

1997

Legislative Digest 1997

California Department of Consumer Affairs

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LEGISLATIVE DIGEST 1997



Pete Wilson, Governor

**CALIFORNIA
DEPARTMENT OF
CONSUMER AFFAIRS**

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LEGISLATIVE DIGEST 1997

State and Consumer Services Agency

Joanne Corday Kozberg

Secretary

Department of Consumer Affairs

Marjorie M. Berte

Director

Division of Legislative and Regulatory Review

Ray Saatjian

Deputy Director

Curt Augustine

Assistant Deputy Director

Office Manager

Pamela Myczek

Support Staff

Sandi DeMello

Jan Kelley

Tara Powers

Erin Renfree

Legislative Analysts

Gale Boetius

Elita Lin Burmas

Rena Kimball

Robert Puleo

Liz Salinas

Norma Solorio

Steve Trumbly

Dennis Weber

Tiffany Wetzel

400 R Street, Sacramento, California 95814

(916) 327-5196

Forward

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The 1997 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 first year of the 1997-1998 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 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, 1998.

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 1997 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 inside the back cover.

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
1997 LEGISLATIVE DIGEST**

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1. TABLE OF BILLS

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Professions & Vocations	SB 1348	Chapter 790	7
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Self-Service Storage Facilities	SB 1086	Two Year Bill	6
Seller Assisted Marketing Plans	AB 1548	Chapter 377	4
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Air Pollution: Vehicles: Federal Oil Overcharge Funds	SB 1250	Dropped	104
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A. CONSUMER PROTECTION

(1) Business and Sales

Bill	Summary	Disposition
AB 61 Strom- Martin	<p><u>Secretary of State: Business Registry</u></p> <p>Existing law requires that a person operating a business under a fictitious name file a fictitious business name statement with the county clerk in the county in which their principal place of business is located. The statement must include any names of persons operating under the fictitious name.</p> <p>This bill would require that the Secretary of State, by July 1, 1998, adopt regulations expanding its corporate filing and services divisions to allow businesses to register at a single point and be assigned a statewide fictitious business name that is accepted by all state and local agencies and meets the requirements of all state agencies. The regulations must allow for registration at city, county or state offices and electronically. There must be toll-free "800" numbers provided, as well as electronic access to the fictitious names registry by businesses or consumers. Costs would be shared through interagency agreements. (Gov C § 12175)</p>	Two Year bill
AB 223 Papan	<p><u>Insurance</u></p> <p>Existing law generally requires an insurer to inspect a vehicle prior to issuing private passenger collision or comprehensive coverage for that vehicle; contains requirements for the inspection; and provides for specified exemptions from the inspection.</p> <p>This statute repeals those provisions on January 1, 1999, and states the intent of the Legislature that nothing in this statute shall be construed as prohibiting an insurer from voluntarily implementing a vehicle inspection program. (Ins C § 406.5)</p>	Chapter 163 Statutes of 1997
AB 225 Woods	<p><u>Motor Vehicle Leases</u></p> <p>Existing law requires written advertisements regarding auto leases that mention: (1) the amount of any payment; (2) the</p>	Two Year Bill

number of payments; or (3) that any or no prepayment is required, to make several other disclosures on the terms and conditions of the lease. Existing law allows radio advertisements to avoid making some of these disclosures on the air, if the advertisements refer listeners to a toll-free number or the written advertisement where listeners can get the information.

This bill would require radio advertisements to indicate that the information provided by the toll free number or written advertisement will include financial information regarding the lease contract. (Civ C § 2985.71)

AB 362
Bowen

Advertising: Environmental Claims

Existing law requires environmental marketing claims to meet standards defined in the Federal Trade Commission's "Guides for the Use of Environmental Marketing Claims" (Guides). Existing law also requires companies that claim a product is not harmful to, or will benefit, the environment to keep records as to whether the product conforms to the Guides.

This bill would have required products represented as "ozone friendly," "biodegradable," or "photodegradable" to meet standards defined in the bill or definitions established in trade rules adopted by the Federal Trade Commission. The bill would have required products claiming to be "recycled" to disclose the amount of postconsumer material used, or to meet definitions established in trade rules adopted by the Federal Trade Commission. (B&P C §§ 17508.5 & 17580)

Failed
Assembly
Appropriations

AB 771
Margett

Home Improvement Salespersons

Existing law, the Contractors' State License Law, requires a salesperson for a home improvement contractor to be registered with the Contractors State License Board (CSLB). Home improvement salespersons are regulated and subject to discipline by the CSLB as are contractors that employ home improvement salespersons.

This bill would repeal the registration and regulation of home improvement salespersons by the CSLB. (B&P C §§ 7090, 7137, 7152, 7153, 7153.1, 7153.2, 7153.3, 7154, 7155, 7155.5, 7156, 7157 & 7159)

Two Year Bill

AB 798
Floyd

Motor Vehicles: Automobile Title Lenders

Dropped

Existing law regulates various entities (e.g., banks, consumer finance lenders, and other financial institutions) that make motor vehicle loans but does not regulate loans secured by the certificate of title of a passenger vehicle.

This bill would have added a new chapter to the California Finance Lenders Law entitled "Automobile Title Loans." The bill would have defined "automobile title loans," "automobile," and "title," but contained no substantive provisions.
(Fin C § 22470)

AB 834
Bowen

Vehicles: Leaking Fluid Inspection Program: Los Angeles County

Two Year Bill

Existing law requires the Chief of the Bureau of Automotive Repair (BAR) to enforce and administer the Automotive Repair Act and the Smog Check program.

This bill would require the BAR to establish an advisory committee for the purpose of establishing a voluntary leaking automotive fluids inspection program for Los Angeles County. (B&P C §§ 9889.70 & 9889.71)

AB 1054
Goldsmith

Gift Certificates

Chapter 472
Statutes of 1997

Existing law: (1) prohibits the sale of a gift certificate with an expiration date; (2) makes gift certificates sold without an expiration date "valid continuously, except when refunded or replaced with a new one"; (3) exempts free certificates distributed to consumers for promotional purposes; and (4) provides that unused gift certificates shall not escheat to the state.

This statute: (1) makes a gift certificate sold without an expiration date "valid until redeemed or replaced;" (2) expands the exemption for gift certificates distributed for promotional purposes to include certificates distributed under an awards or loyalty program; (3) exempts gift certificates for food and gift certificates sold below face value at a discount to employers or nonprofit organizations for fundraising purposes; (4) requires the expiration date on exempt certificates to be in at least 10-point type; and (5) requires unused, exempt gift certificates to escheat to the state. (Civ C § 1749.5; and CCP § 1520.5)

AB 1178
Davis

Homeowners: Homeowner's Exemptions and Property Tax Exemptions

Chapter 249
Statutes of 1997

Existing law prohibits false and misleading advertising in general, and provides civil and criminal remedies for violations. Existing law further prohibits certain deceptive practices by services that offer to file a homestead exemption for a homeowner.

This statute similarly prohibits certain deceptive practices by services that offer to file a property tax homeowner's exemption or a property tax assessment appeal for the homeowner.
(B&P C §§ 17533.6, 17537.8 & 17537.9)

AB 1435
Machado

Credit Card Issuers: Marketing Information

Two Year Bill

Existing law requires credit card issuers to notify cardholders if the issuer discloses marketing information on the cardholder that includes the cardholder's identity, and give the cardholder an opportunity to prohibit the disclosure.

This bill would instead require credit card issuers to obtain the cardholder's written permission to disclose that information.
(Civ C § 1748.12)

AB 1548
Davis

Seller Assisted Marketing Plans

Chapter 377
Statutes of 1997

Existing law requires seller assisted marketing plan (SAMP) operators to disclose whether any of the management: (1) have been convicted of certain crimes; (2) have been held liable in certain civil actions; or (3) are subject to an injunction or restraining order brought by a public agency.

This statute, in addition, requires those disclosures to be made if the activity involved any company managed by these persons.
(Civ C § 1812.206)

SB 597
Peace

Internet Use

Two Year Bill

Existing law requires sellers who market goods or services by phone, mail, catalog, TV, radio, or other telecommunications device including the Internet to: (1) deliver the goods or services ordered; (2) refund the buyer's money; or (3) make

arrangements for a substitute, within 30 days after payment.

This bill would make any solicitation, transaction, or other communication that is prohibited under any other provision of law prohibited over the Internet. The bill would also extend the same criminal or civil penalties or remedies that apply to the other provisions of law to these communications over the Internet. (B&P C § 17300)

**SB 788
Burton**

Pawnbrokers

Vetoed
October 2, 1997

Existing law limits the amount of interest pawnbrokers may charge according to a schedule of charges expressed as dollar amounts. These limits range from \$1 for a loan of up to \$14.99 for less than 30 days, to \$140 for a loan of up to 90 days from \$2,100-\$2,499. Loans above \$2,500 are not regulated. Another provision of law limits the amount of interest pawnbrokers may charge "for any extension or renewal of a loan," based on a schedule whose limits are expressed as a percentage rate. The limits range from 2.5% per month on amounts up to \$225, to 1% per month of any portion of the unpaid balance exceeding \$1,650.

This bill would have required the dollar amount schedule to be used for the first 90 days of a loan, and the percentage rate schedule to be used for any loan period or loan extension period beyond the first 90 days. (Fin C §§ 21200.5, 21200.9, 21203 & 21206.8)

Veto Message

Governor Pete Wilson
To the Members of the California Senate:

I am returning Senate Bill No. 788 without my signature.

This bill would, among other things, require pawnbrokers to charge every borrower a flat rate for the first ninety days of any loan in accordance with a flat rate schedule now applicable to loans of no more than 90 days. In the event the loan was actually for a period in excess of 90 days, SB 788 would require the borrower to pay a percentage of the loan as interest for each month beyond the initial 90 day period in accordance with a second percentage rate schedule.

Pawnbroker charges are controlled under two primary statutory provisions, Financial Code Sections 21200 and 21200.5.

Financial Code Section 21200 was first enacted in 1951. It then provided that no pawnbroker shall charge or receive more than 2% per month on any loan up to \$100 and 1% on any amount in excess of \$100. The statute and percentage rate schedule remains similar today and must be posted in a clearly visible place pursuant to Financial Code Section 21200.7.

In 1968 a second permissive schedule, Financial Code Section 21200,

was established. It allows pawnbrokers to charge a flat rate for "any loan of not more than 90 days."

A plain reading of these sections would lead to the conclusion a borrower who sought a \$100 loan for six months would pay no more than the maximum amount permitted under Financial Code Section 21200, which is now 2 1/2 % per month or \$15 for six months (the equivalent of 30% annual interest). It is even possible that the average consumer might understand this formula.

Under the terms of SB 788, however, a borrower of \$100 for six months would be required to pay a flat rate of \$12.50 for the first three months of the loan and a percentage rate of 2 1/2 % per month or \$7.50 for the final three months. Accordingly, under this unnecessarily confusing bifurcated formula, the state would require the pawnbroker to charge a total of \$20 interest for a six month loan of \$100 (or 40% annual interest) as opposed to the \$15 charge permissible under Financial Code Section 21200, the more venerable and clearly posted maximum rate schedule.

It is inevitable that the poorest in our society pay more for goods and services than those more affluent and educated will tolerate. This is a circumstance government should strive to mitigate, not mandate.

**SB 912
Calderon**

Automobile Insurance: Contracts

**Chapter 824
Statutes of 1997**

Existing law exempts the sale of automobile service contracts from insurance regulation if the following conditions are met: (1) the contract covers only defects in material or workmanship; (2) the contract is sold incidentally to the sale or lease of an automobile; (3) the "maker" of the contract is the auto dealer (i.e., the party the buyer is dealing with directly); and (4) the dealer has insurance with an admitted insurer to cover the obligation.

This statute allows auto dealers to set up third party administrators who can sell limited contracts covering defects in material and workmanship. Specifically, this statute permits auto dealer service contracts to be exempt from insurance regulation if the third-party obligor of the contract: (1) maintains an insurance policy with an admitted insurer covering the obligation of those contracts; (2) has a valid fire and casualty broker agent license; and (3) shows specific evidence of financial security, including a funded reserve account; a financial security account held in trust by the Insurance Commissioner; and a net worth of at least \$100,000,000.

(Ins C § 116)

**SB 1086
Schiff**

Self-Service Storage Facilities

Two year Bill

Existing law requires household goods carriers to: (1) register with the Public Utilities Commission; (2) establish financial soundness and disclose any prior convictions for fraud; (3) carry

insurance at legal minimums (including minimum cargo insurance); (4) respond to consumer complaints for loss or damage within certain timelines; and (5) furnish a written contract for the transportation of household goods.

This bill would permit self-service storage facilities (SSSFs) to move household goods packed by the consumer in storage containers provided by the SSSF without having to get a household goods carriers permit or comply with other rules under the Household Goods Carriers Act, if the SSSF: (1) does not charge more than \$50 for the transportation; (2) does not load, pack, or otherwise handle the contents of the container; (3) registers under the Motor Carriers Act; and (4) holds cargo insurance for at least \$20,000 per shipment.

(B&P C §§ 21701 & 21701.1)

SB 1325
Mountjoy

Motor Vehicles: Finance Charges

Chapter 891
Statutes of 1997

Existing law limits the finance charges on an auto sales contract computed by the simple-interest method. Existing law does not limit the finance charge on amounts financed over \$1,650.

This statute increases the exemption “floor” to amounts over \$2,500, so that amounts over \$2,500, rather than \$1,650, would have no finance charge limitations. (Civ C § 2982)

SB 1348
Senate
Committee
on
Business &
Professions

Professions and Vocations

Chapter 790
Statutes of 1997

Existing law regulates travel sellers and requires them to register with the Attorney General (AG). Existing law also establishes the Travel Consumer Restitution Corporation (TCRC) to make restitution to consumers injured by a violation of the Sellers of Travel Act or the failure of a travel seller to provide contracted services. Travel sellers pay fees to support the operation of the TCRC and to maintain the restitution fund. Under existing law, travel sellers who registered in 1995 were required to pay the TCRC an initial \$25 fee per location for the operations fund. This statute requires all travel sellers to pay this initial fee when they register and increases the fee to \$35. Existing law also requires the TCRC to collect an annual assessment of up to \$25 per location for the operations fund. This statute increases that limit to \$35. Existing law also requires travel sellers who registered for the first time in 1996 to pay the TCRC the same fees for the operations and restitution fund that were paid by travel sellers who registered in 1995.

This statute applies those requirements to anyone registering in 1996 or thereafter.

Under existing law, consumers whose claims are denied by the TCRC may appeal the decision, but travel sellers may not appeal an adverse decision. This statute establishes a right of appeal for travel sellers as well. Existing law also requires the AG to automatically revoke the registration of a travel seller who causes a claim to be paid from the restitution fund. The travel seller may not re-register until s/he repays the fund. This statute no longer requires the AG to automatically revoke the registration of a travel seller who causes a claim. Instead, the TCRC will have the discretion to determine whether or not to seek recovery from the travel seller.

Existing law regulates immigration consultants and requires them to file a \$10,000 bond, or deposit in lieu of a bond, with the Secretary of State. This statute raises the bond amount to \$25,000. Existing law allows a person who is awarded damages against an immigration consultant to recover against the above bond. This provision sunsets on January 1, 1998. This statute extends the sunset date to January 1, 2002. This statute also amends the Real Estate Appraisers' Licensing and Certification Law, the Stop Tobacco Access to Kids Enforcement Act, and the Yacht and Ship Brokers Act. (B&P C §§ 11302, 11315, 11316, 11317, 11318, 11360, 11409, 11410, 17550.43, 17550.44, 17550.47, 17550.49 & 22443.1; and H&N C § 719)

(2) Court System and Conflict Resolution

**AB 207
Frusetta**

Witness or Victim: Disclosure of Address or Telephone Number

**Chapter 498
Statutes of 1997**

Existing law provides that no attorney may disclose or permit to be disclosed to a defendant, the address or telephone number of a victim or witness whose name is disclosed to the attorney through discovery, unless specifically permitted to do so by the court.

This statute provides that no attorney may disclose or permit to be disclosed the name or telephone number of a victim or witness to members of the defendant's family or anyone else. However, disclosure may be authorized for persons employed by the attorney and persons appointed by the court to assist in the preparation of the defendant's case. (Pen C § 1054.2)

**AB 246
Lempert**

Small Claims Court: Jurisdiction

Vetoed
October 13, 1997

Existing law limits small claims court jurisdiction to claims of no more than \$5000, and limits claims against a guarantor to no more than \$2500.

This bill would have increased the small claims court maximum to \$7,500 and increased claims against a guarantor to a maximum of \$4000 beginning January 1, 1999. In addition, this bill would have allowed a defendant guarantor the right to documentation relating to the claim and specified procedures for obtaining hearing continuances in instances where the documentation has not been received. (CCP §§ 116.220, 116.231 & 116.350)

Veto Message

Governor Pete Wilson
The Members of the California Assembly:

I am returning Assembly Bill No. 246 without my signature.

This bill would, among other provisions, increase the jurisdictional limit in small claims cases from \$5,000 to \$7,500.

Although this bill is intended to provide consumers greater access to the court system, this increase may actually be detrimental to them. With larger claims, consumers are more likely to find themselves against corporate entities or claims adjusters who possess greater legal sophistication and more court experience. Increasing the jurisdictional amount will expose litigants to substantial liability in cases involving complex legal issues without benefit of counsel. Moreover, the jurisdictional amount was raised to \$5,000 in 1990. There has not been a sufficient rise in inflation over the past several years to justify a fifty-percent increase as proposed in this bill.

The small claims court system is a fast and economical means of dispute resolution. Fairness requires that cases involving amounts larger than \$5,000 continue to be resolved in civil court where greater procedural safeguards exist.

**AB 249
Cunneen**

Criminal Procedure: Conditional Examination: Recorded Testimony

**Chapter 19
Statutes of 1997**

Existing law authorizes the conditional examination of a witness in criminal cases where the witness is unavailable at the time of the trial and the conditional examination must be reduced to writing and authenticated. Existing law allows testimony in a civil case to be taken by audiotape or videotape in addition to the stenographic method.

This statute allows the testimony of a witness who is conditionally examined in a criminal case to be on videotape and allows for the showing of the videotaped recording at the trial if the witness is unavailable. (Pen C §§ 1343 & 1345)

AB 380
Pacheco

Courts: Constitutionality of State Laws

Chapter 259
Statutes of 1997

Existing law sets forth certain duties of the trial courts.

This statute requires the Judicial Council to adopt a rule of court providing that, upon entry of judgment in a contested action or special proceeding in which a state statute or regulation has been declared unconstitutional by the court, notice of entry of judgment is mailed to the Attorney General, and a certificate of mailing is placed in the court's file in the case. The Attorney General has the right to intervene and participate in any appeal of a case in which the notice was required but has no direct right of appeal. (CCP §§ 664.5 & 902.1)

AB 565
McClintock

Criminal Procedure: Pleading

Two Year Bill

Existing law specifies that a plea of "nolo contendere" is equivalent to a plea of guilty for all purposes in felony cases. In nonfelony cases, a plea of "nolo contendere" may not be used against the defendant as an admission in any civil suit based upon or growing out of the act upon which the criminal prosecution is based.

This bill would eliminate this distinction and provide that a plea of "nolo contendere" is equivalent to a plea of guilty for both felony and nonfelony cases. (Pen C § 1016)

AB 594
Torlakson

Liability: Construction Defects: Insurance Defense

Vetoed
October 3, 1997

Existing law: (1) prescribes conditions for a common interest development association to satisfy before it commences an action for damages against a builder of a development for a defect in the design or construction of the development; (2) allows the court, upon motion, to enter judgment between parties involved in pending litigation pursuant to terms of a settlement made outside the presence of the court or orally before the court. The court may retain jurisdiction over the parties to enforce the settlement if requested by the parties. Existing law also makes it a misdemeanor for any person to attempt or appear to exercise the powers, rights, and privileges of a bank or corporation that has been suspended.

This bill would have: (1) attempted to remedy problems that have arisen relative to the alternative dispute resolution process which was enacted by SB 1029 (Calderon, c. 864,

stats. 1995); (2) allowed insurance carriers or their counsel, pending a construction defect action, to stipulate to an enforceable settlement on the record under specified conditions; and (3) allowed insurance carriers or their appointed counsel to provide a defense to a suspended corporation or seek indemnity in the name of the suspended corporation. (Civ C §§ 1368.4 & 1375; CCP §§ 576.5 & 664.7; and R&T C § 19719)

Veto Message

Governor Pete Wilson
To the Members of the California Assembly:

I am returning Assembly Bill No. 594 without my signature.

This bill would make various changes to the alternative dispute resolution process relating to construction defect disputes between builders and common interest developments.

I am generally supportive of many of the changes in this bill. However, the bill raises several technical and policy issues that have not received proper consideration. In addition, some of the provisions are unnecessarily burdensome and restrictive. I encourage the interested parties to continue working together to send me a comprehensive measure that will address the problem of construction defect litigation.

**AB 615
Margett**

Contracts: Damages Recoverable

Existing law provides that certain contracts are invalid unless they are in writing.

This bill would have provided that the maximum amount of damages that may be recovered on any valid contract that is not in writing shall be five thousand dollars (\$5,000) or the maximum amount that may be awarded in any judgment rendered by the small claims court, whichever is greater. This provision would not have applied to contracts for hospital, medical, or other health care services or products.

(Civ C § 1624.5)

**Failed
Assembly
Committee on
Judiciary**

**AB 737
Pacheco**

Expert Witness Testimony

Existing law provides that an expert witness may testify in the form of an opinion and may state the reasons for and the matter upon which the opinion is based, unless he or she is precluded by law from using such reasons or matter.

This bill would prohibit an expert witness from revealing the contents or details of any statement made or expressed by a nontestifying declarant. (Evid C § 802)

Two Year Bill

**AB 758
Morrow**

Civil Procedure: Bank Notices

**Chapter 442
Statutes of 1997**

Existing law authorizes the issuance of a subpoena for the personal records of a consumer and requires that a witness be given notice of a motion to quash or modify the subpoena.

This statute requires that the notice of a motion to quash or modify the subpoena be given to the deposition officer. This statute contains other unrelated provisions. (B&P C §§ 22350, 22351, 22351.5, 22352, 22355, 22356.5 & 22360; CCP §§ 1985.3, 1985.6 & 1987.1; Com C § 4406; and Evid C §§ 1158, 1560 & 1563)

**AB 804
Baugh**

Civil Actions

Two Year Bill

Existing law provides that a plaintiff may not recover his or her costs and shall pay the defendant's costs from the time of a settlement offer made by the defendant if the plaintiff does not accept the offer and fails to obtain a more favorable judgment. The court has the discretion to apply similar provisions to offers made by plaintiffs that are not accepted by the defendants.

This bill would add reasonable attorney's fees from the time of the offer to the costs recoverable under existing law and would require a party who fails to accept such an offer to post a bond to cover the expected costs and attorney's fees. (CCP § 998)

**AB 843
Goldsmith**

Summary Judgment

Two Year Bill

Existing law provides that a motion for summary judgment can be made if there is no triable issue of fact.

This bill would provide that a motion for a summary judgment could be made if there is no genuine issue of fact. (CCP § 437)

**AB 886
Morrow**

Jury Service

Two Year Bill

The Legislature recognizes that jury service is an obligation of citizenship and all qualified persons are required to perform jury service unless they are excused for undue hardship.

Among other things, this bill would specify that jury service is mandatory for all qualified California citizens who are

summoned or ordered to appear. The bill would also provide that an eligible person shall be excused from jury service for a minimum of 12 months after he or she has completed jury service. (CCP §§ 191.5, 204, 215, 219.5, 220, 222, 222.3, 223.5, 223.6, 223.7, 231, 234 & 237; Pen C § 19.5; and R&T C §§ 17053.20 & 23635)

**AB 915
Baugh**

Liability: Recreational Activities

**Chapter 805
Statutes of 1997**

Existing law provides that a public entity or public employee is not liable to any person who participates in a hazardous recreational activity.

This statute provides that in-line skating by an adult is deemed to be a hazardous recreational activity. (H&S C § 115800.1)
(See AB 1296)

**AB 918
Floyd**

Discovery

Two Year Bill

Existing law provides various discovery methods and allows the court to restrict the use if the selected method of discovery is unduly burdensome or expensive or is unreasonably cumulative or duplicative.

This bill would provide that the pendency of or the failure to file a particular motion or pleading does not constitute a basis for an order restricting the use of such methods of discovery.
(CCP § 2019)

**AB 919
Floyd**

Discovery Sanctions

Two Year Bill

Existing law authorizes a court to impose specified sanctions upon a party to an action for misuse of the discovery process.

This bill would provide that failing to produce documents or other information within the party's possession, custody, or control at the time that the responses to discovery are due or at a later time agreed upon by the parties is a misuse of the discovery process. (CCP § 2023)

**AB 939
Ortiz**

Mediation

**Chapter 772
Statutes of 1997**

Existing law provides that when a person agrees to conduct and participate in mediation for the purpose of compromising, settling, or resolving a civil dispute, anything said in the course

of a consultation for mediation services or in the course of mediation is not admissible as evidence or subject to discovery, and disclosure of this evidence cannot be compelled. Except as specified all communications, negotiations and settlement discussions by and between participants or mediators are confidential.

This statute: (1) recasts and revises the current mediation laws into a new chapter in the Evidence Code; (2) revises confidentiality provisions in existing law to apply to all mediations, including court ordered mediations and mediation consultations and for purposes of confidentiality; (3) provides guidelines for determining when mediation ends; and (4) specifies that anything said, any admission made, or any writing that is inadmissible and confidential under the provisions of the bill before mediation ends, shall remain inadmissible, protected from disclosure and confidential to the same extent after the mediation ends. (B&P C § 467.5; CCP § 1775.10; Evid C §§ 1115, 1150, 1152.5 & 1152.6; Gov C §§ 66032 & 66033; Ins C §§ 10089.80 & 10089.82; Lab C § 65; and W&I C § 350)

**AB 1093
Escutia**

Committee On Judiciary: Arbitration

**Chapter 445
Statutes of 1997**

Existing law imposes comprehensive disclosure requirements concerning prior arbitrations on any person proposed for, or appointed as a neutral arbitrator in any arbitration proceeding involving a damage claim. This disclosure is to be made within 10 days of the appointment and allows a party 15 days to file a disqualification motion.

This statute revises the disclosure laws for persons selected to serve as a neutral arbitrator by consolidating existing arbitrator disclosure provisions that would be applicable to all arbitrations rather than just to arbitrations of damage claims. This statute revises the current disclosure requirement to protect the confidentiality of the names of private parties in prior arbitrations in which the proposed arbitrator must disclose his or her service and clarify that the disclosure must be made within 15 calendar days. (CCP §§ 1281.6, 1281.9, 1282 & 1286.2)

**AB 1094
Escutia**

Trusts and Wills

Two Year Bill

Existing law provides that the surviving spouse of a testator, who fails to provide for his or her spouse, shall receive one-half of the testor's community.

This bill would define “estate” for the Probate Code. The bill would also provide that the surviving spouse of a transferor who fails to provide for his or her spouse should recover one-half of the transferor’s estate. (Prob C §§ 6560, 6561, 6562 & 6585)

AB 1122
Baugh

Liability: Collateral Benefits

Existing law provides for the recovery of damages in a civil action for personal injury.

Among other things, this bill would have authorized a defendant in a personal injury action to introduce evidence of any amount paid or payable as a benefit as a result of the personal injury pursuant to any state or federal income disability or workers’ compensation insurance act. (Civ C § 3333.5)

Failed
Assembly
Committee on
Judiciary

AB 1172
Kaloogian

Estates and Trusts

Existing law provides for specific procedures regarding probate proceedings.

This statute is known as the State Bar Omnibus Probate Bill. It makes several changes to existing law regarding probate procedures. Such changes involve qualifications for referees, definitions of a “fiduciary,” and various technical and clarifying changes. (CCP § 641; Prob C §§ 1000, 1060, 1061, 1063, 1064, 1300, 1460.1, 16060.5, 16061.5, 16061.7, 16061.8, 17200, 17203, 17207, 1890, 19028, 20123, 20223, 21350, 21600, 2312, 2356.5, 250, 2750, 3024, 39, 4948, 6560, 7240, 8226 & 8406; and W&I C §§ 10850, 14100.2, 15610.30 & 15657)

Chapter 724
Statutes of 1997

AB 1176
Pringle

Liability: Auto Accidents

Existing law provides generally that everyone is responsible for the result of his or her willful acts and for injury occasioned to another by his or her want of ordinary care or skill.

This bill would have provided that no cause of action alleging general damages for accidental bodily injury resulting from a motor vehicle may be filed in a municipal or a superior court unless the court first determines that the injury or injuries complained about are serious. (Civ C § 1714.05; Ins C § 12000; and Veh C § 16061)

Failed
Assembly
Committee on
Judiciary

AB 1199
Alby

Court Proceedings: Disqualification of Judges

Two Year Bill

Existing law allows a party to a civil or criminal action or proceeding to move to disqualify a judge, commissioner, or referee for prejudice.

This bill would allow a party or an attorney in such action or proceeding to exercise one peremptory challenge in lieu of challenge for prejudice. (Civ C § 170.6)

AB 1296
Morrow

Liability

Chapter 573
Statutes of 1997

Existing law provides that a public entity or a public employee is not liable to any person who participates in a hazardous recreational activity.

Among other things, this statute provides that skateboarding is a hazardous recreational activity if the person skateboarding is 14 years of age or older, is engaging in stunt, trick, or luge skateboarding, and the skateboarding is on public property. (H&S C § 115800) (See AB 915)

AB 1323
Martinez

Victims of Crime: Photographs: Civil Liability

Two Year Bill

Existing law provides certain civil rights to victims of crime and prohibits the making of any copy of any photograph of the body or a portion of the body of a deceased person, taken by or for the coroner.

This bill would provide that any person who publishes, disseminates, exhibits, displays, circulates, prints, distributes, televises, issues, or markets any kind of photograph, videotape, negative, print, or internegative of a body or a portion of a body of a victim of crime without the expressed written consent or waiver by a surviving victim, by the guardian or parent of a surviving minor victim, or by the immediate family of a deceased victim is subject to civil liability. (Civ C § 2228)
(See AB 1500)

AB 1324
Escutia

Summary Judgment

Two Year Bill

Existing law establishes specific procedures for a party to move for summary judgment or summary adjudication.

This bill, among other things, would limit the number of motions for summary judgment or summary adjudication that may be made by one party against another party. (CCP § 437)

AB 1371
Morrow

Civil Actions: Exemplary Damages

Two Year Bill

Existing law provides for the awarding of punitive or exemplary damages if the defendant has been found guilty of oppression, fraud, or malice in an action for the breach of an obligation not arising from contract.

This bill would require that if the trier of fact determines that the defendant is liable for exemplary damages, a separate proceeding should be conducted to determine the amount of exemplary damages to be imposed. The bill would also provide that the court shall preclude the admission of evidence relevant solely to the amount of punitive or exemplary damages, including certain profits gained by the defendant.

(Civ C §§ 3294.5 & 3295)

AB 1374
Hertzberg

Court Mediation Proceedings

Two Year Bill

Existing law authorizes the Los Angeles County courts, and other courts that choose to participate, to order specified civil actions to mediation.

This bill would establish a pilot project that requires Los Angeles County superior courts to refer civil actions having an amount in controversy over fifty thousand dollars (\$50,000) to an early status conference during which the court shall determine whether to refer the parties to an early mediation.

(CCP §§ 1033.5 & 1770; and Gov C § 68616)

AB 1445
Shelley

Interpreters

Chapter 376
Statutes of 1997

Existing law requires the Judicial Council to establish guidelines and procedures relating to the certification and regulation of court interpreters.

This statute provides that a person may be designated as a "registered interpreter" if he or she passes an English fluency examination offered by a testing entity approved by the Judicial Council. (Evid C § 751; and Gov C § 68561)

AB 1459
Papan

State Bar of California: Admission Qualifications

Vetoed
July 3, 1997

Existing law requires a law student who is attending a law school that is not accredited by the American Bar Association or the California Committee of Bar Examiners to take and pass the

Baby Bar Examination.

This bill would have provided that a law school student from a nonaccredited school does not need to pass the Baby Bar Examination if he or she has attained a bachelor's degree and completed at least four years of college work prior to matriculating in the law school. (B&P C § 6060)

Veto Message

Governor Pete Wilson
To the Members of the California Assembly:

I am returning Assembly Bill No. 1459 without my signature.

This bill would make the First Year Law Students' Examination (Baby Bar) advisory for students who enter an unaccredited law school after earning a bachelor's degree. The Baby Bar was established in 1935 and has been found to promote a legitimate state interest by the California Supreme Court in *Bib'le v. Committee of Bar Examiners* (1980) 26 Cal 3rd 548.

Because these schools are nonaccredited, this examination is currently the only standard available to students attending these schools by which to determine the quality of education that they are receiving. Additionally, the results of the examination also assist the student in determining whether he or she has the potential to become an attorney. Last year, after vetoing bills conceptually indistinguishable from this one in 1994 and 1995, I signed SB 1950 (Mello). The Mello bill sought to grant relief to the students of unaccredited law schools who suffer uncertainty after failing the Baby Bar. The bill allows such students two additional opportunities to pass the exam without disrupting their studies or losing credits.

The Mello bill was perceived to be a reasonable compromise recognizing the concerns of both the State Bar and the unaccredited schools. This bill, brought forth by the same proponents within weeks of the earlier bill's effective date, abrogates most of the effect of the Mello bill and reverts to the position that the Baby Bar become largely advisory.

The same position was rejected in both 1994 and 1995. The distinction that this bill applies only to applicants who have a bachelor's degree is hardly compelling. Most individuals seeking a graduate degree first acquire a bachelor's degree.

AB 1462
Morrow

Governmental Liability: Attorney's Fees

Two Year Bill

Existing law provides that civil actions may be filed against a state or local entity according to specified procedures.

This bill would require the court to award reasonable attorney's fees to the prevailing party in such an action. (Gov C § 814.4)

AB 1471
Pacheco

State Public Defender

Two Year Bill

Existing law authorizes the State Public Defender to contract with specified attorneys and organizations for the provision of legal services for indigent persons.

Among other things, this bill would authorize the State Public Defender to contract with law schools that have established a clinical program organized to furnish legal services to persons who are not financially able to employ counsel. (Gov C §§ 15401, 15402, 15403, 15420, 15421, 15421.5, 15422, 15425, 27707.1 & 68804; and Pen C §§ 1026.5 & 1240)

**AB 1500
Thomson**

Publication: Liability to Crime Victims

Two Year Bill

Existing law provides certain civil rights to victims of crime and prohibits the making of any copy of any photograph of the body or a portion of the body of a deceased person, taken by or for the coroner.

This bill would provide that any person who causes to be published, broadcast, or otherwise disseminated any still photograph, video or film image of an actual murder, rape, mutilation, or torture in progress, or the immediate aftermath, and causes actual damage to the victim depicted in the material or to any person who would be entitled to bring a wrongful death action, shall be liable for all compensatory damages suffered and for any exemplary damages that may be deemed appropriate by the trier of fact. (Civ C § 48.6) (See AB 1323)

**AB 1603
Bustamante**

Liability: Common Consumer Products

**Chapter 25
Statutes of 1997**

Existing law provides that a manufacturer or seller of a product is not liable if the product is inherently unsafe, is known to be unsafe by the ordinary consumer, and is a common consumer product intended for personal consumption such as sugar, castor oil, alcohol, tobacco, and butter.

This statute specifies that existing law does not, and never did, apply to an action brought by a public entity to recover the value of benefits provided to individuals injured by a tobacco-related illness caused by the tortious conduct of a tobacco company. (Civ C § 1714.45) (See SB 67 and SB 340)

**SB 19
Lockyer**

Dispute Resolution

Two Year Bill

Existing law specifies the grounds upon which a court may vacate the award made by an arbitrator.

This bill would restore an arbitrator's statutory immunity from civil liability, require a court to vacate an arbitration award

under specified conditions, and establish a pilot project that requires Los Angeles County superior courts to refer civil actions having an amount in controversy over fifty thousand dollars (\$50,000) to an early status conference. (CCP §§ 639, 1033.5, 1280.1, 1286.2, 1286.5, 1770 & 1775.16; and Gov C § 68616)

**SB 67
Kopp**

Product Liability Actions: Tobacco

**Chapter 570
Statutes of 1997**

Existing law provides that a manufacturer or seller of a product is not liable if the product is inherently unsafe, is known to be unsafe by the ordinary consumer, and is a common consumer product intended for personal consumption such as sugar, castor oil, alcohol, tobacco, and butter.

Among other provisions, this statute deletes tobacco from the list of common consumer products. (Civ C § 1714.45)
(See AB 1603 and SB 340)

**SB 82
Johnson**

Civil Liability

Dropped

Existing law provides that everyone is responsible for the result of his or her willful acts, and also for an injury occasioned to another by his or her want of ordinary care or skill.

This bill would have provided that a business proprietor or an owner or occupier of land held open for business and his or her agents and employees would not have a duty to comply with the demands of a person perpetrating or attempting to perpetrate a crime by threatening to inflict injury or harm to a patron or other person on the premise as a means of accomplishing that crime. (Civ C § 1714.35)

**SB 119
Kopp**

Judicial Officers: Peremptory Challenges

**Vetoed
October 11, 1997**

Existing law provides for the peremptory challenge of a judicial officer if a party cannot or believes he or she cannot have a fair and impartial trial before that particular judicial officer.

Among other things, this bill would have provided that in a civil action or proceeding in a court with 10 or more judges, a party or a party's attorney may exercise one peremptory challenge to excuse a judge, court commissioner, or referee without cause. (Civ C § 170.6)

Veto Message

Governor Pete Wilson
To the Members of the California Senate:

I am returning Senate Bill No. 119 without my signature.

This bill would permit any party in a civil action, in courts with ten or more judges, to exercise a peremptory challenge to excuse a judge court commissioner, or refer without cause.

This bill is materially similar to SB 1765, vetoed in 1994.

While the bill reflects a good faith effort to alleviate concerns regarding logistics in courts with few judges, the solution gives rise to problems of its own. As contemplated, the state would function under two conflicting rules that would likely give rise to claims of unequal protection.

As you know however, in the opinion of Legislative Counsel, SB 119 would succumb to a challenge that it replicate a state statute found to be unconstitutional by the California Supreme Court in *Austin V. Lambert*, Cal. 2d 73.

SB 143
Kopp

Unfair Competition Legislation: Representative Actions

Two Year Bill

Existing law prohibits unlawful, unfair, or fraudulent business acts or practices and unlawful, deceptive, untrue, or misleading advertising.

This bill would require unfair business practice actions brought by private parties on behalf of the interests of the general public to comply with certain requirements. In particular, the bill would require the plaintiff in this representative cause of action to not have a conflict of interest that could reasonably compromise the representation. The bill contains other related provisions. (B&P C § 17300)

SB 232
Brulte

Liability

Two Year Bill

Existing law provides that an obligation imposed upon or a right created in favor of several persons is presumed to be joint and not several. Also, existing law 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 provide that a person shall have only several, and not joint and several, liability for any claim. Claim is defined as meaning all economic losses, damages, and other liabilities not arising from personal injury, property damage, or wrongful death, but from tort, contract, or acts of omissions of a person rendering services to the claimant. (Civ C § 1431.25)

**SB 262
Burton**

Damages

Two Year Bill

Existing law provides that any person who knowingly uses another's name, voice, signature, photograph, or likeness in any manner or on products, merchandise, or goods for the purpose of advertising or selling these products, merchandise, or goods without such person's prior consent is liable for any damages sustained by the person in an amount equal to the greater of \$750 or the actual damages suffered.

This bill would raise the minimum amount of liability to \$1,500. (Civ C § 3344)

**SB 319
Burton**

Title Insurance

**Failed
Assembly Floor**

Existing law requires a new title insurance policy whenever a property is sold or refinanced.

Among other things, this bill would have provided that title insurance policies are assumable in refinance situations.
(Civ C §§ 1057.6, 1057.61, 1057.62 & 1057.63; and Ins C §§ 12340.12 & 12340.13)

**SB 340
Sher**

Product Liability: Common Consumer Products: Tobacco

**Vetoed
October 3, 1997**

Existing law provides that a manufacturer or seller of a product is not liable if the product is inherently unsafe, is known to be unsafe by the ordinary consumer, and is a common consumer product intended for personal consumption such as sugar, castor oil, alcohol, tobacco, and butter.

This bill would have specified that this existing law does not apply to any action brought by a party against a tobacco company, its successor-in-interest, or a tobacco industry research organization for fraud, misrepresentation, or conspiracy, or when the party did not voluntarily consume the product. (Civ C § 1714.45) (See AB 1603 and SB 67)

Veto Message

Governor Pete Wilson
To the Members of the California Senate:

I am returning Senate Bill No. 340 without my signature.
This bill provides that the statutory exemption for manufacturers and

sellers of the common consumer products enumerated in Civil Code Section 1714.45 does not apply to any action, including product liability actions, against a tobacco company, its successor-in-interest, or a tobacco industry research organization brought by a party who did not voluntarily consume the product.

Earlier I signed SB 67 (Kopp) which amends Civil Code Section 1714.45 by removing tobacco manufacturers and their successors-in-interest from those exempted from suit.

In removing the statutory protection for tobacco manufacturers and their successors, SB 67 declares that "there exists no statutory bar to tobacco-related personal injury, wrongful death, or other tort claims against tobacco manufacturers and their successors in interest by California smokers or others who have suffered or incurred injuries, damages, or costs arising from the promotion, marketing, sale, or consumption of tobacco products."

By this language, SB 67 provides that there is no statutory bar to suit by non-smokers as well as smokers, whereas the narrowly focused purpose of SB 340 does not provide for suit by those whose consumption is voluntary. SB 340 was clearly written as a narrower alternative to SB 67 insofar as SB 340 would expressly recognize limited exceptions to the tobacco exemption which SB 67 has now entirely eliminated for any tobacco manufacturer or its successors. In creating exceptions to an immunity which no longer exists, SB 340 would not only serve no purpose but would create confusion over the meaning of the statute as it is now amended.

SB 544
Maddy

Discovery: Depositions: Transcripts Distribution

Chapter 395
Statutes of 1997

Existing law, known as the Civil Discovery Act, specifies procedures for conducting discovery in civil cases.

This statute: (1) requires a deposition officer to notify all parties attending a deposition of a request for a copy of the deposition testimony if the copy would be made available to the requesting party prior to the time it would be available to any other party; (2) requires a deposition officer to make available copies of the transcript to any person who requests a copy and pays a reasonable charge to the officer if the deposition is still in the possession of the officer and the court has not ordered to the contrary; (3) prohibits deposition transcripts prepared as rough drafts from being certified and used, cited, or transcribed as the certified transcript or used to rebut or contradict certified transcripts; and 4) requires a deposition officer to notify by mail the deponent and all parties attending the deposition of a request for a copy of the deposition and to release the copy if no protective order has been served on the officer within 30 days of mailing the notice. (CCP §§ 2025 & 2025.5)

SB 628
Kopp

Elders and Dependent Adults: Conservatorships

Chapter 663
Statutes of 1997

Existing law provides that a conservatorship of the person of a nonresident has the same powers and duties as a

conservatorship of the person of a resident while the nonresident is in this state.

This statute prohibits establishing a conservatorship of a person in this state if this person is a nonresident and a conservatorship has already been established or a protective order issued in another state. This statute also contains other related provisions regarding elder or dependent adults. (Prob C § 1800.3; and W&I C §§ 15610.06, 15610.07, 15657.05 & 15657.3)

SB 709
Rosenthal

Self-Help Legal Services

Two Year Bill

Existing law prohibits any person who is not a member of the California State Bar from practicing law or from advertising or holding himself or herself out as practicing or entitled to practice law.

Among other things, this bill would specify that self-help legal services offered by legal technicians do not constitute the unauthorized practice of law. (B&P C § 6450)

SB 778
Haynes

False Claims Actions

Two Year Bill

Existing law authorizes the Attorney General to investigate and bring a civil action for false claims made against the state if money, property, or services issued is involved.

This bill would provide that tort claims and actions against public entities and public employees, specified construction claims or arbitration claims from public works projects, claims made pursuant to other statutes or law, and claims made in the course of any litigation, arbitration, or other formal adjudicatory proceedings are exempt from these provisions. (Gov C § 12654)

SB 792
Burton

Probate: Notices

Chapter 198
Statutes of 1997

Existing law requires that a bond be posted by an estate's guardian, conservator, or representative as security for the appointed person's obligation in fulfilling the duties required by law. Existing law also provides for various notice requirements in probate proceedings.

This statute requires specified persons to mail a notice to the surety insurer who has filed a court bond. This mailing of a notice is required from a person filing a petition to surcharge, a

person filing an objection to an account, a person filing a petition to suspend or remove a guardian, conservator, or a personal representative, and an attorney filing a motion to withdraw from representation. (Prob C § 1213)

SB 845
Haynes

State Bar of California: Law Students' Examination

Two Year Bill

Existing law provides that in order to practice law in the state of California, an applicant must meet certain requirements such as the passing of the General Bar Examination (Bar). Existing law also provides that students attending nonaccredited law schools pass the Law Students' Examination (Baby Bar) in order to receive credit for their first year of law school studies.

This bill would require the State Bar to administer the same essay questions on contracts, criminal law, and torts to those taking the Baby Bar and the Bar examinations during the July 1998 administration and require the grading of both examinations to be done using standards for the Bar examination. (B&P C § 6046.8)

SB 999
Maddy

Escheat Claims

Chapter 671
Statutes of 1997

Existing law establishes the procedures for the property of a missing beneficiary to escheat (revert back) to the state of California. The unclaimed property escheats to the county (one-year period), then to the state (five-year period), and at the end of the five-year period, the Attorney General's Office files for a default judgment to divest the property from the missing beneficiary. The unclaimed property permanently escheats to the state after another five years.

