

STATE OF CALIFORNIA

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DEPARTMENT OF CONSUMER AFFAIRS BUREAU OF ELECTRONIC AND APPLIANCE REPAIR, HOME FURNISHINGS, AND THERMAL INSULATION



ELECTRONIC AND APPLIANCE REPAIR DEALER REGISTRATION LAW AND REGULATIONS

(INCLUDING SECTIONS OF THE CIVIL CODE AND GOVERNMENT CODE)

ISSUED BY
BUREAU OF ELECTRONIC AND APPLIANCE REPAIR,
HOME FURNISHINGS, AND THERMAL INSULATION
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Home Furnishings, and Thermal Insulation Law
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& Government Code Section 6254**

**Article 1
General Provisions**

9800. Citation of Chapter

This chapter of the Business and Professions Code constitutes the chapter on electronic and appliance repair dealers. It may be cited as the Electronic and Appliance Repair Dealer Registration Law.

9801. Definitions

The following terms as used in this chapter have the meaning expressed in this section:

- (a) "Person" includes a firm, partnership, association, limited liability company, or corporation.
- (b) "Department" means the Department of Consumer Affairs.
- (c) "Director" means the Director of Consumer Affairs.
- (d) "Bureau" means the Bureau of Electronic and Appliance Repair, Home Furnishings, and Thermal Insulation.
- (e) "Chief" means the Chief of the Bureau of Electronic and Appliance Repair, Home Furnishings, and Thermal Insulation.
- (f) "Service dealer" means a person who, for compensation, engages in, or holds himself or herself out to the public as offering services in the business of:
 - (1) Repairing, servicing, or maintaining an electronic set normally used or sold for personal, family, household, or home office use.
 - (2) Installing, repairing, servicing, or maintaining equipment or a burglar alarm system for use in private motor vehicles.
 - (3) Installing, repairing, servicing, or maintaining television or radio receiver antennas, rotators, and accessories or direct satellite signal receiving equipment located on or adjacent to a residence and not involving a function that is subject to and regulated under the provisions of Chapter 9 (commencing with Section 7000).
 - (4) Repairing, servicing, or maintaining major appliances.
- (g) "Equipment" for the purposes of this chapter means an electronic set, appliance, antenna, rotator, and accessories.
- (h) "Electronic set" includes, but is not limited to, any television, radio, audio or video recorder or playback equipment, video camera, video game, video monitor, computer system, photocopier, or facsimile machine normally used or sold for personal, family, household, or home office use.
- (i) "Appliance" or "major home appliance" includes, but is not limited to, any refrigerator, freezer, range, microwave oven, washer, dryer, dishwasher, trash compactor, or room air-conditioner normally used or sold for personal, family, household, or home office use, or for use in private motor vehicles.
- (j) "Antenna" includes, but is not limited to, a resonant device designed especially for the purpose of capturing electromagnetic energy transmitted by direct satellite or commercial radio or television broadcasting facilities. An antenna and its associated accessories are not deemed to be a part of a set and shall be considered, under this section, to be located outside or in the attic of a residence.
- (k) "Rotator," when used in connection with an antenna installation or repair, includes, but is not limited to, an electromechanical device operated from a remote location to rotate an antenna on a horizontal plane. A rotator and its associated accessories are not deemed to be a part of a set and shall be considered under this section, with the exception of the directional control unit, to be located outside or in the attic of a residence.
- (l) "Accessories," when used in connection with an antenna or rotator installation or repair, includes, but is not limited to, masts, towers, clamps, guy wires, eye hooks, standoff insulators, roof saddles, vent pipe mounts,

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chimney mount kits, signal amplifiers/boosters, multiset couplers, transmission lines, control cables, directional control units, and other devices as may be used from time to time to effect installation or repair.

(m) "Computer system" includes, but is not limited to, a central processing unit that performs data manipulation functions, and any associated peripheral devices, including, but not limited to, keyboards, display terminals, printers, or disk drives.

(n) "Video game" includes, but is not limited to, any electronic amusement device that utilizes a computer, microprocessor, or similar electronic circuitry and its own cathode ray tube or a television set or a monitor.

(o) "Direct satellite signal receiving equipment" includes, but is not limited to, receivers, down converters, amplifiers, and audio or video processors related to the reception of audio, video, or data signals broadcasted or rebroadcasted by communication satellites located in space.

(p) "Electronic repair industry" means those activities defined in paragraph (1), (2), or (3) of subdivision (f).

(q) "Appliance repair industry" means those activities defined in paragraph (4) of subdivision (f).

9802. Exceptions to Application

This chapter does not apply to:

(a) Any employee of a service dealer while the employee is engaged in activities within the normal scope of the employer's business.

(b) The repair, service, or maintenance of equipment used in commercial, nonresidential, industrial, or governmental establishments.

(c) The repair, services, or maintenance of equipment the ordinary and usual use of which requires a license or permit issued by the Federal Communications Commission.

(d) Any person licensed under Chapter 9 (commencing with Section 7000) as an electrical contractor (C10) or a low-voltage communications master contractor (C61-D05) and acting within the scope of his or her license.

9804. Registration Requirement - Exception for Licensees

No person who is licensed pursuant to Chapter 9 (commencing with Section 7000) of Division 3 of this code shall be required to register under this chapter if such person's activities are within the scope of his license; nor shall such person be prohibited from repairing, servicing, or maintaining equipment of any type, the installation of which may be performed under his license.

9805. License Requirement - Exception for Registrants

No person registered under this chapter shall be required to apply for a license pursuant to Chapter 9 (commencing with Section 7000) if that person's activities consist only of (a) installing satellite antenna systems on residential structures or property, or (b) installing, repairing, servicing, or maintaining televisions, or an electronic set normally used or sold for personal, family, household, or home office use, or any appliances, and that installation, repair, service, or maintenance is not subject to and regulated under Chapter 9.

9806. Exemption for Automobile Dealers and Manufacturers

(a) An automobile dealer or manufacturer, licensed pursuant to Chapter 4 (commencing with Section 11700) of Division 5 of the Vehicle Code shall not be required to be registered under this chapter where such dealer or manufacturer installs or replaces an electronic set or automobile burglar alarm as a function related to the sale or repair of a motor vehicle.

(b) No person registered pursuant to Chapter 20.3 (commencing with Section 9880) shall be required to register under this chapter where that person's activities are within the scope of his or her registration and consist of installing an electronic set or automobile burglar alarm system for use in private motor vehicles.

9807. Ignition Interlock Devices

(a) Notwithstanding any other law, a service dealer licensed under this chapter and authorized to engage in the electronic repair industry, as defined in subdivision (p) of Section 9801, may install, calibrate, service, maintain, and monitor ignition interlock devices.

