the Secretary of Trade and Commerce (Secretary), on or before January 1, 1998, to recommend to the Legislature the

suspension or repeal of all state regulations determined by the OAL and the Secretary to be more stringent than federal regulations on the same subject. This provision would have been inoperative on July 1, 1998 and repealed it on January 1, 1999. (See also AB 250.)

AB 1179
Bordonaro

Trade and Commerce Agency: Rules and Regulations

Failed
Senate
Governmental
Organization

Existing law, the Administrative Procedure Act, establishes procedures for use by state agencies when adopting or amending regulations. The Act specifies that no regulation adopted after January 1, 1993, that requires a report shall apply to businesses unless the adopting agency makes a finding that it is necessary for the health, safety, or welfare of the people of the state that the regulation apply to businesses. Existing law also requires the Trade and Commerce Agency to evaluate the proposed regulation and submit comments into the record regarding the impact of the proposed regulation on the state's business, industry, economy or job base.

This bill would have provided, unless otherwise specified, that no administrative regulation adopted after January 1, 1997, would apply to businesses, unless the state agency adopting the regulation made a finding that it was necessary for the health, safety, or welfare of the people of the state that the regulation applied to businesses. The bill would also have required that the agency proposing the regulation respond to the Office of Administrative Law (OAL) regard to the comments or objections raised by the Trade and Commerce Agency. OAL would have been required to reject the proposed regulation if the comments were not addressed.

AB 1180
Morrissey

Administrative Adjudication: Small Business

Dropped

The Administrative Procedure Act requires specified state agencies to follow prescribed procedures with respect to administrative adjudication.

This bill would have permitted a small business to utilize an alternative hearing procedure when a state agency seeks to impose a civil penalty on that business.

AB 1368
Knowles

Claims Against the State: Overpayment

Chapter 941
Statutes of 1996

Existing law provides that a state agency that fails to make any

payment for goods and services to certain entities pursuant to contract shall be subject to an interest penalty fee.

This statute provides that any state agency that fails to reimburse a person for any undisputed overpayment made to that agency shall be subject to an interest penalty fee. (Gov C § 926.19)

AB 1390
Brown, V.

State Government: Performance Audits

Dropped

Existing law, the State Government Strategic Planning and Performance Review Act (Act), requires the Department of Finance to conduct a survey of all state agencies, departments, offices, and commissions, containing specified information regarding strategic plans for performance reviews, and to report the results of the survey to the Governor, the Legislature, and the Joint Legislative Budget Committee by March 1 of every year. The Act also requires each agency, department, office, or commission for which strategic planning efforts are recommended, to develop a strategic plan and to report to the Governor and to the Joint Legislative Budget Committee the steps being taken to develop and adopt a strategic plan by April 1 of each year.

This bill would have changed the due date that the Department of Finance conducts the survey and reports its results from March 1 to December 1, and the due date of the report from each agency required to develop and adopt a strategic plan from April 1 to February 1.

AB 1433
Firestone

Postsecondary Education

Dropped

Existing law contains extensive provisions in the Education Code governing postsecondary education in this state.

This bill would have repealed certain provisions of the Education Code and would have reenacted them in the Postsecondary Education Code.

AB 1475
Pringle

Regulatory Fees

Chapter 1127
Statutes of 1996

Existing law requires the Office of Permit Assistance within the Trade and Commerce Agency to develop guidelines to provide technical assistance to cities and counties in establishing and operating an expedited development permit process for businesses.

This statute requires the Office of Permit Assistance (Office) to establish, compile, and maintain a list of all fees or charges assessed or collected by any state board or agency. The Office shall make available to the public an annual certified inventory, based on the list, that will list the total dollar amount of fees or charges assessed or collected by all the state boards and agencies. (Gov. C §§ 15399.57 and 15399.58)

AB 1553
Kaloogian

State Civil Services: Quality Demonstration Project Act

Dropped

Existing law requires the Department of Personnel Administration to perform various duties and functions with respect to the administration of salaries, hours, and other personnel related matters for civil service employees and certain exempt employees.

This bill would have enacted the Quality Demonstration Project Act that would have permitted the Department of Personnel Administration to conduct demonstration classification, compensation, and other personnel management policies and procedures. "Demonstration project" was defined as a project that uses alternative classification, compensation, and other personnel management policies which would result in a cost savings and improve efficiency.

AB 1580
Bowen

Government Entities: Voluntary Release of Personal Information

Dropped

Existing law requires the Director of General Services to establish a forms management center for the orderly design, implementation, and maintenance of a statewide forms management program.

This bill would have required that each form contain a voluntary release of personal information clause.

AB 1659
Woods

Administrative Regulations

Dropped

Existing law authorizes departments, boards, and commissions within the Environmental Protection Agency, the Resources Agency, and the Office of the State Fire Marshal to adopt regulations that are different from regulations contained in the Code of Federal Regulations, if certain justifications exist. One of these justifications is justified by the benefit to human health,

public safety, public welfare, or the environment.

This bill would have specified that this justification be established by scientific risk and economic assessment procedures that include public review and comment periods.

AB 1859
Brown, V.

Administrative Regulations: Workers' Compensation

Chapter 14
Statutes of 1996

Existing law, Administrative Procedure Act (APA), contains provisions relating to the adoption, review, approval, filing, publication and judicial review of regulations adopted by state agencies. The APA exempts the Public Utilities Commission, the Division of Workers' Compensation, and the Workers' Compensation Appeals Board from those provisions.

This statute, repeals specified provisions of the Administrative Procedure Act with respect to the Division of Workers' Compensation, except for provisions relating to judicial review.
(Gov. C § 11351)

AB 2235
Sweeney

Regional Occupation Centers: Finance

Chapter 930
Statutes of 1996

Existing law requires the Superintendent of Public Instruction to calculate a revenue limit for each regional occupational center or program.