This statute provides that a named beneficiary of the property that escheats or a blood relative of the named beneficiary, if the beneficiary is deceased, may claim the property at any time within the five-year period after the date of the entry of the default judgment. (CCP § 1430)

SB 1145
Burton

State Bar of California: Membership Fees

Vetoed
October 11, 1997

Existing law establishes the Review Department of the State Bar Court to review any decision or order issued by a judge of the State Bar Court; fixes the annual fee for membership in the State Bar at a certain rate; requires the State Bar to contract with

the State Auditor to do a comprehensive management audit of the State Bar; authorizes the State Bar to increase its membership fees for the financing, constructing, purchasing, or leasing of facilities; and requires members to pay an additional fee for augmenting the State Bar's disciplinary fund.

This bill would have: (1) required that a party requesting a review by the Review Department meet specified requirements; (2) lowered the membership fees for the 1998 and 1999 years; (3) required the State Bar to submit a report to the Legislature regarding the audit by the State Auditor; (4) required the State Bar to refund excess money from the sale of a San Francisco facility; and (5) continued the additional fee to augment the disciplinary fund. (B&P C §§ 6086.65, 6140, 6140.17, 6140.3 & 6140.4)

Veto Message

Governor Pete Wilson
To the Members of the California Senate:

I am returning Senate Bill No. 1145 without my signature.

This bill would authorize the State Bar to collect annual bar dues from its members for the years 1998 and 1999. The dues would be reduced by \$20 and the annual amount frozen until January 1, 2000. This bill also would authorize the State Bar to continue collecting an additional fee of \$110 to be used exclusively for discipline augmentation during the same timeframe noted above. The State Bar is authorized to regulate the practice of law in California. It licenses, regulates, and has the authority to discipline nearly 122,000 attorneys in California. The California Bar is a mandatory bar in that all California attorneys must be members in order to practice law. Its fee-based budget exceeds \$65 million annually.

Last year, a substantial minority of bar members voted to abolish the mandatory bar in favor of a voluntary model embraced in ten other states. This difference of opinion as to the mandatory nature of the Bar is at the heart of what might be charitably characterized as an almost chronic disharmony. Simply stated, some members believe that the Bar cannot function effectively as both a regulatory and disciplinary agency as well as a trade organization designed to promote the legal profession and collegial discourse among its members.

In addition to the conflict inherent in the Bar's multiple functions, recent lawsuits illustrate the long held belief of some members that the Bar is partisan, representing the views of the most vocal while excluding or opposing the interests of others.

Some of these less favored members were vindicated in 1990 when the U.S. Supreme Court in *Keller v. State Bar of California* 496 U.S. 1, concluded that the Bar had impermissibly spent bar dues to promote political positions which did not comport with some of its members.

The bar has responded to *Keller* by conducting business as usual while offering a minuscule rebate to those opposed. Unappeased, several bar members (including one former and one current member of the Legislature) sued this year asserting that the Bar had violated its members' rights by taking positions on legislation with which members disagree.

In recent months, as disgruntled members have leveled charges that the

Bar is bloated, arrogant, oblivious, and unresponsive, the Bar has promptly done its best to verify each indictment.

During the past year the Bar has, in no particular order:

- * Entered into a \$900,000 contract with its former executive officer to provide lobbying services for two years. The contract initially included an illegal \$75,000 bonus to be paid if this bill were signed into law.
- * Hired a new executive officer for \$200,000 per annum plus perks.
- * Endorsed legislation which would increase liability limits in medical malpractice cases over the objection of the civil defense bar.
- * Resisted proposals to significantly reduce bar dues, calling instead for a \$20 annual reduction in dues offset by the extension of a \$110 per year increase in dues.
- * Resisted, in fact deleted, amendments to this bill which would have required a Bar dues bill next year and thus increased legislative oversight.

Members of the California Bar currently pay \$478 in annual bar dues. Two studies, one by the State Auditor and another by a committee chaired by U. S. Court of Appeals Judge Arthur Alarcon, found a significant glut in the Bar's budget and called for a substantial reduction. In the case of the Alarcon Committee, the recommended reduction was \$79 per year. Indeed, California bar dues are more than twice the average of the other forty-nine states, which is approximately \$200 per year. None of this appears to be of any consequence to the Bar, but then the Bar's own small army of staff attorneys pays no bar dues at all.

At the end of a tumultuous legislative year, the State Bar last month conducted its annual convention in San Diego where delegates promptly got down to business and adopted resolutions:

- * in favor of legalizing same sex marriages
- * to prohibit discrimination against transvestites and transsexuals
- * to reduce penalties for drug dealers
- * to reduce penalties for repeat child molesters
- * to thwart the will of the voters relative to affirmative action at state law schools

It is difficult to draw a clear conclusion as to the direction of the California State Bar. Created in 1927, the Bar is designed to act as an arm of the California Supreme Court with responsibility for regulating the legal profession and promoting fair and efficient administration of justice. The Bar has drifted, however, and become lost, its ultimate mission obscured. It is now part magazine publisher, part real estate investor, part travel agent, and part social critic, commingling its responsibilities and revenues in a manner, which creates an almost constant appearance of impropriety.

It is time for the Bar to get back to basics: admissions, discipline and educational standards. I would look with favor upon a bill that required Bar members to pay only for functions which were, in fact, a mandatory part of a responsible, cost efficient regulatory process: a process which would require the Bar, in word and deed, to scrupulously heed Thomas Jefferson's admonition that "to compel a man to furnish contributions of money for the propagation of opinions which he disbelieves, is sinful and tyrannical."

SB 1159
Schiff

Governmental Tort Liability

Chapter 132
Statutes of 1997

Existing law provides that certain local officials are not vicariously liable for injuries caused by an act or omission of the public entity or advisory body.

This statute amends existing law by specifying that this exemption remains in effect only until January 1, 2000.
(Gov C § 820.9)

SB 1296
Lockyer

Civil Procedure

Chapter 271
Statutes of 1997

Existing law provides that a cause of action against a person arising from any act of that person in furtherance of that person's right of petition or free speech under the United States or California Constitution, i.e., Strategic Lawsuits Against Political Participation (SLAPP), is subject to a special motion to strike unless the court finds that there is a probability that the plaintiff will prevail on the claim.

This statute revises existing law by specifically stating that these provisions are to be construed in a broader sense.
(CCP § 425.16)

SB 1340
Polanco

Trial Courts: Interpreters

Two Year Bill

Existing law provides that court interpreters who provide services to the courts at uniform rates do not have a statutory right to be represented by an organization of their own choosing for the purpose of representation and negotiation.

This bill would create such a statutory right and would prohibit a court or county from penalizing any court interpreter because of that interpreter's exercise of his or her rights under these provisions. (Gov C § 68567)

SCA 3
Haynes

Jury Trials

Two Year Bill

The California Constitution provides that a jury trial is an inviolate right and shall be secured to all.

This constitutional amendment would provide that in a civil cause in which the only relief sought is money damages and the total sought does not exceed \$7,500, the plaintiff (or all the plaintiffs) may elect to waive the right to a jury trial.

(3) Credit and Financial Institutions

AB 46
Sweeney

Automated Teller Machine Charges

Existing law requires operators of an automated teller machine (ATM) to disclose any surcharges to use the ATM, whether or not the customer is using an access device issued by that operator.

This bill would instead have prohibited ATM operators from imposing a surcharge whether or not the customer is using an access device issued by that operator, unless the surcharge involves the sale of goods or services at an ATM. The bill also would have prohibited charging customers for telephone teller inquiries if no more than six telephone inquiries are made per month. (Civ C § 1748.8; and Fin C § 13080)

Failed
Assembly
Banking &
Finance

AB 156
Murray

Identity Fraud

Existing law regulates consumer credit reporting agencies (CCRAs) and, among other things: (1) permits CCRAs to furnish consumer credit reports only for the purposes authorized in the law (e.g., for employment, credit or insurance purposes); (2) requires CCRAs to maintain reasonable procedures to ensure the accuracy of information reported; and (3) allows consumers to dispute inaccurate information in their credit files.

Among other things, this statute: (1) requires CCRAs to match at least three items of identifying information in their files with information provided by the consumer to a retailer when the consumer applies for credit in person; (2) requires retailers who issue credit in person to certify to the CCRA that they require employees to inspect the consumer's photo ID; (3) requires creditors who issue credit by mail to send the credit card to the same address as on the solicitation, unless the prospective user verifies any purported address change; (4) requires CCRAs to permanently retain the information used by the CCRA to identify each individual consumer in the consumer's file, or a separately individualized file; and (5) requires CCRAs to permanently block disputed information if the consumer provides a copy of a police report alleging a violation of Pen C § 530.5 (identity theft), which this statute enacts. The information could only be unblocked if: (1) the information was blocked due to fraud; (2) the consumer agrees that the information was blocked in error; or (3) the consumer obtained goods, money or services as a result of the blocked transaction. (Civ C §§ 1785.14, 1785.16, 1785.30, 1785.31 & 1785.33; and Pen C § 530.5)

Chapter 768
Statutes of 1997

Existing federal law defines a reverse mortgage loan (RML) as a nonrecourse consumer credit obligation in which a mortgage, deed of trust or similar security interest is created in order to secure one or more advances. ("Nonrecourse" means that the lender's only recourse is against the property itself, so the lender cannot recover against the estate for any deficiency that may result from the sale of the home). This statute would define an RML as a nonrecourse loan secured by real property where the loan: (1) provides cash advances to the borrower based on the equity or value of the borrower's home; (2) requires no payment of principal or interest until the loan becomes due and payable; and (3) is made by a lender licensed or chartered under California or federal law.

Existing federal law states that an RML becomes due and payable if: (1) the borrower defaults; (2) the borrower dies; (3) the home is transferred; or (4) the borrower no longer lives in the home. This statute states that the loan becomes due and payable if: (1) the home is sold or transferred; (2) all borrowers cease occupying the home as a principal residence, except for temporary absences; (3) any fixed maturity date agreed to by the lender and borrower occurs; or (4) an event occurs that is specified in the loan documents and that jeopardizes the lender's security.

Existing federal law requires various disclosures as to the costs associated with an RML. This statute: (1) allows an RML to include any costs or fees, other than prepayment penalties; (2) permits the use of various interest rate formulas (i.e., a fixed and/or adjustable rate, compound interest, and interest contingent on the value of the property at closing or maturity or on changes in value between closing and maturity); (3) prohibits advances from being reduced based on any adjustment in the interest rate; and (4) requires the lender to disclose any interest rate or other fees to be charged from the date the RML becomes due and payable and ends when the loan is fully paid. This statute also requires the lender to give the borrower a disclosure advising the borrower to get counseling from an attorney, financial adviser, accountant, or reverse mortgage counselor before taking out the loan, and requires a disclosure as to whether or not the RML requires the purchase of an annuity. (Civ C § 1923; and Gov C § 818.10)

AB 711
Ackerman

Check-Cashiers: Permits

Chapter 369
Statutes of 1997

Existing law regulates check cashiers and requires them to obtain a permit from the Department of Justice (DOJ), but does not prescribe penalties for failing to obtain the permit.

This statute makes failure to obtain a “current and valid” permit punishable by a civil penalty of up to \$1,000 for a first offense and up to \$5,000 for a second offense, and makes the third offense a misdemeanor, punishable by a fine of up to \$5,000 and/or a jail term of up to six months. (Civ C § 1789.37)

AB 872
Wright

Consumer Credit Contracts: Liens

Failed
Senate Judiciary

Existing law: (1) gives buyers of a door-to-door contract three days to cancel the contract (seven days in the case of a contract to repair or restore a home damaged by a disaster); and (2) gives buyers of a consumer contract that includes a lien on real property three days to cancel the contract.

This bill would have prohibited sellers from entering into or obtaining a consumer credit contract for the sale of home improvement goods or services offered door-to-door if the contract includes a lien on real property. The bill also would have prohibited creditors from entering into a consumer credit contract to finance home improvement goods or services sold door-to-door if the contract is secured by a lien on real property and: (1) the creditor and seller are affiliated by any common ownership or control; (2) the creditor and seller have any arrangement in connection with the sale or its financing; or (3) the creditor has notice that the seller referred the buyer to the creditor, arranged the contract, assisted the buyer to apply for the contract, or participated in the preparation of any credit documents. (Civ C § 1799.104)

AB 1104
Knox

Point of Sale Charges

Chapter 646
Statutes of 1997

Existing law requires automated teller machine (ATM) operators to disclose the total price of the good or service purchased and any fee charged by the operator for the use of the machine.

This statute requires point-of-sale devices to disclose any fee the operator charges to use the device. (Fin C § 13081)

**SB 346
Burton**

Credit Transactions: Personal Information

Two Year Bill

Existing law prohibits sellers from requesting or requiring credit card customers to give personal information (e.g., an address or phone number) which is then recorded on a credit card transaction form or elsewhere, as a condition of accepting the card. Existing law exempts: (1) cash advance transactions; (2) information the seller is contractually required to provide to the credit card issuer to complete the transaction; and (3) information required for a special purpose incidental but related to the transaction, including information relating to shipping, servicing, delivery or installation of the purchased goods, or for special orders.

This bill would expand the last exemption to include situations where the customer picks up the merchandise either in the store at a location other than the point of sale (e.g., at a delivery dock), or at a warehouse. (Civ C § 1747.8)

**SB 930
Rosenthal**

Consumer Credit

Two Year Bill

Existing law permits consumer credit reporting agencies to furnish consumer credit reports only under certain circumstances, i.e., in response to a court order, or for credit, employment, insurance, or other legitimate business needs. Existing law allows consumers to view their credit reports and dispute inaccurate information. Existing law allows credit reporting agencies to charge up to \$8 for a copy of a consumer's credit report, but allows consumers to obtain a free copy of their credit report if, among other things, the consumer is denied credit or other benefit due to information in the credit report.

This bill would permit consumers to block their credit reports to third parties and would require consumer credit reporting agencies to give consumers one free copy of their credit report per year upon request. The bill also would require credit card issuers to verify a reported change of address before mailing the requested credit card. (Civ C §§ 1747.82, 1785.11.5, 1785.16 & 1785.17)

(4) Health and Safety

**AB 57
Escutia**

Air Pollution: Vehicles: Repair

**Chapter 804
Statutes of 1997**

Existing law establishes a motor vehicle inspection and maintenance (Smog Check) program administered by the Department of Consumer Affairs/Bureau of Automotive Repair

(DCA/BAR), which includes a program for the repair or voluntary removal of high-emission vehicles.

This statute, among other things, establishes a new repair assistance program, creates a new \$250 low-income economic hardship extension program, allows gross-polluting vehicles eligibility for waivers and extensions, and, requires the DCA to collect data. (H&S C §§ 44001.3, 44015, 44015.3, 44017, 44017.1, 44056 & 44062.1)

**AB 99
Runner**

Body Piercing

**Chapter 741
Statutes of 1997**

This statute makes it an infraction, until January 1, 2005, for any person to perform body piercing, as defined, upon a person under the age of 18.

This statute contains other related provisions.
(Pen C §§ 19.8 & 652)

**AB 129
Morrow**

Abortion: Informed Consent

**Failed
Assembly
Judiciary**

This bill would have enacted the Woman's Right to Know Act, which would have prohibited the performance of an abortion except with the voluntary and informed consent of the woman. This bill contained other related provisions. (H&S C § 123460)

**AB 140
Baca**

**Occupational Safety and Health: Traffic Control: Flag
Persons**

**Vetoed
October 3, 1997**

There is currently no law specifying safety standards for flag persons or others who perform traffic control where construction work is occurring.

This bill would have required that the Division of Occupational Safety and Health establish an advisory committee to study recommendations on the necessity of promulgating safety standards for the training of flag persons or other persons who are responsible for the selection, placement, or maintenance of traffic control devices on public streets or highways where construction work is occurring. (Lab C § 6725)

Veto Message:

Governor Pete Wilson
To the Members of the California Assembly:

I am returning Assembly Bill No. 140 without my signature.
This bill would require the Occupational Safety and Health Standards

Board of the Department of Industrial Relations to establish an advisory committee to study the need for the promulgation of safety training standards for flag persons responsible for traffic control devices where construction work is occurring.

This measure is unnecessary. Under current law, the Department of Transportation (Caltrans) is responsible for promulgating uniform standards and specifications for all official traffic control devices. Existing regulations provide that all employees involved in traffic control, including contractor employees, should be adequately trained in safe traffic control practices.

The California Occupational Safety and Health Act (Cal/OSHA), currently enforces safety regulations which apply specifically to traffic control on public streets and highways at construction sites, pursuant to Title 8 of the California Code of Regulations, Section 1598. That section adopts the requirements of the most recent Caltrans publication, the 1996 "Manual of Traffic Control for Construction and Maintenance Work Zones." Proponents can petition the standards board directly with their concerns without the need for an advisory committee.

**AB 186
Brown**

Tattooing, Body Piercing, And Permanent Cosmetics

**Chapter 742
Statutes of 1997**

This statute directs the California Conference of Local Health Officers (CCLHO) to establish sterilization, sanitation, and safety standards for persons engaged in the business of tattooing, body piercing, or permanent cosmetics.

The statute additionally requires the president of the CCLHO to appoint and act as chairperson of a 10-member task force for the purpose of recommending legislation, by January 1, 1999, concerning licensing, training, sanitation and other subjects necessary to protect the health of persons using the services of practitioners of body piercing, tattooing, and permanent cosmetics. **(The task force shall include a representative from the State Board of Barbering and Cosmetology, among others.)** The statute contains other related provisions. (H&S C § 119300)

**AB 208
Migden**

Vehicles: Inspection and Maintenance: High Polluter Repair or Removal

**Chapter 802
Statutes of 1997**

Existing law: (1) requires the Department of Consumer Affairs/Bureau of Automotive Repair (DCA/BAR) to establish an enhanced vehicle emissions inspection and maintenance (I/M) program (Smog Check); (2) requires that vehicles in the more populated areas of the state obtain a biennial certificate of compliance commencing upon the second renewal of registration; and (3) establishes a High Polluter Repair and Removal Account (HPRRA) administered by the DCA for the

repair or voluntary removal of high-polluting vehicles.

This statute, among other things: (1) allows the exception of any low-emitting motor vehicle or class of motor vehicles from the biennial requirement of the Smog Check program; (2) requires that the revenues from the Smog Impact Fee be deposited into the HPRRA; and (3) makes the money in the HPRRA available for the low-income repair assistance program, scrappage, rulemaking, vehicle testing, and other technical work required to implement and administer the low-income assistance program and the M-1 strategy. (H&S C §§ 44003, 44021, 44024.5, 44037.1, 44060, 44081, 44091, 44091.1 & 44101; R&T C § 6262; and Veh C § 4000.7)

**AB 221
Goldsmith**

Health: Blood Glucose Monitoring

**Chapter 550
Statutes of 1997**

Existing law: (1) governs clinical laboratory technology and prohibits the performance of certain clinical laboratory tests unless certain conditions are met, including that the tests are performed by authorized health care providers; (2) prohibits, through the Medical Practice Act, the unauthorized practice of medicine, except for services in the case of an emergency or the domestic administration of family remedies; (3) provides for the licensure and regulation of child day care facilities by the Department of Social Services; and (4) defines a “child day care facility” as a facility that provides nonmedical care to children under 18 years of age in need of personal services and supervision on less than a 24-hour basis.

This statute exempts specified persons who perform blood glucose testing of minor children for the purpose of monitoring diabetes from provisions of the state clinical laboratory regulation and medical practice licensure; permits such testing in licensed child day care facilities in accordance with specified requirements; prohibits any provision of law from requiring that insulin injections be administered in a licensed child day care facility; specifies that to qualify for the bill’s proposed exemption from state clinical laboratory requirements, a licensed child day care facility where blood glucose testing is performed must be registered with the State Department of Health Services. (B&P C §§ 1241 & 2058; and H&S C § 1596.797)

AB 224
Alby

Health Care Service Plans: Consumer Bill Of Rights

Two Year Bill

Existing law, the Knox-Keene Health Care Service Plan Act of 1975 (Act), provides for the regulation of health care service plans by the Department of Corporations.

This bill would enact the Health Care Consumer Bill of Rights. The bill would state the intent and purpose of the Legislature that consumers of health care under the Act be guaranteed specified rights. (H&S C § 1342.2)

AB 250
Kuehl

Liability: Health Care Providers

Two Year Bill

Under existing law, in an action for injury against a health care provider based on professional negligence, the injured plaintiff may not recover damages for noneconomic losses in excess of \$250,000.

This bill would provide that this limitation does not apply if the health care provider consumed alcohol or illegal drugs that impaired his or her ability to perform professional services causing injury to the plaintiff. This bill contains other related provisions. (Civ C § 3333.2)

AB 434
Gallegos

Health Care Practitioners: Managed Care Organizations

Two Year Bill

This bill would delete provisions of existing law requiring a health care service plan to disclose the reasons for the termination of a contract with a provider to the provider only if the termination occurs during the contract year. The bill would also require that a health care practitioner have the opportunity to notify his or her patients 120 days prior to his or her termination from a health care service plan and would require that an enrollee be permitted to follow his or her health care practitioner to another plan if the employer offers another plan with which the practitioner contracts. This bill contains other related provisions. (B&P C §§ 510.6 & 805; H&S C § 1373.65)

AB 491
Keeley

Firearms: Criminal Storage

Chapter 460
Statutes of 1997

Under existing law it is a misdemeanor to store a loaded firearm or exhibit the firearm in a public place where a child under the age of 14 can gain access to it without the permission

of the child's parent or legal guardian and cause injury to himself, herself or any other person.

This statute expands the requirement to apply to children up to age 16. (Pen C §§ 12035, 12036 & 12071)

AB 564
McClintock

Health Care Service Plans: Enforcement

Chapter 139
Statutes of 1997

Existing law exempts professional societies and members of peer review committees from liability when performing acts within the scope of the functions of peer review, insofar as the committee or member: (1) acts without malice; (2) has made a reasonable effort to obtain the facts; and (3) acts in a reasonable belief that his or her action is warranted. Existing law authorizes the Department of Corporations (DOC) to contract with consultants to assist in the administration and enforcement of the Knox-Keene Health Care Service Plan Act of 1975 (Knox-Keene Act).

This statute provides immunity from liability to medical consultants contracted by DOC when the communications of medical consultants are for the purpose of determining whether health care services have been or are being arranged or provided in accordance with the Knox-Keene Health Act.
(Civ C § 43.98)

AB 589
Figueroa

Health Care Service Plans

Two Year Bill

This bill would state the intent of the Legislature that jurisdiction over health care service plans be reorganized and that responsibility for the administration and enforcement of the laws governing plans be vested in an agency that will best ensure quality of care and responsive care to Californians. This bill contains other related provisions.

AB 610
Margett

Marijuana

Two Year Bill

Existing law, the Compassionate Use Act of 1996 (Act), prohibits any physician from being punished, or denied any right or privilege, for having recommended marijuana to a patient for medical purposes. Further, the Act prohibits, under specified conditions, the provision of law making it unlawful to possess or cultivate marijuana from applying to a patient, or to a patient's primary caregiver, who possesses or cultivates

marijuana for the personal medical purposes of the patient.

This bill would: (1) address the accountability issues raised by the passage of Proposition 215 (Compassionate Use Act of 1996) which was approved in the November 5, 1996 election; (2) authorize marijuana for medical purposes to be grown only through a grower licensed by the Department of Agriculture under specified conditions and guidelines; and (3) require all suppliers of marijuana to obtain a special license for the sale of marijuana from the State Board of Pharmacy. (H&S C §§ 11362.61, 11362.62, 11362.63, 11362.64, 11362.65 & 11362.66)

AB 714
Kuehl

Domestic Violence: Reports

Two Year Bill

Existing law requires health practitioners to report to a local law enforcement agency if they provide medical services for a physical condition to a patient whom they know or reasonably suspect is suffering from any wound or other physical injury that is the result of assaultive or abusive conduct.

This bill would remove the reporting mandate when the patient is an adult who is mentally competent, is a victim of domestic violence, and objects to a report being sent to law enforcement. The bill would require the objection to be in writing and to contain specified information. (Pen C § 11160)

AB 764
Davis

Food And Drug Inspections

Chapter 516
Statutes of 1997

Existing law requires the Department of Health Services (DHS) to perform investigations on the preparation and sale of drugs and food and to perform duties that are required by law for the detection and prevention of the adulteration of articles used for food and drink.

This statute: (1) makes it unlawful for any person to advertise any drug or device represented to have any effect in enumerated conditions, disorders, or diseases; (2) amends existing law to make it unlawful to use on the labeling of any drug or device any representation or suggestion that an application with respect to the drug or device is effective under specified law or complies with the law; (3) allows the DHS, under specified conditions, to reveal trade secret information to specified employees of the federal Food and Drug Administration; and (4) requires the DHS to inspect a

manufacturer's place of business prior to issuing a license and subsequently every two years thereafter. (H&S C §§ 110165, 110305, 110403, 110405, 110408 & 111635)

AB 818
Martinez

HIV: Information, Counseling And Testing

Two Year Bill

Existing law requires the prenatal care provider primarily responsible for providing prenatal care to a pregnant patient to offer a human immunodeficiency virus (HIV) test, information, counseling, and referral services to every pregnant patient.

This bill would extend the requirement to apply to a medical care provider in a county with an estimated minimum HIV prevalence rate equal to or greater than 0.2% of the population as reported by the Office of AIDS, who is primarily responsible for providing care to a patient from 15 to 54 years of age, inclusive. (H&S C § 120897)

AB 823
Papan

Health Care

Two Year Bill

Existing law provides for the licensure and regulation of physicians and surgeons by the Medical Board of California, and makes the practice of medicine, as defined, by any person without a valid physician and surgeon's certificate subject to criminal sanction. Existing law also provides for the licensure and regulation of health care service plans by the Department of Corporations, and of disability insurers by the Department of Insurance.

This bill would define the practice of medicine to include making a decision regarding the medical necessity or appropriateness of any diagnosis, treatment, operation, or prescription for a particular patient, and would provide that a person who engages in this action is subject to the Medical Practice Act. (B&P C §§ 2052 & 2052.2; H&S C § 1368.07; and Ins C § 10140.07)

AB 833
Ortiz

Gynecological Cancers

Chapter 754
Statutes of 1997

Existing law establishes the Office of Women's Health within the State Department of Health Services (DHS). The functions of the office include, among others, to communicate and disseminate information and perform a liaison function within the department and to providers of health, social, educational,

and support services to women.

This statute directs the DHS to place priority on providing information to consumers, patients, and health care providers relating to women's gynecological cancers. The statute authorizes the DHS, in consultation with certain persons, to produce or contract with others to develop the materials required by this provision, as the office deems appropriate, or collect and distribute certain available publications, to be made available to the public free of charge. The statute authorizes the DHS to require, where appropriate, health care providers to provide or make available these materials to patients and provides for the Medical Board of California, as well as other sources, to distribute these materials. The statute requires every medical care provider primarily responsible for providing to a patient an annual gynecological examination to provide that patient during the annual examination a standardized summary in layperson's language and in a language understood by the patient containing a description of the symptoms and methods for diagnosing gynecological cancers. (H&S C §§ 109278 & 138.4)

AB 847
Wayne

Discarded Major Appliances: Materials Requiring Special Handling

Chapter 884
Statutes of 1997

Existing law requires hazardous waste be removed from major appliances prior to crushing or transporting for shredding for recycling and to be managed in accordance with hazardous waste laws.

This statute revises the definition of materials that require special handling, and provides that any person who removes from a major appliance any material that requires special handling that is a hazardous waste is a hazardous waste generator subject to regulation and hazardous waste management control laws. (H&S C § 25211; PRC § 42167, 42175 & 42175.1)

AB 999
Thomson

Air Pollution: Vehicles

Vetoed
October 8, 1997

Existing law establishes a motor vehicle inspection and maintenance (Smog Check) program administered by the Department of Consumer Affairs/Bureau of Automotive Repair (DCA/BAR) and requires loaded-mode vehicle testing in those urbanized areas of the state that are classified by the United

States Environmental Protection Agency (USEPA) as non-attainment areas for ozone. These areas are known as enhanced areas.

This bill would have removed the enhanced area designation on some areas of the state by defining an “urbanized” area as having a population of 100,000 or more residents. (H&S C § 40007)

Veto Message

Governor Pete Wilson

To the Members of the California Assembly:

I am returning Assembly Bill No. 999 without my signature.

This bill would redefine the term “urban area,” so that California’s enhanced smog check program would apply only to those urban areas with a population of 100,000 or more.

Currently, urbanized areas of 50,000 or more residents, that exceed air quality standards for ozone and carbon monoxide, must participate in an enhanced vehicle inspection and maintenance program (Smog Check II). Changing the definition of urbanized area, as proposed by this bill, would exempt certain areas from this program. This would create inequities by shifting the burden of increased emission reductions from automobiles to industrial and stationary pollution sources.

It is imperative that we continue to make desired and necessary progress toward health-protective, clean air standards, avoid unnecessary exposure to federal sanctions, and ensure that California’s air quality policy approach remains equitable, technologically feasible, and cost effective. Those three elements would be severely jeopardized by this bill.

**AB 1173
Olberg**

Controlled Substances

**Chapter 397
Statutes of 1997**

Existing law requires any manufacturer, wholesaler, retailer, or other person who obtains, sells, transfers, or otherwise furnishes any substances, as specified, to maintain specified information of the transaction or to submit a report of the transaction to the Department of Justice (DOJ). In addition, these persons/entities are required to submit an application and obtain a permit from the DOJ to conduct business in the state.

This statute: (1) amends reporting requirements due to the DOJ for chemicals of controlled substances; (2) increases penalties for violating reporting requirements; (3) makes changes or expands the DOJ’s permit requirements, procedures and eligibility; (4) clarifies who is exempt from the reporting requirements; and (5) makes other provisions regarding controlled substances. (H&S C §§ 11100, 11100.1, 11103, 11106, 11106.5, 11107 & 11107.1)

AB 1181
Escutia

Health Care Coverage

Two Year Bill

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Commissioner of Corporations and makes the willful violation of these provisions subject to criminal sanction.

This bill would require every health care service plan, except a specialized health care service plan, to establish and implement procedures by which an enrollee could receive a standing referral to a specialist and by which an enrollee with a condition or disease that requires specialized medical care over a prolonged period of time and is life-threatening, degenerative, or disabling could receive a referral to a specialist who, or a specialty care center, as defined, that, has expertise in treating the condition or disease for the purpose of having the specialist, or the specialty care center, coordinate the enrollee's health care. (H&S C § 1374.16; and W&I C §§ 14016.5 & 14450.5)

AB 1208
Migden

Health: Telemedicine

Two Year Bill

Existing law requires the State Department of Health Services (DHS) to administer various programs relating to the public health.

This bill would state legislative findings regarding the complex nature of the needs of terminally ill patients, and would require the DHS to collect and summarize information about prescribed issues relating to terminally ill patients. It would require the department to submit the report to the Legislature by June 1, 1998. This bill would state legislative findings regarding the complex nature of the needs of terminally ill patients, and would require the DHS to collect and summarize information about prescribed issues relating to terminally ill patients. It would require the DHS to submit the report to the Legislature by June 1, 1998. (H&S C § 123221)

AB 1220
Migden

Negligence: Health Care: Noneconomic Damages

Two Year Bill

Existing law provides that in any action for injury against a health care provider based on professional negligence, the injured plaintiff shall be entitled to recover noneconomic losses to compensate for pain, suffering, inconvenience, physical impairment, disfigurement, and other nonpecuniary damage,

but in no action shall the amount of damages for noneconomic losses exceed \$250,000.

This bill would provide that the \$250,000 limitation on the amount of damages for noneconomic losses shall not apply when the trier of fact finds that the health care provider: (1) refused or delayed evaluation, diagnosis, treatment, or a referral to another health care provider for the provider's economic benefit; (2) failed to refer a patient to another health care provider who possessed the skill, training, and expertise possessed by reputable practitioners customarily performing the evaluation, diagnosis, or treatment if, under similar circumstances, a reasonably careful and skillful general practitioner in the same or similar locality would have done so; or (3) administered an evaluation, diagnosis, or treatment without possessing the skill, training, or expertise possessed by reputable practitioners customarily performing the evaluation, diagnosis, or treatment if, under similar circumstances, a reasonably careful and skillful practitioner in the same or similar locality would have done so. (Civ C § 3333.2)

**AB 1251
Battin**

Human Cloning

Two Year Bill

Existing law makes it a felony for anyone to knowingly use sperm, ova, or embryos in assisted reproduction technology for any purpose other than that indicated by the sperm, ova, or embryo provider's signature on a written consent form, or to knowingly implant sperm, ova, or embryos, through the use of assisted reproduction technology, into a recipient who is not the sperm, ova, or embryo provider, without the signed written consent of the sperm, ova, or embryo provider and the recipient.

This bill would provide that any person who clones a human cell, or purchases or sells an ova, zygote, embryo, or fetus, for the purpose of cloning a human being, shall be punished by a criminal fine. It would make a violation an act of unprofessional conduct under the Medical Practice Act. The bill also would require the revocation of the local business license of any business that violates this provision. The bill would provide for the repeal of this act on January 1, 2003. (B&P C §§ 16004, 16105 & 2260.5; and H&S C § 24185)

**AB 1333
Martinez**

Health Care: Prescription Drugs

Two Year Bill

Existing law provides for the licensure and regulation of health care service plans and disability insurers, including those that provide long-term care.

This bill would: (1) prohibit a health care service plan or long-term care insurance plan that covers prescription drug benefits from requiring any health care provider to prescribe only drugs that are listed on the plan's formulary or to obtain approval of coverage for the prescribed drug in advance of writing the prescription; (2) authorize the health care providers to prescribe any drug that has been approved by the federal Food and Drug Administration as long as the drug is covered by the plan or policy; (3) prohibit a disability insurer from requiring any health care provider to prescribe only drugs that are listed on the insurer's formulary or to obtain approval of coverage for the prescribed drug in advance of writing the prescription; (4) indicate that the prescriber must have the authority to write prescriptions; and (5) provide that the aforementioned provisions could be executed if the appropriate drugs from the formulary have been prescribed and have been unsuccessful in treating the patient's medical condition. (H&S C § 1367.21; and Ins C §§ 10123.195 & 10233.2)

**AB 1344
Gallegos**

Health Care Service Plans

Two Year Bill

Existing law provides for the licensure and regulation of health care service plans by the Commissioner of Corporations.

This bill would state the intent of the Legislature that jurisdiction over health care service plans be reorganized and that responsibility for the administration and enforcement of the laws governing plans be vested in an agency that will best ensure quality of care and be responsive to Californians. This bill contains other related provisions.

**AB 1431
Oller**

Clinical Laboratory Technology

Two Year Bill

Existing law prohibits a person from performing a clinical laboratory test or examination classified as waived under the federal Clinical Laboratory Improvement Amendments of 1988 (CLIA) unless the clinical laboratory test or examination is performed under the overall operation and administration of the laboratory director.

This bill would instead provide that a licensed home health agency that performs only tests classified as waived under CLIA is not required to utilize the services of, or employ, a laboratory director. (B&P C § 1206.5)

AB 1434
Shelley

Fire Prevention: State Fire Marshal: Standards for Electricians

Two Year Bill

Existing law requires the State Fire Marshal (SFM) to establish and validate minimum standards for fire protection personnel and fire protection instructors at all career levels. Existing law provides for the licensure and regulation of electrical contractors by the Contractors State License Board.

This bill would require the SFM to establish and validate minimum standards for the competency and training of electricians through a system of testing and certification. The SFM would be required to establish advisory committees and panels to assist in carrying out the provisions of this bill, establish fees necessary to implement the bill, and promulgate regulations to enforce the bill. (H&S C § 13142)

AB 1437
Cardoza

Air Pollution: Transported Pollutants

Two Year Bill

Existing law requires the State Air Resources Board (ARB) to assess the relative contribution of upwind emissions to downwind pollution and to determine if the contribution is overwhelming, significant, inconsequential, or some combination thereof.

This bill would: (1) require the ARB, for each area of the state that contributes overwhelming or significant amounts of transported pollution to a downwind district, to implement a program that requires each upwind district to take prescribed actions that reduce the emissions being transported into the downwind district, or make mitigation payments for those emissions to the downwind district; and (2) subject the upwind districts to the Enhanced Vehicle Inspection and Maintenance Program. (H&S C §§ 39604, 39611, 39612, 40915 & 40924)

AB 1492
Baugh

Air Pollution: Motor Vehicle Inspection and Maintenance

Chapter 803
Statutes of 1997

Existing law: (1) requires the Department of Consumer Affairs/Bureau of Automotive Repair (DCA/BAR) to establish an enhanced vehicle emissions inspection and maintenance

(I/M) program (Smog Check); (2) requires that vehicles in the more populated areas of the state obtain a biennial certificate of compliance commencing upon the second renewal of registration; and (3) requires that vehicles designated as Gross Polluters (GPs) be tested annually at a test-only facility for at least two, but not more than five consecutive years to ensure on-going compliance with emissions standards.

This statute: (1) excepts any motor vehicle four or less model-years old from the biennial requirement of the Smog Check program; (2) allows the exception of any low-emitting motor vehicle or class of motor vehicles from the biennial requirement of the Smog Check program; (3) allows the DCA to authorize the placement of Referees in qualified test-only stations to perform Referee services; and (4) eliminates the requirement that GPs be tested annually for at least two, but not more than five years. (H&S C §§ 44001, 44005, 44011, 44014, 44014.5, 44015, 44015.3, 44017, 44017.1, 44036 & 44040; and Veh C § 4000.7)

**AB 1523
Battin**

Automotive Repair

Two Year Bill

Existing law provides for the Bureau of Automotive Repair (BAR) to establish standards for certification of registered automotive repair facilities. The BAR is required to have procedures setting forth the basic requirements for application and certification in certain areas of automotive repair.

This bill would require the procedures to be in writing.
(B&P C § 9889.33)

**SB 1
Burton**

Health: Prostate Cancer

**Chapter 11
Statutes of 1997**

Existing law imposes certain duties on physicians and surgeons in providing services in the diagnosis and treatment of cancer, and *urges* physicians and surgeons to make specified information concerning the treatment of prostate cancer available to patients when appropriate.

This statute establishes the Grant H. Kenyon Prostate Cancer Detection Act. The statute requires a physician and surgeon who, during a physical examination, examines a patient's prostate gland, to provide information to the patient about the availability of appropriate diagnostic procedures, including, but not limited to, the prostate specific antigen (PSA) test, if any of the following conditions are present: (1) the patient is over 50

years of age; (2) the patient manifests clinical symptomatology; (3) the patient is at an increased risk of prostate cancer; and (4) the provision of the information to the patient is medically necessary, in the opinion of the physician and surgeon. The statute additionally provides that a violation of this requirement constitutes unprofessional conduct but is not subject to a misdemeanor. This statute is an urgency statute and shall go into immediate effect. (B&P C § 2248)

**SB 42
Kopp**

Air Pollution: Vehicles: Inspection and Maintenance

**Chapter 801
Statutes of 1997**

Existing law exempts motor vehicles prior to the 1966 model year from the biennial Smog Check and from having to obtain a Smog Check upon initial registration, ownership changes, or upon import from other states into California.

This statute changes these exemptions from model years prior to 1974 until 2003 when the exemptions will be for vehicles thirty model-years old and earlier. (H&S C § 44011; and Veh C § 4000.1)

**SB 61
Haynes**

Vehicle Inspection and Maintenance

**Failed
Senate
Transportation**

Existing law requires the Department of Consumer Affairs/Bureau of Automotive Repair (DCA/BAR) to establish an enhanced vehicle emissions inspection and maintenance program (I/M) in urbanized areas of the state that are classified as non-attainment areas for ozone and oxides of nitrogen (NOx).

This bill would have repealed this program and replaced it with the program which existed before 1994. (H&S C Chapter 5 of Part 5 of Division 26; and Veh C § 9250.18)

**SB 160
Watson**

Health: Informed Consent

**Chapter 68
Statutes of 1997**

Existing law prohibits any person from being subjected to any medical experiment unless the informed consent of the person is obtained.

This statute provides an exemption from the above prohibition for any medical experimental treatment that benefits a patient subject to a life-threatening emergency that is conducted in accordance with prescribed requirements. (H&S C § 24177.5)

SB 322
Craven

Auto Body Repair: Shop Certification

Two Year Bill

Existing law requires the Bureau of Automotive Repair (BAR) within the Department of Consumer Affairs (DCA) to register and regulate automotive repair dealers (ARDs).

This bill would require the BAR to create the Better Auto Body Repair Shop Gold Star Program -- a voluntary certification program for auto body repair facilities until January 1, 2003. (B&P C Article 12 of Chapter 20.3 of Division 3)

SB 324
Rosenthal

Medicine: Physicians And Surgeons

Two Year Bill

Existing law provides for the licensure and regulation of physicians and surgeons by the Medical Board of California and provides that any person who practices medicine, as described, without a valid license is guilty of a misdemeanor.

This bill would revise the definition of the practice of medicine to include making a decision regarding the medical necessity or appropriateness of any diagnosis, treatment, operation, or prescription. The bill would prohibit construing its provisions as limiting the practice of any person licensed, certified, or registered under any of the provisions relating to the healing arts when that person is engaged in his or her authorized and licensed practice. (B&P C § 2052)

SB 402
Greene

Health: Opiate Drugs

Chapter 839
Statutes of 1997

Existing law, the Intractable Pain Treatment Act, authorizes a physician and surgeon to prescribe or administer controlled substances to a person in the course of treating that person for a diagnosed condition called intractable pain, and prohibits the Medical Board of California from disciplining a physician and surgeon for this action.

This statute establishes the Pain Patient's Bill of Rights and states legislative findings and declarations regarding the value of opiate drugs to persons suffering from severe chronic intractable pain. Among other things, the statute authorizes a physician to refuse to prescribe opiate medication for a patient who requests the treatment for severe chronic intractable pain, requires the physician to inform the patient that there are

physicians who specialize in the treatment of severe chronic intractable pain with methods that include the use of opiates, and authorizes a physician who prescribes opiates to prescribe a dosage deemed medically necessary. (H&S C § 124960)

SB 406
Rosenthal

Health Care Service Plans: Health Maintenance Organization

Failed
Senate Floor

Under existing law, the Knox-Keene Health Care Service Plan Act of 1975 (Act), the Commissioner of Corporations is charged with responsibility for administration and enforcement of the Act, which governs health care service plans.

This bill would have stated the intent of the Legislature that all licensing and regulatory responsibilities for health care service plans be transferred from the Department of Corporations to the Health Care Service Plan Board of California within the Department of Consumer Affairs.

SB 518
Monteith

Clinical Laboratory Technology: Hemodialysis Technician Training

Chapter 122
Statutes of 1997

Existing law governs the practice of clinical laboratory technology and requires any hemodialysis training and testing program operated by a hemodialysis clinic or unit within a licensed clinic or hospital to be approved by the State Department of Health Services (DHS), to comply with regulations, and to include various elements.

This statute permits hemodialysis technician training programs to be provided by accredited colleges and universities and private entities, as specified. Specifically, this statute: (1) requires a hemodialysis technician training program and competency test that is provided by an accredited college, accredited university, or private training program to meet the same requirements that are currently applicable to hemodialysis clinics or units within licensed clinics or hospitals; (2) requires training programs operated by colleges or universities, and private training programs, to be approved by the DHS; and (3) provides that hemodialysis training programs and competency tests approved by DHS prior to January 1, 1998 are not required to be reapproved unless DHS determines that reapproval is necessary to protect patient safety.
(B&P C §§ 1247.5 & 1247.6)

SB 557
Leslie

Healing Arts

Two Year Bill

Existing law provides that any person who practices medicine without a certificate is guilty of a misdemeanor. Existing law provides that it is unlawful to engage in the practice of dentistry without a valid, unexpired license or special permit. Existing law requires the independent review of certain health care service plan and disability insurer coverage decisions regarding experimental or investigational therapies.

This bill would provide that any decision regarding the medical necessity or appropriateness of any diagnosis, treatment, operation, or prescription constitutes the practice of medicine. The bill also would provide that any decision regarding the necessity or appropriateness of any dental diagnosis, treatment, operation, or prescription constitutes the practice of dentistry. (B&P C §§ 1626 & 2052.1)

SB 571
Wright

Radiologic Technology: Venipuncture

Chapter 384
Statutes of 1997

Existing law authorizes a radiologic technologist, under the general supervision of a physician and surgeon, to assist a physician and surgeon in completing an injection to administer contrast materials after the performance of venipuncture or arterial puncture by a person authorized to perform these tasks.

This statute instead authorizes a radiologic technologist, under the general supervision of a physician and surgeon, to perform venipuncture in an upper extremity to administer contrast materials if the radiologic technologist has received certain training and education and been issued a certificate. (H&S C § 106985)

SB 603
Monteith

Pesticides: Evaluation

Chapter 483
Statutes of 1997

Existing law requires: (1) every manufacturer of, importer of, or dealer in any pesticide to obtain a certificate of registration from the Department of Pesticide Regulation (DPR) before a pesticide is offered for sale in California; and (2) a thorough evaluation by the DPR before a substance is registered as a pesticide for the first time and when a renewal of registration is requested.

This statute: (1) requires that the initial evaluation of a pesticide by the DPR be timely; (2) allows the Director of the

DPR to cancel the registration of any pesticide if he/she determines that the registrant has failed to comply with the requirements of a reevaluation or failed to submit the data required as part of the reevaluation; (3) repeals existing law which requires a person who has registered a pesticide in California for agricultural use to submit before December 1, 1986 specified information to the Director; and (4) authorizes the DPR to establish performance standards and tests that are to be conducted and/or financed by the registrants as defined. (F&A C §§ 12824 & 12825)

SB 625
Rosenthal

Health Care Service Plans: Drugs

Two Year Bill

Existing law provides for the licensure and regulation of health care service plans by the Department of Corporations.