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

**Article 2
Administration**

9810. Bureau of Electronic and Appliance Repair, Home Furnishings, and Thermal Insulation Power and Duties of Director

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

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

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

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

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

9810.1 Bureau of Electronic and Appliance Repair, Home Furnishings, and Thermal Insulation Priorities

Protection of the public shall be the highest priority for the Bureau of Electronic and Appliance Repair, Home Furnishings, and Thermal Insulation in exercising its licensing, regulatory, and disciplinary functions under this chapter. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

9811. Personnel - Hiring - Supervision

The director, in accordance with the State Civil Service Act and Section 159.5, may appoint and fix the compensation of such clerical, inspection, investigation, and auditing personnel as well as a deputy chief, as may be necessary to carry out the provisions of this chapter. All such personnel shall perform their respective duties under the supervision and the direction of the chief.

9812. Investigation of Violations by Director

The director shall gather evidence of violations of this chapter and of any regulation established hereunder, by any service dealer, whether registered or not, and by any employee, partner, officer, or member of any service dealer. The director shall, on his own initiative, conduct spot check investigations of service dealers throughout the State on a continuous basis.

9812.5 Investigation of Violations by Director

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

9813. Director - Department Head

The director shall have the powers granted to the head of a department by, and shall conform to the provisions of Article 2 (commencing with Section 11180) of Chapter 2 of Division 3 of Title 2 of the Government Code.

9814. Regulations - Establishment - Enforcement

The director may establish and enforce regulations as may be reasonable for the conduct of service dealers and for the general enforcement of the various provisions of this chapter in the protection of the public. The director may, by regulation, define the scope of the terms described in subdivisions (g) to (q), inclusive, of Section 9801 to include items of the same general nature or class as those enumerated therein. The director shall distribute to each registered service dealer copies of this chapter and of the regulations thereunder. These regulations shall be adopted, amended, or repealed in accordance with the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

9814.5. Regulations - Establishment - Enforcement

The director may establish and enforce reasonable regulations for the conduct of service contractors, and for the general enforcement of the various provisions of this chapter in the protection of the public. The director shall distribute to each registered service contractor copies of this chapter and of the regulations adopted under this chapter. Regulations shall be adopted, amended, or repealed in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

**Article 3
Registration Procedure**

9830. Registration - Fee - Forms

Each service dealer shall pay the fee required by this chapter for each place of business and each drop-off location, as defined by bureau regulations, operated by him or her in this state and shall register with the bureau upon forms prescribed by the director. The forms shall contain sufficient information to identify the service dealer, including name, address, retail seller's permit number, if a permit is required under the Sales and Use Tax Law (Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code), a copy of the certificate of qualification as filed with the Secretary of State if the service dealer is a foreign corporation, and other identifying data to be prescribed by the bureau. If the business is to be carried on under a fictitious name, that fictitious name shall be stated. If the service dealer is a partnership, identifying data shall be stated for each partner. If the service dealer is a private company that does not file an annual report on Form 10-K with the Securities and Exchange Commission, data shall be included for each of the officers and directors of the company as well as for the individual in charge of each place of the service dealer's business in the State of California, subject to any regulations the director may adopt. If the service dealer is a publicly held corporation or a private company that files an annual report on Form 10-K with the Securities and Exchange Commission, it shall be sufficient for purposes of providing data for each of the officers and directors of the corporation or company to file with the director the most recent annual report on Form 10-K that is filed with the Securities and Exchange Commission.

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A service dealer who does not operate a place of business in this state, but who engages in the electronic repair industry or the appliance repair industry in this state, shall hold a valid registration issued by the bureau and shall pay the registration fee required by this chapter as if he or she had a place of business in this state.

9830.5. Registration - Fee - Forms

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

(b) A service contractor who does not operate a place of business in this state but who sells, issues, or administers service contracts in this state, shall hold a valid registration issued by the bureau and shall pay the registration fee required by this chapter as if he or she had a place of business in this state.

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

9831. Validation of Registration - Conditions

Upon receipt of the form properly filled out and receipt of the required fee, the director shall, provided the applicant has not committed acts or crimes constituting grounds for denial of licensure under Section 480, issue the registration and send a proof of such issuance to the service dealer. The director shall by regulation prescribe conditions upon which a person whose registration has previously been revoked or has previously been denied, may have his or her registration issued.

9832. Registration Expiration; Renewal Process

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

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

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

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

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

9832.5. Registration Expiration; Renewal Process

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

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

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

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

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

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

9833. Registration Information - Currency - Regulations

A registrant shall notify the bureau in writing, within 30 days, of any change to the information provided by the form specified in Section 9830. A service dealer shall not be required to notify the bureau of employee changes. The director shall make regulations prescribing the procedure for keeping the registration information current.

**Article 4
Offenses Against the Chapter**

9840. Registration Required for Service Dealers

It shall be unlawful to act as a service dealer without first having registered in accordance with the provisions of this chapter and unless such registration is currently valid.

9841. Invalidation of Registration

(a) The director may deny, suspend, revoke or place on probation the registration of a service dealer for any of the following acts or omissions done by himself or herself or any employee, partner, officer, or member of the service dealer and related to the conduct of his or her business:

(1) Making or authorizing any statement or advertisement that is untrue or misleading, and that is known, or which by the exercise of reasonable care should be known, to be untrue or misleading.

(2) Making any false promises of a character likely to influence, persuade, or induce a customer to authorize the repair, installation, service, or maintenance of the equipment as specified by this chapter.

(3) Any other conduct that constitutes fraud or dishonest dealing.

(4) Conduct constituting incompetence or negligence.

(5) Failure to comply with the provisions of this chapter or any regulation, rule, or standard established pursuant to this chapter.

(6) Any willful departure from or disregard of accepted trade standards for good and workmanlike installation or repair.

(7) Conviction of a crime that has a substantial relationship to the qualifications, functions and duties of a registrant under this chapter, in which event the record of the conviction shall be conclusive evidence thereof.

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(8) A violation of any order of the bureau made pursuant to this chapter.

(b) The director may also deny, or may suspend, revoke, or place on probation, the registration of a service dealer if the applicant or registrant, as the case may be, has committed acts or crimes constituting grounds for denial of licensure under Section 480.

(c) The director may also deny, or may suspend, revoke, or place on probation, the registration of a service dealer if the applicant or registrant, as the case may be, will be or is holding the registration for the benefit of a former registrant whose registration has been suspended or revoked and who will continue to have some involvement in the applicant's or new registrant's business.

9842. Invoice - Regulations

All work done by a service dealer shall be recorded on an invoice in such detail as is required by regulations issued by the director and shall describe all service work done and all parts supplied. If any used parts are supplied, the invoice shall clearly state that fact. One copy shall be given to the customer and one copy shall be retained by the service dealer for a period of at least three years.