This statute repeals the existing formulas for determining each county superintendent's revenue limit for county superintendent responsibilities and services.
(Ed. C §§ 52335.10, 52335.2 and 52335.9)

AB 2363
Kaloogian

Public Agencies: Contracting

Failed
Assembly Public
Employees

Existing law authorizes state agencies to contract for personal services upon the condition that a cost savings is achieved when a contract is awarded through a publicized, competitive bidding process.

This bill would have deleted the provisions in existing law and authorized state agencies to contract for personal services pursuant to a request for qualifications process or a publicized, competitive bidding process.

AB 2397
Archie-Hudson

Postsecondary Education: California Competitive Industries

Dropped

Existing law establishes the California Community Colleges and authorizes the operation of community colleges by community college districts within the state.

This bill would have enacted the California Competitive Industries Development Act of 1996. The Act would have stated legislative intent to support the restructuring of California's economy by a coordinated public-private sector collaboration to train and retrain workers for high-skill, high-wage jobs.

AB 2402
Miller

State Agencies: Fines

Dropped

Existing law requires each state agency to establish and maintain an index of the names or titles of all fees, license fees, fines and penalties administered or collected by the agency.

This bill would have required each state agency to report to the Legislature, on or before December 31 of each year, any fines levied by that agency that were in excess of \$5,000 per fine, including the entity against which the fine was levied and the reason for the fine.

AB 2457
Figueroa

State Procurement: Forced, Convict and Indentured Labor

Chapter 1149
Statutes of 1996

Existing law sets forth the general requirements for contracts for the procurement of equipment, supplies, and materials by state agencies.

This statute requires that those contracts specify that no foreign-made equipment, materials or supplies furnished to the state may be produced by forced labor, convict labor, or indentured labor and stipulates sanctions against contractors who know, or shall when these types of labor are used to fulfill a contract with the state. **This statute requires the Department of Consumer Affairs' boards and bureaus to insert the "no forced, convict or indentured labor" clause into contracts for supplies, equipment and materials. When violations are discovered, state agencies are required to enforce the provisions with sanctions that allow for voiding the contract, fines and/or removal from the bidder's list. The contractor has the right to an administrative hearing to contest sanctions.**

(PCC § 6108)

AB 2458
Figueroa

Reports to the Legislature

Chapter 818
Statutes of 1996

Existing law requires various reports to be submitted to the Legislature by state and local agencies and provides that state agency reports shall be submitted only to the offices specified by the Legislature. Reports required to be submitted to the Governor or the Legislature, or both, are also required to be submitted to the Legislative Counsel. The Legislative Counsel is required to make certain information concerning state laws and legislative publications available to the public via access by a public computer network.

This statute provides that any report required or requested by law to be submitted to the members of either house of the Legislature generally shall be submitted instead to the Legislative Counsel, the Secretary of the State, and the Chief Clerk of the Assembly. (GOV C §§ 11095 & 9795)

AB 2544
Davis

Private Postsecondary Education

Dropped

Existing law, the Private Postsecondary and Vocational Education Reform Act of 1989, establishes various requirements and standards for the approval of private postsecondary educational institutions to operate in California and to award degrees and diplomas.

This bill would have made numerous substantive changes to these provisions by repealing and reenacting the Private Postsecondary and Vocational Education Reform Act.

AB 2684
Kaloogian

State Regulatory Agencies Created by Statutes: Abolition

Failed
Assembly Consumer
Protection

The Legislature has established various regulatory agencies. Currently, existing law does not contain provisions that would abolish state regulatory agencies on specified dates unless legislation is enacted which extends that date for a period not to exceed five years.

This bill would have authorized the Governor to submit to the Legislature a reorganization plan pursuant to a schedule that would have had all regulatory agencies within the Business, Transportation and Housing Agency abolished as of June 30, 1999; all regulatory agencies within the Resources Agency as of June 30, 2000; all regulatory agencies within the Health and Welfare Agency as of June 30, 2001; all regulatory agencies within the State and Consumer Services Agency as of June 30, 2002; and all other regulatory agencies as of June 30, 2003.

AB 2746
Ackerman

Elections: Public Officers and Employees: Political Activities

Dropped

Existing law regulates the manner in which initiative measures may be placed on the ballot and generally prohibits the expenditure of public funds in support of or in opposition to these measures.

This bill would have prohibited public money from being used to pay dues or membership fees to an organization that supports or opposes state ballot measures, or endorses or opposes candidates for public office.

AB 2772
Cortese

Administrative Regulations: State Personnel Board

Chapter 935
Statutes of 1996

Existing law, the Administrative Procedure Act, contains provisions relating to the adoption, review, and approval of regulations adopted by state agencies in accordance with statutory mandates.

This statute exempts State Personnel Board (Board) regulations from the Administrative Procedure Act except as follows: (1) representation of minorities, women, and persons with disabilities; (2) equal employment opportunities; (3) Board hearing procedures relating to public testimony and participation; (4) disciplinary hearing procedures not mandated by statutes, with certain exceptions; (5) drug testing; (6) grounds for employee discipline; and (7) reasonable accommodation. (Gov C § 18210)

AB 2793
Baldwin

Administrative Regulations: Review

Failed
Assembly Floor

Existing law, the Administrative Procedure Act, contains provisions relating to the adoption, review, and approval of regulations adopted by state agencies in accordance with statutory mandates.

This bill would have required all state agencies, commencing January 1, 1998, and every four years thereafter, with existing resources, to review each of the regulations within an agency's respective jurisdiction that have not been adopted or amended within the previous four years.

AB 2796
Baldwin

State Funds

Existing law provides that, except for certain funds, revenues derived from the assessment of fines and penalties by any state agency shall not be expended unless the Legislature specifically authorizes the expenditure of these funds in the annual Budget Act or other legislation.