This bill would: (1) require health care service plans that provide drug benefits to provide a copy of the most current list of prescription drugs on their formulary by major therapeutic category; and (2) require health care service plans that provide prescription drug benefits to maintain an expeditious process by which prescribing providers may obtain authorization for a medically necessary nonformulary prescription drug, as specified. (H&S C §§ 1367.20 & 1367.24)

SB 666
Maddy

Clinical Laboratory Technology: Unlicensed Personnel

Two Year Bill

Existing law governs the practice of clinical laboratory technology, and requires the State Department of Health Services (DHS) to, by regulation, authorize unlicensed laboratory personnel employed in clinical laboratories in licensed clinics or hospitals to perform venipuncture, arterial puncture, and skin puncture for the purposes of withdrawing blood for test purposes. Existing regulations adopted by the DHS set forth the training requirements for these unlicensed laboratory personnel.

This bill would establish these training requirements in statute and would require the DHS to authorize any unlicensed laboratory personnel who satisfy these training requirements to perform the above described procedures. (B&P C §§ 1242.5 & 1246)

SB 679
Mountjoy

Vehicle Inspection and Maintenance

Failed
Senate
Transportation

Existing law requires the Department of Consumer Affairs/Bureau of Automotive Repair (DCA/BAR), to establish an enhanced vehicle emissions inspection and maintenance program (I/M) in urbanized areas of the state that are classified as non-attainment areas for ozone and oxides of nitrogen (NOx).

This bill would have repealed this program and replaced it with the program which existed before 1994. (H&S C Chapter 5 of Part 5 of Division 26; and Veh C § 9250.18)

SB 772
Johannessen

Vehicle Inspection and Maintenance

Vetoed
October 8, 1997

Existing law establishes a motor vehicle inspection and maintenance (I/M) program (Smog Check) administered by the Department of Consumer Affairs and requires a visual and functional check of emissions control devices as part of a Smog Check inspection.

This bill would have: (1) restricted the visual check requirement for gasoline-powered vehicles under the Smog Check program by limiting it to specified primary emissions control devices; (2) restricted the functional check requirement in Basic Areas utilizing the BAR 90 test and removed the functional check requirement for those vehicles tested with loaded-mode; and (3) prohibited a vehicle equipped with an aftermarket add-on or modified equipment that passes the various inspections under the Smog Check program from being referred to a Referee station or from undergoing any other additional tests. (H&S C §§ 44012, 44012.5, 44036 & 44036.2)

Veto Message

Governor Pete Wilson
To the Members of the California Senate:

I am returning Senate Bill No. 772 without my signature.

This bill would attempt to eliminate inappropriate referrals of vehicles equipped or modified with approved auto parts to Bureau of Automotive Repair referee stations. The bill also seeks to place in statute the specific test protocols to be used in the Smog Check program, and states that any "shortfall in emission reductions" shall come from "control measures, other than motor vehicle control measures."

Although there is agreement with the author on the need to eliminate needless referrals of vehicle owners to Bureau of Automotive Repair referee facilities, the latter provisions of the bill represent a step backward in Smog Check reform, and a fundamental departure from the sound

principles of public policy. By making the program less effective, our efforts to protect public health are compromised and our ability to attain federal clean air goals is called into question.

The real solutions to the problem that this bill seeks to address are being accomplished administratively. An on-line computerized system that lists approved and certified after-market parts is being pursued proactively by this administration, and an enforcement mechanism to ensure that unnecessary referrals do not continue is also being pursued. The Air Resources Board (ARB) and the Bureau of Automotive Repair are committed to achieving these reforms by the first quarter of 1998.

It is the other provisions of this bill, those that limit the flexibility to improve the Smog Check program and those that require the increased emissions to be "made up" from an alternative, non-mobile source that make this bill inappropriate.

**SB 807
Thompson**

Vehicles: Inspection and Maintenance

Vetoed
September 28, 1997

Existing law establishes the Vehicle Inspection and Maintenance (I/M) program and makes findings and declarations relative to the program and requires a visual or functional check of emissions control devices as part of a Smog Check inspection.

This bill would have: (1) required the Department of Consumer Affairs (DCA) to make available, upon request, both the Smog Check failure and Gross Polluter rates for the previous calendar year by engine type, make, and model year and allowed the DCA to charge a fee to cover the costs of providing this information; (2) required the DCA to convene a task force to review a means of implementing a rating system for the repair effectiveness of licensed smog check stations and make this information available to consumers; and (3) required the DCA to report to the Legislature by February 1, 1998 its recommendations regarding the implementation of the repair effectiveness rating system. (H&S C §§ 44006, 44026 & 44027)

Veto Message

Governor Pete Wilson
To the Members of the California Senate:

I am returning Senate Bill No. 807 without my signature.

This bill would require the Department of Consumer Affairs to annually make available the failure rates and related information for vehicles subject to smog check testing. In addition, the measure mandates the Department to convene a task force, as specified, to review a means of implementing a rating system for the repair effectiveness of smog check stations, and to report its recommendations to the Legislature by February 1, 1998.

The provisions of this bill would add significant cost to the implementation of the enhanced smog program. The estimated cost to

implement the provisions of this measure are \$2.4 million in the first year. The cost recovery as envisioned in the measure is highly uncertain. The Department is mandated by federal law to make vehicle failure rate information available when adequate funding is identified. Until sufficient funding is available, the program must continue to focus funding on only the most vital components of the smog check program.

**SB 885
Watson**

AIDS: Clean Needle And Syringe Exchange Pilot Project

Two Year Bill

Existing law authorizes: (1) pharmacists, physicians, and veterinarians to furnish hypodermic needles and syringes without a prescription, license, or permit under specified conditions; and (2) a person to obtain hypodermic needles and syringes from a pharmacist, physician, or veterinarian without a prescription under specified conditions and if specified requirements are met.

This bill would: (1) establish, define and outline the Clean Needle and Syringe Exchange Pilot Project under the Department of Health Services (DHS); (2) authorize specified persons to furnish hypodermic needles and syringes without a prescription or permit through the pilot project; (3) authorize the DHS to terminate the Pilot Project if the local health officer determined that the project had a detrimental effect in terms of increased drug use and the increased spread of the human immunodeficiency virus; and (4) repeal the Pilot Project on January 1, 2000, unless extended by the Legislature. (B&P C § 4145; and H&S C §§ 121340, 121341 & 121342)

**SB 977
Peace**

Health Care Treatment Decisions: Liability

Two Year Bill

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for licensure and regulation of health care service plans and specialized health care service plans by the Commissioner of Corporations. Willful violation of those provisions is a crime.

This bill would provide that a health care service plan has the duty to exercise ordinary care when making health care treatment decisions, as defined, and is liable for damages for harm to an enrollee proximately caused by its failure to exercise ordinary care. The bill also would provide that a health care service plan is liable for damages for harm to an enrollee proximately caused by the health care treatment decisions made by employers, agents, ostensible agents, or certain representatives of the health care service plan. The bill would

set forth a defense against an action asserted against a health care service plan. The bill would prohibit a person from maintaining a cause of action against a health care service plan unless the affected enrollee or representative of the affected enrollee has exhausted a prescribed appeals process, except under certain circumstances. (H&S C §§ 1344.5 & 1344.6)

**SB 996
Burton**

Construction Site Safety

Two Year Bill

Existing law imposes various obligations on persons related to safety at construction sites. A civil action may be taken for failure to meet that obligation or an injury related to the obligation.

This bill would place in the Civil Code Legislative intent that every effort should be made to ensure safety at construction sites. (Civ C § 1714.11)

**SB 1084
Watson**

Natural Death Act: Durable Powers Of Attorney For Health

Two Year Bill

Under existing law, the Natural Death Act, a person is authorized to execute a prescribed declaration governing the withholding or withdrawal of life-sustaining treatment for the person. Under existing law, a person may execute a durable power of attorney that permits the attorney-in-fact to make health care decisions for the person, under prescribed conditions.

This bill would require a health facility, as defined, and healing arts licentiate, as defined, to develop protocols relating to implementation of those provisions. (H&S C § 7185.6; and Prob C § 4700.5)

**SB 1094
Schiff**

Medicine: Employment Of Physicians And Surgeons

**Chapter 673
Statutes of 1997**

Existing law: prohibits the operation of a clinic without a license from the State Department of Health Services (DHS); provides certain exceptions to the above prohibition for, among other things, a clinic operated by a nonprofit corporation that conducts medical research and health education and provides health care through a group of 40 or more physicians who are independent contractors and meet other prescribed requirements; and establishes certain restrictions regarding the

employment of licensed physicians and surgeons and podiatrists by a corporation or other artificial legal entity.

This statute provides an exemption from the Medical Practice Act and clinical licensure law for a nonprofit, research facility operated as an entity organized and operated exclusively for scientific and charitable purposes and that satisfies specified requirements. (B&P C § 2401; and H&S C § 1206)

SB 1111
Costa

Health Care: Mental Health

Chapter 547
Statutes of 1997

Existing law provides immunity from civil and criminal liability to hospitals, licensed professional hospital staff, or any physician and surgeon for detaining a person, or for the actions of the person after release, if certain conditions are met, including: (1) an opinion from specified professionals that the person cannot be safely released; (2) documentation of repeated unsuccessful efforts for appropriate treatment; and (3) the person is not detained beyond eight hours.

This statute adds a clinical psychologist with medical staff privileges, clinical privileges, or professional responsibilities, as specified, to those professionals whose opinion is necessary to determine that a person, as a result of a mental disorder, presents a danger to himself, herself or others, or is gravely disabled, and cannot be safely released from a hospital. The statute also adds "appropriate licensed mental health professional" to the categories of providers who can make and document attempts to place the above-described person in an appropriate mental health facility. (H&S C § 1799.111)

SB 1250
Kopp

Air Pollution: Vehicles: Federal Oil Overcharge Funds

Dropped

Existing law establishes a motor vehicle inspection and maintenance (Smog Check) program, which includes a program for the repair or voluntary removal of high-emission vehicles. It also requires owners of 1975 or subsequent model year gasoline-powered motor vehicles, or 1980 or subsequent model year diesel-powered motor vehicles last registered outside the state to pay a \$300 Smog Impact Fee to the Department of Motor Vehicles at the time of registration. These revenues are deposited into the General Fund after the deduction of certain costs. Current law also authorizes funds in the Petroleum Violation Escrow Account (PVEA) to be disbursed to California by the federal government and

deposited in the Federal Trust Fund in the State Treasury.

This bill would have established an additional repair assistance program that would have subsidized up to eighty percent of the total cost of repairing a high-emission vehicle, not exceeding \$400. It would have also required that the funds received by the state from the Smog Impact Fee and the Petroleum Violation Escrow Account be deposited in a Smog Check Repair Assistance Account for the repair of these high-emission vehicles. (H&S C Article 8.5 to Chapter 5 of Part 5 of Division 26; and R&T C § 6262)

SB 1255
Polanco

Health Care: Payment Of Claims

Two Year Bill

Existing law provides for the licensure and regulation of the healing arts professions and in this regard, authorizes health care providers, as defined, to grant discounts in health or medical claims submitted to 3rd-party payors when payment by the 3rd-party payor is made promptly within prescribed time limits.

This bill would revise this provision to delete the reference to 3rd-party payors, and instead authorize providers to grant discounts in health or medical claims when payment is made promptly within prescribed time limits. The bill would expressly authorize a health care provider to grant discounts for health or medical care to any patient the provider has reasonable cause to believe is not eligible for, or entitled to, insurance reimbursement, or coverage under Medi-Cal or by a health care service plan for the health or medical care provided. The bill would, in the case of a contract between a provider and a plan or a provider and an insurer issued, amended, or renewed on or after January 1, 1998, that requires the provider to accept as payment from the plan or insurer the lowest payment rate charged by the provider to any patient, prohibit this contract provision from being deemed to apply to, or take into consideration, any cash payment made to the provider by individual patients who do not have any private or public form of health coverage for the services rendered by the provider and to whom a discount was granted under those provisions. (B&P C § 657; H&S C § 1371.22; and Ins C § 10126.5)

SB 1257
Vasconcellos

Health Coverage: Nontraditional Care: Study

Vetoed
October 10, 1997

This bill would have required the Department of Health Services, in consultation with the Medical Board of California,

the Department of Insurance, and the Commissioner of Corporations, to conduct a feasibility study for the purpose of identifying the benefits of nontraditional medicine, licensing and certification standards necessary for patients to receive nontraditional care covered by disability insurers and health care service plans, and potential costs and savings to patients, health care service plans, and disability insurers of receiving and providing nontraditional care. The bill contained other related provisions. (H&S C § 1399.2)

Veto Message

Governor Pete Wilson
To the Members of the California State Senate:

I am returning SB 1257 without my signature.

This bill would require the Department of Health Services, in consultation with other state entities, to conduct a study, hold hearings and appoint an advisory team regarding nontraditional medicine. The study must identify the benefits of nontraditional medicine, licensing and certification standards and the State of Washington's experience with laws allowing patients to be insured for care from a nontraditional provider.

As I explained in my veto of AB 1354 and my August 7, 1997 letter to the Legislature, I am deferring consideration of the merits of all bills related to managed care until the Legislature and I have had the opportunity to consider the recommendations of the Managed Health Care Improvement Task Force. The intent of the Legislation creating the Task Force was to provide state policymakers with an accurate assessment of managed care as it exists in California today, as well as to gauge prospective public- and private-sector activities aimed at improving and promoting the quality of health care in this state.

My August 7 letter to each member of the Legislature made quite clear that the only bill I would sign prior to receiving the Task Force Report was AB 38 (Figueroa). Specifically, I advised that: "Authors who insist on sending to my desk bills they have crafted without the benefit of the perspective of the Task Force's report can expect a veto." By ignoring that clear notice, the author has insisted on and received the promised veto.

SB 1275
Haynes

Air Pollution: Heavy-Duty Vehicles

Two Year Bill

Existing law requires the State Air Resources Board (ARB) to reduce emissions from heavy-duty motor vehicles by adopting specified regulations and by cooperating with the Department of the California Highway Patrol in conducting roadside inspections to enforce a prohibition against the use of a heavy-duty vehicle that emits excessive smoke. It also requires the ARB to adopt regulations that require owners or operators of heavy-duty diesel vehicles to perform regular inspections of their vehicles for excessive smoke.

This bill would require the ARB, by June 30, 1997, to implement a heavy-duty vehicle roadside inspection program and to implement and enforce that program, as specified. (H&S C §§ 43703 & 44011.6; and R&T C §§ 17053.41 & 23641)

SB 1343
Johannessen

Air Pollution: Vehicular Emissions: Particulate Matter

Dropped

Existing law authorizes the State Air Resources Board (ARB) to adopt and implement motor vehicle emissions standards, in-use performance standards, and motor vehicle fuel specifications to control air contaminants, and requires the ARB to endeavor to achieve the maximum degree of emissions reduction from vehicular sources as prescribed.

This bill would have required the ARB, when considering solutions to reduce particulate matter from vehicle exhaust, to give as much consideration to air flow enhancement devices as to reconstituted fuel or fuel alternatives, as specified. (H&S C § 43013.1)

SB 1344
Johnston

Human Cloning

Chapter 688
Statutes of 1997

Existing law regulates medical experimentation on humans.

This statute prohibits a person from cloning a human being, and from purchasing or selling an ovum, zygote, embryo, or fetus for the purpose of cloning a human being. The statute authorizes the State Director of Health Services to levy administrative penalties on a corporation, firm, clinic, hospital, laboratory, research facility or individual for violation of its provisions; provides that violation of the prohibition constitutes unprofessional conduct for purposes of the Medical Practice Act; and requires city business licenses and county business licenses to be revoked for violation of the prohibition. The measure repeals its provisions on January 1, 2003. (H&S C § 24185) (See AB 1251)

SB 1347
Polanco

Healing Arts

Chapter 677
Statutes of 1997

This is a healing arts omnibus measure relating to perfusionists, optometrists, and recreation therapists.

Specifically, this statute: (1) deletes obsolete reference to the federal Clinical Laboratory Improvement Amendments Act of 1988 (CLIA) in the perfusionist law, and instead refers to the state laws governing clinical laboratory technology; (2)

provides that the title "graduate perfusionist" may be used for no more than three years after completing the approved training program; (3) provides that, in addition to alcoholic beverages, the use of narcotic drugs by a licensed optometrist constitutes unprofessional conduct, and makes violations of those provisions a misdemeanor; (4) deletes the provision of existing optometry law making the conviction of more than one misdemeanor or any felony involving alcoholic beverages unprofessional conduct; (5) deletes the authority in the optometry law for a specified citation system, and, instead, authorizes the Board of Optometry to establish a cite and fine system pursuant to the general cite and fine authority of the Business and Professions Code (125.9); (6) makes it unlawful to represent one's self as a recreation therapist (RT), or to represent recreational therapy services or use specified related titles or abbreviations unless that person has a baccalaureate degree in recreation therapy, or other specified areas and is certified by the California Board of Recreation and Park Certification, the National Council for Therapeutic Recreation Certification, Inc.; and (7) makes other technical and conforming changes. (B&P C §§ 2590, 2591, 2592, 3105.1, 3135 & 17505.2)

(5) Landlord-Tenant

SB 548
Solis

Residential Dwellings

Existing law requires landlords to maintain rental units in a condition fit for living. This includes unbroken doors and windows, working plumbing and gas, working heat, operable septic system, etc.

This statute requires a landlord to install and maintain locks on all doors and windows, as specified. (Civ C § 1941.3)

Chapter 537
Statutes of 1997

SB 682
Sher

Landlord-Tenant

Existing law requires that a landlord give a tenant "proper notice" when changing the terms of tenancy. "Proper notice" is determined by the length of the tenancy. For example, in a month-to-month tenancy, proper notice is 30 days.

This bill would have allowed a tenant, within 30 days of receipt of a notice to increase rent, to give the landlord notice of tenancy termination. In this instance, the rent would have

Vetoed
October 5, 1997

remained the same for the remaining 30 days of tenancy.
(Civ C § 827)

Veto Message

Governor Pete Wilson
To the Members of the California Senate:

I am returning Senate Bill No. 682 without my signature.

This bill would enact provisions that would allow a tenant to provide written notification to the landlord of the tenant's intention to terminate the tenancy in cases where the landlord gave less than 60 days notice of a rent increase. Upon that notice the tenancy would terminate 30 days after the date of the proposed rent increase.

SB 682 would rewrite the terms of existing rental agreements and erode the venerable notion of the month to month tenancy because of a tight rental market in the Silicon Valley.

Most landlords will accommodate a tenant who wishes to vacate rather than engage in a costly eviction proceeding. There is no evidence that a typical tenant seeking 60 days in which to relocate would not be accommodated. Nor is there any reason that the parties cannot agree to terms reflected in the bill without legislation.

When government seeks to intervene to constrain fluctuations in the market place by devising price, wage, or rent control it inevitably crafts a cure worse than the illness.

(6) Local Government

**SB 134
Ayala**

Public Records

Two Year Bill

Existing law makes it a felony for an officer having custody of various records and documents to willfully, or to permit any other person to, steal, remove, secrete, destroy, mutilate, deface, alter, or falsify such a document or record.

This bill would make it grounds for dismissal for a public employee to willfully provide to another person a copy of a record that is legally confidential and prohibited from disclosure, if the public employee had knowledge of the disclosure law. (Gov C § 1242)

(7) Mobilehomes

No Bills for 1997 Session

(8) Proposed Regulatory Programs

**SB 587
Hughes**

Security Services: Hospital Guards

Two Year Bill

Existing law provides for the licensure of private patrol operators and the registration of security guards by the Bureau of Security and Investigative Services (BSIS). Private patrol operators or security guards that carry a firearm when on duty must obtain a firearm qualification card from the BSIS.

This bill would provide that in order to be employed as a hospital security guard, a person must meet specified requirements, including proof of completion of courses in hospital safety and security and professional assault response, and being certified in CPR and basic emergency lifesaving. The bill would create a new registration classification to be regulated by the BSIS. The bill imposes the same registration and renewal fees on hospital security guards that are currently imposed on security guards. Hospital security guards would be required to complete a Commission on Peace Officers Standards and Training (POST) prescribed course to obtain a firearms permit from the BSIS. Amendments also would provide for an exemption, until January 1, 2000, from training requirements for applicants who were formerly employed as peace officers "and departed from the police agency voluntarily" or have been employed by a hospital or health care provider for the previous two years, and can pass an examination that covers the primary areas of knowledge required for a hospital security officer. The Director of the Department of Consumer Affairs (Department) is mandated to develop and administer the prescribed examination and publish a study guide to assist applicants in preparing for the examination. All hospital security guards would be required to take continuing education developed, adopted and implemented by the Department. (B&P C §§ 7582.30 and 7588)

(9) Privacy

**AB 487
Leach**

Telephone Corporations: Unlisted Access Numbers

Two Year Bill

Existing law prohibits all telephone corporations, which sell or license lists of residential subscribers, from including the telephone number of any subscriber assigned an unlisted or unpublished access number, but provides an exemption to the above prohibition for a private for profit agency operating under contract with a public agency for the exclusive purpose of responding to a 911 call or communicating an imminent threat

to life or property.

This bill would provide that notwithstanding existing law, a telephone subscriber should have the right to withhold the release of the subscriber's unlisted number by making that request to the private for profit agency operating under contract with a public agency for the exclusive purpose of responding to a 911 call or communicating an imminent threat to life or property. Additionally, the bill would provide that unlisted or unpublished access numbers should not be subject to disclosure pursuant to the Public Records Act.

(Gov C § 6254; and PUC § 2891.1)

SB 448
Sher

Public Records

Chapter 276
Statutes of 1997

Existing law: (1) requires that public records be open to inspection at all times during state and local agencies' office hours; and (2) specifies that every person has the right to inspect any public records, except for records specifically exempted from disclosure by law.

This statute prohibits the disclosure of the name, credit history, utility usage data, home address or telephone number of utility customers of local agencies and provides exceptions to the disclosure of this information. (Gov C § 6254.16)

(10) Products and Services

AB 178
Gallegos

Vehicles: Automotive Products

Chapter 634
Statutes of 1997

Existing law requires the Department of Food and Agriculture (DFA) to establish specifications for engine coolants and a number of similar products to ensure that these products do not fall below the minimum specifications established by the American Society for Testing and Materials.

This statute will allow the DFA to grant a variance from the chloride standard for recycled engine coolants or antifreeze. (B&P C § 13710.5)

AB 746
Miller

Liability: Construction Defects

Two Year Bill

Existing law imposes liability for defective design or construction of residential buildings and improvements based on tort and contract law for negligence, strict liability, express

contract and implied warranty. Strict liability generally has been applied to construction of residential buildings that the courts have determined is comparable to mass-produced consumer goods. Existing law allows monetary damages for design and construction defects to be awarded for property damage, personal injury or wrongful death, and imposes liability for a design or construction defect on those responsible for the defect. Existing law also provides that an action to recover damages for a latent defect related to construction upon real property must be brought within 10 years from the substantial completion of the development or work.

This bill would provide that a builder, developer, contractor or seller of residential improvements shall not be liable for any loss or damage from a defect in design, surveying, planning, supervision or observation of construction of residential projects unless the defect is caused by a construction defect as defined. Further, it would provide that compliance with applicable building codes in effect at the time of construction should establish a rebuttable presumption of construction in accordance with accepted trade and professional standards of care. The bill would also reduce the statute of limitations for a latent defect in real property to six years after the completion of the development or work. (Civ C § 3269; CCP § 337.15; and Ins C § 11580)

AB 1399
Cardenas

Insurance: Home Protection Contracts

Chapter 523
Statutes of 1997

Existing law provides for the regulation of home protection contracts by the Department of Insurance (DOI). These contracts are insurance-like contracts that homebuyers purchase to protect against the failure of appliances and home systems. This regulation includes a licensing scheme for home protection companies, which differs from requirements imposed on insurance companies. Existing law states that provisions governing home protection contracts do not apply to certain performance guarantees or service contracts given by the builder of a home or for repairs or service of a home appliance or other specified system or component.

This statute specifies that the provisions governing home improvement contracts additionally do not apply to a home electrical wiring system or a repair program offered by an affiliate of a business regulated by the California Public Utilities Commission. The bill would sunset these provisions after five years. (Ins C § 12741)

AB 1614
Lempert

California Internet Tax Freedom Act

Two Year Bill

Existing law does not provide for regulation or taxation of the Internet.

This bill would enact the California Internet Tax Freedom Act to prohibit the imposition of a tax or fee, directly or indirectly, in connection with the Internet or any interactive computer services. The bill would also provide specified exceptions to the Internet tax prohibition for business license taxes, business income taxes, and sales and use taxes (as long as these sales and use taxes are the same as currently exists for interstate catalog and mail orders.) (R&T C § 65001)

AJR 20
Lempert

Sales and Use Taxes: Internet

**Two Year
Resolution**

This measure would respectfully memorialize the President and the Congress of the United States to enact legislation to establish a moratorium on the imposition of any taxes or fees, with specified exceptions, by any state, county, or municipal taxing authority on the Internet or any other on-line activity.

SB 107
Kelley

Automotive Repair

Chapter 107
Statutes of 1997

Existing law requires any business entity providing automotive repair services to register as an Automotive Repair Dealer (ARD) with the Bureau of Automotive Repair (BAR) and exempts from the registration requirement automotive machine shops whose primary business is the supply of new or rebuilt parts and whose sole practice is the remachining of individual automotive parts for warranty adjustments without compensation. This exemption would have ended on January 1, 1998.

This statute extends the exemption indefinitely.
(B&P C § 9880.2)

SB 185
Mountjoy

Contractors' State License Law: Home Solicitation Contracts

Two Year Bill

Existing law, the Contractors' State License Law, requires home improvement contracts and swimming pool contracts that exceed \$500 to include in writing certain specified requirements. Among other things, the contract must contain a

schedule of payments by the owner or tenant to the contractor including the amount of each payment and the requirement that the contractor furnish a release from any claim or mechanic's lien for the work covered by each payment. The law also provides various exemptions from the definition of "home solicitation contract" and various regulatory provisions related to those contracts, including the right to rescind the contract within three days. One of those exemptions is for contracts for repair services with a licensed building contractor if the contract price is less than \$100.

This bill would recast the Contractors' State License Law in regard to home improvement contracts to require that only contracts that exceed \$1,500 in aggregate price are subject to the schedule of payments and claim release requirements. The bill changes the definition of "home solicitation contracts" to exempt repair contracts with licensed building contractors for less than \$1,500. (B&P C §§ 7159, 7159.1, 7159.2 & 7159.3; and Civ C § 1689.5)

SB 214
Hughes

Home Improvement Contracts

Vetoed
September 28, 1997

Existing law, the Unruh Act, prohibits a retail installment contract from containing specified provisions, which generally place consumers at a disadvantage. The law imposes restrictions on mortgages of real property.

This bill would have prohibited a provision in a retail installment contract for home improvements under which the seller takes a security interest in the buyer's residence, other than a mechanics' lien, where the buyer is a person 65 years or older. A violation would be a misdemeanor. The bill would also have placed restrictions on loans secured by a mortgage on real property for home improvements that would require proceeds to be paid to the borrower, a borrower and the contractor, or through a third-party escrow agent. Persons who violate these provisions would be liable for civil damages as specified. (Civ C §§ 1804.1 & 2946.1)

Veto Message

Governor Pete Wilson
To the Members of the California Senate:

I am returning Senate Bill No. 214 without my signature.

This bill would prohibit the seller of a home improvement contract from taking a security interest, other than a mechanics' lien, in the principal residence of a buyer who is 65 years or older.

The purpose of this bill is to prevent unscrupulous contractors from using

lien contracts to defraud elderly consumers. Tragically, unsuspecting consumers often lose their homes in these equity scams. However, eliminating the use of lien contracts for an entire class of consumer is too blunt a weapon to fight this kind of fraud.

A large number of homeowners use lien contracts provided by reputable contractors and lenders to finance their home improvement projects at competitive rates. These homeowners should not be denied the opportunity to choose this financing mechanism simply because they are 65 year of age or older.

**SB 289
Calderon**

Warranties: Motor Vehicle

Two Year Bill

Existing law authorizes each manufacturer of motor vehicles to provide for a qualified third-party dispute resolution process for resolution of disputes brought by buyers or lessees of new motor vehicles. Participating in a dispute resolution program is voluntary. These programs may seek certification by the Department of Consumer Affairs (Department). The Tanner Consumer Protection Act, commonly known as the Lemon Law, presumes that a reasonable number of attempts have been made to conform a new motor vehicle to applicable express warranties if within one year or 12,000 miles, either: (1) the same nonconformity has been subject to repair four or more times; or (2) the vehicle is out of service due to repair of a nonconformity by the manufacturer for 30 days in a 12-month period. Existing law defines a new motor vehicle for purposes of the Lemon Law to mean a new motor vehicle, which is used or bought, for use primarily for personal, family or household purposes.

This bill would extend the applicability of the Lemon Law presumption to 24 months from delivery to the buyer or 24,000 miles for a nonconformity in a new motor vehicle covered by express warranties and require motor vehicle manufacturers who do not participate in a dispute resolution process certified by the Department to disclose that fact to the buyer. The bill would provide that if the non-conformity is a safety defect, as defined by this bill, the Lemon Law presumption is met if the nonconformity is subject to two or more repairs and the buyer has provided a specified notice to the manufacturer. This bill also would revise the definition of a new motor vehicle to include a vehicle used for business purposes by a person who has not more than five motor vehicles registered in this state. (Civ C § 1793.22)

SB 322
Craven

Auto Body Repair: Shop Certification

Two Year Bill

Existing law requires the Bureau of Automotive Repair (BAR) within the Department of Consumer Affairs (DCA) to register and regulate automotive repair dealers (ARDs).

This bill would require the BAR to create the Better Auto Body Repair Shop Gold Star Program -- a voluntary certification program for auto body repair facilities until January 1, 2003. (B&P C Article 12 of Chapter 20.3 of Division 3)

SB 589
Hughes

Unruh Act: Home Improvements: At-Risk

Vetoed
October 13, 1997

The Unruh Act, provides for the regulation of retail installment contracts and makes it a misdemeanor to violate these provisions.

This bill would have required that the seller of a retail installment sales contract for home improvements that creates a security interest in real property, consider the buyer's ability to repay the retail installment sales contract via a specified evaluation process. The seller shall require the buyer to obtain independent financial advice and counseling from specified nonprofit sources prior to completing the sales loan when the evaluation finds evidence that a borrower is at-risk as defined. The bill would have required a seller to make an independent inquiry of income available to a buyer if there is a reasonable basis to believe the buyer's representations are untrue and give notice in English and Spanish to all at-risk buyers advising the buyer that the seller is relying on the buyer's statement and that the buyer could lose his or her home in a foreclosure if the person fails to make contract payments. The bill would have required that in cases where the buyer is determined to be "at-risk" that an independent counselor have the buyer read and acknowledge a specified notice in English and Spanish. The notice advises the buyers that the contemplated retail contract constitutes an "at-risk" loan. (Civ C § 1804.10)

Veto Message

Governor Pete Wilson
To the California Senate:

I am returning Senate Bill No. 589 without my signature.

This bill would require the seller of a retail installment sales contract for home improvements secured by real property to consider the buyer's ability to repay the loan. The seller must require an "at-risk" buyer to attend counseling prior to completing the contract. After completing counseling, the at risk buyer must sign a disclosure in both English and Spanish which

states that the sales contract constitutes an "at-risk" loan and that the buyer may lose his or her home by a foreclosure sale.

Protecting certain homeowners from being defrauded by unscrupulous contractors is a laudable goal. However, the cumbersome and time consuming process imposed by this bill can be avoided by a simple disclosure that makes it clear that the buyers will lose their home in the event of default.

(11) Telecommunications

AB 487
Leach

Telephone Corporations: Unlisted Access Numbers

Two Year Bill

Existing law prohibits all telephone corporations, which sell or license lists of residential subscribers, from including the telephone number of any subscriber assigned an unlisted or unpublished access number, but provides an exemption to the above prohibition for a private for profit agency operating under contract with a public agency for the exclusive purpose of responding to a 911 call or communicating an imminent threat to life or property.

This bill would provide that, notwithstanding existing law, a telephone subscriber shall have the right to withhold the release of the subscriber's unlisted number by making that request to the private for profit agency operating under contract with a public agency for the exclusive purpose of responding to a 911 call or communicating an imminent threat to life or property. Additionally, the bill would provide that unlisted or unpublished access numbers should not be subject to disclosure pursuant to the Public Records Act. (Gov C § 6254; and PUC § 2891.1)

AB 580
Martinez

Telephones: Billing Practices

Two Year Bill

Existing law provides that the Public Utilities Commission (PUC) has jurisdiction over rates and services of telephone corporations and that any violations of PUC orders, decisions, rules or requirements are misdemeanors.

This bill would require every telephone corporation, including cellular corporations, to adopt a system that bills its residential subscribers for calls in increments of no more than 10 seconds per incremental charge where technically feasible. The bill would create a new misdemeanor crime for failure to bill residential subscribers in 10 second increments. (PUC § 2882.6).

**AB 582
Martinez**

Public Utilities: Telecommunications: Public Utilities Commission Report

Vetoed
September 28, 1997

Existing law vests the Public Utilities Commission (PUC) with regulatory authority over public utilities and sets forth legislative findings and declarations regarding telecommunications policies for California.

This bill would have required the PUC to report to the Legislature by December 1, 1998 its findings and recommendations as to the effect of competition in the California telecommunications industry. It would also have required telephone corporations to notify customers with a bill insert if it is determined that rates for residential and small commercial customers are expected to rise in the next five years. (Pub C § 709.1)

Veto Message

Governor Pete Wilson
To the Members of the California Assembly:

I am returning Assembly Bill No. 582 without my signature.

This bill would set forth additional legislative findings and declarations regarding telecommunications policies for the state. The bill would require the Public Utilities Commission (PUC) to report to the legislature its findings and recommendations by December 1, 1998 as to the effect of competition in telecommunications market.

The questions raised in this legislation do not require codification. The PUC already has numerous legislative report requirements, which answer many of the questions asked in this legislation. Moreover, a simple legislative request for additional information would elicit the information requested.

The bill imposes a further requirement that the PUC speculate as to rate increases five years into the future and that service providers include such speculative predictions in customer billings. This new requirement requires a premature judgment by the commission and needless and perhaps unjustified agitation of ratepayers. It is premature and redundant at best and unfair both to ratepayers and providers at worst.

**AB 647
Cardenas**

Public Utilities: Telecommunications

Two Year Bill

This bill makes a legislative finding and states intent that state statutes be made to conform to the federal Telecommunications Act of 1996. This is a spot bill, according to the author, and will be amended with more substantial provisions related to telecommunication law.

AB 906
Papan

Cellular Telephones Resellers

Two Year Bill

Existing law provides that the Public Utilities Commission (PUC) may determine and prescribe by order changes in the form of rate scheduled for various utilities. The law provides that if the rates for any commercial mobile radio service, as defined by the Omnibus Budget Reconciliation Act of 1993, are not subject to regulation by the PUC as a result of federal law, the commission may exempt the service from any tariff-filing requirement.

This bill would require facilities-based commercial mobile service providers that offer bulk or volume user rate plans to any customers to offer those plans on a nondiscriminatory basis and to resellers without restriction on the resale of those plans to the public. Enforcement of this provision would be restricted to civil action. (PUC § 490)

AB 911
Knox

Emergency Telephone Systems

Two Year Bill

Existing law contains a legislative finding and declaration that establishment of a statewide emergency number is a matter of statewide concern and interest to all inhabitants and citizens of the state.

This bill would delete the reference to "inhabitants." Additionally, the bill would require the Department of General Services in consultation with the California Highway Patrol, the Public Utilities Commission and other safety organizations to implement by April 1, 1998, the part of the Federal Communications Commission order relating to 911 calls from wireless communication devices. (Gov C §§ 53100 & 53114.3)

AB 1051
Martinez

Deaf or Hearing Impaired Individuals: Telecommunications Devices

Two Year Bill

Existing law requires the Public Utilities Commission (PUC) to establish a program that provides telecommunication devices,

free of charge, to hearing impaired individuals. A licensed physician or audiologist must certify that the individual is deaf or hearing-impaired before he or she can participate in the program.

This bill would add hearing aid dispensers to the list of persons that may certify hearing-impaired individuals for participation

in the PUC's program that provides equipment to facilitate the use of the telephone if that individual has been previously fitted with an amplified device by the dispenser and the dispenser has the individual's hearing records on file prior to certification. (PUC § 2881)

**AB 1127
Knox**

Telecommunications Equipment or Paraphernalia

**Chapter 554
Statutes of 1997**

Existing law defines a "telecommunication device" as one which is designed for transmitting or receiving wireless communications and makes it a crime to use such a device to avoid the payment of any lawful charge for service or to possess or manufacture such a device with intent to sell. It is also a crime to knowingly possess personal property from which the serial number or any distinguishing mark has been removed or altered.

This statute defines "illegal telecommunications device" as any device which is used to: (1) evade a lawful charge for a telecommunication device; (2) intercept electronic serial numbers or mobile identification numbers; (3) alter electronic serial numbers; (4) circumvent legitimate telecommunications access; or (5) conceal from a telecommunications service provider or "lawful authority" the origin or destination of any telecommunication. This statute makes it a crime to: (1) knowingly possess or advertise illegal telecommunications equipment as defined; (2) use illegal telecommunications equipment or paraphernalia to avoid the payment of any lawful charge for telecommunications service or to facilitate other criminal conduct; or (3) possess or manufacture illegal telecommunications equipment or paraphernalia with intent to sell, transfer, or furnish the device to avoid payment for telecommunications service or to facilitate criminal conduct. The bill would require the court to order restitution damages which are the greater of \$5,000 or three times the amount of actual damages, plus reasonable attorney fees for a violation of these provisions. (Pen C §§ 502.8 & 537)

**AB 1156
Martinez**

Residential Telephone Wiring

Two Year Bill

Existing law provides that the Public Utilities Commission (PUC) regulates telephone corporations. Existing law requires telephone corporations operating within a service area to annually issue to each of its residential subscribers a notice containing specified items of information. The notice must

include whether the telephone corporation offers any services to maintain or repair a subscriber's inside wiring, a full description of the types of services offered including the rates, conditions and charges for these services and whether these services are offered by non-utility providers.

This bill would require that the notice from a telephone service corporation to its residential subscribers also include information on the availability of the inside wiring diagrams of the residence or building. The bill would require telephone companies to file with the PUC a plan to make available to the public all inside wiring diagrams, records and installation documents to facilitate the installation and employment of new technology by current and former telephone company customers. The PUC would be required to fix the fees that may be charged for making and providing copies of internal wiring documents. (PUC §§ 788 & 788.5)

**AB 1161
Martinez**

Public Utilities: Telecommunication Services

Two Year Bill

Existing law provides for the regulation of public utilities by the Public Utilities Commission (PUC) and requires the PUC to pursue all reasonable and necessary legislative and judicial actions to open California's intrastate interexchange markets to full competition.

This bill would require the PUC to require that all services associated with the telecommunications industry, except commercial mobile services, be unbundled no later than January 1, 1998 and report to the Legislature on the progress of the unbundling no later than July 1, 1997. This bill has an urgency clause. (PUC § 709.6)

**AB 1299
Machado**

Public Utilities: Telecommunications Services

Two Year Bill

Existing law provides that the Public Utilities Commission (PUC) is vested with regulatory authority over public utilities and states legislative findings and declarations stating policies for telecommunications in California.

This bill would make additional legislative findings and declarations that the policy for telecommunications in California is to ensure that rural and nonurban areas of the state receive affordably priced local exchange telecommunication services because of their importance to economic development

and the implementation of universal service. This bill would prohibit the PUC from taking action that could harm economic development or adversely affect universal telephone service in rural or nonurban areas. The bill would require the PUC to adopt rules to require that the rates charged by providers of local exchange telecommunication service shall be no higher than the rates charged by each provider in urban areas. (PUC §§ 709 & 709.1)

**AB 1423
Martinez**

Hotel and Motels: Telephone Charges

**Chapter 681
Statutes of 1997**

Existing law requires a nonpublic provider of telephone services, such as a hotel, motel, hospital, university, or similar place of temporary accommodation, to display or post near telephone equipment in an easily seen manner, a notice disclosing the identity of the service provider, how to obtain information about charges, terms and rights applicable to all the available telephone services, and instructions for filing complaints.

This statute requires, in addition to existing required disclosures for nonpublic provider of telephone services in a temporary accommodation, information about: (1) the charges for providing the telephone; and (2) charges for use of the telephone irrespective of whether a call is completed. The statute also clarifies that only one notice per extension is required and these provisions do not make the nonpublic telephone services providers a telephone corporation subject to regulation by the Public Utility Commission. (PUC § 741.2)

**AB 1424
Martinez**

Telecommunications: Telephone Cards

Two Year Bill

Existing law provides that the Public Utilities Commission (PUC) is authorized to regulate public utilities and other specified entities. The law provides that a violation of any order, decision, rule or other requirements of the PUC is a misdemeanor.

This bill would require the PUC to require every corporation that produces a card that may be used for telephone calls to put information on the card related to charges and instructions for redeeming calling time. (PUC § 729.6)

AB 1517
Vincent

Contracts: Telephone Directory Advertising

Two Year Bill

Existing law provides that certain contracts are void as contrary to public policy. Existing law also provides that if a court finds any part of a contract to be unconscionable at the time the contract was made, the court may refuse to enforce the contract, may limit the application of any unconscionable clause or may enforce a contract without the unconscionable clause to avoid any unconscionable result.

This bill would provide that any provision in a telephone directory advertising contract that purports to limit the responsibility of the directory publisher for acts or omissions is unconscionable and contrary to public policy. The bill would also provide that a directory-advertising contract containing an unconscionable provision is voidable by the party that entered into the contract with the directory publisher or the contract may be enforceable without the unconscionable provision as specified. (Civ C § 1668.5)

SB 405
Peace

Public Utilities

Two Year Bill

Existing law prohibits a telephone corporation from authorizing a different telephone corporation to make any change in a provider or a telephone subscriber's telephone service unless a subscriber wants to change his or her telephone service provider and has had explained to the subscriber any charges associated with the change.

This bill would require telephone corporations, as part of the required explanation of charges associated with switching telephone service providers, to specify the amount of those charges. The existing company must also provide a 30-day notice that states the name of the new company, what the new rates will be and that the customer may choose another carrier without charge for 30 days after receiving the first bill from the new company. There is an exemption to the advanced notice when a telephone corporation has a written contract with the customer and when the change in telephone corporation does not result in a rate increase for the customer or a company reselling telephone services transfers to settle a debt or bankruptcy. If a customer chooses a new carrier, the telephone corporation which the customer left would pay any unreimbursed charge. Additionally, a notice of the transfer from the new telephone company identifying the new company and its services and information about rates must be sent within 45 days. (PUC § 2889.4)

**SB 438
Johnston**

High Technology Theft: Apprehension and Prosecution

**Chapter 906
Statutes of 1997**

Existing law provides for the forfeiture of telephone and telegraph equipment that is used in the commission of specified crimes.

This statute provides that cellular radiotelephone equipment used in a crime be subject to the same forfeiture provisions as telephone and telegraph equipment. The statute also creates the High Technology Theft Apprehension and Prosecution Program Trust fund to provide financial and technical assistance to law enforcement and district attorneys' offices. (Pen C §§ 502.01 & 13848)

**SB 439
Johnston**

Public Utilities: Telecommunications Services

Two Year Bill

Existing law requires the Public Utilities Commission (PUC) to pursue reasonable and necessary legislative and judicial actions to open California's long distance telephone exchange markets to full competition. These provisions are known as the California Long Distance Telecommunications Consumer Choice Act (Act) which contains various legislative findings and declarations.

This bill would add a legislative finding to the Act which states that consumers will benefit from the investment in new technologies and expanded telecommunications networks. (Legislative declarations only.) (Ed C §§ 52160, 60810, 62000.2 & 62002.5)

**SB 961
Hughes**

Public Utilities: Telephone

Two Year Bill

Existing law provides for regulation of public utilities by the Public Utilities Commission (PUC). The law provides that the PUC has no jurisdiction to regulate classified telephone directories. The law provides that violations of orders, decisions, rules and other requirements of the PUC are misdemeanors.

This bill would require that the PUC regulate all entities that publish telephone directories that contain classified advertising and appropriate an unspecified sum to the PUC for the purposes of the bill. (PUC § 728.3)

SB 1148
Peace

Public Utilities: Telecommunications Services

Two Year Bill

Existing law provides for the regulation of telecommunications by the Public Utility Commission.

This bill would express various legislative findings regarding the need for competitive intrastate interexchange telecommunications services and high-speed digital telecommunications services. (PUC §§ 451.1 & 452.2)

(12) Utilities

AB 578
Martinez

Public Utilities: Electrical Restructuring

Chapter 261
Statutes of 1997

Existing law restructures California's electrical industry. In order to establish a competitive market structure, free of monopoly power, with market prices in which customers are able to readily choose among competing providers of electric energy while at the same time continuing to receive reliable electrical service, existing law establishes two independent, public benefit, non-profit market institutions known as the Independent System Operator and the Power Exchange and creates an Oversight Board to oversee the Independent System Operator and Power Exchange.

This statute renames the Oversight Board as the Electricity Oversight Board, specifies the framework and enumerates the authorities of the Electricity Oversight Board. (PUC §§ 335, 336, 341, 341.1, 341.2, 341.3, 341.4, 348 & 350)

AB 1051
Martinez

Deaf or Hearing Impaired Individuals: Telecommunications Devices

Two Year Bill

Existing law requires the Public Utilities Commission (PUC) to establish a program that provides telecommunication devices, free of charge, to hearing impaired individuals. A licensed physician or audiologist must certify that the individual is deaf or hearing-impaired before he or she can participate in the program.