9843. Return of Replaced Parts

The service dealer shall return replaced parts to the customer excepting such parts as may be exempted from this requirement by regulations of the director and excepting such parts as the service dealer needs to return to the manufacturer or distributor under a warranty arrangement.

9844. Estimate for Repairs

An initial written estimate for the cost of repair shall be given to the customer before performing any repairs. The written estimate shall include all costs for parts and labor, and the service dealer may not charge for work done or parts supplied in excess of the estimate without the previous consent of the customer. The service dealer may charge a reasonable fee for services provided in determining the nature of the malfunction in preparation of a written estimate for repair. The service dealer shall advise the customer in writing of the amount of the fee prior to a repair made in the residence, before removal of the consumer goods from the customer's residence, or upon acceptance of the goods at the repair facility or registered location.

9844.1. Customer Must be Shown Charge for Installation

The charge for the installation of any equipment subject to the requirements of this chapter shall be given to the customer in writing prior to making the installation. Whenever the charge for installation is included in the sale price of the item and is not separately stated, or whenever the charge for installation is reduced as an incentive to effectuate the purchase and sale, the bureau may determine the reasonable charge attributable to the installation for purposes of enforcement.

9844.5. Lien in Excess of Estimate

No lien or other right to maintain possession of the equipment pending payment of charges for repair or installation, including those arising from Chapter 6 (commencing with Section 3046) of Title 14, Part 4, Division 3 of the Civil Code, shall exist where the total charges levied for the repair or installation of such equipment exceeds the higher of (1) any amount estimated in writing pursuant to Section 9844, or (2) a written revision of such estimate signed and dated by the owner of the equipment, or in lieu thereof an oral revision of the written estimate, authorized by the owner and fully documented by the service dealer.

9845. Compensation Based on Parts Replaced Prohibited

A service dealer may not make the compensation of any employee, partner, officer, or member dependent upon the value of parts replaced in any equipment by, or with the consent of, such employee, partner, officer, subcontractor, or member. This does not include the sale of equipment as defined in subdivision (h) of Section 9801.

9846. Guarantees - Regulations

The use of "guarantee" and words of like import shall conform to the regulations adopted by the director.

9847. Records - Maintenance

Each service dealer shall maintain all records that are required by the regulations adopted to carry out the provisions of this chapter for a period of at least three years. These records shall be open for reasonable inspection by the director or other law enforcement officials.

9847.5. Records - Maintenance

(a) Each service contractor shall maintain those records as are required by the regulations adopted to carry out the provisions of this chapter for a period of at least three years. These records shall be open for reasonable inspection by the director or other law enforcement officials.

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

9848. Proceedings - Refusal to Validate - Invalidation

All proceedings to deny registration or suspend, revoke, or place on probation a registration shall be conducted pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

9849. Expiration of Registration (Operative until January 1, 2019)

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

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

9849. Expiration of Registration (Operative January 1, 2019)

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

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

9850. Noncompliance - Misdemeanor

Any person who fails to comply with the provisions of this chapter or of the regulations made pursuant to this chapter is guilty of a misdemeanor and punishable by a fine not exceeding one thousand dollars (\$1,000) or by imprisonment not exceeding six months, or by both such fine and imprisonment.

9851. Injunction Proceedings (Operative until January 1, 2019)

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

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

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

9851. Injunction Proceedings (Operative January 1, 2019)

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

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

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

9852. Registration Required for Lien

No person required to have a valid registration under the provisions of this chapter shall have the benefit of any lien for labor or materials or the right to sue on a contract for repairs or installation done by such individual, unless he or she has such a valid registration.

9853. Registration Invalidation - Permitted on Conviction (Operative until January 1, 2019)

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

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

9853. Registration Invalidation - Permitted on Conviction (Operative January 1, 2019)

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

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

**Article 4.5
Service Contractors**

9855. Definitions

The definitions used in this section shall govern the construction and terms as used in this chapter:

(a) "Service contract" means a contract in writing to perform, over a fixed period of time or for a specified duration, services relating to the maintenance, replacement, or repair of an electronic set or appliance, as defined by this chapter, and their accessories or of furniture, jewelry, lawn and garden equipment, power tools, fitness equipment, telephone equipment, small kitchen appliances and tools, optical products, or home health care products, and may include provisions for incidental payment of indemnity under limited circumstances, including, but not limited to, power surges, food spoilage, or accidental damage from handling. "Service contract" shall not include a contract in writing to maintain structural wiring associated with the delivery of cable, telephone, or other broadband communications services. "Service contract" shall not include a contract in

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which a consumer agrees to pay a provider of vision care services for a discount on optical products or contact lenses for a specified duration.

(b) "Service contract administrator" or "administrator" means a person who performs or arranges the collection, maintenance, or disbursement of moneys to compensate any party for claims or repairs pursuant to a service contract, and who also performs or arranges any of the following activities on behalf of service contract sellers:

- (1) Providing service contract sellers with service contract forms.
- (2) Participating in the adjustment of claims arising from service contracts.
- (3) Arranging on behalf of service contract sellers the insurance required by Section 9855.2.

A service contract administrator shall not be an obligor on a service contract unless all service contracts under which the service contract administrator is obligated to perform are insured under a service contract reimbursement insurance policy.

(c) (1) "Service contract seller" or "seller" means a person who sells or offers to sell a service contract to a service contractholder, including a person who is the obligor under a service contract sold by the seller, manufacturer, or repairer of the product covered by the service contract.

(2) "Service contract seller" or "seller" also means a third party, including an obligor, who is not the seller, manufacturer, or repairer of the product. However, a third party shall not be an obligor on a service contract unless the obligor obtains a service contract reimbursement insurance policy for all service contracts under which the third party is obligated under the terms of a service contract.

(3) "Service contract seller" or "seller" shall not include the following:

(A) A bank or bank holding company, or the subsidiary or affiliate of either, or a financial institution, licensed under state or federal law, selling or offering to sell a service contract unless that entity is financially and legally obligated under the terms of a service contract.

(B) An electrical device manufacturer or electrical contractor who constructs, installs, or services electrical devices, which include any unit of an electrical system intended to carry electrical energy as part of a building's electrical system, including raceways, conductors, invertors, conduit, wires, switches, or other similar devices.

(d) "Service contract holder" means a person who purchases or receives a service contract from a service contract seller.

(e) "Service contractor" means a service contract administrator or a service contract seller.

(f) "Service contract reimbursement insurance policy" means a policy of insurance issued by an insurer admitted to do business in this state providing coverage for all obligations and liabilities incurred by a service contract seller under the terms of the service contracts sold in this state by the service contract seller to a service contractholder. The service contract reimbursement insurance policy shall either cover all service contracts sold or specifically cover those contracts sold to residents of the State of California.