This bill would have provided that the revenues from the assessment of fines and penalties would be deposited in the General Fund.

Failed
Senate Government
Organization

AB 2863
Sweeney

State Boards and Commissions: California Progress Commission

Existing law provides for the establishment of various programs administered by the State and funded through the annual Budget Act.

This bill would have established the California Progress Commission. The purpose of the Commission would be to develop strategy for the State for addressing the economic, social, cultural, environmental, and other needs of the State to the extent that adequate resources were available.

Failed
Assembly Consumer
Protection

AB 2901
Vasconcellos

Employment Development: Task Force on Industry Skills Standards

Existing law establishes the Employment Development Department (Department) and gives the director of the Department broad authority over job training and placement programs in the State.

This bill would have required the director of the Department to convene a Task Force on Industry Skills Standards. The Task Force would have been required to develop a master schedule of up-to-date, industry-specific skills standards for major industries in California with the findings to be reported to the Governor and Legislature by September 30, 1998.

Failed
Assembly
Appropriations

AB 2960
Firestone

Postsecondary Education: Private Postsecondary and Vocational Education Reform Act of 1989

Existing law, the Private Postsecondary and Vocational Education Reform Act of 1989, includes provisions for the Maxine Waters School Reform and Student Protection Act of 1989, which imposes requirements of private postsecondary institutions

Vetoed
September 30, 1996

with respect to providing certain student protections. The protections relate to prohibitions against false or misleading statements, advertising and recruitment practices, disclosures required of institutions, and rights of students to cancel contracts for courses.

This bill would have expressed findings and declarations of the Legislature with respect to a report issued by the California Postsecondary Education Commission on October 30, 1995.

Veto Message:

Governor Pete Wilson
To the Members of the California Assembly:

I am returning Assembly Bill No. 2960 without my signature.

This bill would extend the sunset date for the Private Postsecondary and Vocational Education Reform Act by five years, from June 30, 1997 to June 30, 2002.

This program is at a critical stage of its overall development. The Council has done much to rid California of its prior "diploma mill" status. However, the Council is now at a point of determining some fundamental issues with respect to its overall purpose. Many of the bad operators have left the state or gone out of business. Who are the agencies still operating that are concerned about their livelihood? Quite a few, to judge by the mail to me regarding this legislation. However, and I think importantly, there has been little or no suggestion made in the correspondence to date that the Council should be eliminated. Most of the concern has dealt with two issues; (a) the level of the fees required for compliance and being able to stay in business, and (b) the manner in which the staff of the Council carry out their responsibilities.

With respect to the first, the larger, more capitalized schools do not have the same problem as the smaller schools that operate on a much smaller margin. We should do all we can to have many schools for the competition they provide. I would request that this issue be addressed either in the hearings on the Council that the author has committed to hold, or in subsequent legislation sent to me next spring to extend the life of the Council.

Secondly, I am concerned about the number of schools, all of whom are still operating, that have described a pattern of reprisals and vindictiveness in dealing with the Council staff. They are told that their only recourse is to take their questions and objections to court. Surely, the Council itself should provide some administrative appeal process short of litigation.

There has been concern expressed about the message that vetoing this bill would send. The statutes do not expire until June 30, 1997. The author has committed to hold extensive hearings this fall regarding the need for program reforms. Until that has occurred, it would be premature to extend the life of the program for such an extensive period of time. A bill can be introduced in January that would reach me before June 30, 1997.

A final note. The Council appears to have greatly impacted the operations of many fly-by-night schools, and should be commended for doing so. However, the goal is not to shut down as many schools as possible. Rather, it is the responsibility of the Council to protect students from potential scams, but to make sure there are as many options as possible available to students. There comes a point when we must be careful that we are not reducing supply for the point of reducing supply. I would like to have more assurances that we are not making it impossible or unreasonably difficult for many small businesses to operate before I extend the life of the Council.

AB 2989
Bowen

Records: Paper Reduction Act of 1996

Failed
Assembly
Governmental
Organization

Existing law requires or requests state and local agencies to submit various reports to the Governor and the Legislature. The duties of the State Librarian in maintaining the central reference and research library are outlined in law.

This bill would have enacted the Paper Reduction Act of 1996, to require that any report requested or required by law to be submitted to the Governor and the Legislature also be submitted on paper and electronically to the State Librarian who would have been required to make the report available to the public through electronic means.

AB 3303
House

Searches: Public Employees

Dropped

Existing law provides for the issuance of a search warrant by a magistrate commanding a peace officer to search for personal property. Existing law provides that a defendant may move to suppress evidence obtained as the result of an unreasonable search, when the search was outside the scope of the warrant or when there was a lack of probable cause for the warrant.

This bill would have prohibited any government employee from conducting an investigation or search entering a private property without a search warrant or consent. This would have impacted inspections and investigations conducted by the boards and bureaus of the Department of Consumer Affairs.

SB 286
Polanco

State Procurement: Information Technology

Vetoed
September 27, 1996

Existing law sets forth the duties of the State and Consumer Services Agency in promoting business in California.

This bill would have required the Secretary of State and the State and Consumer Services Agency in collaboration with the Secretaries of various state agencies, to establish no later than April 1, 1997, with existing resources, an Interagency Advisory Council for Small Business in Public Contracting to assist state agencies in providing access to public contract opportunities in state government by small firms.

Veto Message:

Governor Pete Wilson
To the Members of the California Senate:

I am returning Senate Bill No. 286 without my signature.

This bill would establish an Interagency Advisory Council for Small Business in Public Contracting, and would also introduce the Performance Based Procurement Model (PBPM) for controlled use in state acquisitions of electronic data-processing and telecommunications goods and services without competitive bidding.