This bill would add hearing aid dispensers to the list of persons that may certify hearing-impaired individuals for participation in the PUC's program that provides equipment to facilitate the use of the telephone if that individual has been previously fitted with an amplified device by the dispenser and the dispenser has the individual's hearing records on file prior to certification. (PUC § 2881)

AB 1096
Martinez

Public Utilities Commission: Attorney General: Consumer Advocacy

Two Year Bill

Existing law: (1) authorizes the Public Utilities Commission (PUC) to regulate California's public utilities; (2) provides for a consumer advocacy division within the PUC known as the Office of Ratepayer Advocate; and (3) specifies that the Director of the Office of Ratepayer Advocate be appointed by the Governor.

This bill would transfer from the PUC to the Office of the Attorney General the consumer advocacy division to be known as the Office of the Consumer Advocate and specify that the Director of the Office of the Consumer Advocate be appointed by the Attorney General. (PUC §§ 309.5, 543 & 584)

SB 378
Peace

Public Utilities: Solicitation of Information

Two Year Bill

Existing law authorizes the Public Utilities Commission to regulate California's public utilities.

This bill would prohibit sellers of electric, gas or telecommunications services from soliciting information from customers that is not directly related to establishing or repairing the customer's service, unless the customer is first informed that providing the information is optional and the customer is informed of the purpose of the information and whether the information will be given or sold to others. (PUC § 761.7)

SB 524
Thompson

Electric and Gas Service: Master-Meter Customers

Two Year Bill

Existing law: (1) requires the Public Utilities Commission (PUC) to set electric and gas rates for master-meter customers; (2) provides that the differential rate set by the PUC be set at a level that will enable the master-meter customer to recover the cost of operating a submeter system; and (3) provides that the cost to the users of the services is no greater than if the utility corporation provides the service directly through individual meters.

This bill would allow master-meter customers of a utility that provides electricity to mobilehome parks or manufactured housing communities to engage in direct transactions with electricity suppliers. (PUC §§ 356 & 366.1)

SB 606
Sher

Public Utilities: Electrical Restructuring

Two Year Bill

Existing law requires electrical corporations to list on a customer's electrical bill the total charges associated with the transmission and distribution of electrical services.

This bill would require electrical corporations to include on a customer's electrical bill the portions of the total charges allocated to metering, billing and informational services.

(PUC § 392)

SB 703
Rainey

Franchises

Chapter 487
Statutes of 1997

Existing law: (1) provides that transportation customers who receive transportation service on a natural gas or electric transmission or distribution system, or both, are required to pay a municipal surcharge; and (2) defines a transportation customer as "every person, firm, or corporation, other than the State of California or a political subdivision thereof, transporting gas or electricity on an energy transporter's transmission or distribution system, or both, when the gas or electricity was purchased by the transportation customer from a third party."

This statute specifies how local agencies are to calculate the electric surcharge imposed on transportation customers purchasing commodity electricity from non-franchised utilities.
(PUC §§ 6351, 6352, 6353 & 6354.1)

SB 1305
Sher

Public Utilities

Chapter 796
Statutes of 1997

Existing law: (1) requires entities offering electrical services to residential and small-commercial customers to register with the Public Utilities Commission (PUC); and (2) provides for consumer protections for residential and small-commercial electric customers.

This statute establishes a program by which suppliers of electricity are required to disclose to customers accurate and reliable information on how the electricity they sell is produced.
(PRC §§ 25320 & 25380; and PUC § 398.1)

(13) Miscellaneous

**AB 76
Miller**

Common Interest Developments

**Chapter 632
Statutes of 1997**

Existing law, the Davis-Stirling Common Interest Development Act (Act) specifies duties and regulatory requirements applicable to common interest developments. Among the provisions in the Act was a requirement that the managing agent of a common interest development provide a written statement containing: (1) prescribed information regarding the owners or general partners of the managing agent; and (2) the status of any professional certificates, licenses or other designations held by those persons. These provisions were repealed as of January 1, 1997.

This statute reenacts these provisions and requires a managing agent to specify the dates during which the professional license, certification or designation is valid rather than the status of those documents. The statute defines “defects” and requires an owner of a separate interest in the common interest development (CID) to provide a prospective purchaser with a copy of the preliminary list of defects, as provided to each member of the association. An association is required to notify, in writing, only those members whose names appear on the association records. An association notice to the owners regarding strategy to address the issue of a construction, such as a civil action or other options, must also include various alternatives to pay for those options. (Civ C §§ 1363.1, 1368, 1375 & 1375.1)

**AB 375
Firestone**

Solid Waste: Tires

Two Year Bill

Existing law requires every person who purchases a new tire from retail seller of tires to pay a disposal charges of 25 cents per tire.

This bill would encourage the reuse of used tires by modifying the California Integrated Waste Management Act of 1989 to require the Department of Transportation to review and modify bid specifications for paving material to give preference to asphalt containing recycled rubber. The bill would require each tire wholesaler to pay a fee of 50 cents for every new tire sold which would be placed in the tire recycling Management Fund. The bill would establish, by June 30, 2002, a tire recovery reimbursement program to encourage recycling of tires or use of tires for energy recovery and authorize the New Motor Vehicle Board to collect an additional \$2.00 per new vehicle sold to be

deposited in the tire recovery reimbursement fund to pay for the tire recovery reimbursement program. (PRC §§ 42825, 42835, 42850, 42850.1, 42885, 42889.1 & 42970)

AB 436
House

Peace Officers: Disability: Retirement

Two Year Bill

Existing law provides that honorably retired peace officers, who during the course and scope of their employment as peace officers were authorized to carry firearms may be issued an endorsement authorizing them to carry a concealed firearm. However, no peace officer that is retired after January 1, 1989, because of a psychological disability may be issued an endorsement to carry a concealed and loaded firearm.

This bill would provide, for the purposes of determining whether a retired peace officer may carry a concealed firearm, that a psychological disability is established when a physician or psychologist has provided a written opinion that the retiring peace officer is or may be a danger to himself, herself, or others if permitted to carry a concealed firearm. (Pen C § 12027.1)

AB 583
Davis

Internet Service Providers

Two Year Bill

Existing law does not provide for the regulation of Internet Service Providers.

This bill would require Internet service providers to: (1) disclose to their subscribers their cancellation policies; (2) notify subscribers when their access rate falls below 70%; and (3) post access rates for the most recent calendar quarter, when marketing their services in an advertising medium, including, but not limited to, print, television, radio or the Internet. The provisions of the bill would be repealed as of January 1, 2001. (B&P C §§ 22765, 22766 & 22767)

AB 991
Shelley

Firearms

Chapter 462
Statutes of 1997

Existing law regulates the delivery, sale or transfer of a firearm by persons licensed under federal law and located in California. Existing law requires any firearm eligibility determination to include a submission of the applicant's fingerprints to the Federal Bureau of Investigation.

This statute requires federal importers of firearms to disclose

specified information about firearms capable of being concealed and comply with other requirements within 60 days of bringing the firearm into the state. Additionally, the bill would require all firearm eligibility determination applications that involve the issuance of a license, permit, or certificate to include two copies of the applicant's fingerprints on forms prescribed by the Department of Justice (DOJ). The statute authorizes one copy of the fingerprints to be submitted to the U.S. Federal Bureau of Investigation (FBI). **This bill codifies existing Department of Consumer Affairs policy.** (F&A C § 5343.5; and Pen C §§ 11106, 12001, 12026.2, 12072, 12076, 12077 & 12082)

AB 1016
Hertzberg

Peace Officers: Personnel Files: Complaints

Two Year Bill

Existing law requires each department or agency that employs peace officers to establish a procedure for investigating citizens' complaints against the agency or department's employees and to make the procedure available in writing to the public. Existing law provides that public complaints that are determined by the peace officer's employing agency to be frivolous shall not be maintained in the peace officer's general personnel file but rather in a separate file that is considered a personnel file for purposes of the California Public Records Act.

This bill would make complaints that are determined to be unfounded or exonerated subject to the same provisions as frivolous complaints. The complaints must be filed in a separate file, but be accessible by the peace officer's management under specified conditions. The bill would define an unfounded complaint as one where the investigation establishes the allegation to be untrue and define exoneration as when an investigation clearly establishes the actions of the peace officer were not in violation of law or department policy. Management would be prohibited from using unfounded, exonerated or frivolous complaints for any punitive purpose or for purposes of promotion but management of peace officer's employer may require counseling or additional training based on exonerated or unfounded complaints. (Pen C § 832.5)

AB 1235
Leach

Administrative Regulations: Adverse Job Creation Impact

Two Year Bill

Existing law, the Administrative Procedures Act (APA) provides for the adoption, review, and approval of regulations adopted by state agencies. The APA requires the Office of Administrative Law to review and either approve or disapprove

all regulations promulgated by state agencies.

This bill would, beginning January 1, 1999, and thereafter, every four years from January 1, 2003, require the State and Consumer Services Agency (Agency) to: (1) review all regulations from agencies under its purview for duplication and consistency; and (2) file an order of repeal for any regulation it finds to be duplicative or which overlaps with another state agency or federal regulation without providing added benefits. The bill also would exempt an agency under authority of the State and Consumer Services that is required under existing law to review its regulations for consistency and duplication at least once every four years. (Gov C § 12804.8)

**AB 1468
Runner**

Concealed Firearms: Reservoir Auxiliary Peace Officers

**Chapter 744
Statutes of 1997**

Existing law authorizes the sheriff of a county or the chief of a police department of any city, to issue a permit to carry a concealed firearm upon proof that a person is of good moral character, that good cause exists for issuance and that the person applying is a resident of the county. Existing law exempts specified peace officers from certain prohibitions against carrying a concealed firearm.

This statute authorizes a sheriff or chief of police to issue a license to carry a concealed firearm to a person who has been deputized or appointed a reserve or auxiliary peace officer by a police chief or sheriff. (Pen C § 12050)

**ACR 2
Floyd**

Relative to Maintenance and Repair of California Veterans' Cemetery at Yountville

**Chapter R-94
Resolution
Adopted**

Existing law establishes the California Department of Veterans Affairs which, among other things, has oversight over the two existing veteran homes in the state; the Veterans' Home of California, Yountville, and the Veterans' Home of California, Barstow. There is an Administrator/Commandant at each site responsible for the overall administration and management of the home and the property on which it is situated.

This resolution memorializes the Department of Veterans Affairs (DVA) and the Secretary of Veterans Affairs and the Administrator of the Veterans' Home of California, Yountville to take every action necessary to ensure that satisfactory remedial repairs are made in accordance with the proper Maintenance of the cemetery grounds, as well as the upkeep, repair, and beautification of the graves and gravestones.

SB 84
Ayala

Athlete Agents: Talent Agencies

Chapter 15
Statutes of 1997

Existing law, the Miller-Ayala Athlete Agents Act, provides for specific procedures relating to the activities of athlete agents.

This statute excludes a licensed talent agency from the Miller-Ayala Athlete Agents Act unless the talent agency is directly or indirectly recruiting or soliciting student athletes or is procuring, offering, promising, attempting, or negotiating to obtain employment for any person to perform on-field play with a professional sports team. (B&P C § 18895.2) (See SB 94)

SB 94
Ayala

Athlete Agents: Disclosure

Chapter 809
Statutes of 1997

Existing law, known as the Miller-Ayala Athlete Agents Act, provides for specific procedures relating to the activities of athlete agents.

Among other things, this statute expands the Miller-Ayala Athlete Agents Act to include the filing of specified information by athlete agents with the Secretary of State. (B&P C §§ 18895.2, 18896, 18897.1, 18897.63, 18897.87 & 18897.97) (See SB 84)

SB 145
Burton

Public Safety Officers: Lawful Exercise of Rights

Vetoed
August 26, 1997

Existing law authorizes peace officers to seek election and serve on the governing board of a school district. The law provides that no peace officer may be subject to punitive action for exercising rights granted under the Public Safety Officers Procedural Bill of Rights Act or exercising any rights under an existing administrative grievance procedure.

This bill would have prevented a public safety officer from being prohibited from exercising free speech rights granted under the U.S. Constitution and the California Constitution or threatened with punitive action for exercising constitutional rights. The bill would also have prohibited a punitive action against a public safety officer who publicly discloses evidence of a violation of law, mismanagement, abuse of authority or a danger to public health or safety. (Gov C § 3302)

Veto Message

Governor Pete Wilson
To the Members of the California Senate:

I am returning Senate Bill No. 145 without my signature.

This bill would provide that public safety officers acting as representatives of recognized employee labor organizations shall not be prohibited from lawfully exercising free speech rights or publicly disclosing specified information.

A public safety officer's freedom of expression is already constitutionally protected. Moreover, the Public Safety Officer's Procedural Bill of Rights provides protections for the lawful exercise of the rights enumerated under that law. Additionally, provisions within the Labor Code safeguard all employees who disclose violations of federal or state laws or regulations to law enforcement or governmental agencies. This measure not only inappropriately separates public safety officers from public safety officers who are union representatives, but appears to provide a different standard of First Amendment protection for union representatives. Such a construction is neither desirable nor equitable and will lead to confusion and increased litigation.

This measure would also allow public safety officers who are union representatives to disclose to the public information that would properly result in discipline if disseminated by others. For example, disgruntled representatives could disclose personnel matters, criticize management, or propound allegations of impropriety without sufficient factual basis. This bill would effectively license irresponsible misrepresentations by union representatives that could seriously threaten the ability of law enforcement agencies to effectively serve the public. Sensitive information that should remain confidential until it is completely investigated could be disclosed under this bill which will undermine morale and erode public confidence in law enforcement.

The public interest demands that the current balance be maintained between a public safety employee's freedom of expression and his/her employer's interest in promoting effective and efficient law enforcement operations. There is no rational basis for broadening the scope of protections on freedom of speech for public safety labor union representatives.

SB 339
Sher

Housing: Construction Liability

Two Year Bill

Existing law requires the licensure of building contractors by the Contractors State License Board (CSLB). The law authorizes the managing association of common interest developments to exercise certain powers, including the authority to litigate in its own name without joining with individual owners in matters pertaining to damage to interests or common areas, or interests arising from that damage, which the association is obligated to maintain or repair. Existing law, with respect to the burden of proof, recognizes by statute a doctrine of negligence in specified circumstances relating to the failure of a person to exercise due care.

This bill would provide that any person who builds, develops, constructs, or supervises the construction of a residential project that consists of three or more units or lots and is intended for sale, shall be licensed as a general building contractor during all phases of construction. The bill would authorize the managing

association of a common interest development to bring an action on behalf of its members with respect to interests that it insures on behalf of its members. Additionally, the bill would authorize the association to bring an action on behalf of owners in a common interest development based on construction defects. The bill would provide that the failure to comply with applicable building codes and failure to comply with other ordinances and regulations for which a permit is required is prohibited and constitutes a presumption of negligence within the meaning of the Evidence Code. The bill includes a declaration of intent to statutorily overturn the decision in *Morris v. Horton* (1994) (22 Cal. App. 4th 968). The bill would further provide that it is a violation of the State Housing Law for any person who builds, develops, constructs or supervises the construction of specified residential projects intended for sale to not comply with specified responsibilities involving the use of an architect or engineer during prescribed phases of the residential project's construction. Additionally, the law would provide that in subdivisions where there is no association, the court would be required to permit homeowners to sue for the benefit of other homeowners in the subdivision when the suit seeks damages for construction defects alleged to be common in the subdivision. (B&P C § 7057.5; Civ C §§ 383 & 383.1; Evid C § 669.7; and H&S C § 17928)

SB 366
Hughes

Commission on Peace Officer Standards and Training

Chapter 117
Statutes of 1997

Existing law requires the Commission on Peace Officers Standards and Training (POST) to adopt rules establishing minimum standards relating to physical, mental, and moral fitness that govern the recruitment of officers. The law authorizes state aid from the Peace Officer's Training Fund to provide the training expenses of full-time paid peace officers of cities, counties and districts.

This statute requires POST to review minimum training and selection standards for peace officers employed by school districts and report its findings to the Legislature by January 1, 1998. This statute also provides that money, appropriated in the Budget Act of 1996 for the training program for law enforcement officers operated by the Simon Weisenthal Center, shall be allocated to eligible local law enforcement agencies as reimbursement for training expenses for sworn and nonsworn personnel who have contact with the public, if the center gives priority to training sworn officers. (Pen C § 13510.6)

**SB 417
Burton**

Vessels: Bar Pilot

**Chapter 660
Statutes of 1997**

Existing law authorizes the Board of Pilot Commissioners (Board) for the Bays of San Francisco, San Pablo, and Suisun to appoint an executive director to perform various duties including assisting the Board with investigation of navigational incidents. Existing law also provides that five of the seven members of the Board shall be residents of the following counties which contain or border the waterways under the jurisdiction of the Board: San Francisco, Alameda, Contra Costa, Marin, Sacramento, San Mateo, Santa Clara, Solano, San Joaquin, Napa, Sonoma and Yolo.

This statute provides that when safety violations concerning pilot hoists or pilot ladders are suspected and reported, the executive director of the Board shall assign a commission investigator to inspect the equipment and report preliminary conclusions to the executive director within 24 hours. The executive officer is authorized to immediately alert the U.S. Coast Guard Marine Safety Office of any potential safety violations. The Board shall also consider at its next regular meeting the investigator's report and file its own recommendations with the Coast Guard. The statute adds the counties of Mendocino, Monterey and Santa Cruz to the list of counties from which five members of the Board may be selected. (H&N C §§ 1101, 1151, 1156.6 & 1182)

**SB 435
McPherson**

Interior Designers: Sunset

**Chapter 351
Statutes of 1997**

Existing law provides for a state-sanctioned private certification program for interior designers. The law defines and authorizes interior design organizations to grant the exclusive use of the designation "Certified Interior Designer" (CID) to those who meet qualifications set by the interior design organization.

This statute sunsets the program on January 1, 1999 allowing the state-sanctioned private certification of interior designers to continue 18 months beyond its current termination date of July 1, 1997. (B&P C § 5810)

**SB 546
Johannessen**

Public Safety Officers: Interrogation

Two Year Bill

Existing law, known as the Public Safety Officers Procedural Bill of Rights Act (Act), provides a catalogue of basic rights and

protections which must be afforded all peace officers by the public entities that employ them. Most of the Act focuses on the procedural rights of peace officers when they are accused or suspected of an act subject to punitive action.

This bill would make 17 changes to the Public Safety Officers Procedural Bill of Rights. These include: (1) an expansion of the situations to which the Act would apply; (2) additional limits on an employer's ability to interrogate or search the locker of a peace officer; (3) a time limit of 90-days to complete investigation of a complaint; and (4) other procedural changes. (Gov C §§ 3303, 3304, 3309 & 3309.5)

SB 688
Ayala

Electronic Surveillance

Chapter 355
Statutes of 1997

Existing law allows a judge to authorize the interception of a wire, electronic digital page, or cellular telephone communication if the judge determines probable cause exists to believe the target of the interception is committing, has committed, or is about to commit specified crimes. Provisions regulating the interception of cellular and digital page communications are scheduled to be repealed January 1, 1998. Provisions related to wire communications are scheduled to be repealed January 1, 1999. Existing law puts limitations on the use of the contents of intercepted communications in a criminal proceeding.

This statute extends the provisions regulating the interception of wire, electronic page or cellular telephone communications indefinitely, and provides that intercepted communications relating to crimes other than those specified in the order of authorization may generally be disclosed or used. The statute adds possession of more than \$100,000 as the result of an unlawful sale of drugs to the list of crimes for which an interception may be authorized. The statute extends the requirement to report to the authorizing judge the continued need for the order to intercept communications from 72 hours to 10 days. The statute also authorizes the disclosure of the contents of an intercepted communication in a preliminary hearing without first furnishing a transcript an application to the parties of the hearing. (Pen C §§ 629.76, 629.80, 629.82, 629.88 & 629.98)

SB 695
Rainey

Automobile Insurance Claims: Depository

Chapter 501
Statutes of 1997

Existing law establishes the Automobile Insurance Claims Depository (AICD) for use by law enforcement and insurers for

the purpose of investigating and prosecuting automobile insurance fraud. The law requires claims analysis bureau members to report data elements, including name and address of claimant and other critical claims information. Automobile insurers are permitted to deposit claims information directly or through a licensed claims analysis bureau. The law allocates a portion of insurer fees to fund the AICD program.

This statute declares that the AICD duplicates of existing databases and repeals the AICD. The statute requires automobile insurers to deposit all bodily injury, medical payment or uninsured motorist claims information with a licensed insurance claims analysis bureau. Insurance claims analysis bureaus are prohibited from charging a fee to accept these claims. The statute redirects AICD funds within the Department of Insurance (DOI) for enhanced auto insurance fraud investigation. The bill requires a licensed insurance claims analysis bureau to provide claims information to law enforcement agencies upon request at no charge and provides insurance claims analysis bureaus and employees with immunity for providing information pursuant to this statute.

(Ins C §§ 1872.8, 1875.12, 1875.18, 1876, 1876.1, 1876.2 & 1876.20)

**SB 700
Rainey**

Pilots: Bays of San Francisco, San Pablo and Suisun

Two Year Bill

Under existing law there is a Board of Pilot Commissioners for the Bays of San Francisco, San Pablo and Suisun (Board). The Board regulates pilotage on the waters of San Francisco Bay and adjoining bays and rivers. Pilots and inland pilots are required to collect on behalf of the Board an operations surcharge from vessels they board. The money pays for the compensation and expenses of the Board, its officers and employees and pilot training programs. Existing law requires the Board to make recommendations to the Legislature on the rates for pilotage.

This bill would provide that the Board's jurisdiction includes review of incidents and accidents that occur during operations under a state or federal license of a pilot on equipment or vessels maintained exclusively for pilotage. The bill also would require the Board to adopt by regulation a review process and procedure of the annual license renewal of pilots and would prohibit a renewal until the Board conducts a review. Additionally, the bill would require the Board to exclude from consideration any expenses for pilotage operations that are the result of illegal activity or the result of the willful or gross

negligence of individual pilots or pilot association in its recommendations to the Legislature regarding pilotage rates. (H&N C §§ 1127, 1141 & 1204)

SB 891
Watson

Physio-Technology

Two Year Bill

Existing law provides for the licensure and regulation of healing arts professionals including, among others, physicians and surgeons, physical therapists, and nurses.

This bill would establish the Physio-Technology Practice Act and would provide for the regulation of physio-technologists and physio-technologist assistants by the California Physio-Technology Licensure Commission that would be established by this bill within the Division of Medical Quality of the Medical Board of California. This bill would establish various provisions relating to physio-technologists including their scope of practice, qualifications, and grounds for disciplinary proceedings. The bill would provide that a violation of these provisions is subject to criminal sanction, thereby imposing a state-mandated local program by creating a new crime. The bill would establish the Physio-Technology Fund in the State Treasury, prescribe certain licensure fees to be paid, and deposited in the fund, and would continuously appropriate the fund, for the purposes of this bill. (H&S C § 123165)

SB 1315
Burton

Insurance

Chapter 385
Statutes of 1997

Existing law provides for the regulation of commercial insurance by the Department of Insurance and workers' compensation insurance by the Department of Industrial Relations.

This statute requires an insurer who has nonrenewed a commercial or workers' compensation policy, upon receiving a written request, to provide within a specified time frame: (1) a premium and loss history report for the past three years or for the account's tenure, whichever is shorter; and (2) loss experience during the current policy year. (The specified response time from receipt of a request is within 15 business days for a commercial policy and within 10 days for a workers compensation policy.) (Ins C §§ 678.1 & 11664)

**B. OCCUPATIONAL
REGULATION**

(1) Board of Accountancy

Bill	Summary	Disposition
AB 508 Takasugi	<p><u>Accountancy: Non-Licensee Owners</u></p> <p>Existing law requires all partners of an accountancy partnership to be licensed certified public accountants (CPAs) or public accountants (PAs). Existing law also requires all shareholders of an accountancy corporation to be licensed CPAs or PAs.</p> <p>This bill: (1) expresses intent that AB 508 would not become effective unless legislation enacted in 1997 permits nonlicensee ownership of accountancy firms; (2) requires accountancy firms with nonlicensee owners to give clients and prospective clients a disclosure stating, among other things, the names of nonlicensee owners; (3) prohibits former CPAs or PAs from being eligible to be nonlicensee owners of an accountancy firm; (4) requires nonlicensee owners to complete a continuing education course; and (5) requires the Board of Accountancy to establish and charge a special application fee for registering accountancy firms with nonlicensee owners. (B&P C §§ 5065, 5066, 5067, 5070.5, 5078, 5132 & 5134.1) (See AB 989)</p>	Two Year Bill
AB 989 Perata	<p><u>Accountancy: Non-Licensee Owners</u></p> <p>Existing law requires all partners of an accountancy partnership to be licensed certified public accountants (CPAs) or public accountants (PAs). Existing law also requires all shareholders of an accountancy corporation to be licensed CPAs or PAs.</p> <p>This statute allows persons who are not licensed by the Board of Accountancy (BOA) as a CPA or PA to participate in the ownership of an accounting firm, if certain conditions are met. Among other things, those conditions: (1) require licensees to comprise a majority of the owners, except that firms with two owners may have one who is a nonlicensee; (2) require licensees to hold more than half of the equity capital and have majority voting rights; (3) require a CPA or PA to have ultimate responsibility for each financial statement attest and compilation service engagement; (4) prohibit nonlicensee owners from representing themselves as CPAs or PAs; and (5)</p>	Chapter 921 Statutes of 1997

generally prohibit persons from being nonlicensee owners who have been convicted of any crime involving dishonesty or fraud or who have had a professional license or right to practice revoked or suspended for reasons other than nonpayment of dues or fees, or have voluntarily surrendered a license due to disciplinary charges or an investigation, without reinstatement of the license. **The statute also requires the BOA to report on the condition of the Accountancy Fund each fiscal year, and repeals obsolete provisions on license renewals.**

(B&P C §§ 5070.5, 5079 & 5132) (See AB 508)

**SB 1289
Calderon**

Accountancy: Commissions

Two Year Bill

Existing law prohibits accountants from paying a commission to obtain a client, and prohibits accountants from accepting a commission for referring a client to the products or services of others.

This bill would instead permit commissions if the accountant is not presently performing attestation services for the client and the commission is disclosed. (B&P C § 5061)

(2) Acupuncture Committee

**AB 174
Napolitano**

Healing Arts: Acupuncture

**Chapter 400
Statutes of 1997**

Existing law provides for the licensure and regulation of the practice of acupuncture, and provides that any person who practices acupuncture without a license is guilty of a misdemeanor, with certain exceptions.

This statute provides that any person, other than a physician and surgeon, dentist, or podiatrist, who is a licensed healing arts provider but is not licensed to practice acupuncture, who does any of the following, is guilty of a misdemeanor: (1) practices acupuncture, involving the application of a needle to the human body; (2) performs any acupuncture technique or method, involving the application of a needle to the human body; or (3) directs, manages, or supervises another person in the performance of acupuncture, involving the application of a needle to the human body. The statute additionally makes it unprofessional conduct for a physician and surgeon, osteopathic physician, dentist, or podiatrist to direct or supervise the performance of acupuncture by a licensed healing arts professional who is not a licensed acupuncturist.

(B&P C §§ 4935 & 730)

AB 204
Migden

Workers' Compensation: Acupuncturists

Two Year Bill

Existing law, until January 1, 1999, defines the term "physician" as including acupuncturists for purposes of treating injured employees entitled to workers' compensation medical benefits.

This bill would delete the repeal date and make conforming changes. (Lab C § 3209.3)

AB 410
Gallegos

Sales And Use Taxes: Partial Exemptions: Acupuncturists

Two Year Bill

Existing law imposes a tax on tangible personal property and provides for a partial tax exemption for vitamins, minerals, dietary supplements, and orthotic devices used or furnished by chiropractors in the performance of their professional services.

This bill would provide a partial tax exemption with respect to any herb, herbal formula or preparation, vitamin, mineral, dietary supplement, drugless substance, or orthotic device that is used or furnished by a licensed acupuncturist in the performance of his or her professional services. (R&T C § 6018.3)

SB 212
Burton

Workers' Compensation

Chapter 98
Statutes of 1997

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, 1999. AB 1002 (Chapter 26 of the Statutes of 1996) extended the original repeal date of January 1, 1997 to the current repeal date of January 1, 1999.

This statute deletes the January 1, 1999, repeal date and specifies that the inclusion of "acupuncturists" in the definition of physician does not imply any right or entitle any acupuncturist to represent, advertise, or hold himself or herself out as a physician or surgeon holding and M.D. or D.O. degree. (Lab C §§ 3209.3 & 3209.9)

SB 863
Lee

Acupuncture

Two Year Bill

Existing law, the Acupuncture licensing Act, provides that nothing in the Acupuncture Licensing Act shall be construed to prevent the practice of acupuncture by a person licensed as a dentist or podiatrist.

This bill would additionally specify that nothing in the Acupuncture Licensing Act shall be construed to prevent the practice of acupuncture by a person licensed as physician and surgeon. The bill would rename the Acupuncture Committee as the Acupuncture Board, and would make conforming and technical changes. (B&P C §§ 4927, 4928, 4933, 4934, 4935, 4944, 4947, 4970 & 4974)

(3) Arbitration Review Program

**SB 289
Calderon**

Warranties: Motor Vehicle

Two Year Bill

Existing law authorizes each manufacturer of motor vehicles to provide for a qualified third-party dispute resolution process for resolution of disputes brought by buyers or lessees of new motor vehicles. Participating in a dispute resolution program is voluntary. These programs may seek certification by the Department of Consumer Affairs (Department). The Tanner Consumer Protection Act, commonly known as the Lemon Law, presumes that a reasonable number of attempts have been made to conform a new motor vehicle to applicable express warranties if within one year or 12,000 miles, either: (1) the same nonconformity has been subject to repair four or more times; or (2) the vehicle is out of service due to repair of a nonconformity by the manufacturer for 30 days in a 12-month period. Existing law defines a new motor vehicle for purposes of the Lemon Law to mean a new motor vehicle, which is used or bought, for use primarily for personal, family or household purposes.

This bill would extend the applicability of the Lemon Law presumption to 24 months from delivery to the buyer, or 24,000 miles for nonconformity in a new motor vehicle covered by express warranties. It would also require motor vehicle manufacturers who do not participate in a dispute resolution process certified by the Department to disclose that fact to the buyer. The bill would provide that if the non-conformity is a safety defect, as defined by this bill, the Lemon Law presumption is met if the nonconformity is subject to two or more repairs and the buyer has provided a specified notice to the manufacturer. This bill would also revise the definition of a new motor vehicle to include a vehicle used for business purposes by a person who has more than five motor vehicles registered in this state. (Civ C § 1793.22)

(4) Board of Architectural Examiners

AB 1546
Davis

Consumer Affairs

Chapter 475
Statutes of 1997

Existing law authorizes the Board of Guide Dogs for the Blind (Board) to license and regulate persons who provide instruction to blind persons in the use of guide dogs and for persons who train the guide dogs. The provisions for the Board were scheduled to sunset on July 1, 1997, unless a statute was enacted that would delete or extend the dates on which it becomes inoperative. Current law provides for the licensing and regulation of architects, landscape architects, court reporters, funeral directors, and embalmers.

This statute authorizes the Director of the Department of Consumer Affairs (DCA) to enter into interagency agreements with appropriate entities within the department and to delegate to them the duties, powers, purposes, responsibilities, and jurisdiction of boards, within the DCA jurisdiction, which have sunset. This statute authorizes the Board of Architectural Examiners (BAE) to contract with architect consultants and requires architects, when renewing their license, to indicate on the renewal form whether they were the subject of discipline from another agency or were convicted of a crime. **The statute transfers the duties and powers regarding the regulation of landscape architect licensees from the DCA to the BAE, which is authorized to delegate authority to perform specified duties to a Landscape Architect Technical Committee (Committee) under its jurisdiction.** The Committee consists of five members appointed by the Governor and the Legislature. These provisions become inoperative July 1, 2004, and are repealed as of January 1, 2005. This statute extends the sunset date for the Board of Guide Dogs for the Blind until July 1, 2002, and is repealed as of January 1, 2003. The statute provides that every funeral establishment holding a funeral director's license on December 31, 1996, be issued a funeral establishment license upon payment of specified fees. It exempts a licensed funeral director from the training provisions required for persons who consult with the family of the deceased regarding funeral services. The statute revises the order of persons authorized to carry out the final wishes for disposition of a deceased person and makes other technical and clarifying changes. Additionally, **it provides that information regarding citations, fines, and orders of abatement issued against a licensee of the Court Reporters Board will be disclosable as a public record,** and makes other technical and clarifying changes relating to the Transcript Reimbursement Fund administered by the Court Reporters Board.

(B&P C §§ 102.3, 5528, 5600, 5615, 5616, 5620, 5621, 5622,

5623, 5624, 5625, 5626, 5627, 5628, 5654, 5681, 5682, 5683, 7616, 7635, 8010, 8017, 8018, 8024.5, 8024.6, 8025, 8030.2, 8030.4, 8030.6 & 8030.8; and H&S C §§ 7100 & 7100.1)

**SB 827
Greene**

Professional Licensing: Boards

**Chapter 759
Statutes of 1997**

Existing law provides for the licensing and regulation of various professions and occupations. A board administers each one. Existing law provides for the sunset of the Board of Registered Nursing, Board of Vocational Nurse and Psychiatric Technician Examiners (BVNPTE), Board of Pharmacy, Board of Architectural Examiners, Structural Pest Control Board (SPCB), Veterinary Medical Board (VMB), and Registered Veterinary Technician Examining Committee (RVTEC) effective July 1, 1998. Existing law, by initiative, also establishes the Board of Chiropractic Examiners (BCE) to administer licensing and regulation of practitioners of chiropractic; and the Osteopathic Medical Board (OMB) that administers licensing and regulation governing osteopathy.

This statute extends the sunset date for the SPCB to July 1, 2001 and extends the sunset for the rest of the boards to July 1, 2004. **This statute increases board membership by one public member for both the Board of Pharmacy and the VMB. Additionally, the BVNPTE changes one licensed vocational nurse member to a public member. This statute requires the VMB to create an advisory committee to supersede the RVTEC, and requires the SPCB and the Director of Pesticide Regulation to report to the Legislature by February 1, 1998 regarding the terms of their interagency agreement concerning county agricultural commissioners.** In addition, this statute subjects the BCE and the OMB to review by the Joint Legislative Sunset Review Committee. (B&P C §§ 101, 1242.6, 128.5, 130, 675, 800, 1680, 200.1, 205, 2071, 2221.1, 2660, 2701, 2708, 2761, 2841, 2842, 2847, 2873.6, 2873.7, 2881, 2890, 2893, 2894, 3527, 3750, 4001, 4003, 4008, 4501, 4503, 4546, 4547, 473.15, 473.16, 473.6, 4800, 4804.5, 4832, 4833, 4834, 4835, 4842.2, 4848, 4905, 4955, 5510, 5517, 5526, 5536.27, 5566, 5566.1, 5566.2, 8520 & 8528)

(5) Athletic Commission

No Bills for 1997 Session

(6) Bureau of Automotive Repair

AB 57
Escutia

Air Pollution: Vehicles: Repair

Chapter 804
Statutes of 1997

Existing law establishes a motor vehicle inspection and maintenance (Smog Check) program administered by the Department of Consumer Affairs/Bureau of Automotive Repair (DCA/BAR), which includes a program for the repair or voluntary removal of high-emission vehicles.

This statute, among other things: (1) establishes a new repair assistance program; (2) creates a new \$250 low-income economic hardship extension program; (3) allows gross-polluting vehicles eligibility for waivers and extensions; and (4) requires the DCA to collect data. (H&S C §§ 44001.3, 44015, 44015.3, 44017, 44017.1, 44056 & 44062.1)

AB 178
Gallegos

Vehicles: Automotive Products

Chapter 634
Statutes of 1997

Existing law requires the Department of Food and Agriculture (DFA) to establish specifications for engine coolants and a number of similar products to ensure that these products do not fall below the minimum specifications established by the American Society for Testing and Materials.

This statute allows the DFA to grant a variance from the chloride standard for recycled engine coolants or antifreeze. (B&P C § 13710.5)

AB 183
Richter

Consumer Affairs: Bureau of Automotive Repair: Ombudsperson

Two Year Bill

Existing law, the Automotive Repair Act, establishes the Bureau of Automotive Repair in the Department of Consumer Affairs under the supervision and control of the Director of Consumer Affairs.

This bill would require the Director to appoint an ombudsperson for the Bureau, who would be authorized on a case-by-case basis, to overrule a decision of the Bureau to enforce or apply regulations adopted by the Director.
(B&P C § 9883)

**AB 208
Migden**

**Vehicles: Inspection and Maintenance: High Polluter
Repair or Removal**

**Chapter 802
Statutes of 1997**

Existing law: (1) requires the Department of Consumer Affairs/Bureau of Automotive Repair (DCA/BAR) to establish an enhanced vehicle emissions inspection and maintenance (I/M) program (Smog Check); (2) requires that vehicles in the more populated areas of the state obtain a biennial certificate of compliance commencing upon the second renewal of registration; and (3) establishes a High Polluter Repair and Removal Account (HPRRA) administered by the DCA for the repair or voluntary removal of high-polluting vehicles.

This statute, among other things: (1) allows the exception of any low-emitting motor vehicle or class of motor vehicles from the biennial requirement of the Smog Check program; (2) requires that the revenues from the Smog Impact Fee be deposited into the HPRRA; and (3) makes the money in the HPRRA available for the low-income repair assistance program, scrappage, rulemaking, vehicle testing, and other technical work required to implement and administer the low-income assistance program and the M-1 strategy. (H&S C §§ 44003, 44021, 44024.5, 44037.1, 44060, 44081, 44091, 44091.1 & 44101; R&T C § 6262; and Veh C § 4000.7)

**AB 834
Bowen**

**Vehicles: Leaking Fluid Inspection Program: Los Angeles
County**

Two Year Bill

Existing law requires the Chief of the Bureau of Automotive Repair (BAR) to enforce and administer the Automotive Repair Act and the Smog Check program.

This bill would require the BAR to establish an advisory committee for the purpose of establishing a voluntary leaking automotive fluids inspection program for Los Angeles County. (B&P C §§ 9889.70 & 9889.71)

**AB 999
Thomson**

Air Pollution: Vehicles

**Vetoed
October 8, 1997**

Existing law establishes a motor vehicle inspection and maintenance (Smog Check) program administered by the Department of Consumer Affairs/Bureau of Automotive Repair (DCA/BAR) and requires loaded-mode vehicle testing in those

urbanized areas of the state that are classified by the USEPA as non-attainment areas for ozone. These areas are known as enhanced areas.

This bill would have removed the enhanced area designation on some areas of the state by defining an "urbanized" area as having a population of 100,000 or more residents.
(H&S C § 40007)

Veto Message

Governor Pete Wilson
To the Members of the California Assembly:

I am returning Assembly Bill No. 999 without my signature.

This bill would redefine the term "urban area," so that California's enhanced smog check program would apply only to those urban areas with a population of 100,000 or more.

Currently, urbanized areas of 50,000 or more residents, that exceed air quality standards for ozone and carbon monoxide, must participate in an enhanced vehicle inspection and maintenance program (Smog Check II). Changing the definition of urbanized area, as proposed by this bill, would exempt certain areas from this program. This would create inequities by shifting the burden of increased emission reductions from automobiles to industrial and stationary pollution sources.

It is imperative that we continue to make desired and necessary progress toward health-protective, clean air standards, avoid unnecessary exposure to federal sanctions, and ensure that California's air quality policy approach remains equitable, technologically feasible, and cost effective. Those three elements would be severely jeopardized by this bill.

AB 1437
Cardoza

Air Pollution: Transported Pollutants

Two Year Bill

Existing law requires the State Air Resources Board (ARB) to assess the relative contribution of upwind emissions to downwind pollution and to determine if the contribution is overwhelming, significant, inconsequential, or some combination thereof.

This bill would: (1) require the ARB, for each area of the state that contributes overwhelming or significant amounts of transported pollution to a downwind district, to implement a program that requires each upwind district to take prescribed actions that reduce the emissions being transported into the downwind district, or make mitigation payments for those emissions to the downwind district; and (2) subject the upwind districts to the Enhanced Vehicle Inspection and Maintenance Program. (H&S C §§ 39604, 39611, 39612, 40915 & 40924)

AB 1492
Baugh

Air Pollution: Motor Vehicle Inspection and Maintenance

Chapter 803
Statutes of 1997

Existing law: (1) requires: the Department of Consumer Affairs/Bureau of Automotive Repair (DCA/BAR) to establish an enhanced vehicle emissions inspection and maintenance (I/M) program (Smog Check); (2) requires that vehicles in the more populated areas of the state obtain a biennial certificate of compliance commencing upon the second renewal of registration; and (3) requires that vehicles designated as Gross Polluters (GPs) be tested annually at a test-only facility for at least two, but not more than five consecutive years to ensure on-going compliance with emissions standards.

This statute: (1) excepts any motor vehicle four or less model-years old from the biennial requirement of the Smog Check program; (2) allows the exception of any low-emitting motor vehicle or class of motor vehicles from the biennial requirement of the Smog Check program; (3) allows the DCA to authorize the placement of Referees in qualified test-only stations to perform Referee services; and (4) eliminates the requirement that GPs be tested annually for at least two, but not more than five years. (H&S C §§ 44001, 44005, 44011, 44014, 44014.5, 44015, 44015.3, 44017, 44017.1, 44036 & 44040; and Veh C § 4000.7)

AB 1523
Battin

Automotive Repair

Two Year Bill

Existing law provides for the Bureau of Automotive Repair (BAR) to establish standards for certification of registered automotive repair facilities. The BAR is required to have procedures setting forth the basic requirements for application and certification in certain areas of automotive repair.

This bill would require the procedures to be in writing.
(B&P C § 9889.33)

SB 40
Johannessen

Vehicles: Smog Impact Fee

Two Year Bill

Existing law, with specified exceptions, requires any person registering a 1975 or subsequent model gasoline-powered motor vehicle or a 1980 or subsequent model year diesel-powered

motor 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 repeal those provisions. (R&T C §§ 6261, 6262 & 6263)

**SB 42
Kopp**

Air Pollution: Vehicles: Inspection and Maintenance

**Chapter 801
Statutes of 1997**

Existing law exempts motor vehicles prior to the 1966 model year from the biennial Smog Check and from having to obtain a Smog Check upon initial registration, ownership changes, or upon import from other states into California.

This statute changes these exemptions from model years prior to 1974 until 2003 when the exemptions will be for vehicles thirty model-years old and earlier. (H&S C § 44011; and Veh C § 4000.1)

**SB 61
Haynes**

Vehicle Inspection and Maintenance

**Failed
Senate
Transportation**

Existing law requires the Department of Consumer Affairs/Bureau of Automotive Repair (DCA/BAR) to establish an enhanced vehicle emissions inspection and maintenance program (I/M) in urbanized areas of the state that are classified as non-attainment areas for ozone and oxides of nitrogen (NOx).

This bill would have repealed this program and replaced it with the program which existed before 1994. (H&S C Chapter 5 of Part 5 of Division 26; and Veh C § 9250.18)

**SB 107
Kelley**

Automotive Repair

**Chapter 107
Statutes of 1997**

Existing law requires business entities providing automotive repair services to register as an Automotive Repair Dealer (ARD) with the Bureau of Automotive Repair (BAR) and exempts from the registration requirement automotive machine shops whose primary business is the supply of new or rebuilt parts and whose sole practice is the remachining of individual automotive parts for warranty adjustments without compensation. This exemption would have ended on January 1, 1998.

This statute extends the exemption indefinitely. (B&P C § 9880.2)

SB 201
Kelley

Vehicles: Smog Impact Fee: Exemption

Dropped

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 motor vehicle last registered outside of California 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 smog impact fee these vehicles that are sold through a dealer conducting a wholesale motor vehicle auction. (R&T C § 6262)

SB 322
Craven

Auto Body Repair: Shop Certification

Two Year Bill

Existing law requires the Bureau of Automotive Repair (BAR) within the Department of Consumer Affairs (DCA) to register and regulate automotive repair dealers (ARDs).

This bill would require the BAR to create the Better Auto Body Repair Shop Gold Star Program -- a voluntary certification program for auto body repair facilities until January 1, 2003. (B&P C Article 12 of Chapter 20.3 of Division 3)

SB 679
Mountjoy

Vehicle Inspection and Maintenance

**Failed
Senate
Transportation**

Existing law requires the Department of Consumer Affairs/Bureau of Automotive Repair (DCA/BAR), to establish an enhanced vehicle emissions inspection and maintenance program (I/M) in urbanized areas of the state that are classified as non-attainment areas for ozone and oxides of nitrogen (NO_x).

This bill would have repealed this program and replaced it with the program which existed before 1994. (H&S C Chapter 5 of Part 5 of Division 26; and Veh C § 9250.18)

SB 772
Johannessen

Vehicle Inspection and Maintenance

Vetoed
October 8, 1997

Existing law establishes a motor vehicle inspection and maintenance (I/M) program (Smog Check) administered by the Department of Consumer Affairs and requires a visual and functional check of emissions control devices as part of a Smog

Check inspection.

This bill would have: (1) restricted the visual check requirement for gasoline-powered vehicles under the Smog Check program by limiting it to specified primary emissions control devices; (2) restricted the functional check requirement in Basic Areas utilizing the BAR 90 test and removed the functional check requirement for those vehicles tested with loaded-mode; and (3) prohibited a vehicle equipped with aftermarket add-on or modified equipment that passes the various inspections under the Smog Check program from being referred to a Referee station or from undergoing any other additional tests. (H&S C §§ 44012, 44012.5, 44036 & 44036.2)

Veto Message

Governor Pete Wilson
To the Members of the California Senate:

I am returning Senate Bill No. 772 without my signature.