(g) "Obligor" is the entity financially and legally obligated under the terms of a service contract.

(h) "Optical products" means prescription and nonprescription eyewear. "Optical products" shall not include contact lenses of any kind.

(i) The terms "consumer goods," "manufacturer," "retail seller," "retailer," and "sale" shall have the same meanings ascribed to them in Section 1791 of the Civil Code.

9855.05. Service Contracts - Additional Definition

On and after January 1, 2000, for the purposes of this chapter, "service contract" also includes a service contract as described in subdivision (e) of Section 12741 of the Insurance Code.

9855.1. Registration Required for Service Contractor

(a) It shall be unlawful for any person to act as a service contractor in this state unless that person first registers with the bureau in accordance with the provisions of this chapter and maintains a valid registration.

(b) Except as expressly provided in this chapter, service contractors registered in accordance with the provisions of this chapter shall be exempt from all provisions of the Insurance Code.

9855.15. Service Contract Administrator

A service contract administrator who is an obligor on a service contract and is registered as a service contract administrator may perform all the functions permitted by a seller and shall not be required to register separately as a seller.

9855.2. Registration Requirements

(a) A service contract seller shall not issue, sell, or offer for sale a service contract unless the obligor under the service contract has complied with one of the following requirements:

(1) Files with the director one of the following:

(A) The most recent annual report on Form 10-K required by the Securities and Exchange Commission, reflecting a net worth greater than the sum of the deferred revenues from service contracts in force. If the service contractor is a foreign corporation that files a comparable audited financial statement with its home government or with the United States government, the director may deem that statement an acceptable substitute for Form 10-K.

(B) The most recent audited financial statement reflecting a net worth of not less than one hundred million dollars (\$100,000,000). The financial statement shall be certified by a certified public accountant who is licensed in the state where the service contract seller maintains its principal place of business or the seller's state of domestic incorporation.

(2) Obtains a service contract reimbursement insurance policy.

(3) Sells service contracts that are administered by a service contract administrator who has obtained a service contract reimbursement insurance policy covering the seller's service contracts.

(4) Maintains and annually verifies to the director a funded account held in escrow equal to a minimum of 25 percent of the deferred revenues from the service contracts in force.

(b) A service contract administrator shall not administer service contracts sold in this state unless a service contract reimbursement insurance policy covering these service contracts has been obtained.

9855.3. Service Contract on File with Director

(a) The service contract form to be issued by the service contractor shall be filed with the director by the service contractor prior to its use.

(b) Every service contract administrator shall file with its application for registration, and thereafter, with its application for registration renewal, a service contract reimbursement insurance policy.

(c) Every service contract seller shall file with his or her application for registration, and thereafter with his or her application for registration renewal, one of the following:

(1) The most recent annual report on Form 10-K required by the Securities and Exchange Commission, reflecting a net worth greater than the sum of the deferred revenues from service contracts in force. If the service contractor is a foreign corporation that files a comparable audited financial statement with its home government or with the United States government, the director may deem that statement an acceptable substitute for Form 10-K.

(2) A service contract reimbursement insurance policy.

(3) Evidence that his or her service contracts are administered by a service contract administrator who has obtained a service contract reimbursement insurance policy covering the seller's service contracts.

(4) Evidence of a funded account held in escrow equal to a minimum of 25 percent of the deferred revenues from the service contracts in force.

9855.4. Contract Reimbursement Insurance Obligations

(a) The service contract reimbursement insurance policy shall cover the obligations of the service contract seller under the service contracts sold during the period of time that the service contract reimbursement insurance policy was in force. The service contract reimbursement insurance policy shall either cover all service contracts sold or specifically cover those contracts sold to residents of the State of California.

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(b) A service contract reimbursement insurance policy shall contain a provision under which the insurer shall notify the bureau in writing of the termination or nonrenewal of the service contract reimbursement insurance policy.

(c) Upon the effective date of the termination or cancellation of a service contractor's service contract reimbursement insurance policy, the registration of the service contractors whose service contracts are covered thereby shall be automatically suspended, unless the affected service contractors have filed with the director, prior to the date of the termination or cancellation of the service contract reimbursement insurance policy, a new service contract reimbursement insurance policy or otherwise meet one of the requirements of Section 9855.2. Upon receipt of a written request from the service contractor, the director may delay the suspension of a service contractor's registration for no more than 60 days. Following the automatic suspension, an administrative hearing shall be provided upon written request to the director in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

9855.5. Comply with Civil Code

A service contractor shall comply with the provisions of Sections 1794.4 and 1794.41 of the Civil Code.

9855.6. Contract Cancellation Refund

Where a service contractholder cancels a service contract in accordance with Section 1794.41 of the Civil Code and the refund due is not paid to the service contractholder or credited to his or her account within 30 days after the service contractor receives written notice of cancellation, the amount of the required refund or credit shall bear interest, payable to the service contractholder, at the rate of 10 percent per annum for each additional 30 days or fraction thereof.

9855.7. Invalidation of Registration

The director may deny, or may suspend, revoke, or place on probation the registration of a service contractor for any act, omission, or crime that is committed by the service contractor or any employee, partner, officer, or agent of the service contractor for any of the following reasons:

- (a) Any conduct that constitutes fraud or dishonest dealing.
- (b) Conviction of a crime that has a substantial relationship to the qualifications, functions and duties of a registrant under this chapter, in which event the record of conviction shall be conclusive evidence thereof.
- (c) Assisting in or abetting the violation of, or conspiring to violate, any provision of this article, or of regulations adopted under this article.

9855.8. Citations

(a) The director may issue a citation to the service contractor for any of the following reasons:

(1) Violation of subdivision (a) of Section 9855.3 or Section 9855.5, or any regulation adopted thereunder.

(2) Upon a determination by the director that the service contractor has committed a violation by (A) making or authorizing statements or advertisements which are untrue or misleading; or (B) making false promises of a character likely to influence, persuade, or induce a customer to purchase a service contract as provided by this chapter.

(3) For purposes of this section, a violation consists of a single publication or single course of conduct that is determined by the director to be untrue or misleading.

(b) The citation may contain an order of abatement and an order to pay an administrative fine assessed by the director.

(1) Each citation shall be in writing and shall describe with particularity the nature of the violation, including a specific reference to the provision of law determined to have been violated.

(2) Where appropriate, the citation shall contain an order of abatement fixing a reasonable time for abatement of the violation.