Performance based procurements would allow state agencies to negotiate with a limited number of suppliers without being required to specifically state their business need in a bid format. This acquisition tool is helpful in the area of information technology where an agency can define their business problem, but may not have the expertise to sufficiently specify the technology necessary to solve that problem.

However, this bill does not require this type of procurement to consider cost until after a vendor has been selected and a contract awarded. This is contrary to every prudent business practice and is not in the best interest of the states' taxpayers.

SB 323
Kopp

Records

Existing law, known as the California Public Records Act, requires that state and local agencies make their records open to the public for inspection at all times during office hours. Existing law also exempts specific records from disclosure.

This bill would have revised and recasted the California Public Records Act. Among other things, the bill would have required an agency to justify the withholding of any record by identifying the provision by which the record is exempt from disclosure or if the withholding is based on public interest, to state the public interest in disclosure and the public interest in nondisclosure.

Veto Message:

Governor Pete Wilson
To the Members of the California Senate:

I am returning Senate Bill No. 323 without my signature.

This bill would provide that if an agency decides to withhold any record based on statute or public interest, the agency must identify in writing the statute or public interest served by nondisclosure of the record.

SB 323 adds to the obligations of governmental agencies which are already under the heavy burden of responding to Public Records Act requests. Under current law, an agency must determine, within 10 days of any request for a copy of agency records, whether to comply with the request and must state the reasons for declining to do so. This bill would require that where the agency decides to withhold the record under Section 6255, it specify the public interest in nondisclosure as well as state the public interest in disclosure.

Governmental agencies receive hundreds of Public Records Act requests every month. They are most often not from ordinary citizens, but from political candidates and special interest groups searching for information. Government employees spend thousands of hours each year responding to the requests - many broad and unfocused - at the cost of doing their other responsibilities.

This bill imposes an additional and unreasonable burden on record-keeping to not only state the reasons for a denial, but to specify the specific public interest in nondisclosure of the documents and the public interest in disclosure

Vetoed
September 29, 1996

at the risk of waiving the privilege of confidentiality for the records requested. It is a significant and unnecessary, additional bureaucratic burden that provides no commensurate benefit to the public to justify the time and tax money that would have to be expended to comply with the requirement.

SB 834
Hayden

Political Reform Act of 1974: Definition of Lobbyist

Failed
Assembly Elections,
Reapportionment

Existing law, the Political Reform Act of 1974, defines "lobbyist" as an individual who is employed or contracts for economic consideration to communicate directly, or through any agent with strategic state officials for the purpose of influencing legislative or administrative actions.

This bill would have changed the definition of lobbyist to cover any individual who either receives \$1,000 or more in economic consideration in a calendar year, or an individual whose principal duties as an employee are to communicate directly or through an agent with defined state officials for the purpose of influencing legislative or administrative action.

SB 974
Alquist

State Government: Performance Audits

Dropped

Existing law requires the Department of Finance, in consultation with the State Controller, the Bureau of State Audits, and the Legislative Analyst, to develop a plan for conducting performance reviews of all state agencies.

This bill would have created the Performance Audit and Cost Efficiency Act which would have required all state agencies, county, city and county, and college district and campus to conduct a performance audit of its activities in accordance with requirements as set forth by this bill.

SB 1390
Johnston

State Agencies: Written Communication

Dropped

Existing law imposes certain requirements on adjudicative proceedings of state agencies.

This bill would have defined "quasi-judicial proceeding" to include: (1) proceedings to determine the rights or duties of a person under existing law; (2) proceedings involving the issuance, amendment, or revocation of a permit or license; (3) proceedings to enforce compliance with existing law; and (4) proceedings at which action is taken involving the purchase or sale of property, goods, or services by an agency. This bill would have also

prohibited a state agency from accepting a written communication submitted by an attorney or any other authorized representative on behalf of a client in a quasi-judicial proceeding unless the written communication clearly indicates the client on whose behalf the communication is being submitted.

SB 1507
Petris

Legislature: Public Records: Retention

Chapter 928
Statutes of 1996

Existing law provides that the public may inspect legislative records, but does not require the disclosure of preliminary drafts, notes, legislative memoranda, or specified correspondence.

This statute requires each committee of each house of the Legislature, and each joint committee, to maintain all legislative records relating to legislation assigned to the committee in official committee files. Each committee is required to preserve those records or place them in the state archives. Each committee is required to adopt written procedures of public access to official committee files not placed in the State Archives. Each state agency is required to maintain any rulemaking file and is prohibited from destroying any such file.

(Gov. C §§ 11347.3, 12223.5, 14755, 9075 & 9080)

SB 1569
Greene

Private Postsecondary & Vocational Education Act of 1989

Dropped

Existing law, the Private Postsecondary and Vocational Education Reform Act of 1989 (PPVERA) establishes the Council for Private Postsecondary and Vocational Education and establishes its powers and duties relating to the oversight of institution of private postsecondary or vocational education. Existing law establishes the Maxine Waters School Reform and Student Protection Act of 1989 within the PPVERA, which prohibits an institution from offering any course of instruction to anyone or to receive consideration for a course from anyone without a written agreement.

This bill would have prohibited institutions from offering any course of instruction to any person, or receiving any consideration from any person for a course of instruction, except pursuant to a specified written agreement which must include a clear statement that the student was not eligible for protection and recovery from the Student Tuition Recovery Fund, if the student was not a resident of California.

SB 1753
Thompson

State Budget: Zero-Based Budgeting

Vetoed
September 18, 1996

Existing law requires the Governor to annually submit a budget itemizing state expenditures and estimating state revenues to the Legislature. The Legislature is required to pass a Budget Bill by midnight June 15 of each year. The appropriations distributed to each state agency are generally based upon past year expenditures and future encumbrances that have been identified.