This bill would attempt to eliminate inappropriate referrals of vehicles equipped or modified with approved auto parts to Bureau of Automotive Repair referee stations. The bill also seeks to place in statute the specific test protocols to be used in the Smog Check program, and states that any "shortfall in emission reductions" shall come from "control measures, other than motor vehicle control measures."

Although there is agreement with the author on the need to eliminate needless referrals of vehicle owners to Bureau of Automotive Repair referee facilities, the latter provisions of the bill represent a step backward in Smog Check reform, and a fundamental departure from the sound principles of public policy. By making the program less effective, our efforts to protect public health are compromised and our ability to attain federal clean air goals is called into question.

The real solutions to the problem that this bill seeks to address are being accomplished administratively. An on-line computerized system that lists approved and certified after-market parts is being pursued proactively by this administration, and an enforcement mechanism to ensure that unnecessary referrals do not continue is also being pursued. The Air Resources Board (ARB) and the Bureau of Automotive Repair are committed to achieving these reforms by the first quarter of 1998.

It is the other provisions of this bill, those that limit the flexibility to improve the Smog Check program and those that require the increased emissions to be "made up" from an alternative, non-mobile source that make this bill inappropriate.

SB 807
Thompson

Vehicles: Inspection and Maintenance

Existing law establishes the Vehicle Inspection and Maintenance (I/M) program and makes findings and declarations relative to the program and requires a visual or functional check of emissions control devices as part of a Smog

Vetoed
September 28, 1997

Check inspection.

This bill would have: (1) required the Department of Consumer Affairs (DCA) to make available, upon request, both the Smog Check failure and Gross Polluter rates for the previous calendar year by engine type, make, and model year and allowed the DCA to charge a fee to cover the costs of providing this information; (2) required the DCA to convene a task force to review a means of implementing a rating system for the repair effectiveness of licensed smog check stations and make this information available to consumers; and (3) required the DCA to report to the Legislature by February 1, 1998 its recommendations regarding the implementation of the repair effectiveness rating system. (H&S C §§ 44006, 44026 & 44027)

Veto Message

Governor Pete Wilson

To the Members of the California Senate:

I am returning Senate Bill No. 807 without my signature.

This bill would require the Department of Consumer Affairs to annually make available the failure rates and related information for vehicles subject to smog check testing. In addition, the measure mandates the Department to convene a task force, as specified, to review a means of implementing a rating system for the repair effectiveness of smog check stations, and to report its recommendations to the Legislature by February 1, 1998.

The provisions of this bill would add significant cost to the implementation of the enhanced smog program. The estimated cost to implement the provisions of this measure is \$2.4 million in the first year. The cost recovery as envisioned in the measure is highly uncertain. The Department is mandated by federal law to make vehicle failure rate information available when adequate funding is identified. Until sufficient funding is available, the program must continue to focus funding on only the most vital components of the smog check program.

**SB 1096
Brulte**

Air Quality: Heavy-Duty Vehicles

Two Year Bill

Existing law establishes various provisions with respect to the control and reduction of vehicular air pollution.

This bill would make certain legislative findings and declarations regarding the reduction of heavy-duty vehicle emissions and financial assistance for that purpose.

(R&T C § 17053.40)

**SB 1250
Kopp**

Air Pollution: Vehicles: Federal Oil Overcharge Funds

Dropped

Existing law establishes a motor vehicle inspection and maintenance (Smog Check) program, which includes a program for the repair or voluntary removal of high-emission vehicles. It

also requires owners of 1975 or subsequent model year gasoline-powered motor vehicles, or 1980 or subsequent model year diesel-powered motor vehicles last registered outside the state to pay a \$300 Smog Impact Fee to the Department of Motor Vehicles at the time of registration. These revenues are deposited into the General Fund after the deduction of certain costs. Current law also authorizes funds in the Petroleum Violation Escrow Account (PVEA) to be disbursed to California by the federal government and deposited in the Federal Trust Fund in the State Treasury.

This bill would have established an additional repair assistance program that would have subsidized up to eighty percent of the total cost of repairing a high-emission vehicle, not exceeding \$400. It would have also required that the funds received by the state from the Smog Impact Fee and the Petroleum Violation Escrow Account be deposited in a Smog Check Repair Assistance Account for the repair of these high-emission vehicles. (H&S C Article 8.5 to Chapter 5 of Part 5 of Division 26; and R&T C § 6262)

SB 1275
Haynes

Air Pollution: Heavy-Duty Vehicles

Two Year Bill

Existing law requires the State Air Resources Board (ARB) to reduce emissions from heavy-duty motor vehicles by adopting specified regulations and by cooperating with the Department of the California Highway Patrol in conducting roadside inspections to enforce a prohibition against the use of a heavy-duty vehicle that emits excessive smoke. It also requires the ARB to adopt regulations that require owners or operators of heavy-duty diesel vehicles to perform regular inspections of their vehicles for excessive smoke.

This bill would require the ARB, by June 30, 1997, to implement a heavy-duty vehicle roadside inspection program and to implement and enforce that program, as specified. (H&S C §§ 43703 & 44011.6; and R&T C §§ 17053.41 & 23641)

SB 1343
Johannessen

Air Pollution: Vehicular Emissions: Particulate Matter

Dropped

Existing law authorizes the State Air Resources Board (ARB) to adopt and implement motor vehicle emissions standards, in-use performance standards, and motor vehicle fuel specifications to control air contaminants, and requires the ARB to endeavor to achieve the maximum degree of emissions reduction from

vehicular sources as prescribed.

This bill would require the ARB, when considering solutions to reduce particulate matter from vehicle exhaust, to give as much consideration to air flow enhancement devices as to reconstituted fuel or fuel alternatives, as specified.

(H&S C § 43013.1)

(7) Barbering and Cosmetology Program

**SB 184
Polanco**

Barbering and Cosmetology: State Board

Two Year Bill

Existing law provided for the sunset of the Board of Barbering and Cosmetology (BBC) on July 1, 1997 and transferred the powers and duties of the BBC to the Department of Consumer Affairs.

This bill would recreate the board and establish a sunset date for the BBC of July 1, 2001 and make conforming changes.

(B&P C §§ 7302 & 7310)

**SB 515
Polanco**

Cosmetology: Barbering: Electrology: School Requirements

**Chapter 429
Statutes of 1997**

Existing law requires cosmetology schools to have adequate equipment and floor space for the number of students enrolled in the course, to have at least 25 students enrolled in the school, and to teach the cosmetology curriculum as specified. Existing law also provides for the licensure of barbering and cosmetology instructors. Existing law repeals these provisions on January 1, 1998.

This statute extends the repeal date for these provisions to January 1, 2002, and adds similar provisions relating to schools of barbering and schools of electrology also to repeal January 1, 2002. This is an urgency statute, to take effect immediately. (B&P C §§ 7362.1, 7362.2, 7362.3, 7390, 7391, 7392, 7394, 7395 & 7423.5)

**SB 1346
Senate
Committee
on Business
and
Professions**

Department of Consumer Affairs: Omnibus Bill

**Chapter 758
Statutes of 1997**

Existing law regulates barbers and cosmetologists under the Barbering and Cosmetology Program (BCP).

This statute amends the BCP licensing act to, among other things: (1) allow the BCP to extend an apprentice license for good cause; (2) **require applicants to have a *valid, unexpired***

driver's license or photo ID; (3) give the BCP the flexibility to administer written exams electronically; (4) allow the BCP to take disciplinary action for unprofessional conduct, which would include but not be limited to the grounds that already exist for disciplinary action (incompetence, gross negligence, conviction of a crime related to the license, and false advertising); and (5) **require all accrued renewal and delinquency fees to be paid before renewing an expired license.** (B&P C §§ 7330, 7335, 7337, 7340, 7404, 7414, 7415 & 7417)

(8) Board of Behavioral Sciences

AB 276
Woods

Hypnotherapists: Hypnotherapist Registration Act

Two Year Bill

Existing law does not require persons practicing hypnotherapy to be licensed.

This bill would identify standards and qualifications for persons practicing hypnotherapy. (B&P C § 4550)

AB 949
Ducheny

Social Workers

Failed
Assembly Floor

Existing law provides that an approved school of social work is one that is accredited by the Commission on Accreditation of the Council of Social Work Education.

This bill would have granted title protection to social workers by providing that only persons possessing a degree in social work from an accredited school of social work, as specified, may identify themselves as social workers. (B&P C § 2598)

SB 288
Haynes

Healing Arts: Social Workers

Two Year Bill

Existing law requires all applicants for licensure as a licensed clinical social worker (LCSW) to take and pass both a written and an oral examination administered by the Board of Behavioral Sciences (BBS).

This bill would eliminate the requirement that applicants pass an oral examination, and further prohibit the BBS from administering an oral examination. This bill also would grandfather in all applicants, past and present, who have passed the written examination. (B&P C §§ 4980.34, 4992.1, 4996.3 & 4996.4)

SB 650
Lewis

Marriage, Family, and Child Counselors and Social Workers

Chapter 196
Statutes of 1997

Existing law requires applicants for licensure as a marriage, family and child counselor to complete 3,000 hours of supervised clinical experience in a specified setting prior to licensure; requires the Board of Behavioral Sciences (BBS) to implement a mandatory continuing education program, and prohibits the BBS from renewing a license after January 1, 1999 if the required continuing education has not been completed in the preceding two years.

This statute expands the list of supervised clinical settings approved by the BBS, prorates the continuing education requirement for licensees renewing in 1999, and grants the BBS the authority to revoke or deny approval of a continuing education provider's status. (B&P C §§ 4980.43, 4980.54 & 4996.22)

SB 958
Hughes

Behavior Analysis

Two Year Bill

Existing law requires persons practicing psychology to be licensed by the Board of Psychology.

This bill would create the Behavior Analysts Certification Act within the Business and Professions Code to certify behavior analysts, associate behavior analysts, and behavior technicians. (B&P C § 2999)

SB 1295
Maddy

Marriage, Family and Child Counselors and Clinical Social Workers: Patient Access to Health Records

Chapter 388
Statutes of 1997

Existing law allows patients and their designated representatives to inspect their health records. Existing law also allows a health care provider to deny this request, as it pertains to mental health records, if there is significant adverse risk. In cases where patient access to records is denied, existing law requires the health care provider to provide mental health records to a physician or psychologist at the request of the patient.

This statute requires a health care provider to provide mental health care records to a marriage, family and child counselor or licensed clinical social worker at the request of a patient. This statute also prohibits the physician or mental health practitioner who received the records from sharing the records with the patient. (H&S C § 123115)

**(9) Cemetery Program/
Funeral Directors & Embalmers Program**

AB 603
Kuykendall

Cemeteries

Chapter 142
Statutes of 1997

Existing law provides for the regulation and licensure of private cemetery authorities in the state. The cemetery authorities are required to file an annual written report that includes prescribed information regarding the endowment care trust funds. The report must be certified by the accountant or auditor preparing the report. Existing law also requires that all funds for endowment care be invested and the income be used for the care and maintenance of the cemetery.

This statute amends provisions of the Cemetery Act to: (1) **require that the annual report submitted by cemetery authorities be accompanied by an annual audit report of the endowment care and special care trust funds and include specified documents;** (2) specify that the most recent annual report filed will be a public record; (3) specify that upon request of the Department of Consumer Affairs (DCA), **a cemetery authority well be required to provide records to substantiate the expenditures of the income of the trust funds;** (4) specify that, in the event a city or county exercises its authority to address public health, safety, or welfare issues in connection with a cemetery authority, *and if* the DCA holds the endowment care fund of certificate of authority, *then*, the local entity may apply for reimbursement from the available income for the trust fund; (5) **provide that after January 1, 1990, for any modification of an existing section, or addition of a new section of the cemetery property, a cemetery authority will be required to amend the plats and maps and file such amendments with the local county recorder;** (6) specify that special care funds derived from a trust created by a revocable agreement are to be accounted for separately from all other funds; (7) **require trustees to provide signatory acknowledgment of understanding of the role of a trustee in managing trust funds in specified areas;** (8) specify that the total compensation paid to trustees in any year cannot exceed five percent of the net; and (9) provide that if a bank or trust company is appointed as trustee, the sum may exceed five percent of the net income derived from the trusts. (B&P C §§ 9650, 9650.3, 9653, 9656.25, 9701.5 & 9757; and H&S C §§ 8550, 8725, 8731, 8733 & 8733.5)

AB 1314
Leach

Cremated Remains

Two Year Bill

Existing law provides for the regulation of cemeteries including provisions for the regulation of cremated remains disposers (CRD).

This bill would require a prospective cremated remains disposer, at the time of registration or renewal, to file a copy of the registration of any boat or aircraft used in dispensing cremated remains, as well as, proof of a pilot's or captain's license. The bill would set specified time limits for the actual disposal of the remains and require the CRD to maintain a log for each aircraft or boat used, showing the date of receipt of the remains, date and location of the actual disposal, and provide the Department of Consumer Affairs with the address and phone number of any storage facility being used by the disposer. Any CRD who stores remains in a reckless manner that results in the loss of all or part of the cremated remains would be guilty of a misdemeanor or felony, as specified. (B&P C §§ 9742.5, 9744.5 & 9749.3)

AB 1546
Davis

Consumer Affairs

Chapter 475
Statutes of 1997

Existing law authorizes the Board of Guide Dogs for the Blind (Board) to license and regulate persons who provide instruction to blind persons in the use of guide dogs and for persons who train the guide dogs. The provisions for the Board were scheduled to sunset on July 1, 1997, unless a statute was enacted that would delete or extend the dates on which it becomes inoperative. Current law provides for the licensing and regulation of architects, landscape architects, court reporters, funeral directors, and embalmers.

This statute authorizes the Director of the Department of Consumer Affairs (DCA) to enter into interagency agreements with appropriate entities within the department and to delegate to them the duties, powers, purposes, responsibilities, and jurisdiction of boards, within the DCA jurisdiction, which have sunset. This statute authorizes the Board of Architectural Examiners (BAE) to contract with architect consultants and requires architects, when renewing their license, to indicate on the renewal form whether they were the subject of discipline from another agency or were convicted of a crime. **The statute transfers the duties and powers regarding the regulation of landscape architect licensees from the DCA to the BAE which is authorized to delegate authority to perform specified duties to a Landscape Architect Technical Committee (Committee)**

under its jurisdiction. The Committee consists of five members appointed by the Governor and the Legislature. These provisions become inoperative July 1, 2004, and are repealed as of January 1, 2005. This statute extends the sunset date for the Board of Guide Dogs for the Blind until July 1, 2002, and is repealed as of January 1, 2003. The statute provides that every funeral establishment holding a funeral director's license on December 31, 1996, be issued a funeral establishment license upon payment of specified fees. It exempts a licensed funeral director from the training provisions required for persons who consult with the family of the deceased regarding funeral services. The statute revises the order of persons authorized to carry out the final wishes for disposition of a deceased person and makes other technical and clarifying changes. Additionally, **it provides that information regarding citations, fines, and orders of abatement issued against a licensee of the Court Reporters Board will be disclosable as a public record,** and makes other technical and clarifying changes relating to the Transcript Reimbursement Fund administered by the Court Reporters Board. (B&P C §§ 102.3, 5528, 5600, 5615, 5616, 5620, 5621, 5622, 5623, 5624, 5625, 5626, 5627, 5628, 5654, 5681, 5682, 5683, 7616, 7635, 8010, 8017, 8018, 8024.5, 8024.6, 8025, 8030.2, 8030.4, 8030.6 & 8030.8; and H&S C §§ 7100 & 7100.1)

AB 1560
Scott

Nonendowment Care Cemeteries: Abandonment

Two Year Bill

Existing law provides that the Department of Consumer Affairs (DCA) is vested with the authority to regulate licensed cemetery authorities, cemetery brokers, and crematories and to monitor the condition of the endowment care and the special care funds held by those licensees. The DCA is authorized to conduct audits of the endowment and special care funds and to bring action to enforce the provisions of law subject to its jurisdiction.

This bill would: (1) provide that the Department of Consumer Affairs, upon petition to the court for conservatorship over the cemetery, would assume the responsibility for a **nonendowment** care cemetery; (2) provide that conservatorship of such a cemetery would be terminated after 10 years if the **endowment care fund** does not meet the minimum funds required by law; (3) require the DCA to directly maintain the cemetery and remove coping, improvements, and embellishments that are found to be a threat or danger to the public health, safety, comfort, and welfare; and (4) define "nonendowment care cemetery" to mean only a cemetery that is regulated by the state. (H&S C § 8825.5)

**AB 1571
Ducheny**

Budget Act of 1997: Augmentations

**Chapter 928
Statutes of 1997**
Line Veto Message
October 12, 1997

Existing law provides for the licensing and regulation of private cemeteries in California. The licensed cemeteries operate under a certificate of authority that permits the cemetery to establish and manage endowment care and special care trust funds.

Among other augmentations to the Budget, this bill would have provided for the allocation of \$1,510,000 to the City of Los Angeles from the General Fund when the Department of Consumer Affairs and the City of Los Angeles enter into an agreement whereby the city would assume receivership of the endowment care fund for the Verdugo Hills of Peace Cemetery.

Line Veto Message

Governor Pete Wilson
To the Members of the California Assembly:

Section 10 Verdugo Hills of Peace Cemetery

I am deleting Section 10 of this bill.

Section 10 would appropriate \$1,510,000 from the General Fund to the Department of Consumer Affairs for allocation to the City of Los Angeles when the city assumes receivership of the cemetery's endowment care fund. This appropriation would set an undesirable precedent by using General Fund moneys to address the financial problems of local cemeteries.

**SB 696
Rainey**

Estates and Trusts: Public Administrator and Guardian

**Chapter 93
Statutes of 1997**

Under existing law, if a person in a hospital, convalescent hospital, or board and care facility dies without known next of kin, the person in charge of the facility is required to inform the county public administrator of the death. If the public administrator takes possession or control of a decedent's estate, he/she may summarily dispose of the estate if either the total value of the estate does not exceed \$100,000 and there is a court order, or the total value of the estate is \$10,000 or less. A public guardian is generally prohibited from acting as a trustee of a trust unless a court finds that no other qualified person is willing to act as trustee. The compensation of a trustee is regulated by law, however the court may fix or allow greater compensation in certain circumstances. A trustee is required to administer the trust with reasonable care, skill, and caution and for the best interests of the beneficiary.

This statute adds a provision to the Probate Code that **requires a funeral director or cemetery authority, in control of the decedent's remains, to notify the public administrator if**

specified next of kin cannot be located after a reasonable inquiry or contacted by reasonable means. The public administrator may assume control of, and dispose the estate. If the total of the estate does not exceed \$100,000, the public administrator must get a court order to dispose of the estate. Estates valued at \$20,000 or less would not require a court order for disposition by the public administrator and the public administrator is authorized to be paid from the trust property, as specified. Funeral directors and cemetery authorities currently are required to notify the public administrator in cases in which next of kin cannot be located. If the public administrator fails to act within seven days, the funeral director or cemetery authority may assume control of the estate. This statute restates current requirements contained in the Health and Safety Code in the Probate Code. (Prob C §§ 7660, 7800.6, 15688 and 16042)

**SB 816
O'Connell**

Casket Sales

Vetoed
October 12, 1997

Existing law provides for the licensure and regulation of funeral directors under the provisions of the Funeral Directors and Embalmers Law. Currently, both state and federal law require a funeral director to place, in a prominent manner on the casket, the price of each casket. The price tag must include specified information regarding the construction and the materials used on the interior, among other things and each casket must be priced separate from any other type of service offered. The funeral director is prohibited from charging a handling fee for a casket that is supplied by the survivor or other person responsible for the funeral arrangements.

This bill would have: (1) provided that it is unlawful for any person, other than a funeral director, to sell, on a retail basis, any casket or retail container unless, specified information regarding pricing, materials, and construction of the merchandise is disclosed to the consumer; (2) provided that the disclosure and compliance requirements for retail casket sellers are repealed as of January 1, 2001; (3) required that the disclosure statement include the toll-free "hot line" telephone number of the Department of Consumer Affairs (DCA), and a notice that the consumer may contact the DCA or the office of the district attorney in that jurisdiction with any questions or complaints; (4) required the seller to post a notice informing the public that the seller is not a licensed funeral director and may not offer funeral services; and (5) prohibited retail casket sellers from entering into, or soliciting, any pre-need arrangement contract unless the money received was put in trust, as required for the funeral

directors who enter into pre-need agreements. (B&P C §§ 7735 & 17530.7)

Veto Message

Governor Pete Wilson
To the Members of the California Senate:

I am returning Senate Bill No. 816 without my signature.

This bill would require all retail sellers of funeral caskets and alternative containers, other than funeral directors, to make certain written and oral disclosures to prospective buyers. This bill would prohibit any person, other than a funeral director, from selling caskets on a retail basis unless the person complies with certain trust requirements relating to funeral pre-need arrangements required of licensed funeral directors. The bill would also require other disclosures regarding the casket sale. These include a notice that the buyer may contact the Department of Consumer Affairs or the Office of the District Attorney with any questions or complaints.

Sales of caskets and alternative containers by retail sellers who are not licensed funeral directors can provide a legitimate alternative source of supply of caskets for consumers. The retail casket sellers provide consumers an opportunity to reduce funeral expenses by offering comparable merchandise at a lower cost. Consumers are much better served in the market place when they have choices and information on which to make informed decisions.

I concur with the provisions of this bill that require disclosure regarding pricing and casket construction and the statement that the retail casket seller is not a funeral director. These disclosure policies provide enhanced consumer protection by furnishing a basis for consumers to make informed decisions in the marketplace. Retail casket sellers could provide consumers an opportunity to lower the cost of a funeral.

However, the provisions in this bill referring consumers to the Department of Consumer Affairs would raise false expectations among consumers that the Department has the statutory authority to regulate retail sellers of caskets and alternative containers and the corresponding ability to pursue an enforcement action. This enforcement authority rests with the local District Attorney's office.

These provisions would require an unnecessary expansion of governmental licensure and regulation for a segment of the business community that has not generated any complaints from consumers. Under current law, retail sellers are regulated by the provisions of the Fair Trade Practice Act which provides protection for consumers and penalties for any violation of its provisions.

(10) Contractors' State License Board

AB 494
Migden

Employment: Contractors: Public Works

Existing law provides that civil penalties collected pursuant to the Labor Code related to unlicensed contractors are required to be deposited in the Industrial Relations Construction Industry Enforcement Fund for the purpose of taking enforcement action against unlicensed activity. Existing law also provides that in a criminal or civil action regarding a contractor's failure to comply with law pertaining to public works where penalties or

Vetoed
October 3, 1997

finances are recovered, the penalties or fines are required to be paid into the General Fund.

This bill would have authorized that civil penalties and fines collected pursuant to the Labor Code related to unlicensed contractors also be used for enforcement of law relative to employment activities in the construction industry. This bill would have required that penalties and fines from a criminal or civil action regarding a contractor's failure to comply with law pertaining to public works be paid to the Industrial Relations Construction Industry Enforcement Fund rather than the General Fund. Additionally, this bill would have authorized the Labor Commissioner to issue a citation to an employer who is in violation of provisions of law pertaining to payment of wages, hours, and conditions of employment for public works projects and provided a procedure by which an employer may appeal the citation or the imposition of a civil penalty for these violations. (Lab C §§ 210, 225.5, 226.3, 226.4, 1024, 1731 & 1724)

Veto Message

Governor Pete Wilson
To the Members of the California Assembly:

I am returning Assembly Bill No. 494 without my signature.

This bill would, among other provisions, establish a new citation process for specified Labor Code violations and provide that penalties collected pursuant to specific construction industry employment violations would be credited to the Industrial Relations Construction Industry Enforcement Fund (IRCIEF), instead of the general fund

Current law provides a procedure for the enforcement of specific prevailing wage violations. This measure would establish a different and conflicting procedure, would extend the statute of limitations for recovery of penalties for failure to pay the prevailing wage and would create a process of appeal which differs substantially from the process used by the Labor Commissioner in all other civil citation actions. Moreover, the process of appeal enumerated in the measure would effectively discourage its use by employers.

The measure also proposes that fines and penalties collected for violations of public works laws be deposited into the IRCIEF instead of the General Fund under current law. This redirection is intended to augment the enforcement activities of the Division of Labor Standards Enforcement. This provision inappropriately creates a "bounty hunter" perception, which runs counter to an even-handed approach to labor law enforcement.

**AB 746
Miller**

Liability: Construction Defects

Two Year Bill

Existing law imposes liability for defective design or construction of residential buildings and improvements based on tort and contract law for negligence, strict liability, express

contract and implied warranty. Strict liability generally has been applied to construction of residential buildings, which the courts have determined is comparable to mass-produced consumer goods. Existing law allows monetary damages for design and construction defects to be awarded for property damage, personal injury or wrongful death and imposes liability for a design or construction defect on those responsible for the defect. Existing law also provides that an action to recover damages for a latent defect related to construction upon real property must be brought within 10 years from the substantial completion of the development or work.

This bill would provide that a builder, developer, contractor or seller of residential improvements shall not be liable for any loss or damage from a defect in design, surveying, planning, supervision or observation of construction of residential projects unless the defect is caused by a construction defect as defined. Further, it would provide that compliance with applicable building codes in effect at the time of construction should establish a rebuttable presumption of construction in accordance with accepted trade and professional standards of care. The bill would also reduce the statute of limitations for a latent defect in real property to six years after the completion of the development or work. (Civ C § 3269; CCP § 337.15; and Ins C § 11580)

**AB 771
Margett**

Home Improvement Salespersons

Two Year Bill

Existing law, the Contractors' State License Law, requires a salesperson for a home improvement contractor to be registered with the Contractors State License Board (CSLB). Home improvement salespersons are regulated and subject to discipline by the CSLB as are contractors that employ home improvement salespersons.

This bill would repeal the registration and regulation of home improvement salespersons by the CSLB. (B&P C §§ 7090, 7137, 7152, 7153, 7153.1, 7153.2, 7153.3, 7154, 7155, 7155.5, 7156, 7157 & 7159)

**AB 772
Margett**

Contractors: License Cancellations

**Chapter 469
Statutes of 1997**

Existing law requires licensure of persons engaged in business as a contractor. Existing law also provides that when a licensed contractor becomes a judgment debtor and fails to satisfy the judgment within 90 days, the Contractors' State License Board

(CSLB) must suspend the individual's license. Upon suspension, the judgment debtor contractor is prohibited from serving on any other license on which he or she is a partner, director, associate, officer, qualifying individual or other personnel of record. When personnel disassociate from a contractor's license, the license is canceled, requiring a new application to be filed.

This statute provides that if an individual is prohibited from serving on an associated contractor's license because of an unsatisfied judgment debt, the associated license would be suspended until the judgment is satisfied. **This statute requires the CSLB to amend its process for disciplining licenses on which judgment debtor is a partner or officer.**

(B&P C § 7071.17)

**AB 940
Miller**

Public Works Contracts: Retention

Vetoed

October 10, 1997

Existing law relating to public works of improvement sets forth requirements for disbursement of retention proceeds withheld from any payment by a public entity to the original contractors or by the contractor to a subcontractor.

This bill would have defined the amount of retention proceeds permitted to be withheld by public entities for public works contractors entered into after January 1, 1998. The bill would have specified that public entities may withhold up to 150 percent of the value of any disputed work. The bill required a contractor to provide a performance bond in the solicitation of bids. The retention requirements would not have applied if a contractor failed to post a performance bond. (PCC § 7200)

Veto Message

Governor Pete Wilson

To the Members of the California Assembly:

I am returning Assembly Bill No. 940 without my signature.

This bill would: (1) limit the amount of funds that a public entity, contractor, or subcontractor, may hold in "retention" in public works projects to 5 percent of the payment and no more than 5 percent of the contract price; (2) waive the retention caps in a situation where a performance bond is required by a general contractor but not provided by a subcontractor; (3) apply all of the above requirements to all contracts entered into after January 1, 1998; and (4) clarify that the bill does not limit the authority of a public agency to withhold up to 150 percent of the value of the disputed work from the final payment, and prohibit a party from requiring another party to waive the requirements of this bill.

Regrettably, once again, I find a bill before me that establishes a double standard for the treatment of the retention levels charged by public agencies.

The private sector is free to establish its own level for retention in an open marketplace, where building owners, contractors and subcontractors freely enter into construction contracts, which often include a 10 percent retention level. Here before me is a bill which would arbitrarily restrict public agencies to retention rates of half the private sector standard.

As I expressed in my veto message of AB 1949 (Conroy) last year, "Government agencies must be able to protect public construction projects from unnecessary risk in fashion similar to the private sector." I have not deviated from that stance. As a public manager, I believe it is reasonable to ask public agencies to manage public works projects according to the same standards, criteria and level of professionalism as is practiced in the private sector. It would be irresponsible of me, however, to tie the hands of public agencies with statutory restrictions and expect a similar performance standard.

I respectfully request the construction industry to negotiate with my Administration and local government agencies and to bring me a bill which streamlines various aspects of the public works process in a manner which mirrors the existing practices employed by the major construction lenders, building owners, and developers in the state. I am, however, unable to sign a bill, which places public agencies at an obvious disadvantage when compared with common standards and practices in the private sector.

**AB 1213
Miller**

Contractors' State License Board: Home Improvement Contract

**Chapter 888
Statutes of 1997**

Existing law, the Contractors' State License Law, provides for the licensure of persons who engage in the business or act in the capacity of a contractor. Existing law defines a home improvement contractor as a licensed contractor who is engaged in the business of home improvement either full time or part time.

This statute provides that a contractor be certified by the Contractors' State License Board (CSLB) to perform home improvement work. A contractor can become certified by passing an open-book examination. (B&P C § 7150.1, 7150.2 & 7150.3)

**AB 1309
Machado**

Liability Insurance: Construction Defects

Two Year Bill

Existing law provides that certain types of insurance policies may cover claims made during the policy period or losses that occur as a result of an action or omission by the insured during the policy period.

This bill would provide that a general liability insurance policy issued to a contractor or real estate developer may not cover any injury or progressive damage that results from a construction defect that was reported to or discovered by the contractor or

real estate developer or his or her agent prior to issuance of the policy. (Ins C § 11589.6)

AB 1434
Shelley

Fire Prevention: State Fire Marshal: Standards for Electricians

Two Year Bill

Existing law requires the State Fire Marshal (SFM) to establish and validate minimum standards for fire protection personnel and fire protection instructors at all career levels. Existing law provides for the licensure and regulation of electrical contractors by the Contractors' State License Board.

This bill would require the SFM to establish and validate minimum standards for the competency and training of electricians through a system of testing and certification. The SFM would be required to establish advisory committees and panels to assist in carrying out the provisions of this bill, establish fees necessary to implement the bill, and promulgate regulations to enforce the bill. (H&S C § 13142)

AB 1568
Floyd

Public Works: Contractors

Vetoed
October 12, 1997

Existing law provides that whenever a contractor or subcontractor performing a public works project is found by the Labor Commissioner to be in violation of provisions of law with intent to defraud, the contractor or subcontractor or a firm, corporation, partnership or association in which the contractor or subcontractor has a substantial interest, is ineligible to bid on or receive a public works contract for one to three years.

This bill would have provided that the Labor Commissioner may also deny a contractor or a subcontractor the ability to work on a public works contract if he or she is in violation of laws with intent to defraud. (Lab C § 17771.1)

Veto message

Governor Pete Wilson
To the Members of the California Assembly:

I am returning Assembly Bill No. 1568 without my signature.

This bill would make various changes to the Labor Code affecting contractors or subcontractors that violate prevailing wage laws in public works projects.

Under current law, the Labor Commissioner is responsible for enforcing prevailing wage laws. Contractors and subcontractors found in violation of those statutes may become ineligible (debarred) to bid or be awarded public works contracts for a specified period of time.

This bill would, among other provisions, essentially shift the responsibility for enforcing prevailing wage laws from the Labor Commissioner to nearly six thousand individual awarding agencies, who are neither equipped nor trained for that responsibility. Awarding agencies are already saddled with a Byzantine array of statutes, regulations and restrictions that slow the award and delivery time of a public works contract. Yet under this bill, those public agencies would be required to police contractors and subcontractors, void contracts and suspend contractors from bidding on projects if they knew or should have known that sanctions had been imposed against their subcontractor.

This measure would also establish a 135-day hearing process for contractors faced with sanctions. With that provision, public works projects could simply stop when a contract is voided, or while a contractor argues at a hearing about what he knew or should have known about the subcontractor.

While I am interested in ensuring that debarred contractors or subcontractors are not allowed to participate in public works projects, there are more streamlined ways to resolve this problem without jeopardizing the progress of public works projects themselves or by creating a new level of bureaucracy.

SB 185
Mountjoy

Contractors' State License Law: Home Solicitation Contracts

Two Year Bill

Existing law, the Contractors' State License Law, requires home improvement contracts and swimming pool contracts that exceed \$500 to include in writing certain specified requirements. Among other things, the contract must contain a schedule of payments by the owner or tenant to the contractor including the amount of each payment and the requirement that the contractor furnish a release from any claim or mechanic's lien for the work covered by each payment. The law also provides various exemptions from the definition of "home solicitation contract" and various regulatory provisions related to those contracts, including the right to rescind the contract within three days. One of those exemptions is for contracts for repair services with a licensed building contractor if the contract price is less than \$100.

This bill would recast the Contractors' State License Law in regard to home improvement contracts to require that only contracts that exceed \$1,500 in aggregate price are subject to the schedule of payments and claim release requirements. The bill changes the definition of "home solicitation contracts" to exempt repair contracts with licensed building contractors for less than \$1,500. (B&P C §§ 7159, 7159.1, 7159.2 & 7159.3; and Civ C § 1689.5)

**SB 214
Hughes**

Home Improvement Contracts

Vetoed
September 28, 1997

Existing law, the Unruh Act, prohibits a retail installment contract from containing specified provisions, which generally place consumers at a disadvantage. The law imposes restrictions on mortgages of real property.

This bill would have prohibited a provision in a retail installment contract for home improvements under which the seller takes a security interest in the buyer's residence, other than a mechanics' lien, where the buyer is a person 65 years or older. A violation would be a misdemeanor. The bill would also have placed restrictions on loans secured by a mortgage on real property for home improvements that would require proceeds to be paid to the borrower, a borrower and the contractor, or through a third-party escrow agent. Persons who violate these provisions would be liable for civil damages as specified.
(Civ C §§ 1804.1 & 2946.1)

Veto Message

Governor Pete Wilson
To the Members of the California Senate:

I am returning Senate Bill No. 214 without my signature.

This bill would prohibit the seller of a home improvement contract from taking a security interest, other than a mechanics' lien, in the principal residence of a buyer who is 65 years or older.

The purpose of this bill is to prevent unscrupulous contractors from using lien contracts to defraud elderly consumers. Tragically, unsuspecting consumers often lose their homes in these equity scams. However, eliminating the use of lien contracts for an entire class of consumer is too blunt a weapon to fight this kind of fraud.

A large number of homeowners use lien contracts provided by reputable contractors and lenders to finance their home improvement projects at competitive rates. These homeowners should not be denied the opportunity to choose this financing mechanism simply because they are 65 year of age or older.

**SB 299
Mountjoy**

Contractors: Reapplication for License

**Chapter 334
Statutes of 1997**

Existing law requires that the Contractors' State License Board (CSLB), when denying an application for licensure, inform the applicant of the earliest date on which the applicant may reapply for a license but does not specify the time period.

This statute specifies that the earliest date for reapplication for a contractor's license shall be one year from the effective date of the decision or service of notice denying the application unless

the CSLB prescribes an earlier date. Additionally, the statute authorizes the CSLB to use citation and fine as an alternative to suspension and revocation when taking disciplinary action against a contractor who willfully violates local laws relating to the issuance of building permits. (B&P C §§ 7070 & 7090)

SB 339
Sher

Housing: Construction Liability

Two Year Bill

Existing law requires the licensure of building contractors by the Contractors' State License Board (CSLB). The law authorizes the managing association of common interest developments to exercise certain powers, including the authority to litigate in its own name without joining with individual owners in matters pertaining to damage to interests or common areas, or interests arising from that damage, which the association is obligated to maintain or repair. Existing law, with respect to the burden of proof, recognizes by statute a doctrine of negligence in specified circumstances relating to the failure of a person to exercise due care.

This bill would provide that any person who builds, develops, constructs, or supervises the construction of a residential project that consists of three or more units or lots and is intended for sale, shall be licensed as a general building contractor during all phases of construction. The bill would authorize the managing association of a common interest development to bring an action on behalf of its members with respect to interests that it insures on behalf of its members. Additionally, the bill would authorize the association to bring an action on behalf of owners in a common interest development based on construction defects. The bill would provide that the failure to comply with applicable building codes and failure to comply with other ordinances and regulations for which a permit is required is prohibited and constitutes a presumption of negligence within the meaning of the Evidence Code. The bill includes a declaration of intent to statutorily overturn the decision in *Morris v. Horton* (1994) (22 Cal. App. 4th 968). The bill would further provide that it is a violation of the State Housing Law for any person who builds, develops, constructs or supervises the construction of specified residential projects intended for sale to not comply with specified responsibilities involving the use of an architect or engineer during prescribed phases of the residential project's construction. Additionally, the law would provide that in subdivisions where there is no association, the court would be required to permit homeowners to sue for the benefit of other homeowners in the subdivision when the suit

seeks damages for construction defects alleged to be common in the subdivision. (B&P C § 7057.5; Civ C §§ 383 & 383.1; Evid C § 669.7; and H&S C § 17928)

**SB 821
Monteith**

General Building Contractors: Definition

Dropped

Existing law, provides for the licensing and regulation of contractors in three different branches - general engineering contracting, general building contracting and specialty contracting - by the Contractors' State License Board (CSLB) and defines a general building contractor as a contractor whose principal contracting business is in with connection building projects that require the use of more than two unrelated building trades or crafts. CSLB regulation prohibits a general building contractor (Class B contractor) from taking a prime contract or a subcontract (excluding framing or carpentry) unless it requires at least three unrelated building trades or unless the B contractor holds the required specialty license(s). In *Home Depot U.S.A. Inc. v. Contractors' State License Board*, 41 Cal. App. 4th 1592 (1996) and *R. E. Hazard, Jr. Enterprises, Inc. v. Insurance Company of the West, et al.*, 60 Cal Rptr. 2nd 921 (1997) the court held that the CSLB regulation is inconsistent with the definition of a general building contractor, and is therefore invalid.

This bill would have changed the definition of a general building contractor to remove the requirement that the project include two or more unrelated building trades or crafts. This bill also would authorize a general "B" building contractor to perform work in any specialty classification, with the exception of eight classifications that pose health and safety risks. (B&P C § 7057)

**SB 825
Greene**

Contractors' State License Board: Sunset

**Chapter 813
Statutes of 1997**

Existing law provides for the Contractors' State License Board (CSLB) in the Department of Consumer Affairs (Department) to license and regulate licensed building contractors. The law provides for the Joint Legislative Sunset Review Committee (JLSRC) to evaluate and determine whether specified board or regulatory programs in the Department have demonstrated a public need for the board or program's continued existence.

This statute extends the July 1, 1998, sunset date of the CSLB to July 1, 2000. The statute provides that the sunset review of

the CSLB conducted by the JLSRC pursuant to the July 1, 2000 sunset date shall be limited to only those unresolved issues identified by the JLSRC. **The CSLB is required to report to the Legislature and the Department by October 1, 1998 on which specialty licensing contractor classifications are appropriate for consolidation, redefinition or elimination.** SB 825 does not become operative unless SB 857 is also enacted and becomes operative. (B&P C §§ 7000.5, 7011, 7155.5, 7156, 7157 & 7159)

**SB 857
Polanco**

Contractors

**Chapter 812
Statutes of 1997**

Existing law, provides for the licensing and regulation of contractors in three different branches - general engineering contracting, general building contracting, and specialty contracting - by the Contractors' State License Board (CSLB). The law also defines a general building contractor as a contractor whose principal contracting business is in connection with building projects that require the use of more than two unrelated building trades or crafts. CSLB regulation prohibits a general building contractor (Class B contractor) from taking a prime contract or a subcontract (excluding framing or carpentry) unless it requires at least three unrelated building trades or unless the B contractor holds the required specialty license(s). In *Home Depot U.S.A. Inc. v. Contractors' State License Board*, 41 Cal. App. 4th 1592 (1996) and *R E. Hazard, Jr. Enterprises, Inc. v. Insurance Company of the West, et al.*, 60 Cal Rptr. 2nd 921 (1997) the court held that the CSLB regulation is inconsistent with the definition of a general building contractor, and is therefore invalid. The law authorizes the CSLB to contract with licensed professionals to investigate consumer complaints and provide a report to the CSLB.

This statute extends the sunset date of the CSLB to July 1, 2000. The statute would prohibit a general building contractor from taking a prime contract or subcontract for any project, excluding framing and carpentry, unless it requires at least two unrelated building trades unless the general contractor holds the appropriate specialty license or subcontracts to an appropriately licensed specialty contractor. A general contractor would be prohibited from performing fire protection or well drilling specialty work unless they hold the appropriate license. Any licensed general contractor would be authorized to perform framing or carpentry without a specialty license for those trades. The statute states that the Legislature intends to modify the holdings in *Home Depot, U.S.A. Inc. V. Contractors State*

License Board and Hazard Enterprises, Inc. v. Insurance Company of the West as inconsistent with the Contractors' State License Law. Further, intent language states that limitations are needed on general contractors performing specialty trades to protect the public from persons that do not have demonstrated competence in specified specialty classifications. **The statute requires the CSLB, on or after July 1, 1998, to furnish a copy of any opinion prepared by a licensed professional under contract to the CSLB to investigate a complaint to the licensee against whom a complaint is made, the complainant, and, upon request, any successor to the licensee for the purpose of mediation or when the CSLB is preparing a citation.** The report must also be provided, at a reasonable charge, to any other interested party who requests the report. The statute requires that the opinion include specified information. These provisions are to sunset on July 1, 2000. By January 1, 1999, **the statute requires the CSLB to develop, in consultation with interested parties, a plan to continue, through regulation rather than statute, the provisions relating to the expert witness program. By October 1, 1998, the CSLB is required to report to the Department of Consumer Affairs (Department) and the Legislature on which specialty classifications may be appropriate for consolidation, redefinition, or elimination. Not later than July 1, 1999, the CSLB must implement those recommendations after considering the response from both the Department and the Legislature.** (B&P C §§ 7000.5, 7011, 7019.1, 7155, 7156, 7157 & 7159)

**SB 994
Johnson**

Local Agency Contracts: Eligibility

Two Year Bill

Existing law provides for the disbarment of contractors from bidding on public works contracts for up to three years, pursuant to a determination of certain violations by the Labor Commissioner. The law sets forth the provisions whereby specified local public entities may enter into public works or services agreements.

This bill would prohibit a local entity from directly suspending, disbaring or otherwise prohibiting a licensed contractor from bidding on local public works or services contracts.
(PCC § 22120)

SB 996
Burton

Construction Site Safety

Two Year Bill

Existing law imposes various obligations on persons related to safety at construction sites. A civil action may be taken for failure to meet that obligation or an injury related to the obligation.

This bill would place in the Civil Code Legislative intent that every effort should be made to ensure safety at construction sites. (Civ C § 1714.11)

(11) Court Reporters Board

AB 398
Floyd

Court Reporters: Fees

Two Year Bill

Existing law provides, notwithstanding any other law, that when a transcript is ordered in a civil case requiring the services of more than one phonographic reporter, that the requesting party be required to pay a fee equal to the per diem rate for a pro tempore reporter, as specified, for the services of each reporter. Additionally, transcripts prepared using computer assistance and delivered in a medium other than paper are required to be compensated for at the same rate as paper transcripts with the reporter able to charge an additional fee to cover the cost of the medium or copies thereof. The fee for a transcript in a computer-readable format is charged at one-third of the cost of a paper transcript plus the additional charge for the cost of the medium or copies thereof. When the computer-readable transcript is requested in lieu of a paper transcript, the charge is the same as if a paper transcript had been requested and the person purchasing a transcript may make a copy of all or part of the transcript without incurring additional charges. However, that person is prohibited from selling or providing a copy to another party.

This bill would provide that a court-ordered rough draft transcript may be provided using computer assistance; and a rough draft transcript prepared by using computer assistance would be compensated at 75% of the rate charged for a paper transcript. When a certified paper transcript of the same proceedings is requested, it would be compensated at 35% of the paper rate. If a court requests a daily rough draft transcript that requires the services of two reporters, the fees for the reporters and the transcript would be chargeable against the court treasury. When a single reporter prepares the daily rough draft, an additional fee for technological services may be

imposed; however, the total fee would be less than the total fee for two reporters. (Gov C § 69954.5) (See AB 1372, Chapter 183)

AB 1372
Morrow

Court Reporters: Official Reporter

Chapter 183
Statutes of 1997

Existing law provides that the report of the “official court reporter or the official pro tempore” is deemed prima facie evidence of that testimony and proceedings when the report is transcribed and certified as being a correct transcript of that case. Existing law does not provide for “rough draft” copies of a transcript nor mention any restrictions on their use.

This statute provides that a “rough draft” transcript cannot be certified and cannot be used as the official certified transcript of the proceedings. The rough draft also cannot be used or cited to rebut or contradict the official certified transcript. (CCP § 273)

AB 1546
Davis

Consumer Affairs

Chapter 475
Statutes of 1997

Existing law authorizes the Board of Guide Dogs for the Blind (Board) to license and regulate persons who provide instruction to blind persons in the use of guide dogs and for persons who train the guide dogs. The provisions for the Board were scheduled to sunset on July 1, 1997, unless a statute was enacted that would delete or extend the dates on which it becomes inoperative. Current law provides for the licensing and regulation of architects, landscape architects, court reporters, funeral directors, and embalmers.