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(3) A citation or fine assessment issued pursuant to a citation shall inform the service contractor that if he or she desires a hearing to contest the finding of a violation, that hearing shall be requested by written notice to the bureau within 30 days of the date of issuance of the citation or assessment. If a hearing is not requested pursuant to this section, payment of any fine shall not constitute an admission of the violation charged. Hearings shall be held pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(4) (A) In addition to requesting a hearing as provided for herein, the service contractor may request a citation review conference with the director or his or her designee regarding the acts charged in the citation. A citation review conference shall be requested by written notice to the bureau within 20 days of the date of the issuance of the citation or assessment.

(B) The director or his or her designee shall hold a citation review conference within 60 days from the receipt of the request. At the conclusion of the citation review conference, the director or his or her designee shall state, in writing, the reasons for his or her action and transmit a copy of his or her findings and decision to the service contractor.

(5) The failure of a service contractor to pay a fine within 30 days of the date of assessment, unless the citation is being appealed, may result in disciplinary action being taken by the director. Where a citation is not contested and a fine is not paid, the full amount of the assessed fine shall be added to the fee for renewal of the registration. A registration shall not be renewed without payment of the renewal fee and fine.

(c) Where a citation includes an administrative fine, it shall be issued in accordance with the following procedures:

(1) For the first citation, the director may assess an administrative fine of not less than one hundred dollars (\$100) but not more than five hundred dollars (\$500).

(2) For the second citation issued during any one-year period, the director may assess an administrative fine of not less than five hundred dollars (\$500) but not more than one thousand dollars (\$1,000).

(3) For the third citation issued during any two-year period, the director may assess an administrative fine of not less than one thousand dollars (\$1,000) but not more than two thousand dollars (\$2,000).

(4) For the fourth violation of subdivision (a) of Section 9855.3 or of Section 9855.5, or any regulation adopted thereunder, during any two-year period, the director may either assess an administrative fine of not less than one thousand dollars (\$1,000) but not more than two thousand dollars (\$2,000) or suspend, revoke, or place on probation a registration of the service contractor.

9855.85. The Business of Insurance

Unless otherwise lawfully transacting the business of insurance pursuant to a certificate of authority issued pursuant to Section 700 of the Insurance Code for the appropriate class, a service contract administrator or third-party seller acting as an obligor on a service contract without having a service contract reimbursement insurance policy covering all service contracts under which the service contract administrator or third-party seller is obligated shall be deemed to be unlawfully transacting the business of insurance and shall be subject to subdivision (b) of Section 700 and Section 12921.8 of the Insurance Code.

9855.9. Repeal Date

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

**Article 5
Informal Adjustment of Complaints**

9860. Complaint Procedures (Operative until January 1, 2019)

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

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

9860. Complaint Procedures (Operative January 1, 2019)

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

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

9861. Insufficient Complaint

If the complaint does not appear to state any violations of this chapter or of the regulations made pursuant to this chapter, the director shall so advise the complainant and take no further action.

9862. Complaints - Investigation

If a complaint indicates a possible violation of this chapter or of the regulations adopted pursuant to this chapter, the director may advise the service dealer of the contents of the complaint and, if the service dealer is so advised, the director shall make a summary investigation of the facts after the service dealer has had reasonable opportunity to reply thereto.

9862.5. Complaints - Investigation

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

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

9863. Compensatory Measures - Disciplinary Proceedings (Operative until January 1, 2019)

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

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

9863. Compensatory Measures - Disciplinary Proceedings (Operative January 1, 2019)

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

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

**Article 6
Revenue**

9870. Electronic and Appliance Repair Fund

All fees collected pursuant to this chapter shall be paid into the State Treasury to the credit of the Electronic and Appliance Repair Fund, which fund is hereby created.

9871. Accounting for Fund

The director shall report to the State Controller at the beginning of each month, for the month preceding, the amount and source of all revenue received by the bureau pursuant to this chapter, and at that time shall pay the entire amount thereof into the State Treasury for credit to the Electronic and Appliance Repair Fund.

9872. Appropriations - Excess Money

The money in the Electronic and Appliance Repair Fund necessary for the administration of the bureau and the administration of this chapter shall be used for such purposes.

9873. Fee Schedule (Operative until January 1, 2019)

The fees prescribed by this chapter shall be set by the director by regulation, according to the following schedule:

(a) (1) The initial registration fee for an electronic repair industry service dealer or for an appliance repair industry service dealer is not more than two hundred five dollars (\$205) for each place of business in this state. The initial registration fee for a service contractor is not more than ninety-five dollars (\$95) for each place of business in this state.

(2) The initial registration fee for a person who engages in business as both an electronic repair industry service dealer and an appliance repair industry service dealer is not more than four hundred five dollars (\$405) for each place of business in this state. The initial registration fee for a person who is a service contractor and engages in business as either an electronic repair industry service dealer or an appliance repair industry service dealer is not more than three hundred dollars (\$300) for each place of business in this state.

(3) The initial registration fee for a person who engages in both the electronic repair industry and the appliance repair industry as a service dealer and is a service contractor is not more than five hundred dollars (\$500) for each place of business in this state.

(4) A service dealer or service contractor who does not operate a place of business in this state, but engages in the electronic repair industry, the appliance repair industry, or sells, issues, or administers service contracts in this state shall pay the registration fee specified herein as if he or she had a place of business in this state.

(b) (1) The annual registration renewal fee for an electronic repair industry service dealer or for an appliance repair industry service dealer is not more than two hundred five dollars (\$205) for each place of business in this state, if renewed prior to its expiration date. The annual registration renewal fee for a service contractor is ninety-five dollars (\$95) for each place of business in this state, if renewed prior to its expiration date.

(2) The annual renewal fee for a service dealer who engages in the business as both an electronic repair industry service dealer and an appliance repair industry service dealer is not more than four hundred dollars (\$400) for each place of business in this state.

(3) The annual renewal fee for a service dealer who engages in the electronic repair industry and the appliance repair industry and is a service contractor is not more than four hundred seventy-five dollars (\$475) for each place of business in this state.

(4) A service dealer or service contractor who does not operate a place of business in this state, but who engages in the electronic repair industry, the appliance repair industry, or sells or issues service contracts in this state shall pay the registration fee specified herein as if he or she had a place of business in this state.

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(c) The delinquency fee is an amount equal to 50 percent of the renewal fee for a license in effect on the date of renewal of the license, except as otherwise provided in Section 163.5.

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

(e) Notwithstanding any other law, the director shall not adopt any regulation to increase any fee provided for in this section before January 1, 2017.

9873. Fee Schedule (Operative January 1, 2019)

The fees prescribed by this chapter shall be set by the director by regulation, according to the following schedule:

(a) The initial registration fee for an electronic repair industry service dealer or for an appliance repair industry service dealer is not more than two hundred five dollars (\$205) for each place of business in this state. The initial registration fee for a person who engages in business as both an electronic repair industry service dealer and an appliance repair industry service dealer is not more than four hundred five dollars (\$405).