This bill would have required the amount of each appropriation made in the Budget Act for the 1998-99 fiscal year for expenditure by any state agency to be determined pursuant to zero-based budgeting and to set forth performance standards and an evaluation mechanism.

Veto Message:

Governor Pete Wilson
To the Members of the California Senate:

I am returning Senate Bill No. 1753 without my signature.

This bill would require that the 1998-99 and subsequent Governor's Budgets and Budget Acts be developed pursuant to zero based budgeting (ZBB). Performance standards and an evaluation mechanism would be included in both documents. The State Controller's Office would be required to prepare and publish reports on the improvements achieved as a result of utilizing ZBB and performance standards.

This bill would also establish a task force consisting of the Director of Finance, the Controller, and legislative fiscal committee chairs for the 1996-97 and 1997-98 fiscal years to develop a ZBB training and education program. It would require the Department of Finance, in consultation with the Controller and legislative fiscal committee representatives, to develop ZBB guidelines and procedures in the same time frame.

The performance based budgeting pilot (PBB), which was sponsored by this Administration in 1993, is currently being evaluated. PBB may prove to be more appropriate than ZBB for many programs, especially those which are caseload driven. The pilot project, as well as PBB Generally, includes some of the provisions of this bill that require performance standards and their evaluation.

My "California Competes" plan for reducing bureaucracy is already underway. This top-to-bottom review of state government includes goals of rightsizing government, cutting red tape, and privatization. ZBB already can be used if it is determined to be the best method for individual program review. However, it should not be a statutory requirement for preparation of all future budgets.

SB 1803
Ayala

Open Meetings

Vetoed
September 29, 1996

Existing law, the Bagley-Keene Open Meeting Act, governs the conduct of meetings of state agencies, boards and commissions. It requires that meetings be open to the public except under certain conditions in which a closed session is permitted to discuss sensitive, confidential issues. The Ralph M. Brown Act

governs the conduct of governmental meetings at the local level.

This bill would have made conforming changes to align the provisions of the Bagley-Keene Open Meeting Act with the provisions of the Ralph M. Brown Act. One of the provisions in this bill would have required that matters taken up in closed session be reported publicly, including the vote of each member of a board or commission. The bill would have also required any person appointed or elected to serve as a member of a state body who has not yet assumed the duties of office to conform his or her conduct to the Bagley-Keene Open Meeting Act.

Veto Message:

Governor Pete Wilson
To the Members of the California Senate:

I am returning Senate Bill No. 1803 without my signature.

This bill would seek to amend the Bagley-Keene Open Meeting Act, which governs meetings held by state bodies. A number of the bill's provisions would improve the operation of the Act and would conform the Act's provisions with those of the Ralph M. Brown Act, which governs meetings of legislative bodies of local agencies.

However, a number of provisions of this bill would undermine the effectiveness of meetings and the responsiveness of state governmental bodies already subject to the Open Meeting Act. Moreover, it is neither necessary nor desirable to conform the Open Meeting Act with the Brown Act because the nature of the matters handled by state bodies, such as licensing, differ from those addressed by local agencies. A number of the proposed amendments could create uncertainty or confusion in the law. Among the bill's defects are the following:

1. The primary purpose of the Act is to open to the public the meetings of state bodies. Unfortunately, this bill would undermine the effectiveness of the meetings already subject to the open-meeting requirements of the Act. For instance, the bill would raise questions about the legitimacy of a number of actions taken in preparation of a meeting, such as an exchange of written materials, which helps focus the debate. It is unfortunate that a good idea - open meetings - has been taken to its illogical extreme. The public wants open meetings; they don't want the meetings to be unfocused or worse, a waste of time.

2. Present law permits a state body to close sessions to the public for purposes of discussing confidential issues. This bill does not question the need for closed sessions, but would require the state body to report publicly the vote taken by each member in the closed session. However, disclosing the vote of each board member could subject board members to harassment. That would particularly be the case in connection with disciplinary actions taken by a licensing board, which might be subjected to harassment by disgruntled, disciplined licensees.

3. The bill would require the disclosure of many of the actions taken at closed sessions. This would undermine, in part, the very purpose for making the session a closed one. For instance, the bill would require that a closed session's decision to ask legal counsel to take or refrain from taking various legal actions be reported in open session, although prompt disclosure could undermine negotiations or other legal efforts. It would also require a board to make public a decision to accept a settlement offer, even though a final settlement agreement had not been signed, and even though the board wished to attempt to improve the

terms of a proposed settlement. Such a disclosure would undermine negotiating efforts.

While these particular provisions parallel those in the Brown Act, they are of questionable value and should not be added to the Open Meeting Act.

Although a number of the proposed amendments are positive, reform of the Bagley-Keene Open Meeting Act must be done in a balanced fashion that promotes good governmental decision making, not in a fashion that impedes it. I look forward to working with the Legislature during the next session to properly reform this law.

SB 1910
Johannessen

Administrative Regulations

Chapter 501
Statutes of 1996

Existing law requires the Office of Administrative Law (OAL) to provide the official compilation, printing and publication of regulations, known as the California Code of Regulations.

This statute requires the OAL to make the California Code of Regulations (including complete authority and reference citations and history notes) available on the Internet, free of charge, on and after July 1, 1998 and authorizes the OAL to contract with another state agency or private entity to provide this service. (Gov C §§ 11340.1 & 11344)

SB 2052
Calderon

Warranties: Motor Vehicle Manufacturers

Failed
Assembly
Consumer
Protection

Existing law, the Lemon Law, authorizes motor vehicle manufacturers to provide a qualified third-party dispute resolution process to resolve disputes brought by buyers or lessees of new motor vehicles. Existing law provides the circumstances under which a defective new vehicle shall be presumed to be a "lemon" and eligible for a replacement. Existing law defines a new motor vehicle for purposes of the Lemon Law as a vehicle primarily bought for personal or family use.