This statute authorizes the Director of the Department of Consumer Affairs (DCA) to enter into interagency agreements with appropriate entities within the department and to delegate to them the duties, powers, purposes, responsibilities, and jurisdiction of boards, within the DCA jurisdiction, which have sunset. This statute authorizes the Board of Architectural Examiners (BAE) to contract with architect consultants and requires architects, when renewing their license, to indicate on the renewal form whether they were the subject of discipline from another agency or were convicted of a crime. **The statute transfers the duties and powers regarding the regulation of landscape architect licensees from the DCA to the BAE which is authorized to delegate authority to perform specified duties to a Landscape Architect Technical Committee (Committee) under its jurisdiction.** The

Committee consists of five members appointed by the Governor and the Legislature. These provisions become inoperative July 1, 2004, and are repealed as of January 1, 2005. This statute extends the sunset date for the Board of Guide Dogs for the Blind until July 1, 2002, and is repealed as of January 1, 2003. The statute provides that every funeral establishment holding a funeral director's license on December 31, 1996, be issued a funeral establishment license upon payment of specified fees. It exempts a licensed funeral director from the training provisions required for persons who consult with the family of the deceased regarding funeral services. The statute revises the order of persons authorized to carry out the final wishes for disposition of a deceased person and makes other technical and clarifying changes. Additionally, **it provides that information regarding citations, fines, and orders of abatement issued against a licensee of the Court Reporters Board will be disclosable as a public record**, and makes other technical and clarifying changes relating to the Transcript Reimbursement Fund administered by the Court Reporters Board. (B&P C §§ 102.3, 5528, 5600, 5615, 5616, 5620, 5621, 5622, 5623, 5624, 5625, 5626, 5627, 5628, 5654, 5681, 5682, 5683, 7616, 7635, 8010, 8017, 8018, 8024.5, 8024.6, 8025, 8030.2, 8030.4, 8030.6 & 8030.8; and H&S C §§ 7100 & 7100.1)

**SB 1074
Burton**

Court Reporters and Fees

Two Year Bill

Existing law: (1) provides for the services of official and official pro tempore court reporters; (2) authorizes the use of electronic recording in certain circumstances; (3) provides for the preparation of a verbatim record of all actions and proceedings in a trial court; and (4) provides for the proceeds of certain court fees to be deposited in the Trial Court Trust Fund, with specified exceptions.

This bill would: (1) require the services of an official court reporter or official pro tempore reporter in felony proceedings, as specified; (2) authorize electronic recording in proceedings involving family law, law and motion hearings, writs and receivers and uncontested probate proceedings; (3) provide that a permanently-employed court reporter could not have his/her hours of employment as a court reporter reduced as a result of the use of nonstenographic means of making the verbatim record of the proceedings; and (4) would add an exemption for fees for court reporting services from deposit into the Trial Court Trust Fund. (CCP §§ 269 & 274c; and Gov C §§ 68085, 68086 & 72194.5)

(12) Board of Dental Examiners

**AB 174
Napolitano**

Healing Arts: Acupuncture

**Chapter 400
Statutes of 1997**

Existing law provides for the licensure and regulation of the practice of acupuncture, and provides that any person who practices acupuncture without a license is guilty of a misdemeanor, with certain exceptions.

This statute provides that any person, other than a physician and surgeon, dentist, or podiatrist, who is a licensed healing arts provider but is not licensed to practice acupuncture, who does any of the following, is guilty of a misdemeanor: (1) practices acupuncture, involving the application of a needle to the human body; (2) performs any acupuncture technique or method, involving the application of a needle to the human body; or (3) directs, manages, or supervises another person in the performance of acupuncture, involving the application of a needle to the human body. The statute additionally makes it unprofessional conduct for a physician and surgeon, osteopathic physician, dentist, or podiatrist to direct or supervise the performance of acupuncture by a licensed healing arts professional who is not a licensed acupuncturist.

(B&P C §§ 4935 & 730)

**AB 348
Cunneen &
Mazzoni**

Dentistry: Dental Corporations

**Chapter 168
Statutes of 1997**

Existing law: (1) provides for the licensure and regulation of the practice of dentistry by the Board of Dental Examiners (BDE) of the Department of Consumer Affairs; (2) requires dental corporations subject to the Moscone-Knox Professional Corporation Act to register with the BDE; and (3) defines a dental corporation as a professional corporation that is registered with the BDE and possesses a current certificate of registration from the BDE pursuant to the Moscone-Knox Professional Corporation Act.

This statute repeals the requirements that a dental corporation register and file information with the BDE. (B&P C §§ 1800, 1801, 1802, 1803, 1805, 1806 & 1808; and Corp C § 13401)

**AB 560
Perata**

Dentistry: Registered Dental Hygienist In Alternative Practice

**Chapter 753
Statutes of 1997**

Existing law: (1) establishes within the jurisdiction of the Board of Dental Examiners (BDE) the Committee on Dental Auxiliaries (COMDA) consisting of nine members appointed by

the Governor and is authorized to make recommendations to the BDE regarding auxiliary duties and to perform certain functions that have been delegated to it by the BDE; (2) authorizes the BDE, with advisory input from the COMDA, to license and regulate dental auxiliaries; and (3) defines dental auxiliaries as persons who may perform certain dental supportive services under the direct or general supervision of a licensed dentist.

This statute: (1) establishes a new dental auxiliary category known as a registered dental hygienist in alternative practice (RDHAP); (2) establishes fees at an amount not to exceed the costs for licensing RDHAPs; (3) summarizes the education, experience, and examination requirements for licensure as a RDHAP; (4) authorizes a RDHAP to perform dental hygiene services on a patient who has a written prescription from a dentist or physician that is licensed to practice in California; (5) **requires the BDE to adopt regulations specifying the coursework and scope of practice of a RDHAP.** If the regulations are not adopted by January 1, 1999, the RDHAPs shall be governed based on the coursework and duties established under the Health Manpower Pilot Project; (6) specifies the settings in which a RDHAP may practice; (7) allows RDHAPs who are currently participating in the Health Manpower Pilot Project #115, to be grandfathered as licensed RDHAPs; and (8) allows all hygiene services provided by a RDHAP to be covered if the services are necessary and within the scope of Denti-Cal benefits. (B&P C §§ 1725, 1741, 1750, 1751, 1764, 1765, 1768 & 1770; and W&I C § 14132)

**AB 745
Thompson**

Outpatient Settings: General Anesthesia

Two Year Bill

Existing law: (1) establishes standards for accreditation of "outpatient settings" by the Division of Licensing (DOL) of the Medical Board of California (MBC); (2) provides that no "outpatient setting" may operate, unless it is either accredited by the DOL or is one of a number of settings exempt from accreditation; (3) exempts dental offices from accreditation, as specified; and (4) provides that no dentist may administer "general anesthesia" to a patient in a dental office, unless the dentist is both licensed by the Board of Dental Examiners (BDE) and holds a valid "general anesthesia permit" (permit) issued by the BDE.

This bill would exempt from the accreditation requirements of the DOL and the permit requirements of the BDE, a physician and surgeon who has completed a postgraduate residency

program in anesthesia, when the anesthesia is administered in a facility that otherwise meets the requirements of the Dental Practice Act (Act) for use of "general anesthesia." The bill would require the MBC to establish a process for physicians and surgeons to obtain certification to administer general anesthesia in a dentist's office. (B&P C § 1646.7, 1646.9, 2079 & 2245)

AB 1116
Keeley

Dentistry: Foreign Dental School Graduates

Chapter 792
Statutes of 1997

Existing law: (1) provides for the licensing and regulation of dentists by the Board of Dental Examiners (BDE); (2) requires the BDE to administer a progressive examination for foreign-trained graduates starting with a written examination, followed by the restorative techniques examination (RTE), and concluding with a specified clinical examination; (3) provides that when a foreign-trained graduate has failed the RTE three times, he or she must complete a minimum of two academic years of education at an approved dental school before being eligible for further reexamination; and (4) provides for the repeal of the aforementioned provision on January 1, 1998

This statute: (1) increases the limit of permissible failures of the RTE to four times prior to the requirement that an applicant complete a minimum of two academic years of education in order to become eligible for reexamination; (2) provides for the repeal of the aforementioned provision on January 1, 2003; (3) revises the requirements for the licensure of foreign-trained graduates effective January 1, 2003; (4) specifies the procedures for accreditation of foreign dental schools by the BDE; and (5) allows any dentist who holds a valid license as a dentist to add the letters DDS to his or her name regardless of the degree granted by the dental school from which the licensee graduated. (B&P C §§ 1628, 1636, 1636.4, 1636.5, 1636.6 & 1700.5)

SB 385
Johnson

Medicine: Disciplinary Proceedings

Two Year Bill

Existing law provides that the Medical Board of California (MBC), the Osteopathic Medical Board of California (OMB), and the Board of Dental Examiners of California (BDE) are entitled to inspect and copy the following documents in the record of any disciplinary proceeding of a licentiate resulting in action which is required to be reported pursuant to Section 805 (Filing Requirements Upon Action Taken Pursuant to Peer Review Body Determination): (1) any statement of charges; (2) any document, medical chart, or exhibits in evidence; or (3) any

opinion, findings, or conclusions.

This bill would *expressly authorize* the MBC, the OMB, and the BDE to inspect and copy those documents *without first obtaining an administrative subpoena*. (B&P C § 805.1)

**SB 557
Leslie**

Healing Arts

Two Year Bill

Existing law provides that any person who practices medicine without a certificate is guilty of a misdemeanor. Existing law provides that it is unlawful to engage in the practice of dentistry without a valid, unexpired license or special permit. Existing law requires the independent review of certain health care service plan and disability insurer coverage decisions regarding experimental or investigational therapies.

This bill would provide that any decision regarding the medical necessity or appropriateness of any diagnosis, treatment, operation, or prescription constitutes the practice of medicine. The bill also would provide that any decision regarding the necessity or appropriateness of any dental diagnosis, treatment, operation, or prescription constitutes the practice of dentistry. (B&P C §§ 1626 & 2052.1)

**SB 713
Rosenthal**

Dentistry: Dental Auxiliaries

**Chapter 539
Statutes of 1997**

Existing law: (1) provides for the licensing and regulation of dentists by the Board of Dental Examiners (BDE); (2) establishes within the jurisdiction of the BDE the Committee on Dental Auxiliaries (COMDA) consisting of nine members appointed by the Governor; (3) authorizes the COMDA to make recommendations to the BDE regarding auxiliary duties and perform certain functions that have been delegated to it by the BDE that are related to the qualifications and licensing of auxiliaries; and (4) provides that the BDE may modify or revoke recommendations made by the COMDA within 60 days of adoption by the COMDA.

This statute: **(1) requires the appointment of a public member who has not been licensed by the BDE within 5 years of the appointment date, and is both a dental hygienist and dental assistant in extended functions if either is available; (2) requires the COMDA to evaluate all suggestions or requests for regulatory changes related to dental auxiliaries and hold public hearings to report and**

make recommendations to the BDE; and (3) requires that recommendations by the COMDA be approved, modified, or rejected by the BDE within 90 days of submission of the recommendation. If the BDE rejects or modifies a recommendation that significantly alters the intent or scope of the recommendation, the COMDA may request that the BDE provide in writing its reasons for rejecting or significantly modifying the recommendation. (B&P C §§ 1743, 1746.1 & 1748)

**SB 826
Greene**

Dentistry: Board of Dental Examiners of California and Committee on Dental Auxiliaries

**Chapter 704
Statutes of 1997**

Existing law: (1) provides for the licensure and regulations of the practice of dentistry by the Board of Dental Examiners (BDE); (2) establishes within the jurisdiction of the BDE the Committee on Dental Auxiliaries (COMDA); (3) sunsets the BDE and COMDA on July 1, 1998; and (4) grants peace officer status to the Department of Consumer Affairs (DCA) Division of Investigation's Chief and investigators and all investigators of the Medical Board of California and the BDE.

This statute: (1) extends the sunset date of the BDE and COMDA to July 1, 2002; (2) **revises and recasts the COMDA to be directly responsible for all matters concerning dental auxiliaries; (3) requires the Director of the DCA to designate to the BDE seven investigators with peace officer status by July 1, 1999;** and (4) provides protections for the position, status, and rights of the investigators who are transferred from the BDE as a result of the aforementioned provision. (B&P C §§ 160.5, 1601, 1616.1, 1616.5 & 1742; and Pen C § 830.3)

**SB 1014
Brulte**

Dentistry: Dental Auxiliaries

**Chapter 752
Statutes of 1997**

Existing law provides for the licensing and regulation of dentists and dental auxiliaries by the Board of Dental Examiners (BDE).

This statute: (1) provides that it is unprofessional conduct for a dentist to perform or allow to be performed any treatment on a patient who is not a patient of record; (2) defines a patient of record as a patient who has had a medical and dental history completed and evaluated and has been diagnosed and had a written plan developed by the dentist; (3) provides that a dental

auxiliary may perform diagnostic procedures that are necessary for diagnostic purposes after a preliminary oral examination has been conducted by the dentist; (4) provides that a dentist may permit or require a dental auxiliary to perform any of the three specified procedures, before an examination has been conducted by the dentist; and (5) provides that the provisions of this bill do not apply to dentists providing examinations on a temporary basis outside of a dental office. (B&P C § 1684.5)

SB 1243
Hughes

Dentistry

Chapter 791
Statutes of 1997

Existing law: (1) provides for the licensure and regulation of the practice of dentistry by the Board of Dental Examiners (BDE); (2) authorizes the BDE to impose various licensing, renewal, and regulation fees; (3) provides that a foreign-trained candidate who has failed the restorative technique examination (RTE) three times must complete a minimum of two academic years of education at an approved dental school before being eligible for further reexamination; (4) repeals the aforementioned provision on January 1, 1998; and (5) requires the BDE to collect data on foreign-trained candidates who take the RTE and report its finding to the Legislature during 1997.

This statute: (1) **increases the maximum allowable amount for various fees that may be imposed by the BDE**; (2) increases the limit of permissible failures of the RTE to four times prior to the requirement that a foreign-trained applicant complete a minimum of two academic years of education in order to become eligible for reexamination; (3) extends the sunset date of the aforementioned provision to January 1, 1999; and (4) **extends the requirement that the BDE submit its report to the Legislature on foreign-trained candidates taking the RTE to 1998.** (B&P C §§ 1636.5 & 1724)

(13) Committee on Dental Auxiliaries

AB 560
Perata

Dentistry: Registered Dental Hygienist In Alternative Practice

Chapter 753
Statutes of 1997

Existing law: (1) establishes within the jurisdiction of the Board of Dental Examiners (BDE) the Committee on Dental Auxiliaries (COMDA) consisting of nine members appointed by the Governor and is authorized to make recommendations to the BDE regarding auxiliary duties and to perform certain functions that have been delegated to it by the BDE; (2) authorizes the

BDE, with advisory input from the COMDA, to license and regulate dental auxiliaries; and (3) defines dental auxiliaries as persons who may perform certain dental supportive services under the direct or general supervision of a licensed dentist.

This statute: (1) establishes a new dental auxiliary category known as a registered dental hygienist in alternative practice (RDHAP); (2) establishes fees at an amount not to exceed the costs for licensing RDHAPs; (3) summarizes the education, experience and examination requirements for licensure as a RDHAP; (4) authorizes a RDHAP to perform dental hygiene services on a patient who has a written prescription from a dentist or physician that is licensed to practice in California; (5) **requires the BDE to adopt regulations specifying the coursework and scope of practice of a RDHAP.** If the regulations are not adopted by January 1, 1999, the RDHAPs shall be governed based on the coursework and duties established under the Health Manpower Pilot Project; (6) specifies the settings in which a RDHAP may practice; (7) allows RDHAPs who are currently participating in the Health Manpower Pilot Project #115, to be grandfathered as licensed RDHAPs; and (8) allows all hygiene services provided by a RDHAP to be covered if the services are necessary and within the scope of Denti-Cal benefits. (B&P C §§ 1725, 1741, 1750, 1751, 1764, 1765, 1768 & 1770; and W&I C § 14132)

SB 713
Rosenthal

Dentistry: Dental Auxiliaries

Chapter 539
Statutes of 1997

Existing law: (1) provides for the licensing and regulation of dentists by the Board of Dental Examiners (BDE); (2) establishes within the jurisdiction of the BDE the Committee on Dental Auxiliaries (COMDA) consisting of nine members appointed by the Governor; (3) authorizes the COMDA to make recommendations to the BDE regarding auxiliary duties and perform certain functions that have been delegated to it by the BDE that are related to the qualifications and licensing of auxiliaries; and (4) provides that the BDE may modify or revoke recommendations made by the COMDA within 60 days of adoption by the COMDA.

This statute: (1) **requires the appointment of a public member who has not been licensed by the BDE within 5 years of the appointment date, and is both a dental hygienist and dental assistant in extended functions if either is available;** (2) **requires the COMDA to evaluate all suggestions or requests for regulatory changes related to**

dental auxiliaries and hold public hearings to report and make recommendations to the BDE; and (3) requires that recommendations by the COMDA be approved, modified, or rejected by the BDE within 90 days of submission of the recommendation. If the BDE rejects or modifies a recommendation that significantly alters the intent or scope of the recommendation, the COMDA may request that the BDE provide in writing its reasons for rejecting or significantly modifying the recommendation. (B&P C §§ 1743, 1746.1 & 1748)

**SB 826
Greene**

Dentistry: Board of Dental Examiners of California and Committee on Dental Auxiliaries

**Chapter 704
Statutes of 1997**

Existing law: (1) provides for the licensure and regulations of the practice of dentistry by the Board of Dental Examiners (BDE); (2) establishes within the jurisdiction of the BDE the Committee on Dental Auxiliaries (COMDA); (3) sunsets the BDE and COMDA on July 1, 1998; and (4) grants peace officer status to the Department of Consumer Affairs (DCA) Division of Investigation's Chief and investigators and all investigators of the Medical Board of California and the BDE.

This statute: (1) extends the sunset date of the BDE and COMDA to July 1, 2002; (2) **revises and recasts the COMDA to be directly responsible for all matters concerning dental auxiliaries; (3) requires the Director of the DCA to designate to the BDE seven investigators with peace officer status by July 1, 1999;** and (4) provides protections for the position, status, and rights of the investigators who are transferred from the BDE as a result of the aforementioned provision. (B&P C §§ 160.5, 1601, 1616.1, 1616.5 & 1742; and Pen C § 830.3)

**SB 1014
Brulte**

Dentistry: Dental Auxiliaries

**Chapter 752
Statutes of 1997**

Existing law provides for the licensing and regulation of dentists and dental auxiliaries by the Board of Dental Examiners (BDE).

This statute: (1) provides that it is unprofessional conduct for a dentist to perform or allow to be performed any treatment on a patient who is not a patient of record; (2) defines a patient of record as a patient who has had a medical and dental history completed and evaluated and has been diagnosed and had a

written plan developed by the dentist; (3) provides that a dental auxiliary may perform diagnostic procedures that are necessary for diagnostic purposes after a preliminary oral examination has been conducted by the dentist; (4) provides that a dentist may permit or require a dental auxiliary to perform any of the three specified procedures, before an examination has been conducted by the dentist; and (5) provides that the provisions of this bill do not apply to dentists providing examinations on a temporary basis outside of a dental office. (B&P C § 1684.5)

(14) Bureau of Electronic & Appliance Repair

AB 847
Wayne

Discarded Major Appliances: Materials Requiring Special Handling

Chapter 884
Statutes of 1997

Existing law requires hazardous waste be removed from major appliances prior to crushing or transporting for shredding for recycling and to be managed in accordance with hazardous waste laws.

This statute revises the definition of materials that require special handling, and provides that any person who removes from a major appliance any material that requires special handling is a hazardous waste generator subject to regulation and hazardous waste management control laws. (H&S C § 25211; and PRC §§ 42167, 42175 & 42175.1)

SB 780
Kelley

Consumer Affairs: Bureau Omnibus

Chapter 401
Statutes of 1997

Existing law provides that the Bureau of Security and Investigative Services (BSIS) within the Department of Consumer Affairs (Department) license and regulate locksmiths, repossessioners, private investigators, private patrol operators, security guards, and alarm companies. The law sets BSIS licensing and permitting fees. Existing fees are scheduled to be reduced by various amounts on January 1, 1998. The law provides that all licenses, registrations, and permits are placed on a cyclical renewal that expires two years from the date of issuance or renewal date. The law provides for the issuance of pocket identification cards to persons licensed or registered by the BSIS. The law also provides for the BSIS to issue a temporary registration or renewal for repossessioners and their employees for up to 90 days and that registration for repossessioners and their employees must be renewed annually. The law provides for the registration and regulation of service

contractors by the Bureau of Electronic and Appliance Repair (BEAR) until January 1, 1998. A registration issued by the BEAR that is delinquent more than two years may not be renewed. The law sets maximum registration fees for persons registered by the BEAR. The law provides for licensing and registration of various persons in the home furnishings and thermal insulation industry regulated by the Bureau of Home Furnishings and Thermal Insulation (BHFTI) and requires the sanitization of feather and down products regulated by the BHFTI.

This statute deletes sunset language that would have reduced license and registration fees charged by the BSIS on January 1, 1998 and maintains fees at existing levels. The statute provides for the maximum fee to be charged for BSIS license and registration fees authorizing the actual fee to be set by regulation. **The statute requires that when a BSIS licensee or registrant also holds a firearm qualification card (FQ), the license or registration renewal date must be synchronized with the FQ renewal date.** The statute provides that BSIS licensees can request an optional pocket identification card made of a durable material and incorporating technologically advanced security features. **The BSIS is authorized to charge a fee to reimburse the cost of the optional pocket card not to exceed \$6.** The statute also provides that registrations and renewals for repossessionors and their employees expire. The statute provides that a temporary registration or renewal may be issued to repossessionors and their employees for up to 120 days and provides that a person or financial institution may not hire a licensed repossession agency if its qualified manager is unlicensed. The statute also extends the BEAR's Service Contract Dealer registration program through 2003 and increases the BEAR's registration fee maximum. The statute makes other technical changes related to BEAR sign requirements, registration delinquency, and obsolete language. The statute consolidates BHFTI license classes and creates a new class for existing licensees who are importers. The statute also repeals feather and down sanitization requirements and makes other BHFTI technical amendments related to office hearings, labeling, and definitions. (B&P C §§ 146.5, 6980.23, 6980.33, 6980.40, 6980.79, 7504.7, 7506.9, 7506.10, 7507.10, 7507.13, 7511, 7529, 7558, 7570, 7582.13, 7583.20, 7583.32, 7586, 7588, 7593.11, 7596, 7596.7, 7598.14, 7598.17, 7599.70, 9810, 9812.5, 9814.5, 9830.5, 9832, 9832.5, 9847.5, 9849, 9851, 9853, 9854, 9855.2, 9855.3, 9855.9, 9860, 9862.5, 9863, 9873, 19008, 19010, 19080, 19123.4 & 19208; and Civ C §§ 1791 & 1794.4)

(15) Board of Registration for Professional Engineers and Land Surveyors

AB 969
Cardenas

Engineers: Rewrite of Professional Engineers Act

Two Year Bill

Existing law, the Professional Engineers Act, provides for the regulation of engineers under the jurisdiction of the Board of Professional Engineers and Land Surveyors (Board).

This bill would repeal and reenact this act. Among other things, the bill would revise provisions relating to the practice of engineering, examination and testing of applicants, licensure and certification of engineers, renewal of licenses, organizational filings with the Board by engineering entities, administrative discipline, fees, and the receipt and disposition of Board revenue. (B&P C §§ 130 & 6700)

SB 704
Rainey

Chemical Engineers

Two Year Bill

Existing law regulates engineers under three “practice act” categories of registration with the Board of Professional Engineers and Land Surveyors (Board) and 13 “title act” categories of registration with the Board. The three “practice act” categories are civil, electrical and mechanical engineering. Only those registered as a civil, electrical or mechanical engineer may practice those disciplines or use those titles. The 13 “title act” categories include chemical engineers. Anyone may practice a “title act” discipline, but may not use the title unless s/he is registered with the Board.

This bill would prohibit anyone from practicing the discipline of chemical engineering unless s/he is registered with the Board, and would thereby increase the level of regulation for chemical engineers from a title act to a practice act. (B&P C §§ 6702.3, 6704, 6730, 6734.3, 6735.7, 6738, 6740, 6756 & 6787)

SB 828
Greene

Board of Registration for Professional Engineers and Land Surveyors: Sunset Date/Expansion of Industrial Exemption

Chapter 705
Statutes of 1997

Existing law sunsets the Board of Registration for Professional Engineers and Land Surveyors (BRPELS) on July 1, 1998. Existing law exempts industrial corporations and their employees from registering as an electrical or mechanical engineer, when the work performed is in connection with or incidental to the products, systems, or services of the corporation or its affiliates.

This statute extends the sunset date to July 1, 2000 and expands the industrial exemption to include consultants, temporary employees, contract employees, and persons hired pursuant to third-party contracts. (B&P C §§ 6710, 6714, 6747 & 8710)

(16) Board of Registration for Geologists and Geophysicists

SB 1346
Senate
Committee on
Business and
Professions

Department of Consumer Affairs: Omnibus Bill

Chapter 758
Statutes of 1997

Existing law does not give the Board of Registration for Geologists and Geophysicists (BRGG) the authority to discipline a licensee for violation of its regulations. Existing law is not clear as to whether the BRGG may deny an application for licensure based on unprofessional conduct.

This statute makes unprofessional conduct grounds for disciplinary action and defines what constitutes unprofessional conduct. The statute allows the BRGG to place a licensee on probation, and deny an application for licensure for unprofessional conduct. The statute gives the BRGG the authority, upon its own initiative or on receipt of a complaint, to investigate the action of any geologist or geophysicist or person granted a temporary license to practice. The statute expands the BRGG's authority to initiate investigation of suspected violations of the licensing act or the BRGG's regulations and gives the BRGG the authority to discipline persons who have been granted a temporary license under the same provisions as a licensee. (B&P C § 7860)

(17) Board of Guide Dogs for the Blind

AB 1546
Davis

Consumer Affairs

Chapter 475
Statutes of 1997

Existing law authorizes the Board of Guide Dogs for the Blind (Board) to license and regulate persons who provide instruction to blind persons in the use of guide dogs and for persons who train the guide dogs. The provisions for the Board were scheduled to sunset on July 1, 1997, unless a statute was enacted that would delete or extend the dates on which it becomes inoperative. Current law provides for the licensing and regulation of architects, landscape architects, court reporters, funeral directors, and embalmers.

This statute authorizes the Director of the Department of Consumer Affairs (DCA) to enter into interagency agreements with appropriate entities within the department and to delegate

to them the duties, powers, purposes, responsibilities, and jurisdiction of boards, within the DCA jurisdiction, which have sunset. This statute authorizes the Board of Architectural Examiners (BAE) to contract with architect consultants and requires architects, when renewing their license, to indicate on the renewal form whether they were the subject of discipline from another agency or were convicted of a crime. **The statute transfers the duties and powers regarding the regulation of landscape architect licensees from the DCA to the BAE which is authorized to delegate authority to perform specified duties to a Landscape Architect Technical Committee (Committee) under its jurisdiction.** The Committee consists of five members appointed by the Governor and the Legislature. These provisions become inoperative July 1, 2004, and are repealed as of January 1, 2005. This statute extends the sunset date for the Board of Guide Dogs for the Blind until July 1, 2002, and is repealed as of January 1, 2003. The statute provides that every funeral establishment holding a funeral director's license on December 31, 1996 be issued a funeral establishment license upon payment of specified fees. It exempts a licensed funeral director from the training provisions required for persons who consult with the family of the deceased regarding funeral services. The statute revises the order of persons authorized to carry out the final wishes for disposition of a deceased person and makes other technical and clarifying changes. Additionally, **it provides that information regarding citations, fines, and orders of abatement issued against a licensee of the Court Reporters Board will be disclosable as a public record,** and makes other technical and clarifying changes relating to the Transcript Reimbursement Fund administered by the Court Reporters Board. (B&P C §§ 102.3, 5528, 5600, 5615, 5616, 5620, 5621, 5622, 5623, 5624, 5625, 5626, 5627, 5628, 5654, 5681, 5682, 5683, 7616, 7635, 8010, 8017, 8018, 8024.5, 8024.6, 8025, 8030.2, 8030.4, 8030.6 & 8030.8; and H&S C §§ 7100 & 7100.1)

(18) Hearing Aid Dispensers Examining Committee

**AB 1245
Martinez**

Hearing Aid Dispensers

**Chapter 807
Statutes of 1997**

Existing law: (1) provides for the licensing and regulation of hearing aid dispensers by the Hearing Aid Dispensers Examining Committee (Committee); and (2) provides that the hearing Aid Dispensers Licensing Law neither licenses nor prohibits the testing of hearing for the purpose of fitting and selling hearing aids by licensed hearing aid dispensers.

This statute: (1) authorizes hearing aid dispensers to conduct hearing tests that are in compliance with the Food and Drug Administration Guidelines for Hearing Aid Devices and tests that are covered in the licensing examination prepared by the Committee; and (2) prohibits a hearing aid dispenser from conducting diagnostic hearing tests when conducting tests in connection with the fitting or selling of hearing aids. (B&P C §§ 3306 & 3440)

SB 1346
Senate
Committee on
Business and
Professions

Department of Consumer Affairs: Omnibus Bill

Chapter 758
Statutes of 1997

Existing law requires the Hearing Aid Dispensers Examining Committee (HADEC) to provide 15 days' notice of its meetings. However, the Bagley-Keene Open Meeting Act requires only 10 days' notice. This statute deletes the 15-day notice requirement and instead requires notice of meetings to be given in accordance with the Bagley-Keene Open Meeting Act. (B&P C § 3325)

Existing law does not give the HADEC authority to discipline a licensee who violates the Song-Beverly Consumer Warranty Act or the Home Solicitation Act. This statute adds a violation of Civ C § 1689.6 (three-day right of rescission for a home solicitation contract) and Civ C § 1793.02 (consumer warranty requirements on assistive devices) to the list of causes for which the HADEC may discipline a licensee. (B&P C § 3401).

(19) Bureau of Home Furnishings and Thermal Insulation

SB 780
Kelley

Consumer Affairs: Bureau Omnibus

Chapter 401
Statutes of 1997

Existing law provides that the Bureau of Security and Investigative Services (BSIS) within the Department of Consumer Affairs (Department) license and regulate locksmiths, repossessors, private investigators, private patrol operators, security guards, and alarm companies. The law sets BSIS licensing and permitting fees. Existing fees are scheduled to be reduced by various amounts on January 1, 1998. The law provides that all licenses, registrations, and permits are placed on a cyclical renewal that expires two years from the date of issuance or renewal date. The law provides for the issuance of pocket identification cards to persons licensed or registered by the BSIS. The law also provides for the BSIS to issue a temporary registration or renewal for repossessors and their employees for up to 90 days and that registration for repossessors

and their employees must be renewed annually. The law provides for the registration and regulation of service contractors by the Bureau of Electronic and Appliance Repair (BEAR) until January 1, 1998. A registration issued by the BEAR that is delinquent more than two years may not be renewed. The law sets maximum registration fees for persons registered by the BEAR. The law provides for licensing and registration of various persons in the home furnishings and thermal insulation industry regulated by the Bureau of Home Furnishings and Thermal Insulation (BHFTI) and requires the sanitization of feather and down products regulated by the BHFTI.

This statute deletes sunset language that would have reduced license and registration fees charged by the BSIS on January 1, 1998 and maintains fees at existing levels. The bill provides for the maximum fee to be charged for BSIS license and registration fees authorizing the actual fee to be set by regulation. The statute **requires that when a BSIS licensee or registrant also holds a firearm qualification card (FQ), the license or registration renewal date must be synchronized with the FQ renewal date.** The bill provides that BSIS licensees can request an optional pocket identification card made of a durable material and incorporating technologically advanced security features. **The BSIS is authorized to charge a fee to reimburse the cost of the optional pocket card not to exceed \$6.** The bill also provides that registrations and renewals for reposseors and their employees expire. The bill provides that a temporary registration or renewal may be issued to reposseors and their employees for up to 120 days and provides that a person or financial institution may not hire a licensed repossession agency if its qualified manager is unlicensed. The bill also extends the BEAR's Service Contract Dealer registration program through 2003 and increases the BEAR registration fee maximum. The bill makes other technical changes related to BEAR sign requirements, registration delinquency, and obsolete language. The bill consolidates BHFTI license classes and creates a new class for existing licensees who are importers. The bill also repeals feather and down sanitization requirements and makes other BHFTI technical amendments related to office hearings, labeling, and definitions.

(B&P C §§ 146.5, 6980.23, 6980.33, 6980.40, 6980.79, 7504.7, 7506.9, 7506.10, 7507.10, 7507.13, 7511, 7529, 7558, 7570, 7582.13, 7583.20, 7583.32, 7586, 7588, 7593.11, 7596, 7596.7, 7598.14, 7598.17, 7599.70, 9810, 9812.5, 9814.5, 9830.5, 9832, 9832.5, 9847.5, 9849, 9851, 9853, 9854, 9855.2, 9855.3, 9855.9, 9860, 9862.5, 9863, 9873, 19008, 19010, 19080, 19123.4 & 19208; and Civ C §§ 1791 & 1794.4)

Existing law provides for the licensing and regulation of the practice of pharmacy by the California Board of Pharmacy (Board).

This statute makes numerous changes to the Pharmacy Law which will: (1) eliminate duplicated and archaic language; (2) reword and renumber provisions for clarity; (3) update the language to reflect current technology, usage and dates; (4) **establish a program to register nonresident medical device retailers;** (5) **recast provisions relating to the Board, pharmacists, prescriptions, and licensure;** (6) **make various changes to existing fines and penalties;** (7) revise the Board's authority to adopt regulations; and (8) **extend the inoperative date of the Board and the appointment of an executive officer until July 1, 2004 and the date of repeal until January 1, 2005, unless extended by the Legislature. In addition, this statute exempts from licensure with the Bureau of Home Furnishings and Thermal Insulation a sanitizer who is licensed as a furniture and bedding manufacturer, retail furniture and bedding dealer, retail bedding dealer, or a custom upholsterer.** (B&P C §§ 4001, 4002, 4003, 4004, 4005, 4007, 4008, 4009, 4016, 4017, 4018, 4020, 4021, 4022, 4023, 4024, 4025, 4025.1, 4028, 4029, 4030, 4031, 4033, 4034, 4037, 4040, 4043, 4051, 4052, 4053, 4055, 4056, 4057, 4058, 4059.5, 4060, 4061, 4062, 4063, 4064, 4070, 4071, 4072, 4073, 4074, 4076, 4077, 4078, 4080, 4081, 4082, 4100, 4101, 4102, 4103, 4104, 4105, 4110, 4111, 4112, 4113, 4114, 4115, 4116, 4117, 4118, 4119, 4119.5, 4120, 4122, 4130, 4131, 4132, 4133, 4136, 4136.5, 4137, 4138, 4143, 4144, 4150, 4160, 4161, 4162, 4163, 4164, 4165, 4166, 4167, 4170, 4174, 4175, 4180, 4182, 4186, 4191, 4197, 4200, 4200.1, 4200.5, 4201, 4202, 4205, 4230, 4231, 4232, 4233, 4300, 4301, 4303, 4305, 4305.5, 4306.5, 4307, 4309, 4311, 4312, 4313, 4320, 4321, 4322, 4326, 4331, 4333, 4339, 4341, 4360, 4361, 4369, 4370, 4372, 4400, 4401, 4402, 19059.5 & 19170; and H&S C §§ 11122 & 11150)

(20) Landscape Architects Program

Existing law authorizes the Board of Guide Dogs for the Blind (Board) to license and regulate persons who provide instruction to blind persons in the use of guide dogs and for persons who train the guide dogs. The provisions for the Board were

scheduled to sunset on July 1, 1997, unless a statute was enacted that would delete or extend the dates on which it becomes inoperative. Current law provides for the licensing and regulation of architects, landscape architects, court reporters, funeral directors, and embalmers.

This statute authorizes the Director of the Department of Consumer Affairs (DCA) to enter into interagency agreements with appropriate entities within the department and to delegate to them the duties, powers, purposes, responsibilities, and jurisdiction of boards, within the DCA jurisdiction, which have sunset. This statute authorizes the Board of Architectural Examiners (BAE) to contract with architect consultants and requires architects, when renewing their license, to indicate on the renewal form whether they were the subject of discipline from another agency or were convicted of a crime. **The statute transfers the duties and powers regarding the regulation of landscape architect licensees from the DCA to the BAE which is authorized to delegate authority to perform specified duties to a Landscape Architect Technical Committee (Committee) under its jurisdiction.** The Committee consists of five members appointed by the Governor and the Legislature. These provisions become inoperative July 1, 2004, and are repealed as of January 1, 2005. This statute extends the sunset date for the Board of Guide Dogs for the Blind until July 1, 2002, and is repealed as of January 1, 2003. The statute provides that every funeral establishment holding a funeral director's license on December 31, 1996 be issued a funeral establishment license upon payment of specified fees. It exempts a licensed funeral director from the training provisions required for persons who consult with the family of the deceased regarding funeral services. The statute revises the order of persons authorized to carry out the final wishes for disposition of a deceased person and makes other technical and clarifying changes. Additionally, **it provides that information regarding citations, fines, and orders of abatement issued against a licensee of the Court Reporters Board will be disclosable as a public record,** and makes other technical and clarifying changes relating to the Transcript Reimbursement Fund administered by the Court Reporters Board. (B&P C §§ 102.3, 5528, 5600, 5615, 5616, 5620, 5621, 5622, 5623, 5624, 5625, 5626, 5627, 5628, 5654, 5681, 5682, 5683, 7616, 7635, 8010, 8017, 8018, 8024.5, 8024.6, 8025, 8030.2, 8030.4, 8030.6 & 8030.8; and H&S C §§ 7100 & 7100.1)

(21) Medical Board of California

**AB 103
Figueroa**

Physicians and Surgeons: Professional Reporting

**Chapter 359
Statutes of 1997**

Existing law requires the Medical Board of California (MBC) and the Board of Podiatric Medicine (BPM) to disclose to the public information regarding the status of the license of a licensee and any enforcement actions taken against a licensee by either board or by another state or jurisdiction, including, but not limited to, all of the following: (1) temporary restraining orders issued; (2) interim suspension orders issued; (3) limitations on practice ordered by the MBC; (4) public letters of reprimand issued; and (5) infractions, citations, or fines imposed.

This statute requires the *MBC* (but not the *BPM*) to additionally disclose any malpractice judgments, arbitration awards, and summaries of hospital disciplinary actions that result in the termination or revocation of a licensee's staff privileges for a medical disciplinary cause or reason. The statute additionally: (1) requires all medical malpractice insurers to report all judgments and arbitration awards against a physician, regardless of amount, to the appropriate licensing board; (2) requires any physician peer review report resulting in the termination of physician staff privileges to be submitted to the appropriate board; (3) **requires the MBC to post specified information on the Internet**; and (4) authorizes the MBC to expend \$21,000 from its Contingent Fund during the 1997-98 fiscal year for purposes of this bill. (B&P C §§ 2027, 801, 802, 803, 803.1, 803.2 & 805)

**AB 174
Napolitano**

Healing Arts: Acupuncture

**Chapter 400
Statutes of 1997**

Existing law provides for the licensure and regulation of the practice of acupuncture, and provides that any person who practices acupuncture without a license is guilty of a misdemeanor, with certain exceptions.

This statute provides that any person, other than a physician and surgeon, dentist, or podiatrist, who is a licensed healing arts provider but is not licensed to practice acupuncture, who does any of the following, is guilty of a misdemeanor: practices acupuncture, involving the application of a needle to the human body; performs any acupuncture technique or method, involving the application of a needle to the human body; or directs, manages, or supervises another person in the performance of acupuncture, involving the application of a needle to the human

body. The statute additionally makes it unprofessional conduct for a physician and surgeon, osteopathic physician, dentist, or podiatrist to direct or supervise the performance of acupuncture by a licensed healing arts professional who is not a licensed acupuncturist. (B&P C §§ 4935 & 730)

AB 219
Alby

Health Care

Chapter 769
Statutes of 1997

Existing law: requires that physicians' offices be accredited to provide outpatient surgical services; authorizes the Medical Board of California (MBC) to approve the application of an accreditation agency which issues certificates of accreditation to outpatient settings that meet certain criteria; authorizes the MBC to grant a temporary certificate of approval to an accreditation agency operating on or before January 1, 1995, and meeting certain standards, without requiring the agency to complete the full application process.

This statute authorizes the MBC to grant a temporary certificate of approval to an accreditation agency that is a successor of an agency operating on or before January 1, 1995, or is an agency thereafter operating as a joint program granted temporary certification by the MBC, whether operating as part of a joint program or independently. The statute declares that it is to take effect immediately as an urgency statute. (B&P C § 1248.4)

AB 255
Thomson

Prescription Lenses: Spectacles

Two Year Bill

Existing law provides for the regulation of prescription lenses and allows specified licensed professionals to dispense, sell or furnish prescription lenses. In addition, existing law makes it unlawful for any person to dispense, replace or duplicate specified lenses without a prescription or order from a licensed physician and surgeon or optometrist.

This bill would require that a spectacle lens prescription include specified information, including an expiration date, and prohibit the filling of the prescription without the required information or after the expiration, unless under certain conditions.
(B&P C §§ 2541.1 & 2559.6)

**AB 274
Floyd**

Medical Records: Subpoena

Two Year Bill

Existing law generally restricts the admissibility as evidence in certain actions and proceedings, and protects from *discovery*, the deliberations and records of quality assurance committees and peer review bodies relating to the provision of health care.

This bill would additionally provide that those deliberations and records shall not be subject to *administrative subpoena*.
(Evid C § 1157)

**AB 523
Lempert**

Physicians And Surgeons: Special Faculty Permits

**Chapter 332
Statutes of 1997**

Existing law provides for the licensure and regulation of physicians and surgeons by the Medical Board of California (MBC), and prohibits the practice of medicine without a license issued by the MBC. Under existing law, the MBC may issue a one-year certificate of registration to engage, to a limited extent, in the practice of medicine, to full-time faculty of California medical schools, who meet specified requirements.

This statute permits a person to apply for a “special faculty permit” (permit) if the person: (1) is “academically eminent;” possesses a current valid license to practice medicine in another state, country, or other jurisdiction; (2) is not subject to a denial of a license to practice medicine under California law; (3) pays the fee for application and initial licensure as a physician and surgeon; and (4) has not held a faculty position pursuant to a certificate of registration for two years or more preceding the date of application. The statute requires the MBC to report to the Legislature by December 31, 2002, on the implementation and status of the special faculty permit program. (B&P C § 2168)

**AB 563
Prenter**

Physicians And Surgeons: Licensure

**Chapter 514
Statutes of 1997**

Existing law provides for the licensure and regulation of physicians and surgeons (physicians) by the Medical Board of California (MBC or Board) in the Department of Consumer Affairs, and further provides that the Division of Medical Quality (DMQ) of the Board has the authority to take disciplinary action against any licensee who is charged with unprofessional conduct. Under existing law, the revocation, suspension, or other discipline, restriction or limitation imposed by another state upon its license to practice medicine or by the federal government upon its grant of authority to practice medicine, constitutes grounds for

disciplinary action for unprofessional conduct by California, if the basis for the other state or federal government's action would have been grounds for discipline in California.

This statute provides that if a physician's license to practice medicine in another state or by authority granted by the federal government is suspended or revoked outright and is reported to the National Practitioners Data Bank, the physician's license to practice medicine in California is suspended automatically for the duration of the suspension or revocation imposed by that other jurisdiction, unless terminated or rescinded as a result of a decision at a penalty hearing. (B&P C § 2310)

AB 745
Thompson

Outpatient Settings: General Anesthesia

Two Year Bill

Existing law: establishes standards for accreditation of "outpatient settings" by the Division of Licensing (DOL) of the Medical Board of California (MBC); provides that no "outpatient setting" may operate, unless it is either accredited by the DOL or is one of a number of settings exempt from accreditation; exempts dental offices from accreditation, as specified; and provides that no dentist may administer "general anesthesia" to a patient in a dental office, unless the dentist is both licensed by the Board of Dental Examiners (BDE) and holds a valid "general anesthesia permit" (permit) issued by the BDE.

This bill would exempt from the accreditation requirements of the DOL and the permit requirements of the BDE, a physician and surgeon who has completed a postgraduate residency program in anesthesia, when the anesthesia is administered in a facility that otherwise meets the requirements of the Dental Practice Act (Act) for use of "general anesthesia." The bill would require the MBC to establish a process for physicians and surgeons to obtain certification to administer general anesthesia in a dentist's office. (B&P C § 1646.7, 1646.9, 2079 & 2245)

AB 823
Papan

Health Care

Two Year Bill

Existing law provides for the licensure and regulation of physicians and surgeons by the Medical Board of California, and makes the practice of medicine, as defined, by any person without a valid physician and surgeon's certificate subject to criminal sanction. Existing law also provides for the licensure and regulation of health care service plans by the Department of Corporations, and of disability insurers by the Department of Insurance.

This bill would define the practice of medicine to include making a decision regarding the medical necessity or appropriateness of any diagnosis, treatment, operation, or prescription for a particular patient, and would provide that a person who engages in this action is subject to the Medical Practice Act. (B&P C §§ 2052 & 2052.2; H&S C § 1368.07; and Ins C § 10140.07)

AB 833
Ortiz

Gynecological Cancers

Chapter 754
Statutes of 1997

Existing law establishes the Office of Women's Health within the State Department of Health Services (DHS). The functions of the office include, among others, to communicate and disseminate information and perform a liaison function within the department and to providers of health, social, educational, and support services to women.