(b) The annual registration renewal fee for an electronic repair industry service dealer or for an appliance repair industry service dealer is not more than two hundred five dollars (\$205) for each place of business in this state, if renewed prior to its expiration date. The annual renewal fee for a service dealer who engages in the business as both an electronic repair industry service dealer and an appliance repair industry service dealer is not more than four hundred dollars (\$400).

(c) The delinquency fee is an amount equal to 50 percent of the renewal fee for a license in effect on the date of renewal of the license, except as otherwise provided in Section 163.5.

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

9874. Salaries and Expenses

All salaries, expenses, or costs incurred or sustained pursuant to this chapter shall be payable only out of the Electronic and Appliance Repair Fund.

Government Code

6254. Exemption - Public Records Act for Service Contractors (selected provision)

Except as provided in Sections 6254.7 and 6254.13, nothing in this chapter shall be construed to require disclosure of records that are any of the following: ...“(x) Financial data contained in applications for registration, or registration renewal, as a service contractor filed with the Director of Consumer Affairs pursuant to Chapter 20 (commencing with Section 9800) of Division 3 of the Business and Professions Code, for the purpose of establishing the service contractor's net worth, or financial data regarding the funded accounts held in escrow for service contracts held in force in this state by a service contractor....”

**Bureau of Electronic and Appliance Repair Regulations
(Title 16, California Code of Regulations Sections 2701-2772)**

Article 1 - General Provisions

2701. Tenses, Gender and Number

For the purpose of the rules and regulations contained in this chapter, the present tense includes the past and future tenses, and the future, the present; the masculine gender includes the feminine, and the feminine, the masculine; and the singular includes the plural, and the plural, the singular.

2702. Definitions

For the purpose of the rules and regulations contained in this chapter, the term:

(a) "Act" means the provisions of the Electronic and Appliance Repair Dealer Registration Law--Chapter 20 (commencing with section 9800) of Division 3 of the Code.

(b) "Adjustment" when used in connection with the repair of a set means:

(1) To vary the value of a variable resistance, inductance or capacitance, without employing the use of external alignment test equipment to effect such adjustment.

(2) Tone arm adjustments, static convergence adjustments and other minor adjustments.

(c) "Alignment" when used in connection with the repair of a set means:

(1) To vary the value of a variable resistance, inductance or capacitance, where adjustment has been ineffective, by employing the use of external alignment test equipment (such as signal generator, sweep generator, oscilloscope, sweep analyst, etc.) to effect such alignment.

(2) Any complex alignment of recording heads that requires special test equipment.

(d) "Audio recorders or audio playback equipment" includes, but is not limited to, home and private automobile tape equipment, (cassette, digital, reel to reel or 8 track), turn tables, compact disc recording or playback systems and automatic telephone answering devices normally used or sold for personal, family or household use.

(e) "Clamp-on line piercing-valve" means a non-solder-on type of mechanical device used to enter the refrigeration system of a refrigerator, freezer or air conditioner.

(f) "Class" and "Type" when used to describe a part installed in equipment means a description of such parts which will identify its electronic or mechanical function. (e.g., 2N127, first video IF transistor-1N2727, second color amp integrated circuit-U4455, high voltage module-C253.005 mfd capacitor or .005 mfd capacitor, second audio IF transistor coupler or bypass-U5544 water pump-V6677 tub or pump water seal 1/4 horsepower agitator motor-F3300 cold control or words of like import are in compliance with the requirement of this regulation.)

(g) "Code" means the Business and Professions Code.

(h) "Equipment" means a set, appliance, antenna, rotator and accessories as those terms are defined in section 9801 of the Code.

(i) "Module" or "panel" when used to describe a part placed in equipment means a packaged functional unit or electronic assembly for use with other such units or assemblies.

(j) "O.E.M." means the original equipment manufacturer who manufactured, fabricated, or supplied a set or an appliance or a component part.

(k) "Person" includes firm, partnership, association or corporation.

(l) "Picture tube" means cathode ray tube otherwise known as kinescope or CRT.

(m) "Range" means a free standing or built-in cooking product containing a baking oven and cooktop. Range also means a baking oven or cooktop and any integrated ventilating equipment, installed as a built-in appliance.

(n) "Rebuilt" or words of like import when used to describe a set, an appliance, or a component part thereof, means a unit which has been cleaned, component parts tested and defective or damaged components replaced. The unit is then inspected and tested to ensure that it will perform the function for which it was originally manufactured.

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(o) "Rejuvenate" or words of like import such as reactivate or restore, means the repair of any internal malfunction of a picture tube by burning out shorts in the electron gun assembly, or flaking the cathode by heating and vibrating the cathode, or activities of a similar nature.

(p) "Repair" includes the repair, service, maintenance, or activities of a similar nature, whether or not the set or appliance is under warranty.

(q) "Seconds" or terms of like import such as rejects, when used in connection with a replacement picture tube, means that the picture tube, though giving satisfactory performance, does not meet the quality and workmanship maintained by the manufacturer with respect to the general run of tubes of the same type.

(r) "Service call," or words of like import, when used in connection with the repair or maintenance of equipment, means the service dealer or his authorized service technician calling at the premises of a customer, at the request of said customer, to inspect, repair, service, or maintain such equipment.

(s) "Service contract" means a contract in writing to perform, over a fixed period of time or for a specified duration, services relating to the maintenance or repair of equipment.

NOTE: Authority cited: Section 9814, Business and Professions Code, Reference: Sections 9801, 9814, and 9841, Business and Professions Code.

Article 2 - Registration of Service Dealers

2711. Engaging in Business

A person shall be deemed to be a service dealer where such person:

(a) Solicits or advertises the repair or installation of equipment as provided in the Act by telephone directory, newspaper, printed handbill, printed business card, printed poster, or painted or electric sign, or any other method which might lead the customer to believe that he or she repairs or installs such equipment, or

(b) Bills a customer for repair or the installation of equipment as provided in the Act, on his or her own invoice, or

(c) Sells service contracts for the repair of equipment and accepts requests for the repair of such equipment under the service contract, or

(d) Accepts requests for repair or receives equipment for repair, or, as part of a sales transaction, provides for the installation of equipment as provided in the Act, and renders control of such equipment received or transmits such requests for repair or installation to another service dealer, or

(e) Repairs or installs equipment as provided in the Act as an independent contractor. An independent contractor is defined as a person who contracts to do repairs and installations of equipment as defined in the Act and is not an employee of the service dealer.

NOTE: Additional authority cited: Section 9814, Business and Professions Code: Reference: Section 9801 (g), Business and Professions Code.