This bill would have: (1) required automobile manufacturers to participate in an arbitration program or disclose the lack of arbitration to buyers in advertising; (2) doubled the period in which to evoke the Lemon Law to two years or 24,000 miles; (3) provided that a safety defect meets the Lemon presumption after two or more repairs; (4) defined a safety defect; (5) expanded the definition of new motor vehicle to include a business vehicle if the person has no more than five registered vehicles; (6) required parties an arbitration hearing to have the opportunity to make oral presentations to the arbitrator; and (7) provided that a buyer would have the option of a new vehicle or restitution when a manufacturer is obligated to replace the vehicle.

**SCA 20
Monteith**

State Functions: Contracting With Private Sector

**Failed
Senate Governmental
Organization**

The California Constitution provides for permanent appointment and promotion in the state civil service based on specific provisions.

Among other things, this measure would have provided that nothing in current law shall prohibit the state from contracting with private entities for the performance of any state function or service.

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III. APPENDIX

A. BILL NUMBER INDEX

<u>Bill Number</u>	<u>Chapter Number</u>	<u>Page Number</u>	<u>Bill Number</u>	<u>Chapter Number</u>	<u>Page Number</u>
AB 29		110	AB 757		11
AB 30		91	AB 765		46
AB 53		159	AB 777		173
AB 81		69	AB 907		173
AB 83		70	AB 926	1004	174
AB 116	970	170	AB 927		52
AB 142		171	AB 944		155
AB 147		110	AB 947		11
AB 187		91	AB 972		54
AB 205	253	171	AB 1002	26	86
AB 211		171	AB 1003		86
AB 230		59	AB 1065		12
AB 250		171	AB 1069		175
AB 255	1001	172	AB 1073		43
AB 260		91	AB 1077	455	156
AB 280		63	AB 1121	574	59
AB 281		2	AB 1123		65
AB 287		2	AB 1142		175
AB 288		51, 64	AB 1160		175
AB 339		92	AB 1176		157
AB 393		33	AB 1179		176
AB 398		110	AB 1180		176
AB 408		54	AB 1230		12
AB 410		54, 172	AB 1236		111
AB 435		172	AB 1242		71
AB 469		173	AB 1260	639	84
AB 482		173	AB 1308		71
AB 484		70	AB 1317	1101	71
AB 487		102	AB 1368	941	176
AB 498		97	AB 1383	722	1, 3, 169
AB 525		111	AB 1389	340	55
AB 550		102	AB 1390		177
AB 560		64, 111	AB 1396		71
AB 581		160	AB 1405		12
AB 596		135	AB 1433		177
AB 597	38	107	AB 1447		72
AB 622	424	64	AB 1455		111
AB 628		2	AB 1457		92
AB 655		160	AB 1460	292	92
AB 688		51	AB 1475	1127	177
AB 753	454	135, 152	AB 1508		168
AB 754		11	AB 1516		12

Bill Number Chapter Number Page Number

AB 1553		178
AB 1567		112
AB 1580		178
AB 1588		59
AB 1596		13
AB 1601		55
AB 1659		178
AB 1675		93
AB 1683	1042	65
AB 1721	879	52
AB 1727		136
AB 1730		55
AB 1770	24	66
AB 1803		72
AB 1819		47
AB 1859	14	179
AB 1862		13
AB 1889		52
AB 1890	854	66
AB 1898		13
AB 1904		14
AB 1927		14
AB 1938		14
AB 1949		112
AB 1969		145
AB 1974	644	136
AB 1987	857	56
AB 2020		15
AB 2022		56
AB 2043		45
AB 2048		72
AB 2067		36
AB 2075		60
AB 2077		57, 113
AB 2113		15
AB 2124		113
AB 2129		15
AB 2166		73
AB 2171	321	87
AB 2175		16
AB 2176	220	53, 73
AB 2192		37
AB 2212		145
AB 2221	812	47
AB 2233	370	108
AB 2234	964	108
AB 2235	930	179

Bill Number Chapter Number Page Number

AB 2236		74
AB 2237	371	108
AB 2238	769	109
AB 2247		124
AB 2263	525	43
AB 2270		16
AB 2272		114
AB 2303		16
AB 2318		16
AB 2334	581	114
AB 2344	814	3
AB 2357		17
AB 2363		179
AB 2385		17
AB 2386		17
AB 2387		18
AB 2395		3
AB 2396	985	4, 114
AB 2397		180
AB 2401		87, 115, 129
AB 2402		180
AB 2416		109
AB 2423		18
AB 2443	817	37
AB 2457	1149	180
AB 2458	818	181
AB 2459		33
AB 2466	933	4
AB 2472	376	88
AB 2476		103
AB 2478	83	145
AB 2489		93
AB 2494	282	115
AB 2513	863	137
AB 2515	1088	94
AB 2520		133
AB 2520		129
AB 2533		34
AB 2544		181
AB 2552		74, 115
AB 2560	377	88
AB 2567	693	18
AB 2580		74
AB 2588	1035	37
AB 2637	586	75
AB 2643	1000	34
AB 2645	734	160

Bill Number Chapter Number Page Number

AB 2649	1014	38
AB 2651	143	75, 161
AB 2657		60
AB 2662		116
AB 2669		39
AB 2676	430	84
AB 2684		181
AB 2696		50
AB 2701	694	124
AB 2712		60
AB 2713	1065	66
AB 2721		18
AB 2730		75
AB 2732		76
AB 2746		182
AB 2759	923	4
AB 2771	328	146
AB 2772	935	182
AB 2774		39
AB 2781	95	47
AB 2787	1104	19
AB 2793		182
AB 2796		183
AB 2798		95
AB 2802	890	148
AB 2823	936	116
AB 2832		19
AB 2853		50
AB 2860		131
AB 2861	96	39
AB 2863		183
AB 2866		5
AB 2875		60
AB 2877	1151	109
AB 2880		57
AB 2883	656	40
AB 2899		116
AB 2901		183
AB 2905		137
AB 2922		19
AB 2925		149
AB 2934		137
AB 2953	942	20
AB 2957		95
AB 2958	145	117
AB 2959		117
AB 2960		183