This statute directs the DHS to place priority on providing information to consumers, patients, and health care providers relating to women's gynecological cancers. The statute authorizes the DHS, in consultation with certain persons, to produce or contract with others to develop the materials required by this provision, as the office deems appropriate, or collect and distribute certain available publications, to be made available to the public free of charge. The statute authorizes the DHS to **require, where appropriate, health care providers to provide or make available these materials to patients** and provides for **the Medical Board of California, as well as other sources, to distribute these materials.** The statute **requires every medical care provider primarily responsible for providing to a patient an annual gynecological examination to provide that patient during the annual examination a standardized summary in layperson's language and in a language understood by the patient containing a description of the symptoms and methods for diagnosing gynecological cancers.**

(H&S C §§ 109278 & 138.4)

AB 1079
Cardoza

Physicians And Surgeons

Two Year Bill

Existing law (B&P C § 2065) authorizes a graduate of an approved medical school who is registered with the Division of Licensing and is enrolled in a postgraduate training program to engage in the practice of medicine under prescribed conditions. Under existing law, a graduate may not practice for more than *one* year in an approved first-year postgraduate training program.

A graduate who has completed the first year of postgraduate training may practice medicine in an approved residency or fellowship, but must attain his or her license within one year from the beginning of the residency or fellowship.

This bill would instead authorize the graduate to engage in the practice of medicine where required as a part of a postgraduate residency or fellowship program for a maximum of *three* years from the date the graduate enrolls in his or her first postgraduate training program. Existing law (B&P C § 2066) provides that nothing in the Medical Practice Act shall be construed to prohibit a foreign medical graduate from engaging in the practice of medicine as required as a part of a clinical service program subject to certain conditions. The graduate must receive his or her certificate by the completion of his or her *second* year of postgraduate training. This bill would instead require the graduate to receive his or her certificate by the completion of the *third* year of postgraduate training. Existing law (B&P C § 2096) requires each applicant for a physician and surgeon's license to complete at least *one* year of postgraduate training prior to licensure. This bill would require every applicant for licensure as a physician and surgeon who graduated on or after January 1, 2003, to complete at least *two* years of postgraduate training prior to licensure. The bill would also make conforming changes. (B&P C §§ 2065, 2066, 2096 & 2107)

**AB 1251
Battin**

Human Cloning

Two Year Bill

Existing law makes it a felony for anyone to knowingly use sperm, ova, or embryos in assisted reproduction technology for any purpose other than that indicated by the sperm, ova, or embryo provider's signature on a written consent form, or to knowingly implant sperm, ova, or embryos, through the use of assisted reproduction technology, into a recipient who is not the sperm, ova, or embryo provider, without the signed written consent of the sperm, ova, or embryo provider and the recipient.

This bill would provide that any person who clones a human cell, or purchases or sells an ova, zygote, embryo, or fetus, for the purpose of cloning a human being, shall be punished by a criminal fine. It would make a violation an act of unprofessional conduct under the Medical Practice Act. The bill also would require the revocation of the local business license of any business that violates this provision. The bill would provide for the repeal of this act on January 1, 2003. (B&P C §§ 16004, 16105 & 2260.5; and H&S C § 24185)

AB 1344
Gallegos

Health Care Service Plans

Two Year Bill

Existing law provides for the licensure and regulation of health care service plans by the Commissioner of Corporations.

This bill would state the intent of the Legislature that jurisdiction over health care service plans be reorganized and that responsibility for the administration and enforcement of the laws governing plans be vested in an agency that will best ensure quality of care and be responsive to Californians. This bill contains other related provisions.

AB 1555
Gallegos

Physicians And Surgeons

Chapter 654
Statutes of 1997

Existing law provides for the regulation of the practice of medicine by the Medical Board of California (MBC), and requires any person who practices medicine in California to obtain a license from the MBC.

This statute makes various technical and clarifying changes to the Medical Practice Act. Specifically, the statute: (1) deletes provisions in the Medical Practice Act which reference the XV FIFA World Cup Organizing Committee; (2) deletes a requirement that guest physicians from other countries who are participating in postgraduate study in California be certified by the MBC, eligible for certification, or the equivalent; (3) clarifies that a person who holds an unrestricted license to practice medicine in a Canadian province may apply for a California medical license pursuant to existing reciprocity provisions; (4) enables applicants for reexamination for a physician's and surgeon's certificate to obtain the required remedial instruction from either a program conducted under the auspices of a medical school or *an approved postgraduate training program*; (5) codifies legislative intent language which states that existing provisions related to the practice of telemedicine may not be construed to alter the scope of practice of any health care provided, or authorize the delivery of health care services in a setting, or in a manner, not otherwise permitted by law; and (6) provides the MBC with this statutory authority to collect a fee for the replacement of a Fictitious Name Permit when it is lost, stolen, or destroyed. (B&P C §§ 2076, 2076.5, 2111, 2135, 2185, 2290.5 & 2443)

Podiatric Medicine

Existing law: (1) requires each applicant for a license to practice podiatric medicine to successfully complete a medical curriculum of four academic years in a Board of Podiatric Medicine (BPM)-approved college or school of podiatric medicine, and requires the curriculum to include adequate instruction in a list of specified subjects; (2) requires the BPM to administer a diversion program for the rehabilitation of doctors of podiatric medicine whose competency is impaired due to the use of drugs or alcohol; (3) authorizes the BPM to establish one or more diversion evaluation committees; and (4) requires the Medical Board of California (MBC) to administer a diversion program for physicians and surgeons under the direction of one or more diversion evaluation committees.

This statute: (1) revises and updates the list of subjects that are required to be included in the medical curriculum of a BPM-approved school or college of podiatric medicine; repeals the provisions pertaining to a diversion program for doctors of podiatric medicine; and (2) requires the BPM to establish and administer a diversion program for doctors of podiatric medicine in accordance with the provisions for a diversion program for physicians and surgeons. (B&P C §§ 2483 & 2497.1)

Health: Prostate Cancer

Existing law imposes certain duties on physicians and surgeons in providing services in the diagnosis and treatment of cancer, and *urges* physicians and surgeons to make specified information concerning the treatment of prostate cancer available to patients when appropriate. This statute establishes the Grant H. Kenyon Prostate Cancer Detection Act.

The statute requires a physician and surgeon who, during a physical examination, examines a patient's prostate gland, to provide information to the patient about the availability of appropriate diagnostic procedures, including, but not limited to, the prostate specific antigen (PSA) test, if any of the following conditions are present: (1) the patient is over 50 years of age; (2) the patient manifests clinical symptomatology; (3) the patient is at an increased risk of prostate cancer; and (4) the provision of the information to the patient is medically necessary, in the opinion of the physician and surgeon. The statute additionally provides that a violation of this requirement constitutes unprofessional conduct but is not subject to a misdemeanor. This

statute is an urgency statute and shall go into immediate effect.
(B&P C § 2248)

SB 324
Rosenthal

Medicine: Physicians And Surgeons

Two Year Bill

Existing law provides for the licensure and regulation of physicians and surgeons by the Medical Board of California and provides that any person who practices medicine, as described, without a valid license is guilty of a misdemeanor.

This bill would revise the definition of the practice of medicine to include making a decision regarding the medical necessity or appropriateness of any diagnosis, treatment, operation, or prescription. The bill would prohibit construing its provisions as limiting the practice of any person licensed, certified, or registered under any of the provisions relating to the healing arts when that person is engaged in his or her authorized and licensed practice. (B&P C § 2052)

SB 385
Johnson

Medicine: Disciplinary Proceedings

Two Year Bill

Existing law provides that the Medical Board of California (MBC), the Osteopathic Medical Board of California (OMB), and the Board of Dental Examiners of California (BDE) are entitled to inspect and copy the following documents in the record of any disciplinary proceeding of a licentiate resulting in action which is required to be reported pursuant to Section 805 (Filing Requirements Upon Action Taken Pursuant to Peer Review Body Determination): (1) any statement of charges; (2) any document, medical chart, or exhibits in evidence; or (3) any opinion, findings, or conclusions.

This bill would *expressly authorize* the MBC, the OMB, and the BDE to inspect and copy those documents *without first obtaining an administrative subpoena*. (B&P C § 805.1)

SB 446
Knight

Volunteer Physicians And Surgeons: Immunity From Liability

**Failed
Senate
Committee On
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, in addition, exempt a physician and surgeon, who in good faith and without compensation or consideration renders voluntary medical services, as defined, at an emergency shelter or at transitional housing, as defined, from liability for any injury or death caused by an act or omission of the physician and surgeon in rendering the medical services when that act or omission does not constitute gross negligence, recklessness, or willful misconduct, and if certain conditions are met.

(B&P C § 2399.5)

SB 557
Leslie

Healing Arts

Two Year Bill

Existing law provides that any person who practices medicine without a certificate is guilty of a misdemeanor. Existing law provides that it is unlawful to engage in the practice of dentistry without a valid, unexpired license or special permit. Existing law requires the independent review of certain health care service plan and disability insurer coverage decisions regarding experimental or investigational therapies.

This bill would provide that any decision regarding the medical necessity or appropriateness of any diagnosis, treatment, operation, or prescription constitutes the practice of medicine. The bill also would provide that any decision regarding the necessity or appropriateness of any dental diagnosis, treatment, operation, or prescription constitutes the practice of dentistry. (B&P C §§ 1626 & 2052.1)

SB 891
Watson

Physio-Technology

Two Year Bill

Existing law provides for the licensure and regulation of healing arts professionals including, among others, physicians and surgeons, physical therapists, and nurses.

This bill would establish the Physio-Technology Practice Act and would provide for the regulation of physio-technologists and physio-technologist assistants by the California Physio-Technology Licensure Commission that would be established by this bill within the Division of Medical Quality of the Medical Board of California. This bill would establish various provisions relating to physio-technologists including their scope of practice, qualifications, and grounds for disciplinary proceedings. The bill

would provide that a violation of these provisions is subject to criminal sanction, thereby imposing a state-mandated local program by creating a new crime. The bill would establish the Physio-Technology Fund in the State Treasury, prescribe certain licensure fees to be paid, and deposited in the fund, and would continuously appropriate the fund, for the purposes of this bill. (H&S C § 123165)

SB 922
Thompson

Telemedicine

Chapter 199
Statutes of 1997

Existing law regulates the practice of telemedicine, which is the practice of health care delivery, diagnosis, consultation, treatment, transfer of medical data, and education using interactive audio, video, or data communication.

This statute: (1) changes the above definition to exclude telephone conversations and electronic mail messages between a health care practitioner and a patient; (2) extends the rights granted to a patient of telemedicine to the patient's legal representative; (3) revises some of the protections granted to patients of telemedicine to require that all existing laws regarding patient access to medical information and copies of medical records, and surrogate decision-making are to apply; and (4) defines "surrogate decision making" to mean any decision made in the practice of medicine by a parent or legal representative for a minor or an incapacitated or incompetent individual.

(B&P C § 2290.5)

SB 1017
Leslie

Medicine

Chapter 200
Statutes of 1997

Existing law, the Medical Practice Act, provides for the licensure, regulation, and discipline of physicians and surgeons administered by the Medical Board of California. The disciplinary activities of the board with regard to physicians and surgeons are carried out by the Division of Medical Quality.

This statute provides that the Medical Board of California is the only licensing board authorized to investigate or commence disciplinary actions, as defined, relating to physicians and surgeons who have been issued a physician's and surgeon's certificate. (B&P C § 2220.5)

SB 1032
Polanco

Vision Care

Two Year Bill

Existing law, with certain exceptions, prohibits specified individuals working in a program supported by state funds and any state agency, county, or city, as well as employees thereof, from prohibiting any person from selecting a licensed optometrist or physician and surgeon to render vision care. The patient is required, however, to select a current member of the program.

This bill would require that the aforementioned provisions apply to services provided to Medi-Cal beneficiaries in specified managed care plans. (B&P C § 690)

SB 1094
Schiff

Medicine: Employment Of Physicians And Surgeons

Chapter 673
Statutes of 1997

Existing law: (1) prohibits the operation of a clinic without a license from the State Department of Health Services (DHS); (2) provides certain exceptions to the above prohibition for, among other things, a clinic operated by a nonprofit corporation that conducts medical research and health education and provides health care through a group of 40 or more physicians who are independent contractors and meet other prescribed requirements; and (3) establishes certain restrictions regarding the employment of licensed physicians and surgeons and podiatrists by a corporation or other artificial legal entity.

This statute provides an exemption from the Medical Practice Act and clinical licensure law for a nonprofit, research facility operated as an entity organized and operated exclusively for scientific and charitable purposes and that satisfies specified requirements. (B&P C § 2401; and H&S C § 1206)

(22) Board of Nursing Home Administrators

No Bills for the 1997 Session

(23) Board of Optometry

AB 255
Thomson

Prescription Lenses: Spectacles

Two Year Bill

Existing law provides for the regulation of prescription lenses and allows specified licensed professionals to dispense, sell or furnish prescription lenses. In addition, existing law makes it unlawful for any person to dispense, replace or duplicate specified lenses

without a prescription or order from a licensed physician and surgeon or optometrist.

This bill would require that a spectacle lens prescription include specified information, including an expiration date, and prohibit the filling of the prescription without the required information or after the expiration, unless under certain conditions.

(B&P C §§ 2541.1 & 2559.6)

AB 404
Gallegos

Optometry

Two Year Bill

Existing law prohibits any person from engaging in the practice of optometry without a certificate of registration from the State Board of Optometry and prohibits an optometrist from representing himself/herself as having a special knowledge of optometry.

This bill would: (1) allow an optometrist to advertise that his/her practice includes, or is limited to, certain areas, as specified, of optometric practice; (2) provide that only a licensed optometrist who is certified to use therapeutic pharmaceutical agents may advertise his/her certification; and (3) repeal existing statute which states that any optometrist holding himself/herself out as having a special knowledge of optometry would constitute a cause to revoke or suspend the optometrist's certificate of registration.

(B&P C §§ 3099 & 3099.5)

SB 114
Johnson

Pharmacy: Dialysis

Chapter 308
Statutes of 1997

Existing law provides for the safe distribution of dangerous drugs and devices to hemodialysis patients.

This statute: (1) amends existing laws to expand the safe distribution of dangerous drugs and devices to all dialysis patients, instead of only hemodialysis patients; (2) requires home dialysis patients who receive any drugs or devices to complete a full course of home training given by a dialysis center licensed by the Department of Health Services, instead of a renal dialysis center accredited by the DHS; (3) adds optometrist to the list of health care providers who may prescribe dangerous drugs or dangerous devices; and (4) eliminates a specific list of items required to be included in regulations, adopted by the Board of Pharmacy, regarding the safe distribution of drugs and devices to dialysis patients. (B&P C §§ 4054 & 4059)

SB 306
Haynes,
Rosenthal,
Solis,
Vasconcellos
& Watson

Medi-Cal

Vetoed
September 28, 1997

Existing law requires the Director of the Department of Health Services (DHS) to: (1) annually review the reimbursement levels for physician and dental services under Medi-Cal; and (2) periodically revise the rates of reimbursement to physicians and dentists to ensure the reasonable access of Medi-Cal beneficiaries to physician and dental services.

This bill would have required the Director of the DHS to review the reimbursement levels and revise the rates of reimbursement under Medi-Cal for optometric services. (W&I C § 14079)

Veto Message

Governor Pete Wilson
To the Members of the California Senate:

I am returning Senate Bill No. 306 without my signature.

This bill would add the review of reimbursement levels for optometry services to the existing required annual review of Medi-Cal reimbursement levels for physician and dental services.

This bill is unnecessary. The Department of Health Services already has the administrative authority to review rates. Furthermore, optometry service providers currently choose to participate in the Medi-Cal program and effectively and efficiently provide care to Medi-Cal beneficiaries within the limited resources available.

SB 461
Karnette

Optometry: Unprofessional Conduct

Chapter 556
Statutes of 1997

Existing law provides that certain acts by an optometrist constitute unprofessional conduct.

This statute: (1) requires all applicants of the Board of Optometry (Board) to receive instruction in child abuse detection and the detection of alcoholism and other chemical substance dependency; **(2) requires the Board to periodically develop and disseminate to its licensees information and educational material regarding the detection of child/elder abuse and neglect;** (3) amends existing law which specifies the actions by a licensee which could result in the revocation or suspension of his/her certificate of registration; (4) authorizes the Board to require a licensee to undergo a professional competency examination under specified conditions; and **(5) specifies acts that the Board would constitute as unprofessional conduct.** (B&P C §§ 3051, 3059, 3060, 3090, 3090.1, 3096.6, 3096.7 & 3107.1)

SB 497
Brulte

Health Care Service Plans: Providers: Prescribing Controlled Substances

Chapter 120
Statutes of 1997

Existing law provides for the regulation of health care service plans by the Department of Corporations.

This statute prohibits a health care service plan from requiring registration under the federal Controlled Substance Act of 1970 as a condition for participation by an optometrist certified by the State Board of Optometry to use therapeutic pharmaceutical agents. (H&S C § 1367)

SB 1032
Polanco

Vision Care

Two Year Bill

Existing law, with certain exceptions, prohibits specified individuals working in a program supported by state funds and any state agency, county, or city, as well as employees thereof, from prohibiting any person from selecting a licensed optometrist or physician and surgeon to render vision care. The patient is required, however, to select a current member of the program.

This bill would require that the aforementioned provisions apply to services provided to Medi-Cal beneficiaries in specified managed care plans. (B&P C § 690)

SB 1347
Polanco

Healing Arts

Chapter 677
Statutes of 1997

This is a healing arts omnibus measure relating to perfusionists, optometrists, and recreation therapists.

Specifically, this statute: (1) deletes obsolete reference to the federal Clinical Laboratory Improvement Amendments Act of 1988 (CLIA) in the perfusionist law, and instead refers to the state laws governing clinical laboratory technology; (2) provides that the title "graduate perfusionist" may be used for no more than three years after completing the approved training program; (3) provides that, in addition to alcoholic beverages, the use of narcotic drugs by a licensed optometrist constitutes unprofessional conduct, and makes violations of those provisions a misdemeanor; (4) deletes the provision of existing optometry law making the conviction of more than one misdemeanor or any felony involving alcoholic beverages unprofessional conduct; (5) deletes the authority in the optometry law for a specified citation system, and, instead, authorizes the Board of Optometry to establish a cite and fine system pursuant to the general cite and fine authority of the Business and Professions Code (125.9); (6) makes it unlawful to

represent one's self as a recreation therapist (RT), or to represent recreational therapy services or use specified related titles or abbreviations unless that person has a baccalaureate degree in recreation therapy, or other specified areas and is certified by the California Board of Recreation and Park Certification, the National Council for Therapeutic Recreation Certification, Inc.; and (7) makes other technical and conforming changes. (B&P C §§ 2590, 2591, 2592, 3105.1, 3135 & 17505.2)

(24) Board of Pharmacy

AB 610
Margett

Marijuana

Two Year Bill

Existing law, the Compassionate Use Act of 1996 (Act), prohibits any physician from being punished, or denied any right or privilege, for having recommended marijuana to a patient for medical purposes. Further, the Act prohibits, under specified conditions, the provision of law making it unlawful to possess or cultivate marijuana from applying to a patient, or to a patient's primary caregiver, who possesses or cultivates marijuana for the personal medical purposes of the patient.

This bill would: (1) address the accountability issues raised by the passage of Proposition 215 (Compassionate Use Act of 1996) which was approved in the November 5, 1996 election; (2) authorize marijuana for medical purposes to be grown only through a grower licensed by the Department of Agriculture under specified conditions and guidelines; and (3) require all suppliers of marijuana to obtain a special license for the sale of marijuana from the State Board of Pharmacy. (H&S C §§ 11362.61, 11362.62, 11362.63, 11362.64, 11362.65 & 11362.66)

SB 13
Mountjoy

Sales And Use Taxes: Exemptions: Contact Lenses

Chapter 184
Statutes of 1997

Existing law provides a partial tax exemption for contact lenses purchased and sold by physicians, optometrists and opticians.

This statute provides a partial tax exemption for replacement contact lenses dispensed by licensed pharmacists. In addition, this statute takes effect immediately as a tax levy; however, it will become operative on the first day of the first calendar quarter commencing more than 60 days after the effective date of this act. (R&T C § 6018)

SB 114
Johnson

Pharmacy: Dialysis

Chapter 308
Statutes of 1997

Existing law provides for the safe distribution of dangerous drugs and devices to hemodialysis patients.

This statute: (1) amends existing laws to expand the safe distribution of dangerous drugs and devices to all dialysis patients, instead of only hemodialysis patients; (2) requires home dialysis patients who receive any drugs or devices to complete a full course of home training given by a dialysis center licensed by the Department of Health Services, instead of a renal dialysis center accredited by the DHS; (3) adds optometrist to the list of health care providers who may prescribe dangerous drugs or dangerous devices; and (4) eliminates a specific list of items required to be included in regulations, adopted by the Board of Pharmacy, regarding the safe distribution of drugs and devices to dialysis patients. (B&P C §§ 4054 & 4059)

SB 440
Maddy

Pharmacy: Home Health Agencies: Adjusting Drug Regimen

Two Year Bill

Existing law permits a pharmacist to perform certain procedures or functions as part of the care provided by a health care facility, a licensed clinic (under specific conditions), or a provider under contract with a licensed health care service plan.

This bill would: (1) permit a pharmacist to perform specified procedures and functions as part of the care provided by a home health agency; (2) require the pharmacist to perform the procedures or functions in accordance with a written, patient-specific protocol approved by the treating or supervising physician; and (3) require that any changes, adjustments, or modifications of a preexisting treatment or drug therapy provided by a pharmacist be approved by the treating or supervising physician within 24 hours. (B&P C §§ 4027 & 4052)

SB 827
Greene

Professional Licensing: Boards

Chapter 759
Statutes of 1997

Existing law provides for the licensing and regulation of various professions and occupations. A board administers each one. Existing law provides for the sunset of the Board of Registered Nursing, Board of Vocational Nurse and Psychiatric Technician Examiners (BVNPTE), Board of Pharmacy, Board of Architectural Examiners, Structural Pest Control Board (SPCB), Veterinary Medical Board (VMB), and Registered Veterinary Technician Examining Committee (RVTEC) effective July 1,

1998. Existing law, by initiative, also establishes the Board of Chiropractic Examiners (BCE) to administer licensing and regulation of practitioners of chiropractic; and the Osteopathic Medical Board (OMB) that administers licensing and regulation governing osteopathy.

This statute extends the sunset date for the SPCB to July 1, 2001, and extends the sunset for the rest of these boards to July 1, 2004. **This statute increases board membership by one public member for both the Board of Pharmacy and the VMB. Additionally, the BVNPTE changes one licensed vocational nurse member to a public member. This statute requires the VMB to create an advisory committee to supersede the RVTEC, and requires the SPCB and the Director of Pesticide Regulation to report to the Legislature by February 1, 1998 regarding the terms of their interagency agreement concerning county agricultural commissioners.** In addition, this statute subjects the BCE and the OMB to review by the Joint Legislative Sunset Review Committee. (B&P C §§ 101, 1242.6, 128.5, 130, 675, 800, 1680, 200.1, 205, 2071, 2221.1, 2660, 2701, 2708, 2761, 2841, 2842, 2847, 2873.6, 2873.7, 2881, 2890, 2893, 2894, 3527, 3750, 4001, 4003, 4008, 4501, 4503, 4546, 4547, 473.15, 473.16, 473.6, 4800, 4804.5, 4832, 4833, 4834, 4835, 4842.2, 4848, 4905, 4955, 5510, 5517, 5526, 5536.27, 5566, 5566.1, 5566.2, 8520 & 8528)

SB 829
Greene

Board of Pharmacy

**Failed
Senate Floor**

Existing law prohibits, except as specified, state agencies from employing any legal counsel other than the Attorney General.

This bill would have created, under specified conditions, a pilot project, that would have allowed the Board of Pharmacy to employ staff attorneys to prosecute disciplinary cases pursuant to the pharmacy law. (B&P C § 4013)

SB 1181
Solis

Pharmaceutical Drugs: Narrow Therapeutic Range Drugs

Two Year Bill

Existing law allows a pharmacist filling a prescription order for a drug product, as defined, to select another drug product with the same active ingredients of the same strength, quantity, and dosage from and of the same generic drug type.

This bill would: (1) require the Department of Health Services (DHS) to maintain, distribute and publish annually a list of

narrow therapeutic range drugs and identify in the list those narrow therapeutic range drugs that are available as a generic drug(s); (2) define the term narrow therapeutic range drug product; and (3) provide other requirements to be performed by the DHS concerning narrow therapeutic range drugs.
(H&S C § 100186)

**SB 1349
Committee on
Business and
Professions**

Vocations: Pharmacy Law: Sanitizers

**Chapter 549
Statutes of 1997**

Existing law provides for the licensing and regulation of the practice of pharmacy by the California Board of Pharmacy (Board).

This statute makes numerous changes to the Pharmacy Law which will: (1) eliminate duplicated and archaic language; (2) reword and renumber provisions for clarity; (3) update the language to reflect current technology, usage and dates; (4) **establish a program to register nonresident medical device retailers; (5) recast provisions relating to the Board, pharmacists, prescriptions, and licensure; (6) make various changes to existing fines and penalties; (7) revise the Board's authority to adopt regulations; and (8) extend the inoperative date of the Board and the appointment of an executive officer until July 1, 2004 and the date of repeal until January 1, 2005, unless extended by the Legislature. In addition, this statute exempts from licensure with the Bureau of Home Furnishings and Thermal Insulation a sanitizer who is licensed as a furniture and bedding manufacturer, retail furniture and bedding dealer, retail bedding dealer, or a custom upholsterer.** (B&P C §§ 4001, 4002, 4003, 4004, 4005, 4007, 4008, 4009, 4016, 4017, 4018, 4020, 4021, 4022, 4023, 4024, 4025, 4025.1, 4028, 4029, 4030, 4031, 4033, 4034, 4037, 4040, 4043, 4051, 4052, 4053, 4055, 4056, 4057, 4058, 4059.5, 4060, 4061, 4062, 4063, 4064, 4070, 4071, 4072, 4073, 4074, 4076, 4077, 4078, 4080, 4081, 4082, 4100, 4101, 4102, 4103, 4104, 4105, 4110, 4111, 4112, 4113, 4114, 4115, 4116, 4117, 4118, 4119, 4119.5, 4120, 4122, 4130, 4131, 4132, 4133, 4136, 4136.5, 4137, 4138, 4143, 4144, 4150, 4160, 4161, 4162, 4163, 4164, 4165, 4166, 4167, 4170, 4174, 4175, 4180, 4182, 4186, 4191, 4197, 4200, 4200.1, 4200.5, 4201, 4202, 4205, 4230, 4231, 4232, 4233, 4300, 4301, 4303, 4305, 4305.5, 4306.5, 4307, 4309, 4311, 4312, 4313, 4320, 4321, 4322, 4326, 4331, 4333, 4339, 4341, 4360, 4361, 4369, 4370, 4372, 4400, 4401, 4402, 19059.5 & 19170; and H&S C §§ 11122 & 11150)

(25) Physical Therapy Board of California

**SB 833
Rosenthal**

Physical Therapy: Students

**Chapter 213
Statutes of 1997**

Existing law provides for the licensure and regulation of physical therapists and physical therapist assistants by the Physical Therapy Board of California (PTB). Existing law authorizes the board to approve physical therapist education programs that comply with certain minimum requirements, and provides that programs that are recognized by the Commission on Accreditation in Physical Therapy Education of the American Physical Therapy Association shall be deemed approved by the PTB, unless the PTB determines otherwise.

This statute prohibits construing the physical therapy laws as preventing a regularly matriculated student in an approved physical therapist or physical therapist assistant educational program, or enrolled in a supervised clinical training program of such program, from performing physical therapy (physical therapist student) or from performing physical therapy techniques in preparing the student to be approved to assist a physical therapist in his or her practice (physical therapist assistant student) whenever prescribed as a part of the student's course of study. The statute deletes the term "recognized" and substitutes the term "accredited" in reference to educational programs that are approved by the Commission on Accreditation in Physical Therapy Education of the American Physical Therapy Association. (B&P C §§ 2650.2, 2651 & 2655.75)

(26) Physician Assistant Examining Committee

No Bills for the 1997 Session

(27) Board of Podiatric Medicine

**AB 103
Figueroa**

Physicians and Surgeons: Professional Reporting

**Chapter 359
Statutes of 1997**

Existing law requires the Medical Board of California (MBC) and the Board of Podiatric Medicine (BPM) to disclose to the public information regarding the status of the license of a licensee and any enforcement actions taken against a licensee by either board or by another state or jurisdiction, including, but not limited to, all of the following: (1) temporary restraining orders issued; (2) interim suspension orders issued; (3)

limitations on practice ordered by the MBC; (4) public letters of reprimand issued; and (5) infractions, citations, or fines imposed.

This statute requires the *MBC* (but not the *BPM*) to additionally disclose any malpractice judgments, arbitration awards, and summaries of hospital disciplinary actions that result in the termination or revocation of a licensee's staff privileges for a medical disciplinary cause or reason. The statute additionally: (1) requires all medical malpractice insurers to report all judgments and arbitration awards against a physician, regardless of amount, to the appropriate licensing board; (2) requires any physician peer review report resulting in the termination of physician staff privileges to be submitted to the appropriate board; (3) **requires the MBC to post specified information on the Internet**; and (4) authorizes the MBC to expend \$21,000 from its Contingent Fund during the 1997-98 fiscal year for purposes of this bill. (B&P C §§ 2027, 801, 802, 803, 803.1, 803.2 & 805)

**AB 174
Napolitano**

Healing Arts: Acupuncture

**Chapter 400
Statutes of 1997**

Existing law provides for the licensure and regulation of the practice of acupuncture, and provides that any person who practices acupuncture without a license is guilty of a misdemeanor, with certain exceptions.

This statute provides that any person, other than a physician and surgeon, dentist, or podiatrist, who is a licensed healing arts provider but is not licensed to practice acupuncture, who does any of the following, is guilty of a misdemeanor: (1) practices acupuncture, involving the application of a needle to the human body; (2) performs any acupuncture technique or method, involving the application of a needle to the human body; or (3) directs, manages, or supervises another person in the performance of acupuncture, involving the application of a needle to the human body. The statute additionally makes it unprofessional conduct for a physician and surgeon, osteopathic physician, dentist, or podiatrist to direct or supervise the performance of acupuncture by a licensed healing arts professional who is not a licensed acupuncturist. (B&P C §§ 4935 & 730)

**AB 1556
Gallegos**

Podiatric Medicine

**Chapter 655
Statutes of 1997**

Existing law: (1) requires each applicant for a license to practice podiatric medicine to successfully complete a medical curriculum of four academic years in a Board of Podiatric Medicine (BPM)-approved college or school of podiatric medicine, and requires the curriculum to include adequate instruction in a list of specified subjects; (2) requires the BPM to administer a diversion program for the rehabilitation of doctors of podiatric medicine whose competency is impaired due to the use of drugs or alcohol; (3) authorizes the BPM to establish one or more diversion evaluation committees; and (4) requires the Medical Board of California (MBC) to administer a diversion program for physicians and surgeons under the direction of one or more diversion evaluation committees.

This statute: (1) revises and updates the list of subjects that are required to be included in the medical curriculum of a BPM-approved school or college of podiatric medicine; (2) repeals the provisions pertaining to a diversion program for doctors of podiatric medicine; and (3) requires the BPM to establish and administer a diversion program for doctors of podiatric medicine in accordance with the provisions for a diversion program for physicians and surgeons. (B&P C §§ 2483 & 2497.1)

(28) Private Postsecondary and Vocational Education Program

**AB 71
Wright**

Private Postsecondary Education

**Chapter 78
Statutes of 1997**

Existing law provides for the Private Postsecondary and Vocational Education Reform Act of 1989 (Reform Act) and the Council for Private Postsecondary and Vocational Education.

This statute repeals and reenacts provisions of the Reform Act. This statute makes numerous substantial and technical amendments to the Reform Act including, but not limited to, creating a Bureau for Private Postsecondary and Vocational Education within the Department of Consumer Affairs effective January 1, 1998. (Ed C §§ 146, 473.1, 473.3 & 94700; and UIC § 1095)

SB 819
Calderon

Postsecondary Education

Chapter 77
Statutes of 1997

Existing law provides for the Private Postsecondary and Vocational Education Reform Act of 1989 (Reform Act) and the Council for Private Postsecondary and Vocational Education (Council) until July 18, 1997.

This statute: (1) extends the operation of the Reform Act and the Council until January 1, 1998; (2) restores the Council's authority to delegate to the director any power, duty, purpose, function or jurisdiction that the Council may delegate; and (3) revises provisions of the Reform Act related to English As A Second Language programs. (Ed C §§ 94753.5, 94892.5 & 94990)

(29) Board of Psychology

AB 276
Woods

Hypnotherapists: Hypnotherapist Registration Act

Two Year Bill

Existing law does not require persons practicing hypnotherapy to be licensed.

This bill would identify standards and qualifications for persons practicing hypnotherapy. (B&P C § 4550)

SB 694
Polanco

Psychology

Two Year Bill

Existing law requires psychologists to be licensed by the Board of Psychology (Board). Existing law prohibits psychologists from prescribing medications; this authority is restricted to physicians, dentists, podiatrists, and veterinarians.

This bill would establish a certification program within the Board to grant psychologists who meet specified requirements the authority to prescribe medications. (B&P C §§ 2902, 2904, 2914.2, 2914.3, 2943, 2949, 2949.1, 2949.2, 2949.3, 2949.4, 2949.5, 2960 & 4040)

SB 958
Hughes

Behavior Analysis

Two Year Bill

Existing law requires persons practicing psychology to be licensed by the Board of Psychology.

This bill would create the Behavior Analysts Certification Act

within the Business and Professions Code to certify behavior analysts, associate behavior analysts, and behavior technicians. (B&P C § 2999)

(30) Board of Registered Nursing

**AB 90
Cunneen**

Registered Nurses: Clinical Nurse Specialists

**Chapter 159
Statutes of 1997**

Existing law, requires the Board of Registered Nursing (BRN) to regulate and license registered nurses and to certify certain advanced practice nurses.

This statute: (1) establishes the Clinical Nurse Specialists Act for the certification of Clinical Nurse Specialist (CNS) by the BRN; (2) prohibits any nurse from holding himself/herself out as a CNS unless he/she meets the standards of a CNS as established by the BRN; (3) eliminates existing confusion regarding the role and responsibilities of the CNS classification; (4) requires the payment of specified fees by CNS for certification; and (5) makes the provisions operative on July 1, 1998. (B&P C §§ 2718, 2838, 2838.1, 2838.2, 2838.3 & 2838.4)

**AB 695
Kuehl**

Health Facilities: Nursing Staff

Two Year Bill

Existing law provides for: (1) the licensing, registration and regulation of nurses by the Board of Registered Nursing; and (2) the licensing and regulation of health facilities and home health agencies, as defined, by the Department of Health Services (DHS).

This bill would: (1) permit unlicensed personnel, under direct clinical supervision of a direct care registered nurse, to assist the registered nurse with those aspects of care that the registered nurse deems safe and appropriate; (2) require health facilities, general acute care hospitals, acute psychiatric hospitals, and special hospitals, as defined, to allocate a sufficient number of registered nurses to provide a prescribed nurse-to-patient ratio; and (3) provide other related issues. (B&P C § 2725.3; and H&S C § 1276.4)

AB 892
Escutia

Nurses

Two Year Bill

Existing law: (1) authorizes the Board of Registered Nursing (BRN) to collect an additional five dollars assessment fee with each biennial licensure renewal for the Registered Nurse Education Fund. This provision of the law will become inoperative on January 1, 2000, unless extended by the Legislature; and (2) requires the Office of Statewide Health Planning and Development (OSHPD) to establish the Minority Health Professions Education Foundation.

This bill would contain numerous provisions related primarily to the Minority Health Professions Education Foundation, the Minority Health Professions Education Fund, and the Registered Nurse Education Program under the OSHPD. In addition, the bill would have extended the BRN's authority to collect the five dollars assessment fee for the Registered Nurse Education Fund. (B&P C § 2815.1; and H&S C §§ 128230, 128280, 128330, 128335, 128345, 128350, 128355, 128375, 128385, 128395, 128435, 128445 & 128450)

SB 827
Greene

Professional Licensing: Boards

Chapter 759
Statutes of 1997

Existing law provides for the licensing and regulation of various professions and occupations. A board administers each one. Existing law provides for the sunset of the Board of Registered Nursing, Board of Vocational Nurse and Psychiatric Technician Examiners (BVMPTE), Board of Pharmacy, Board of Architectural Examiners, Structural Pest Control Board (SPCB), Veterinary Medical Board (VMB), and Registered Veterinary Technician Examining Committee (RVTEC) effective July 1, 1998. Existing law, by initiative, also establishes the Board of Chiropractic Examiners (BCE) to administer licensing and regulation of practitioners of chiropractic; and the Osteopathic Medical Board (OMB) that administers licensing and regulation governing osteopathy.

This statute extends the sunset date for the SPCB to July 1, 2001, and extends the sunset for the rest of these boards to July 1, 2004. **This statute increases board membership by one public member for both the Board of Pharmacy and the VMB. Additionally the BVNPTE changes one licensed vocational nurse member to a public member. This statute requires the VMB to create an advisory committee to supersede the RVTEC, and requires the SPCB and the Director of Pesticide Regulation to report to the Legislature by February 1, 1998**

regarding the terms of their interagency agreement concerning county agricultural commissioners. In addition, this statute subjects the BCE and the OMB to review by the Joint Legislative Sunset Review Committee. (B&P C §§ 101, 1242.6, 128.5, 130, 675, 800, 1680, 200.1, 205, 2071, 2221.1, 2660, 2701, 2708, 2761, 2841, 2842, 2847, 2873.6, 2873.7, 2881, 2890, 2893, 2894, 3527, 3750, 4001, 4003, 4008, 4501, 4503, 4546, 4547, 473.15, 473.16, 473.6, 4800, 4804.5, 4832, 4833, 4834, 4835, 4842.2, 4848, 4905, 4955, 5510, 5517, 5526, 5536.27, 5566, 5566.1, 5566.2, 8520 & 8528)

SB 1346
Senate
Committee on
Business and
Professions

Department of Consumer Affairs: Omnibus Bill

Chapter 758
Statutes of 1997

Existing law precludes a registered nurse from petitioning the Board of Registered Nursing (BRN) for reinstatement of a license for at least three years if the license was revoked for unprofessional conduct.

This statute generally precludes a registered nurse from petitioning for reinstatement of his/her license for at least three years after revocation regardless of the reason for revocation. (B&P C § 2760.1)

(31) Respiratory Care Board

No Bills for the 1997 Session

(32) Bureau of Security & Investigative Services

AB 1612
Alby

School Employees

Chapter 589
Statutes of 1997

Existing law authorizes school districts to temporarily employ persons while a background check for criminal history is conducted.

This statute responds to the murder of high school student Michelle Montoya of Rio Linda. The alleged killer was a temporary janitor with a violent criminal history. The statute prohibits school districts from hiring employees unless a criminal background check is complete. The statute also would require school districts to terminate any temporary employees with a history of serious or violent felony criminal activity. The statute contains legislative intent that would appropriate \$5 million to

the Department of Justice (DOJ) to implement an electronic fingerprinting system statewide that would be used to obtain criminal history background checks when required by law as a condition of employment, licensing, or certification. **This statute authorizes the DOJ to include the Department of Consumer Affairs (Department) in the specified electronic fingerprinting system to conduct background checks on Department licensees that must submit to a criminal history check. The Department's Licensing Division and Office of Information Services would need to work with DOJ to implement this system.** (Ed C §§ 44332.6, 44346.1, 44830.1 & 45122.1)

SB 117
Kelley

Collateral Recovery

Dropped

Existing law, the Collateral Recovery Law, governs persons who repossess collateral. The law requires licensure of businesses that engage in repossession, certification of persons who manage repossession agencies and registration of employees of those businesses. Existing law authorizes the Director of the Department of Consumer Affairs (Department) to assess administrative fines against licensed repossessors and their employees who engage in certain prohibited practices related to repossession activities. The law requires a person contracting with a licensed repossessor to maintain a copy of the repossessor's current unexpired license.

This bill would have: (1) extended the renewals of certificates and renewals for repossessors from one year to two years and doubled application and renewal fees to reflect the change to biennial renewals; (2) corrected an unintended loophole in previous legislation requiring a person contracting with a repossessor to have proof the repossessor is properly licensed; and (3) extended the time a temporary registration and temporary registration renewal may be issued to 120 days. **Provisions of SB 117 were incorporated in SB 780 to avoid chaptering conflicts. See SB 780 for mandates.** (B&P C §§ 7504.7, 7506.9, 7506.10, 7507.10, 7507.13, 7508.2 & 7511)

SB 243
Peace

Security Services: Concealed

Chapter 452
Statutes of 1997

Existing law, the Private Investigator Act, requires the licensing of persons acting as private investigators, with specified exemptions. The act exempts among others, a person who serves process if that person is registered as a process server. The Private Security Services Act requires a person who engages in

business regulated by the act to be licensed. Certain persons are exempted from the act, including peace officers that meet specified requirements. The law provides that a firearm qualification card issued by the Bureau of Security and Investigative Services (BSIS) does not authorize its holder to carry a concealed weapon. The law does authorize active duty peace officers to carry concealed weapons and authorizes peace officers to engage in off-duty employment, as private investigators, private patrol operators, security guards, or alarm company operators or agents. Existing law provides that a peace officer's primary employer may require an indemnity agreement from a secondary employer as a condition of approving casual or part time employment by the peace officer.

This statute clarifies that active and honorably retired peace officers are exempt from needing a concealed weapons permit to carry a concealed weapon while working as a private security professional if those peace officers are already authorized to carry concealed weapons as part of their peace officer duties. Additionally, the statute exempts all active and honorably retired peace officers from training requirements for privately employed security who carry batons. The statute would require that a peace officer's primary public agency employer enter into an indemnity agreement with a private secondary employer as a condition of approving casual or part time employment by the peace officer as a security guard. The statute exempts peace officers from the requirement to carry a valid firearm qualification card when working as an armed private security guard as long as the peace officer is properly trained, is authorized to carry a concealed firearm under their peace officer status, and have applied to the BSIS for a firearm qualification card. Additionally, the bill authorizes the Department to issue a single pocket identification card that is proof of both firearm qualification and licensure or registration. The bill has an urgency clause. **This bill requires the BSIS and the Department of Consumer Affairs' Licensing Division to modify processes related to registration of security guards who are peace officers and issuance of firearms qualifications cards. The Department must develop a system of issuing a single pocket identification card as proof of licensure and firearms qualification.** (B&P C §§ 7522, 7522.1, 7582.2, 7583.12, 7583.22, 7583.31, 7583.37, 7596.6, 7597.1 & 7597.6; and Pen C §§ 70 & 12033)

**SB 587
Hughes**

Security Services: Hospital Guards

Two Year Bill

Existing law provides for the licensure of private patrol operators and the registration of security guards by the Bureau of Security

and Investigative Services (BSIS). Private patrol operators or security guards that carry a firearm when on duty must obtain a firearm qualification card from the BSIS.

This bill would provide that in order to be employed as a hospital security guard, a person must meet specified requirements, including proof of completion of courses in hospital safety and security and professional assault response, and being certified in CPR and basic emergency lifesaving. The bill would create a new registration classification to be regulated by the BSIS. The bill imposes the same registration and renewal fees on hospital security guards that are currently imposed on security guards. Hospital security guards would be required to complete a Commission on Peace Officers Standards and Training (POST) prescribed course to obtain a firearms permit from the BSIS. Amendments also would provide for an exemption, until January 1, 2000, from training requirements for applicants who were formerly employed as peace officers "and departed from the police agency voluntarily" or have been employed by a hospital or health care provider for the previous two years, and can pass an examination that covers the primary areas of knowledge required for a hospital security officer. The Director of the Department of Consumer Affairs (Department) is mandated to develop and administer the prescribed examination and publish a study guide to assist applicants in preparing for the examination. All hospital security guards would be required to take continuing education developed, adopted and implemented by the Department. (B&P C §§ 7582.30 & 7588)

SB 780
Kelley

Consumer Affairs: Bureau Omnibus

Chapter 401
Statutes of 1997

Existing law provides that the Bureau of Security and Investigative Services (BSIS) within the Department of Consumer Affairs (Department) license and regulate locksmiths, repossessors, private investigators, private patrol operators, security guards, and alarm companies. The law sets BSIS licensing and permitting fees. Existing fees are scheduled to be reduced by various amounts on January 1, 1998. The law provides that all licenses, registrations, and permits are placed on a cyclical renewal that expires two years from the date of issuance or renewal date. The law provides for the issuance of pocket identification cards to persons licensed or registered by the BSIS. The law also provides for the BSIS to issue a temporary registration or renewal for repossessors and their employees for up to 90 days and that registration for repossessors and their employees must be renewed annually. The law provides

for the registration and regulation of service contractors by the Bureau of Electronic and Appliance Repair (BEAR) until January 1, 1998. A registration issued by the BEAR that is delinquent more than two years may not be renewed. The law sets maximum registration fees for persons registered by the BEAR. The law provides for licensing and registration of various persons in the home furnishings and thermal insulation industry regulated by the Bureau of Home Furnishings and Thermal Insulation (BHFTI) and requires the sanitization of feather and down products regulated by the BHFTI.