2713. Place of Business

"Place of business," as used in section 9830 of the Act, includes, but is not limited to, any branch office or other location, whether or not repairs are conducted on the premises, where a service dealer assumes responsibility for the repair or installation of, equipment as provided for in the Act or which is advertised by the service dealer as the location for repair or installation of equipment or at which service contracts are offered for sale as provided for in section 2711(c) of these regulations.

NOTE: Authority cited: Section 9814, Business and Professions Code. Reference: Sections 9801 and 9830, Business and Professions Code and Section 1858.1, Civil Code.

2714. Display of Registration Certificate

Each service dealer shall display in a conspicuous place the registration certificate issued by the bureau at the place of business for which the registration was issued.

2715. Master Registration

A service dealer who owns two (2) or more places of business which currently possess individual registrations, pursuant to Section 9830 of the Code, may apply for a master registration number for use on invoices, claim receipts, estimate forms, advertising and other documents related to the service dealer's business which require his or her registration number to be placed therein. As a condition of obtaining a master registration number, all of the places of business for which a master registration is to be applied shall have the identical business name and ownership.

The issuance of a master registration shall not act as a substitute for or a waiver of the requirement that each service dealer shall maintain a current and individual registration for each place of business.

NOTE: Authority cited: Section 9814, Business and Professions Code. Reference: Sections 9830 and 9831, Business and Professions Code.

2716. Name Style-Service Dealer's Registration

No service dealer's registration shall be issued in a fictitious name which the bureau determines to be confusingly similar to that of another registrant, nor shall a service dealer's registration be issued in a name which is likely to be confused with that of an electronic or appliance product manufacturer, a governmental agency or trade association.

NOTE: Authority cited: Section 9814, Business and Professions Code. Reference: Sections 9814, 9830, and 9841, Business and Professions Code.

2717. Limitation Regarding Name Style

No registration shall be issued in the same name or in a name style which the bureau determines is confusingly similar to the name of a firm whose registration has been suspended or revoked without the prior written approval of the bureau.

A service dealer shall not use the telephone number and/or name style of a firm whose registration has been suspended or revoked without the prior written approval of the bureau.

NOTE: Authority cited: Section 9814, Business and Professions Code. Reference: Sections 9814, 9830, and 9841, Business and Professions Code.

Article 3 - Invoices, Estimates and Records

2720. Invoices and Estimates-False or Misleading Records

No service dealer shall, in filling out an estimate or an invoice, withhold therefrom or insert therein any statement or information where the tendency or effect thereby is to mislead or deceive customers, prospective customers, or the consuming public.

2721. Sets or Appliances Received for Repair: Receipt Required

Any service dealer who removes a set or an appliance from a home, home office, or private motor vehicle or accepts a set or an appliance for repair at his place of business, shall give to the owner thereof a receipt or claim check in which is stated all of the following:

- (a) The name and registration number of the service dealer and the address and telephone number of the location where the set or appliance will be repaired.
- (b) The date the set or appliance was accepted or received by the service dealer.

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- (c) A description of the set or appliance including model and serial number.
- (d) A summary of the customer's description of the problem associated with the set or appliance.
- (e) The name and address of the customer.
- (f) The complete and legible signature or employee number of the person accepting or removing a set or appliance.

(g) There shall be printed on the receipt in prominent type the following statement:

"An estimate as required (Section 9844 of the California Business and Professions Code) for repairs shall be given to the customer by the service dealer in writing, and the service dealer may not charge for work done or parts supplied in excess of the estimate without prior consent of the customer. Where provided in writing, the service dealer may charge a reasonable fee for services provided in determining the nature of the malfunction in preparation of a written estimate for repair. For information contact the Bureau of Electronic and Appliance Repair, Department of Consumer Affairs, Sacramento 95814."

(h) Removal and reinstallation charge, if any.

(i) When the personal property accepted or received by the service dealer is intended for personal, family, household or home office use, the service dealer's receipt shall include a statement, if such is the case, that such deposited property is not insured or protected to the amount of the actual cash value thereof against loss occasioned by theft, fire, and vandalism while such property remains with the service dealer or his representative, pursuant to the provisions of Section 1858.1 of the Civil Code.

NOTE: Authority cited: Section 9814, Business and Professions Code. Reference: Sections 9842, 9844, and 9847, Business and Professions Code and Section 1858.1 Civil Code.

2722. Written Estimate

A written estimate for cost of repair shall include all costs for parts and labor and the initial service call if provided. The written estimate shall not be described with a minimum estimate amount.

(a) No service dealer shall charge for work done or parts supplied in excess of the written estimate without the prior oral or written consent of the customer, and if such consent is oral, the service dealer shall make a notation on the invoice of the date, time, name of person authorizing the additional repairs, telephone number called, if any, name of the person receiving such oral consent, conditions of such consent, if any, together with a specification of the additional parts and labor and the total additional cost.

(b) Sales tax and other applicable taxes shall not be considered part of the written estimate.

(c) Where a written estimate for the cost of repair is provided in the residence, the estimate shall include as part of the labor charge, all transportation and travel charges, including the initial service call.

NOTE: Authority cited: Section 9814, Business and Professions Code. Reference: Sections 9841 and 9844, Business and Professions Code.

2722.5. Diagnosis Fee

A diagnosis fee is the fee for determining the nature of the malfunction in preparation of a written estimate for repair and may be charged by the service dealer.

Except for equipment received by a service dealer from public carrier, the diagnosis fee shall include all transportation and travel costs made in conjunction with the diagnosis.

NOTE: Authority cited: Section 9814, Business and Professions Code. Reference: Section 9844, Business and Professions Code.

2722.6. Unusual Circumstances; Authorization Required

Where the customer's equipment is received by public carrier for the purpose of repair, or where a service call is made to the customer's residence without the customer being present, the service dealer shall not

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undertake the repair of, or remove from the residence, home office, or private motor vehicle, such equipment unless the dealer has complied with the following conditions:

(a) Where the service dealer intends to charge a diagnosis fee for preparing a written estimate, the service dealer, by telephone or other means, provide the cost of the diagnosis fee, including any transportation costs, to the customer for approval.

(b) Where the diagnosis fee is rejected by the customer, the service dealer may assess the customer for only the initial service call or the shipping costs necessary for the return of the customer's equipment.

(c) Where the diagnosis fee has been approved by the customer, or where no diagnosis fee is to be charged, the dealer shall prepare a written estimate for the total cost of repair, which shall include service call, parts, labor, and any transportation costs and provide to the customer for approval by telephone or other means, the estimate of repair.

(d) Where the customer has received an oral estimate of repair the service dealer shall, include on the service invoice to be provided to the customer, the date and time the customer was contacted, the amount of the estimate of repair, any diagnosis fee and transportation costs quoted the customer for unrepaired equipment, the person authorizing or rejecting the diagnosis fee or estimate and the signature of the service dealer or his or her representative.