Bill Number Chapter Number Page Number

AB 2970	658	43
AB 2989		185
AB 2995		48
AB 3001	146	20
AB 3009		21, 117
AB 3013	1089	40
AB 3015	80	76
AB 3020	1154	96
AB 3056		76
AB 3064	591	77, 161
AB 3066		5
AB 3072	380	96
AB 3073	739	106
AB 3087		118
AB 3089		167
AB 3111	1030	138, 153
AB 3131	290	41, 118
AB 3135		21
AB 3141	826	155
AB 3152	779	61
AB 3154		61
AB 3164		134
AB 3171	382	138
AB 3188	661	155
AB 3193		21
AB 3244	1031	43
AB 3248		96
AB 3256		139
AB 3265	149	41
AB 3286		163
AB 3287		21
AB 3289		22
AB 3303		22, 185
AB 3304	97	22
AB 3305	925	41, 118
AB 3320	785	6
AB 3355	331	119
AB 3356		23
AB 3361	79	23
AB 3364		23
AB 3381		23
AB 3412		24
AB 3434	1108	53, 77
AB 3471	1159	24
AB 3473	829	107, 132, 144, 154, 164, 169
ACA 2		78

Bill Number Chapter Number Page Number

SB 15		24
SB 25		67
SB 43		78
SB 49	1109	78
SB 52	60	25
SB 74		45
SB 112		119
SB 116		79
SB 135		61
SB 141	57	79
SB 195	150	107
SB 197		25
SB 207	750	62
SB 245		119
SB 250		42
SB 258	338	25, 50, 79
SB 262		26
SB 263		161
SB 282		80
SB 286		185
SB 302		26
SB 323		186
SB 413		125
SB 442		119
SB 444		120
SB 498		97
SB 510		146
SB 511	492	127
SB 530	71	164
SB 551		62
SB 563		147
SB 570		128
SB 578		81
SB 596		26
SB 610	666	6
SB 623	1131	67
SB 638		157
SB 668	13	147
SB 692		27
SB 744		27
SB 766		97
SB 777		156
SB 790		103
SB 795	895	125
SB 834		187
SB 836	993	98
SB 873		170

Bill Number Chapter Number Page Number

SB 876	707	81
SB 890	40	139, 147
SB 897		27
SB 899		98
SB 922		149
SB 926		27
SB 928		98
SB 959		149
SB 960	856	67
SB 974		187
SB 992		44
SB 1014		57
SB 1032		62
SB 1035	675	62
SB 1038		99
SB 1052		120
SB 1070	992	7
SB 1077	1137	85, 88, 103, 125, 130, 133, 166
SB 1090		68
SB 1127		51
SB 1134		81
SB 1142		7
SB 1168		120
SB 1175		99
SB 1181	392	48
SB 1182		104
SB 1197		100
SB 1199		28
SB 1207		7
SB 1288		89
SB 1318	351	82
SB 1321	866	28
SB 1322	855	68
SB 1358	52	8
SB 1368	562	28
SB 1375	710	162
SB 1383		167
SB 1390		187
SB 1401	858	58
SB 1413		28
SB 1427		29
SB 1428		29
SB 1436		100
SB 1444	1075	139
SB 1456	624	162
SB 1462		100

Bill Number Chapter Number Page Number

SB 1464		29, 82
SB 1471	625	45
SB 1479	257	128
SB 1486	526	121
SB 1499		100
SB 1507	928	188
SB 1512		8
SB 1522	174	30
SB 1528	112	101
SB 1536	312	148
SB 1537	113	149
SB 1540	1055	30
SB 1546	398	165
SB 1553	798	150
SB 1557	712	121
SB 1569		188
SB 1573		163
SB 1576	665	34
SB 1577		31
SB 1585	61	48
SB 1586		49
SB 1592	441	132, 140
SB 1597	528	122
SB 1603		101
SB 1607	184	87
SB 1609		105
SB 1624	157	49
SB 1639	313	35
SB 1641	1036	82
SB 1645	404	167
SB 1659	1025	53
SB 1665	864	141
SB 1677		141
SB 1680		105
SB 1687	498	8
SB 1695	449	44
SB 1738	158	157
SB 1741	1115	83
SB 1745		106
SB 1748	799	45
SB 1753		189
SB 1756		49
SB 1763	191	170
SB 1803		189
SB 1821	679	54
SB 1823		31, 58
SB 1847	260	42, 142

Bill Number Chapter Number Page Number

SB 1855		49
SB 1871	180	35
SB 1896	300	63
SB 1902		46, 83
SB 1910	501	191
SB 1917		32
SB 1918		132
SB 1950	168	32
SB 1959	682	36
SB 1962	830	151, 158
SB 1967		101
SB 1981		102
SB 1990		142
SB 2002	287	122
SB 2030	102	9
SB 2031	1136	86, 90, 126, 131
SB 2032	558	122
SB 2040		9, 123
SB 2045	684	10
SB 2050	301	36
SB 2052		1, 10, 191
SB 2058		32
SB 2059		42, 143
SB 2066		123
SB 2077		44, 50
SB 2081		143
SB 2088		63
SB 2094		106
SB 2098	902	144, 154
SB 2099		90
SB 2105		163
SB 2113		123
SB 2146		124
SB 2159		32
SCA 4	R-36	33
SCA 20		192
SCA 21		68
SJR 23		150
SR 28		51