This statute deletes sunset language that would have reduced license and registration fees charged by the BSIS on January 1, 1998 and maintains fees at existing levels. The statute provides for the maximum fee to be charged for BSIS license and registration fees authorizing the actual fee to be set by regulation. The statute **requires that when a BSIS licensee or registrant also holds a firearm qualification card (FQ), the license or registration renewal date must be synchronized with the FQ renewal date.** The statute provides that BSIS licensees can request an optional pocket identification card made of a durable material and incorporating technologically advanced security features. The BSIS is authorized to charge a fee to reimburse the cost of the optional pocket card not to exceed \$6. The statute also provides that registrations and renewals for repossessors and their employees expire. The statute provides that a temporary registration or renewal may be issued to repossessors and their employees for up to 120 days and provides that a person or financial institution may not hire a licensed repossession agency if its qualified manager is unlicensed. The statute also extends the BEAR's Service Contract Dealer registration program through 2003 and increases the BEAR registration fee maximum. The statute makes other technical changes related to BEAR sign requirements, registration delinquency, and obsolete language. The bill consolidates BHFTI license classes and creates a new class for existing licensees who are importers. The statute also repeals feather and down sanitization requirements and makes other BHFTI technical amendments related to office hearings, labeling, and definitions. (B&P C §§ 146.5, 6980.23, 6980.33, 6980.40, 6980.79, 7504.7, 7506.9, 7506.10, 7507.10, 7507.13, 7511, 7529, 7558, 7570, 7582.13, 7583.20, 7583.32, 7586, 7588, 7593.11, 7596, 7596.7, 7598.14, 7598.17, 7599.70, 9810, 9812.5, 9814.5, 9830.5, 9832, 9832.5, 9847.5, 9849, 9851, 9853, 9854, 9855.2, 9855.3, 9855.9, 9860, 9862.5, 9863, 9873, 19008, 19010, 19080, 19123.4 & 19208; and Civ C §§ 1791 & 1794.4)

(33) Speech-Language Pathology and Audiology Examining Committee

**AB 205
Machado**

Speech-Language Pathologist

Two Year Bill

Existing law provides for the licensing and regulation of speech-language pathologists and audiologists by the Speech-Language Pathology and Audiology Examining Committee (Committee).

This bill would: (1) establish a new license category, speech-language pathology assistant, within the Committee; (2) specify a maximum application, licensing and renewal fee for speech-language pathology assistants; (3) change the name of the Committee to Speech-Language Pathology and Audiology Board; and (4) require the Committee to adopt regulations as specified. (B&P C §§ 2530.2, 2532.6, 2534.2, 2535, 2538 & 2539; and Ed C § 56363)

**SB 407
Polanco**

Speech-Language Pathology and Audiology

**Chapter 382
Statutes of 1997**

Existing law: (1) provides for the licensing and regulation of speech-language pathologists and audiologists by the Speech-Language Pathology and Audiology Examining Committee (Committee); and (2) defines the practice of audiology to include the planning, directing, conducting, supervising or participating in programs of identification of auditory disorders, hearing conservation, aural habilitation and rehabilitation.

This statute: (1) adds cerumen removal (ear wax removal) within the definition of the practice of audiology; (2) **requires that an audiologist conduct this procedure under the supervision of a physician**; (3) specifies that physician supervision does not require the physical presence of the physician; and (4) describes the terms related to physician supervision. (B&P C § 2530.2)

**SB 1346
Senate
Committee
on Business
and
Professions**

Department of Consumer Affairs: Omnibus Bill

**Chapter 758
Statutes of 1997**

Existing law establishes the Speech-Language Pathology and Audiology Examining Committee (SPAEC) as the governing body over speech-language pathologists and audiologists. **This statute changes the name of that body to the Speech-Language Pathology and Audiology Board.** (B&P C, numerous sections affected)

Existing law defines the scope of practice of a licensed audiologist, but does not specifically include the removal of cerumen (earwax). This statute expressly includes cerumen removal within the scope of practice of a licensed audiologist. (B&P C § 2530.2)

Existing law allows a licensee of the SPAEC to renew his or her license within 30 days after its expiration, without having to pay a delinquency fee. **This statute deletes the 30-day grace period and instead, requires licensees who do not renew on or before the expiration date to pay a delinquency fee.** (B&P C § 2535.2)

Under existing law the Medical Board of California conducts hearings to determine disciplinary action to be taken against a SPAEC licensee. This statute gives the SPAEC the authority to conduct disciplinary hearings on its own licensees. (B&P C §§ 2531.4 & 2531.5)

(34 Structural Pest Control Board)

**AB 505
Ashburn**

Pest Control Activities

Two Year Bill

Existing law: (1) requires any person operating any aircraft in pest control to possess a pest control aircraft pilot's certificate as a journeyman or an apprentice with the Department of Pesticide Regulation; (2) specifies that it is unlawful for an apprentice to conduct pest control activities unless those activities are conducted under the direct and personal supervision of a journeyman; and (3) authorizes a county agricultural commissioner to refuse, suspend, or revoke the registration of a pest control operator, a pest control aircraft pilot, and a pest control adviser or a permit to use restricted materials.

This bill would: (1) specify that the supervision of an apprentice by a journeyman is necessary to ensure both operator and worker safety; and (2) extend a registrant/licensee's right to request a hearing to 25 days after receiving notice from the commissioner to refuse, suspend, or revoke a registration or permit. (F&A C §§ 11512.5 & 11909)

**AB 1134
Machado**

Structural Pest Control

Two Year Bill

Existing law does not require the registration of structural pest control devices.

This bill would: (1) prohibit structural pest control licensees and certain other persons from engaging in unfair, deceptive, untrue, or misleading advertising; (2) make it unlawful, as of July 1, 1999, for any person to manufacture, deliver, sell, lease, or use any structural pest control device in California that was not registered with the Department of Pesticide Regulation (DPR); and (3) require the DPR, the Structural Pest Control Board and other specified agencies to develop a program for the evaluation, testing, registration and regulation of structural pest control devices. (B&P C §§ 8505.17, 8553, 8557, 8558, 8558.1, 8558.2, 8558.3, 8558.4, 8558.5, 8558.6, 8558.7, 8558.8, 8558.9, 8558.10, 8558.11, 8558.12, 8558.13, 8558.14, 8558.15, 8558.16, 8558.17, 8558.18, 8558.19 & 8558.20; and F&A C §§ 15300 & 15301)

SB 155
Kelley

Structural Pest Control

Two Year Bill

Existing law provides for a 2-year pilot project which authorizes the agricultural commissioners in Los Angeles, Orange, and San Diego counties to contract with the Director of the Department of Pesticide Regulation (DPR) to perform increased structural fumigation, inspection, and enforcement activities.

This bill would amend existing law to provide that the commissioners' contract with the Director of the DPR for increased inspection and enforcement activities relating to structural fumigation. (B&P C § 8698)

SB 827
Greene

Professional Licensing: Boards

Chapter 759
Statutes of 1997

Existing law provides for the licensing and regulation of various professions and occupations. A board administers each one. Existing law provides for the sunset of the Board of Registered Nursing, Board of Vocational Nurse and Psychiatric Technician Examiners (BVNPTE), Board of Pharmacy, Board of Architectural Examiners, Structural Pest Control Board (SPCB), Veterinary Medical Board (VMB), and Registered Veterinary Technician Examining Committee (RVTEC) effective July 1, 1998. Existing law, by initiative, also establishes the Board of Chiropractic Examiners (BCE) to administer licensing and regulation of practitioners of chiropractic; and the Osteopathic Medical Board (OMB) that administers licensing and regulation governing osteopathy.

This statute extends the sunset date for the SPCB to July 1,

2001, and extends the sunset for the rest of these boards to July 1, 2004. **This statute increases board membership by one public membership by one public member for both the Board of Pharmacy and the VMB. Additionally, the BVNPTE changes one licensed vocational nurse member to a public member. This statute requires the VMB to create an advisory committee to supersede the RVTEC, and requires the SPCB and the Director of Pesticide Regulation to report to the Legislature by February 1, 1998 regarding the terms of their interagency agreement concerning county agricultural commissioners.** In addition, this statute subjects the BCE and the OMB to review by the Joint Legislative Sunset Review Committee. (B&P C §§ 101, 1242.6, 128.5, 130, 675, 800, 1680, 200.1, 205, 2071, 2221.1, 2660, 2701, 2708, 2761, 2841, 2842, 2847, 2873.6, 2873.7, 2881, 2890, 2893, 2894, 3527, 3750, 4001, 4003, 4008, 4501, 4503, 4546, 4547, 473.15, 473.16, 473.6, 4800, 4804.5, 4832, 4833, 4834, 4835, 4842.2, 4848, 4905, 4955, 5510, 5517, 5526, 5536.27, 5566, 5566.1, 5566.2, 8520 & 8528)

(35) Veterinary Medical Board

**AB 460
House**

Veterinary Medicine: Licensure: Commercial Poultry Industry

**Chapter 895
Statutes of 1997**

Existing law requires any person practicing veterinary medicine to be licensed with the Veterinary Medical Board (VMB).

This statute allows the VMB to issue a license for the practice of veterinary medicine in the commercial poultry industry to an applicant who has met specific requirements, as prescribed until, January 1, 1999. (B&P C § 4848.5)

**AB 839
Thomson**

Veterinary Medicine

**Chapter 642
Statutes of 1997**

Existing law establishes the Veterinary Medical Board (VMB) to license and regulate the practice of veterinary medicine. Existing law also establishes the Registered Veterinary Technician Examining Committee (RVTEC) and provides for its sunset on July 1, 1998.

This statute requires the VMB to establish an advisory committee on issues pertaining to veterinary technicians effective July 1, 1998 to supersede the RVTEC. This statute also restructures the current examination fees to include a

separate application fee. (B&P C §§ 4801, 4802, 4804, 4806, 4826, 4831, 4832, 4833, 4834, 4835, 4842.2, 4846, 4848, 4850, 4852, 4853, 4856, 4883 & 4905)

SB 80
Kopp

Veterinary Medicine: Euthanasia

Chapter 380
Statutes of 1997

Existing law allows an employee of an animal shelter or humane society who has received proper training to administer sodium pentobarbital for the euthanasia of sick or unwanted domestic animals without the presence of a veterinarian. Existing law also requires veterinary technicians to be registered with the Veterinary Medical Board (VMB).

This statute permits a registered veterinary technician to independently apply for registration from the federal Drug Enforcement Agency for the direct purchase of sodium pentobarbital. This statute also allows the VMB to adopt regulations as necessary to carry out and define this provision. (B&P C § 4836)

SB 827
Greene

Professional Licensing: Boards

Chapter 759
Statutes of 1997

Existing law provides for the licensing and regulation of various professions and occupations. A board administers each one. Existing law provides for the sunset of the Board of Registered Nursing, Board of Vocational Nurse and Psychiatric Technician Examiners (BVNPTE), Board of Pharmacy, Board of Architectural Examiners, Structural Pest Control Board (SPCB), Veterinary Medical Board (VMB), and Registered Veterinary Technician Examining Committee (RVTEC) effective July 1, 1998. Existing law, by initiative, also establishes the Board of Chiropractic Examiners (BCE) to administer licensing and regulation of practitioners of chiropractic; and the Osteopathic Medical Board (OMB) that administers licensing and regulation governing osteopathy.

This statute extends the sunset date for the SPCB to July 1, 2001, and extends the sunset of the rest of the boards to July 1, 2004. **This statute increases board membership by one public member for both the Board of Pharmacy and the VMB. Additionally, the BVNPTE changes one licensed vocational nurse member to a public member. This statute requires the VMB to create an advisory committee to supersede the RVTEC, and requires the SPCB and the Director of Pesticide Regulation to report to the Legislature by February 1, 1998 regarding the terms of their**

interagency agreement concerning county agricultural commissioners. In addition, this statute subjects the BCE and the OMB to review by the Joint Legislative Sunset Review Committee. (B&P C §§ 101, 1242.6, 128.5, 130, 675, 800, 1680, 200.1, 205, 2071, 2221.1, 2660, 2701, 2708, 2761, 2841, 2842, 2847, 2873.6, 2873.7, 2881, 2890, 2893, 2894, 3527, 3750, 4001, 4003, 4008, 4501, 4503, 4546, 4547, 473.15, 473.16, 473.6, 4800, 4804.5, 4832, 4833, 4834, 4835, 4842.2, 4848, 4905, 4955, 5510, 5517, 5526, 5536.27, 5566, 5566.1, 5566.2, 8520 & 8528)

(36) Board of Vocational Nursing and Psychiatric Technicians

**AB 515
Ashburn**

Psychiatric Technicians

**Chapter 720
Statutes of 1997**

Existing law provides for the licensure and regulation of psychiatric technicians by the Board of Vocational Nurse and Psychiatric Technician Examiners Board. Existing law also defines a psychiatric technician (PT) as one who provides specified care and treatment to mentally ill, emotionally disturbed, or mentally retarded persons.

This statute allows a PT to administer medications, draw blood, and perform specified skin tests and immunization techniques. **This statute also requires the Board to establish a certification program for PTs engaging in blood withdrawal.** (B&P C §§ 4502.1, 4502.2, 4502.3 & 4548)

**SB 827
Greene**

Professional Licensing: Boards

**Chapter 759
Statutes of 1997**

Existing law provides for the licensing and regulation of various professions and occupations. A board administers each one. Existing law provides for the sunset of the Board of Registered Nursing, the Board of Vocational Nurse and Psychiatric Technician Examiners (BVNPTE), Board of Pharmacy, Board of Architectural Examiners, Structural Pest Control Board (SPCB), Veterinary Medical Board (VMB), and the Registered Veterinary Technician Examining Committee (RVTEC) effective July 1, 1998. Existing law, by initiative, also establishes the Board of Chiropractic Examiners (BCE) to administer licensing and regulation of practitioners of chiropractic; and the Osteopathic Medical Board (OMB) that administers licensing and regulation governing osteopathy.

This statute extends the sunset date for the SPCB to July 1, 2001 and extends the sunset of the rest of the boards to July 1, 2004. **This statute increases board membership by one public member for both the Board of Pharmacy and the VMB. Additionally, the BVNPTE changes one licensed vocational nurse member to a public member. This statute requires the VMB to create an advisory committee to supersede the RVTEC, and requires the SPCB and the Director of Pesticide Regulation to report to the Legislature by February 1, 1998 regarding the terms of their interagency agreement concerning county agricultural commissioners.** In addition, this statute subjects the BCE and the OMB to the review of the Joint Legislative Sunset Review Committee. (B&P C §§ 101, 1242.6, 128.5, 130, 675, 800, 1680, 200.1, 205, 2071, 2221.1, 2660, 2701, 2708, 2761, 2841, 2842, 2847, 2873.6, 2873.7, 2881, 2890, 2893, 2894, 3527, 3750, 4001, 4003, 4008, 4501, 4503, 4546, 4547, 473.15, 473.16, 473.6, 4800, 4804.5, 4832, 4833, 4834, 4835, 4842.2, 4848, 4905, 4955, 5510, 5517, 5526, 5536.27, 5566, 5566.1, 5566.2, 8520 & 8528)

(C) STATE AGENCIES

(1) DCA General

Bill	Summary	Disposition
AB 1546 Davis	<p><u>Consumer Affairs</u></p> <p>Existing law authorizes the Board of Guide Dogs for the Blind (Board) to license and regulate persons who provide instruction to blind persons in the use of guide dogs and for persons who train the guide dogs. The provisions for the Board were scheduled to sunset on July 1, 1997, unless a statute was enacted that would delete or extend the dates on which it becomes inoperative. Current law provides for the licensing and regulation of architects, landscape architects, court reporters, funeral directors, and embalmers.</p> <p>This statute authorizes the Director of the Department of Consumer Affairs (DCA) to enter into interagency agreements with appropriate entities within the department and to delegate to them the duties, powers, purposes, responsibilities, and jurisdiction of boards, within the DCA jurisdiction, which have sunset. This statute also authorizes the Board of Architectural Examiners (BAE) to contract with architect consultants and requires architects, when renewing their license, to indicate on the renewal form whether they were the subject of discipline from another agency or were convicted of a crime. The statute transfers the duties and powers regarding the regulation of landscape architect licensees from the DCA to the BAE which is authorized to delegate authority to perform specified duties to a Landscape Architect Technical Committee (Committee) under its jurisdiction. The Committee consists of five members appointed by the Governor and the Legislature. These provisions become inoperative July 1, 2004, and are repealed as of January 1, 2005. This statute extends the sunset date for the Board of Guide Dogs for the Blind until July 1, 2002, and is repealed as of January 1, 2003. The statute provides that every funeral establishment holding a funeral director's license on December 31, 1996 be issued a funeral establishment license upon payment of specified fees. It exempts a licensed funeral director from the training provisions required for persons who consult with the family of the deceased regarding funeral services. The statute revises the order of persons authorized to carry out the final wishes for disposition of a deceased person and makes other technical and clarifying changes. Additionally, it provides that information regarding citations, fines, and orders of abatement issued against a licensee of the</p>	Chapter 475 Statutes of 1997

Court Reporters Board will be disclosable as a public record, and makes other technical and clarifying changes relating to the Transcript Reimbursement Fund administered by the Court Reporters Board. (B&P C §§ 102.3, 5528, 5600, 5615, 5616, 5620, 5621, 5622, 5623, 5624, 5625, 5626, 5627, 5628, 5654, 5681, 5682, 5683, 7616, 7635, 8010, 8017, 8018, 8024.5, 8024.6, 8025, 8030.2, 8030.4, 8030.6 & 8030.8; and H&S C §§ 7100 & 7100.1)

**SB 1346
Senate
Committee on
Business and
Professions**

Department of Consumer Affairs: Omnibus Bill

**Chapter 758
Statutes of 1997**

Existing federal regulations require states to have established statutory authority in order to obtain a criminal record check from the Federal Bureau of Investigation (FBI). Existing state law requires the Department of Justice (DOJ) to furnish criminal history information to any state agency that needs the information to implement a statute or regulation that refers to criminal conduct and contains requirements and/or exclusions based on that conduct. Existing state law authorizes any board, bureau, commission, or program under the Department of Consumer Affairs (DCA) to deny a license if, among other things, the applicant has been convicted of a crime substantially related to the qualifications, functions or duties of the business or profession for which application is made. In addition, some boards under the Department of Consumer Affairs have explicit statutory or regulatory authority to obtain criminal record checks from the DOJ. This statute gives certain departmental entities (e.g., the Board of Accountancy, Board of Behavioral Sciences, Board of Pharmacy, Medical Board of California, and others) explicit authority to request a criminal record check on applicants for licensure from the DOJ and the FBI. (B&P C § 144)

Existing law (B&P C §§ 485, 486 & 489) specifies procedures for DCA boards to take when they deny a license for cause. B&P C § 496 makes exam subversion a cause for license denial, revocation, suspension, or restriction, but by oversight, § 496 is not included in the procedural sections. This statute corrects that oversight and in addition, establishes a guideline for boards to follow in prescribing a waiting period until reapplication after a denial for cause. Specifically, the statute establishes a one-year waiting period for reapplication after a denial for cause, unless the board establishes a shorter period or a longer period as otherwise established by law. (B&P C §§ 485, 486 & 489)

(2) State Agencies General

AB 19
McClintock

State Government: Realignment or Closure

Two Year Bill

Existing law requires the Department of Finance (DOF), after consultation with the Bureau of State Audits and the Legislative Analyst, to conduct a survey of all state agencies, departments, offices and commissions to determine which agencies have completed strategic plans for the purpose of conducting performance reviews or to implement performance budgeting systems.

This bill would establish the Bureaucracy Realignment and Closure Commission (Commission). The purpose of the Commission is to develop a list of recommendations for submission to the Governor, that would recommend the realignment or closure of state agencies in order to reduce duplication and overlapping of services and reduce expenditures. (Gov C §§ 11820, 11821, 11822, 11823, 11824, 11825, 11826, 11827, 11828, 11829, 11830, 11831, 11832 & 11833).

AB 118
Cardenas

State Agencies: Correspondence: Disclosure of Social Security

Dropped

Existing law: The Federal Privacy Act, the California Insurance Information and Privacy Protection Act, as well as multiple California statutes, specify that personal information including addresses, telephone numbers, and social security numbers are confidential and are only released under specified circumstances.

This bill would have prohibited a state agency, including the California State University, from sending any correspondence to an individual, sealed or unsealed, in which his/her social security number is visible through the envelope or is on the outside of the correspondence. (Gov C § 11019.7) (See SB 458)

AB 179
Bowen

Public Records

Vetoed
October 12, 1997

Existing law, the California Public Records Act, requires state and local agencies to permit public inspections of their public records during regular office hours, and defines the terms "writing" and "public agency," among other things.

This bill would have: (1) defined "public agency;" (2) provided

for public inspection and copying of records in all formats; (3) provided that an elected member or officer of a state or local agency is entitled to access to public records on the same basis as any other person; (4) added two agencies to the list of entities required to develop and publicly post guidelines for access to public documents; and (5) limited existing authority to apply for judicial relief under the Public Records Act to persons who have submitted a written request for a public record which was denied. (Gov C §§ 6350, 6252, 6252.5, 6253, 6253.1, 6256, 6256.1, 6256.2, 6257 & 6258)

Veto Message

Governor Pete Wilson
To the Members of the California Assembly:

I am returning Assembly Bill No. 179 without my signature.

This bill would amend the California Public Records Act to require state agencies to provide "a copy of an electronic record in the form requested, unless, in light of surrounding circumstances, it is not reasonable to do so...." It does not change the public's right of access to government documents, but only restricts the agency's discretion as to the form of the document made available.

Government agencies receive hundreds of Public Records Act requests every month. They are most often not from ordinary citizens, but from political candidates or special interest groups searching for information. Government employees spend thousands of hours each year responding to the requests, segregating the requested documents from exempt documents, such as those, which invade other citizens' personal privacy. Taxpayers pay for the time expended searching for and segregating these records. However, state agencies are presently permitted to determine the form in which computer data is provided.

This bill creates a new inflexible mandate by requiring the agency to provide the electronic data in the form requested, unless it is "unreasonable" to do so, without ever defining the breadth of that exemption, thereby leaving it open to litigation. A request that an electronic record be provided in a particular form may require additional expense, burden, and time to segregate the public data from the exempt data, but the bill provides no guidance whether or to what extent that additional burden makes it "unreasonable."

Agencies should make available to the public all documents to which public access is granted. But we need not add costs and rigidity to these obligations by specifying the form in which it will be done.

**AB 206
Hertzberg**

Citizen Complaint Act of 1997

**Chapter 416
Statutes of 1997**

Existing law, as it relates specifically to the Department of Consumer Affairs (DCA), states the purpose of the boards, bureaus, and commissions is to ensure that those private businesses and professions deemed to engage in activities which have potential impact upon the public safety, health, and welfare are adequately regulated in order to protect the citizens of

California. These entities establish minimum qualifications and levels of competency for licensure. They must also provide a means for redress of grievances and complaints regarding the practitioners of the profession, and procedures by the administering authority or lack of action by the regulating authority. Currently, a majority of state agencies have procedures in place to address public complaints.

This statute establishes the Citizen Complaint Act of 1997. **It requires all state agencies that have Internet web sites to post a plain-language complaint form on which consumers may make a comment or register a complaint regarding the performance of that agency. Each state agency will also be required to post a copy of any complaint form that the agency uses in the process of receiving complaints against any individual or corporation licensed by that agency. All forms posted must include instructions for downloading and returning the completed form to the agency. The forms are required to be posted by July 1, 1998, for those agencies that currently have a web site.** Any state agency that establishes a web site after that date would be required to post the complaint forms within six months of the establishment of the web site. State agencies making the complaint forms available are required, to the extent feasible, to advise individuals calling to register a complaint that a form is available on the Internet and that many public libraries provide Internet access. **State agencies are required to include their Internet web site address in the telephone directory as an added consumer service.**

(Gov C §§ 8330, 8331 & 8332)

AB 529
Baldwin

State Funds

Existing law provides that certain funds, revenues derived from the assessment of fines and penalties by any state agency, may not be expended unless the Legislature authorizes that expenditure in the annual Budget Act or other legislation.

This bill would have provided that revenues from the assessment of fines and penalties in excess of the cost of investigating, processing, or prosecuting the wrongdoing would be deposited into the General Fund and not expended unless the Legislature authorizes that expenditure in the annual Budget Act, or in other legislation for the performance of special audits and investigations. (Gov C § 13332.18)

**Failed
Senate
Committee on
Governmental
Organization**

AB 1097
Brown

Open Meeting

Chapter 52
Statutes of 1997

Existing law permits state bodies to hold open or closed meetings by teleconference if convening a quorum at one location is difficult or impossible. This provision would be repealed as of January 1, 1998.

This statute deletes the repeal date for the teleconferencing provisions and makes the provisions permanent. (Gov C § 11123)

AB 1170
Kaloogian,
Firestone

State Regulatory Agencies Created by Statute: Review

Dropped

Existing law provides that the Department of Finance, by March 1, 1996, recommends a plan for conducting performance reviews for agencies, departments, offices, and commissions that have strategic plans. The strategic plans, developed in consultation with the Controller, are to include the status of any performance reviews previously authorized by the Legislature. Current law specifies the duties of the Bureau of State Audits (BSA) which include performance audits.

This bill would have: (1) required the BSA to conduct a performance audit of each state regulatory agency, with specified exceptions; (2) required the BSA to hold public hearings regarding the audit report; (3) defined "regulatory agency," and "regulation;" (4) included legislative findings and declaration language regarding the necessity for the legislation; and (5) established a sunset date of January 1, 2004, at which time the BSA would have been required to have completed all the audits. (Gov C § 11220 & 11230)

AB 1393
Alquist

State and Local Government: Performance Audits

Two Year Bill

Existing law, pursuant to the Government Strategic Planning and Performance Review Act, requires the Department of Finance to develop a plan for conducting performance reviews of all state agencies.

This bill would make the following changes: (1) clarify that the State Auditor and the Controller will work in unison on the performance audits of state agencies; (2) increase, from two years to four years, the time specified in which the performance audit reports would be completed and submitted to the Governor and other specified entities; (3) provide that within the four year period, the task force establish a priority system to conduct the

audits, giving priority to major agencies and departments; (4) exempt any agency that was audited as part of a qualifying or equivalent performance audit within five years of the scheduled time established by the task force; and (5) includes the Chairperson of the Joint Legislative Audit Committee in the Joint Performance Audit Task Force. (Gov C §§ 11830, 11832, 11833, 11834, 11835, 11836, 11837 & 11838)

AB 1497
Brown

State Agencies: Performance

Two Year Bill

Existing law requires the Department of Finance (DOF), in consultation with specified agencies, to recommend a plan for conducting performance reviews for agencies, departments, offices, and commissions that have completed strategic plans. The report would also include the current status of any performance reviews previously authorized by the Legislature. The plan was due by March 1, 1996, and every March 1, thereafter.

This bill would extend the due date for the plan for performance reviews of state agencies until March 1, 1998. (Gov C § 11818)

AB 1586
Wright

State Administration

Chapter 300
Statutes of 1997

Existing law authorizes, or requires pursuant to specified conditions, the Department of Consumer Affairs (DCA) and the Department of General Services (DGS) to carry out specified functions relating to: (1) state personnel matters; (2) contracts for personal services; and (3) purchase of goods on a cost-competitive basis from vendors other than state entities.

This statute, among other things, extends the authority to implement performance based budgeting methods for the DCA and DGS until the effective date of the Budget Act of 1998, or June 30, 1998, which ever occurs later. (F&A C § 4106; Gov C §§ 12650, 12652, 15372.108, 15372121 & 54238.7; H&S C § 1356; Lab C § 1161; M&V C §§ 88, 1310 & 1313; and R&T C § 19559) (Urgency bill)

SB 58
Ayala

State Agencies Legislation

Dropped

Existing law provides that when a statute is enacted that establishes a new program, the state agency responsible for the program is required to issue a summary of actions taken to

implement the statute and provide it to the author and the policy and fiscal committees in each house that considered the bill. In addition, existing law, the California Public Records Act, specifies exemptions from the Act in section 6254(a)(1) & section 6255 of the Government Code including provisions that exempt correspondence of and to the Governor or employees of the Governor.

This bill would have required every state agency that might be significantly impacted by a bill to prepare an analysis of the bill. The state agency would have been required to provide the analysis to the author and each policy committee set to hear the bill at least seven calendar days prior to a hearing in the committee. (Gov C § 11017.3)

SB 74
Kopp

Records

Vetoed
October 12, 1997

Existing law provides that public records are open to inspection during state agency office hours. Upon request and the payment of a specified fee, a consumer may obtain a copy of a public record. The statutes contain many exemptions from the Public Records Act.

This bill would have defined “public agency” and specifically stated that, notwithstanding the definition of “a member of the public,” an elected member or officer of any state or local agency was entitled to access public records permitted by law in the administration of their duties. Two state agencies would have been added to the list of entities required to develop and post their guidelines for access to public records. This bill also would have required entities to provide a copy of an electronic record in the form requested, under certain circumstances, and specified that when public records were requested by a member of the public for personal use, the fees imposed must represent the direct cost of duplication or the statutory fees, as specified. When the records were requested for a commercial purpose, the records would be made available upon payment of the actual costs of providing the records. Actual costs were to include the costs of search, retrieval, review, segregation, and duplication. “Commercial purpose” was defined as any use that furthers the commercial trade or profit interests of the requester. The definition exempted the following: (1) a non-profit tax-exempt corporation, as long as the information is not used for any purpose in which the corporation would be required to pay income tax; and (2) persons who, through contract or employment, are publishers, editors, or reporters associated with

a newsgathering organization, as long as the use of the information is limited to a news gathering purpose. When a request for a public record was made, the requester would be required to certify the fee category that applied to the request. This bill limited the authorization to apply for judicial relief to persons who submitted a written request for a public record that was denied. Additionally, this bill added a section to the Public Records Act, which listed the hundreds of exemptions contained in other statutes. After January 1, 1998, each addition or amendment to a statute which created an exemption was to be listed and described in the index. This bill provided a disclaimer stating that although it attempted to identify the many exemptions to the California Public Records Act; the fact that a statute was listed and described may or may not be inclusive of all exemptions. Persons using this information were cautioned to review the applicable statute to determine the extent to which the statute exempts the public records. (Gov C §§ 6250, 6252, 6252.5, 6253, 6253.1, 6256, 6256.1, 6256.2, 6257, 6258 & 6275)

Veto Message

Governor Pete Wilson
To the Members of the California Senate:

I am returning Senate Bill No. 74 without my signature.

This bill would amend the California Public Records Act to require state agencies to provide "a copy of an electronic record in the form requested, unless, in light of surrounding circumstances, it is not reasonable to do so...." It does not change the public's right of access to government documents, but only restricts the agency's discretion as to the form of the document made available.

Government agencies receive hundreds of Public Records Act requests every month. They are most often not from ordinary citizens, but from political candidates or special interest groups searching for information. Government employees spend thousands of hours each year responding to the requests, segregating the requested documents from exempt documents, such as those, which invade other citizens' personal privacy. Taxpayers pay for the time expended searching for and segregating these records. However, state agencies are presently permitted to determine the form in which computer data is provided.

This bill creates a new inflexible mandate by requiring the agency to provide the electronic data in the form requested, unless it is "unreasonable" to do so, without ever defining the breadth of that exemption, thereby leaving it open to litigation. A request that an electronic record is provided in a particular form may require additional expense, burden, and time to segregate the public data from the exempt data, but the bill provides no guidance whether or to what extent that additional burden makes it "unreasonable."

Agencies should make available to the public all documents to which public access is granted. But we need not add costs and rigidity to these obligations by specifying the form in which it will be done.

Existing law, the Bagley-Keene Open Meeting Act (Act) generally requires that the meetings of state bodies be conducted openly.

This statute makes changes to the Act to conform more closely to the Ralph M. Brown Act, which governs open meetings on the local level. Specifically the statute: (1) **requires any person elected or appointed as a member of a state body, who has not yet assumed the duties of the office, to conform their conduct to the provisions of the Act;** (2) permits members of the public to record a public meeting via audio or video tape recorder, still or motion picture camera, unless the state body determines that the recording creates a persistent disruption of the proceedings; (3) **requires notices of the public meeting to include a brief description of all items of business to be transacted, including items discussed in closed session;** (4) **emphasizes that agenda and other disclosable writings related to the public meeting are public documents and must be made available to the public upon request without delay;** (5) authorizes a state body to convene a special meeting with at least 48 hours notice under specified circumstances and provides members of the public an opportunity to address the issues at the special meeting; (6) permits a state body to hold an emergency meeting without complying with the notice requirements of the Act; (7) **provides that a state body could not prohibit public criticism of policies, programs, services, acts, or omissions of the state body;** (8) exempts the Franchise Tax Board and the Board of Equalization from disclosing specified actions taken in closed session; (9) authorizes the Attorney General and the district attorney to commence actions to enforce the Act; (10) **provides that any member of a state body, who attends a meeting of that state body that violates the provisions of the Act, and who intends to deprive the public of information to which it is entitled, is guilty of a misdemeanor;** (11) **requires all meetings of a state body to be accessible to disabled persons;** (12) **prohibits meetings from being held in places where the public is required to pay a fee or make a purchase to attend;** and (13) provides that the identity of a victim or alleged victim of crime, tortuous sexual conduct, or child abuse need not be disclosed, unless the identity of that person has been publicly disclosed. (Gov C §§ 11121.95, 11124.1, 11125, 11125.1, 11225.4, 11125.5, 11125.7, 11125.8, 11126, 11126.3, 11128.5, 11129, 11130, 11130.7, 11131 & 11131.5)

SB 98
Haynes

Judgments: Collection by Public Agencies

Chapter 66
Statutes of 1997

Existing law provides that public agencies acting in their official capacities do not have to pay filing and service fees in civil actions. However, whenever a judgment is recovered by a public agency in any action or proceeding, an amount equal to the clerk's fees and fees for service of process shall be due and payable to the clerk and serving officer.

This statute gives a public agency the choice in seeking the collection of a judgment in its favor if the judgment consists only of the amount of the filing fee and requires the public agency to notify the clerk of the court of its decision to not seek collection of the judgment. (Gov C § 6103.5)

SB 134
Ayala

Public records

Two Year Bill

Existing law makes it a felony for an officer having custody of various records and documents to willfully, or permit any other person to, steal, remove, secrete, destroy, mutilate, deface, alter, or falsify such a document or record.

This bill would make it grounds for dismissal for a public employee to willfully provide to another person a copy of a record that is legally confidential and prohibited from disclosure, if the public employee had knowledge of the disclosure law. (Gov C § 1242)

SB 178
Monteith

Administrative Adjudication: Scientific Evidence

Two Year Bill

Existing law, the Administrative Procedure Act, establishes procedures for the conduct of adjudicatory hearings on behalf of state agencies. The subject matter of an adjudicatory hearing would include the granting or revocation of a license to practice under the Business and Professions Code; a determination of whether an individual violated governmental regulations; or determinations of misconduct by state employees, among other things. The adjudicatory hearing procedures permit the taking of testimony under oath; the right to cross-examine and confront adversary witnesses, as well as a right to representation. In an adjudicatory hearing, any relevant evidence must be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of the evidence over objection in civil actions.

This bill would specify that evidence based on scientific tests could only be admitted under specified requirements.
(Gov C § 11513)

SB 209
Kopp

Judicial Review: Governmental Agency Actions

Two Year Bill

Existing law, the Administrative Procedures Act (APA), includes provisions that allow for judicial review of the actions taken by state and local agencies pursuant to adjudicatory decisions. Provisions for judicial review vary greatly from agency to agency depending on their area of jurisdiction.

This bill would repeal existing provisions governing judicial review and recast comprehensive judicial review procedures that would standardize the process for all state and local agencies. (B&P C §§ 23090, 23090.1, 23090.2, 23090.3, 23090.4, 23090.5, 23090.6, 23090.7 & 6089; CCP §§ 526, 871, 1085, 1085.5, 1094.5, 1094.6 & 1120; Ed C §§ 44945 & 87682; Gov C §§ 800, 3520, 3542, 11340.5, 11340, 11350, 11350.3, 11420.10, 11425.50, 11523, 11524, 19576.1, 54963 & 65009; H&S C § 1339.2; Lab C §§ 1160.8, 5950, 5951, 5952, 5953, 5954, 5955, 5956 & 6000; PRC §§ 21168, 21168.5 & 25531.5; PUC § 1768; R&T C §§ 2954, 2955, 2956 & 7279.6; UIC § 1243; Veh C §§ 13559 & 14401; and W&I C § 10962)

SB 261
Kopp

Judicial Review: Governmental Agency Actions

Two Year Bill

Existing law provides procedures for judicial review of actions of state agencies and local agencies. The procedures vary from agency to agency determined by the agency's jurisdiction and the various statutes that govern its actions.

This bill would make judicial review of specified state and local agency actions subject to provisions being added to the Code of Civil Procedure (CCP) by SB 209 (Kopp), and make conforming changes. This bill would become operative only if SB 209 is enacted. (B&P C §§ 125.7, 125.8, 494, 809.8, 2087, 2337, 4300, 4875.6, 7071.11, 7502.4, 8662, 8698.3, 10471.5, 12015.3, 17750.18, 19463 & 19813; Civ C § 1812.203; CCP §§ 706.075, 1028.5, 1089.5 & 1245.255; Ed C §§ 35145, 72121, 81960, 87611, 90072, 92491, 94148 & 94323; El C §§ 9190, 9295, & 13313; Fin C § 8055; F&G C § 2076; F&A C §§ 5311, 5509, 11512.5, 12648, 12999.4, 12999.5, 14009, 15071.5, 18931, 19447, 21051.3, 21051.4, 24007, 35928, 43003, 46007, 47025,

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SB 458
Peace

State Agencies: Mail: Disclosure of Personal Information

Chapter 685
Statutes of 1997

Existing law, the federal Privacy Act, the California Insurance Information and Privacy Protection Act, as well as multiple California statutes, specify that personal information including addresses, telephone numbers, and social security numbers, are confidential and are only released under specified circumstances.

This statute prohibits a state agency, including the California State University, from mailing documents to individuals, unless the document is sealed in such a way as to prevent personal information contained in the documents from being viewed by casual viewers. Personal information includes the individual's social security number, credit card number, telephone number, or driver's license number. (Gov C § 11019.7)

Under existing law, the Public Records Act (PRA) requires state agencies to make specified records available to the public upon request. The statutes also provide that if the record is stored in an electronic format, the public may request that the information be made available in an electronic format.

This statute requires specified entities, on or before January 1, 1999, to provide certain information on the Internet. The information shall include the status of every license issued by the entity, including information on suspensions and revocations and other enforcement actions taken by a board. The statute specifies that the information posted complies with the provisions of the PRA, as well as the Department of Consumer Affairs' (DCA) Guidelines for Access to Public Records. The information cannot include personal information. The personal information is defined as the home address (unless used as a business address); home telephone number; date of birth; or social security number. The following entities will be required to post information, as specified: (1) the Acupuncture Committee; (2) the Board of Behavioral Sciences; (3) the Board of Dental Examiners; (4) the Board of Optometry; (5) the State Board of Registration for Professional Engineers and Land Surveyors; (6) the Structural Pest Control Board; (7) the Bureau of Automotive Repair; (8) the Bureau of Electronic and Appliance Repair; (9) the Cemetery/Funeral Program; (10) the Contractors' State License Board; and (11) the Department of Real Estate. (B&P C § 27; and Gov C § 11018.5)

Existing law, the Political Reform Act, requires any person who receives compensation for the purpose of influencing "administrative action" in state matters, to register as a lobbyist and to file reports disclosing specified information. "Administrative action" is defined as any state agency rule, regulation or other action in any rate making or quasi-legislative proceeding. Existing law does not impose a similar registration requirement on persons who attempt to influence a "quasi-judicial" proceeding.

This statute: (1) defines "quasi-judicial;" (2) defines "written communication;" and (3) requires that a written communication, submitted by any representative on behalf of a client in a quasi-

judicial proceeding, clearly indicate the identity of the person who paid to produce the report. (Gov C § 11440.60)

SB 1093
Rainey

State Budget: Performance Measures

Two Year Bill

Existing law requires the Governor to submit a budget to the Legislature itemizing state expenditures and estimating state revenues on an annual basis. The Department of Finance is required to establish guidelines to be used by each state agency to ensure that proposed budgets reflect the agency's activities and program costs and to ensure that expenditures are based on defined objectives.

This bill would declare that: (1) the budget should focus on the results of government service at the state and local levels; (2) state and local governmental officials are required to respect existing program evaluation requirements and performance measures; and (3) outcome measures must be realistic and commensurate with the level of revenues for each program. (Gov C § 13337.2)

SB 1212
Vasconcellos

Administrative Procedure

Vetoed
October 11, 1997

Existing law provides that when a contested case is heard before an administrative law judge (ALJ), an agency has the authority to non-adopt the ALJ's proposed decision in cases where the agency determines that the ALJ has not interpreted the law accurately, as it applies in the case, or that the law has been misapplied. An agency also may choose to adopt the proposed decision in part or in its entirety

This bill would have provided that, notwithstanding existing law, if an ALJ has found that none of the charges or allegations of unprofessional or unlawful conduct had been proven by clear and convincing evidence, the agency is **required to adopt** the decision. This provision would have applied only to the following healing arts licensing entities: (1) Board of Behavioral Science Examiners (renamed-Board of Behavioral Sciences); (2) Board of Chiropractic Examiners; (3) Board of Dental Examiners; (4) Medical Board of California and the Medical Quality Review Committees and Examining Committees; (5) Board of Registered Nursing; (6) Board of Nursing Home Administrators; (7) Osteopathic Medical Board; (8) Board of Optometry; (9) Board of Pharmacy; (10) Board of Podiatric Medicine; (11) Board of Psychology; (12) Veterinary Medical Board; and (13) Board of

Vocational Nurse and Psychiatric Technical Examiners.
(Gov C § 11517.5)

Veto Message

Governor Pete Wilson
To the Members of the California Senate:

I am returning Senate Bill No. 1212 without my signature.

This bill would require specified healing arts licensing entities to adopt the findings of an administrative law judge (ALJ) if the ALJ determines that none of the charges of unprofessional or unlawful conduct against a licensee have been proven by clear and convincing evidence.

Existing law provides that a licensing entity has the authority to reject or modify an ALJ's proposed decision when the ALJ has incorrectly applied or interpreted the law. Administrative proceedings are more liberal and far less restrictive than proceedings before courts of law. Licensing entities, which have specialized knowledge regarding the professions they regulate, must be allowed to modify or reject ALJ decisions when necessary to protect the public health and safety.

**SB 1273
Hurtt**

State Agencies: Electronic Mail

**Chapter 687
Statutes of 1997**

Existing law requires state agencies to send written communications through United States mail.

This statute authorizes state agencies to send communications through electronic mail, unless it is impractical to do so.
(Gov C § 11104.5)

**SB 1304
O'Connell**

State Budget: Zero-Based Budgeting

Two Year Bill

Under existing law the California Constitution requires the submission of the Governor's Budget annually by January 10, and passage of the Budget by June 15. There are also statutory requirements for every state entity to submit their budget requests for the fiscal year. The budget requests are generally based on prior year revenues and expenditures and include projections for anticipated needs and revenues. The state entities have various options of how each budget is developed, following guidelines developed by the Department of Finance.

This bill would: (1) between now and fiscal year 1999/2000, create a task force required to develop a program of training and education to facilitate the development of zero-based budgeting for fiscal year 2000/2001; (2) require specified members of the task force to develop guidelines and procedures for use by state agencies in developing a zero-based budget for fiscal year

2000/2001; (3) require the Controller to prepare a report documenting the improvements and efficiencies achieved with zero-based budgeting versus the improvements and efficiencies achieved as a result of the use of performance standards and evaluation; and (4) provide that this bill would not become operative until the State Constitutional Amendment 13 of the 1997/1998 session is adopted by the voters. In any case, these provisions would be repealed as of January 1, 1999 or the day following the election. (Gov C § 13337.1)

**SCA 13
O'Connell**

State Budget: Zero-Based Budgeting

Two Year Bill

Under existing law the California Constitution requires the submission of the Governor's Budget annually by January 10, and passage of the Budget by June 15. There are also statutory requirements for every state entity to submit their budget requests for the fiscal year. The budget requests are generally based on prior year revenues and expenditures and include projections for anticipated needs and revenues. The state entities have various options of how each budget is developed, following guidelines developed by the Department of Finance.

This measure would amend the California Constitution and would: (1) require that the annual state budget be developed with a base of zero dollars for each state agency and adding dollar amounts as necessary to fund the activities and operations appropriate for that agency; (2) set performance standards for state agencies; (3) develop a mechanism to evaluate the performance standards to ascertain the effectiveness and efficiency of each agency; (4) require each state agency to: a) identify each of its activities, b) specify the legal authority for those activities, and c) itemize the budgetary requirements for conducting those activities; (5) require the agency budget process to begin with the smallest significant operational unit that has programmatic responsibilities and authority distinct from other units in the organizational structure and has no subdivisions with any responsibility; (6) require that the amount of each appropriation made in the Budget Bill be determined by using a prescribed budgeting methodology; and (7) require the statute to set forth performance standards to be applied to state agencies and a method for evaluating the extent to which those standards are satisfied. (Senate Constitutional Amendment)
(CA Con Article IV § 12)

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III. APPENDIX

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C. DEPARTMENT OF CONSUMER AFFAIRS DIRECTORY

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Carol Sigmann, Executive Officer
2000 Evergreen Street, Suite 250
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(916) 263-3680

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(916) 263-2680

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Sacramento, CA 95825-3235
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1426 Howe Avenue, Suite 54
Sacramento, CA 95825-3236
(916) 263-2634

MIDWIFERY

Gloria Macias, Staff Services Analyst
1426 Howe Avenue, Suite 54
Sacramento, CA 95825-3236
(916) 263-2393

MEDICAL ASSISTANT: (916) 263-2496

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(916) 263-2626

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(916) 263-2610

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400 R Street, Suite 3040
Sacramento, CA 95814
(916) 322-7530

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1420 Howe Avenue, Suite 6
Sacramento, CA 95825-3228

**SPEECH-LANGUAGE AND AUDIOLOGY
EXAMINING COMMITTEE**

Marilee Monagan, Executive Officer
1434 Howe Avenue, Suite 86
Sacramento, CA 95825-3240
(916) 263-2666

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TECHNICIANS, BOARD OF**

Teresa Bello-Jones, Executive Officer
2535 Capitol Oaks Drive, Suite 205
Sacramento, CA 95833
(916) 263-7800

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
El C	Election 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
S&H C	Street & Highway Code
UIC	Unemployment Insurance Code
Veh C	Vehicle Code
W&I C	Welfare & Institutions Code