BLANK PAGE

B. CHAPTERED BILL INDEX

Chapter Number	Bill Number	Page Number	Chapter Number	Bill Number	Page Number
13	SB 668	147	313	SB 1639	35
14	AB 1859	179	321	AB 2171	87
24	AB 1770	66	328	AB 2771	146
26	AB 1002	86	331	AB 3355	119
38	AB 597	107	338	SB 258	25, 50, 79
40	SB 890	139, 147	340	AB 1389	55
52	SB 1358	8	351	SB 1318	82
57	SB 141	79	370	AB 2233	108
60	SB 52	25	371	AB 2237	108
61	SB 1585	48	376	AB 2472	88
71	SB 530	164	377	AB 2560	88
79	AB 3361	23	380	AB 3072	96
80	AB 3015	76	382	AB 3171	138
83	AB 2478	145	392	SB 1181	48
95	AB 2781	47	398	SB 1546	165
96	AB 2861	39	404	SB 1645	167
97	AB 3304	22	424	AB 622	64
102	SB 2030	9	430	AB 2676	84
112	SB 1528	101	441	SB 1592	132, 140
113	SB 1537	149	449	SB 1695	44
143	AB 2651	75, 161	454	AB 753	135, 152
145	AB 2958	117	455	AB 1077	156
146	AB 3001	20	492	SB 511	127
149	AB 3265	41	498	SB 1687	8
150	SB 195	107	501	SB 1910	191
157	SB 1624	49	525	AB 2263	43
158	SB 1738	157	526	SB 1486	121
168	SB 1950	32	528	SB 1597	122
174	SB 1522	30	558	SB 2032	122
180	SB 1871	35	562	SB 1368	28
184	SB 1607	87	574	AB 1121	59
191	SB 1763	170	581	AB 2334	114
220	AB 2176	53, 73	586	AB 2637	75
253	AB 205	171	591	AB 3064	77, 161
257	SB 1479	128	624	SB 1456	162
260	SB 1847	42, 142	625	SB 1471	45
282	AB 2494	115	639	AB 1260	84
287	SB 2002	122	644	AB 1974	136
290	AB 3131	41, 118	656	AB 2883	40
292	AB 1460	92	658	AB 2970	43
300	SB 1896	63	661	AB 3188	155
301	SB 2050	36	665	SB 1576	34
312	SB 1536	148	666	SB 610	6

Chapter Number Bill Number Page Number

675	SB 1035	62
679	SB 1821	54
682	SB 1959	36
684	SB 2045	10
693	AB 2567	18
694	AB 2701	124
707	SB 876	81
710	SB 1375	162
712	SB 1557	121
722	AB 1383	1, 3, 169
734	AB 2645	160
739	AB 3073	106
750	SB 207	62
769	AB 2238	109
779	AB 3152	61
785	AB 3320	6
798	SB 1553	150
799	SB 1748	45
812	AB 2221	47
814	AB 2344	3
817	AB 2443	37
818	AB 2458	181
826	AB 3141	155
829	AB 3473	107, 132, 144, 151, 154, 164, 169
830	SB 1962	151, 158
854	AB 1890	66
855	SB 1322	68
856	SB 960	67
857	AB 1987	56
858	SB 1401	58
863	AB 2513	137
864	SB 1665	141
866	SB 1321	28
879	AB 1721	52
890	AB 2802	148
895	SB 795	125
902	SB 2098	144, 154
923	AB 2759	4
925	AB 3305	41, 118
928	SB 1507	188
930	AB 2235	179
933	AB 2466	4
935	AB 2772	182
936	AB 2823	116
941	AB 1368	176
942	AB 2953	20

Chapter Number Bill Number Page Number

964	AB 2234	108
970	AB 116	170
985	AB 2396	4, 114
992	SB 1070	7
993	SB 836	98
1000	AB 2643	34
1001	AB 255	172
1004	AB 926	174
1014	AB 2649	38
1025	SB 1659	53
1030	AB 3111	138, 153
1031	AB 3244	43
1035	AB 2588	37
1036	SB 1641	82
1042	AB 1683	65
1055	SB 1540	30
1065	AB 2713	66
1075	SB 1444	139
1088	AB 2515	94
1089	AB 3013	40
1101	AB 1317	71
1104	AB 2787	19
1108	AB 3434	53, 77
1109	SB 49	78
1115	SB 1741	83
1127	AB 1475	177
1131	SB 623	67
1136	SB 2031	86, 90, 126, 131
1137	SB 1077	85, 88, 103, 125, 130, 133, 166
1149	AB 2457	180
1151	AB 2877	109
1154	AB 3020	96
1159	AB 3471	24
R-36	SCA 4	33

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Notes

D. KEY - CALIFORNIA CODE ABBREVIATIONS

A listing of code sections affected by a chaptered bill follows the summary of that bill.

The following abbreviations of codes are used:

B&P C	Business and Professions Code
Civ C	Civil Code
CCP	Code of Civil Procedure
Com C	Commercial Code
Corp C	Corporation Code
Ed C	Education Code
Evid C	Evidence Code
Fam C	Family Code
Fin C	Financial Code
F&A C	Food & Agricultural Code
F&G C	Fish & Game Code
Gov C	Government Code
H&N C	Harbors & Navigation Code
H&S C	Health & Safety Code
Ins C	Insurance Code
Lab C	Labor Code
M&V C	Military & Veterans Code
Pen C	Penal Code
Prob C	Probate Code
PCC	Public Contract Code
PRC	Public Resources Code
PUC	Public Utilities Code
R&T C	Revenue & Taxation Code
UIC ..	Unemployment Insurance Code
Veh C	Vehicle Code
WC	Water Code
W&I C	Welfare & Institutions Code