(e) Where the estimate of repair is rejected, the service dealer may assess the customer only that the amount authorized by the customer for the diagnosis fee plus shipping charges and for in the residence or home office transactions, the diagnosis fee and the initial service call.

NOTE: Authority cited: Section 9814, Business and Professions Code. Reference: Section 9844, Business and Professions Code.

2723. Invoice-Copy to Customer

A legible original or a legible copy of the invoice shall be given to the customer for repairs performed and parts installed, regardless of whether a charge(s) is levied (i.e. warranty repairs). There shall be printed on the invoice in prominent type the following statement:

"An estimate as required (Section 9844 of the California Business and Professions Code) for repairs shall be given to the customer by the service dealer in writing, and the service dealer may not charge for work done or parts supplied in excess of the estimate without prior consent of the customer. Where provided in writing, the service dealer may charge a reasonable fee for services provided in determining the nature of the malfunction in preparation of a written estimate for repair. For information contact the Bureau of Electronic and Appliance Repair, Department of Consumer Affairs, Sacramento 95814."

NOTE: Authority cited: Section 9814, Business and Professions Code. Reference: Sections 9842 and 9844, Business and Professions Code.

2723.5. Installation of Equipment-Invoice

A legible invoice for the installation of equipment as provided in the Act, shall be provided to the customer.

(a) The invoice for installation of shall include a description of the equipment installed by make, model, and an itemization of labor and parts used in the installation, indicating the charges levied for each.

NOTE: Authority cited: Section 9814, Business and Professions Code. Reference: Sections 9801 and 9842, Business and Professions Code.

2725. Invoice-Contents

Each customer shall be given a legible invoice, not a checklist-type invoice, and all such invoices shall clearly set forth the following:

- (a) Business name, address, and telephone number of service dealer.
- (b) Service dealer's state registration number(s), and indicated as such.

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- (c) Date of invoice.
- (d) If the set or appliance is removed from a home, home office or private motor vehicle, the address of the location where the set or appliance was repaired, and the state registration number of the service dealer.
- (e) Name and address of the customer.
- (f) A description of the set or appliance repaired or serviced, including make, model number and serial number.
- (g) A summary of the customer's description of the problem associated with the set or appliance.
- (h) A statement of total charges.
- (i) Itemization of each part placed in the set or appliance including a description by class and type where possible, indicating any part within warranty that was replaced, and the charge levied for any part or parts not covered by warranty.
- (j) Itemization and description of labor or technical services performed within warranty or for which a charge was levied.
- (k) An itemization and description of all other charges.
- (l) If any used or exchange parts, including, but not limited to, modules or panels, are supplied, the invoice shall state that fact, indicating which parts are used or exchanged and the charge levied for each part. If a picture tube is installed, the description of such replacement picture tube shall conform to the requirements as hereinafter provided.
- (m) Complete and legible signature, or employee's number, of person filling out the invoice and indicated as such.
- (n) Complete and legible signature or employee's number of the person performing the actual repair on the set or appliance and indicated as such.

NOTE: Authority cited: Section 9814, Business and Professions Code. Reference: Section 9842, Business and Professions Code.

2727. Picture Tube Replacement-Invoice Disclosure

- (a) Where a picture tube is installed, the invoice shall set forth the make, type, serial number and component description of such tube.
- (b) Description of the picture tube by new and used components shall be indicated by either of two methods:

METHOD ONE.

Setting forth on the invoice the particular verbatim description as selected from Regulation 2728 which applies to the installed tube. (Reference to grade not necessary.) The particular verbatim description as selected from Regulation 2728 shall be furnished the customer by printing, stamping or writing the same on the invoice, or by attaching to the invoice a sheet which contains the same.

METHOD TWO.

Indicating on the invoice the grade of such tube and furnishing the customer with the entire verbatim contents of Regulation 2728. The verbatim contents of Regulation 2728 shall be furnished the customer by printing, stamping or writing the same on the invoice, or by attaching to the invoice a sheet which contains the same.

NOTE: Authority cited: Section 9814, Business and Professions Code. Reference: Section 9842, Business and Professions Code.

2728. Picture Tube Grading and Component Description Schedule

Black and White Picture Tubes

Grade AA-Description-All new components and materials including new glass envelope.

Grade A-Description-Used glass envelope, all other components and materials are new.

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Grade B-Description-Used glass envelope, used phosphorescent viewing screen, used aluminization, used internal conductive coating, all other components and materials are new.

Grade C-Description-Used picture tube for resale, all significant components and materials are used.

Color Picture Tubes

Grade AA-Description-All new components and materials, including new glass envelope.

Grade A-Description-Used glass envelope, new or used shadow mask, all other components and materials are new.

Grade B-Description-New electron gun, all other components and materials are used.

Grade C-Description-Used picture tube for resale, all significant components and materials are used.

2729. Grade C Tube

(a) The fact that a used picture tube which is installed in the television set has also been rejuvenated, or has a new or used brightener attached to it, or has fresh paint or coating on the outside, or any combination of the above, shall not change its status or description as a Grade C picture tube.

(b) Where a Grade C picture tube is installed, the serial number need not be indicated if such number cannot be ascertained after a reasonable examination of such tube.

2730. Picture Tube-Seconds

Where a picture tube is installed which might otherwise be classified by component description as Grade AA, Grade A, or Grade B, where such tube is also a "second" within the meaning of Regulation 2702(q), such tube shall be designated on the invoice as a "second" to the exclusion of any other grade designation or grade description, and the following additional notation shall appear verbatim on the invoice:

"This picture tube is a manufacturer's reject or second line quality tube but is capable of giving satisfactory performance."

NOTE: Authority cited: Section 9814, Business and Professions Code. Reference: Sections 9841 and 9842, Business and Professions Code.

2731. Television Tuners

Where cleaners or lubricants have been applied to a television tuner or any part thereof, the invoice shall describe such activity as cleaning and/or lubricating, whatever is applicable. The term "rebuilt" or "reconditioned" or words of like import shall not be used to describe such activity.

2732. Consent to Rejuvenation or Restoration

An oral or written consent shall be obtained from the customer prior to rejuvenation or restoration of a picture tube. If such consent is oral, the service dealer shall make a notation on the invoice of the date, time, and name of person authorizing the rejuvenation or restoration, telephone number called, name of person receiving consent, and conditions of consent.

NOTE: Authority cited: Section 9814, Business and Professions Code. Reference: Sections 9841 and 9842 and 9847, Business and Professions Code.

2733. Picture Tube Brightener

Prior to installing a picture tube brightener on a customer's picture tube the service dealer shall inform the customer that the brightener is a temporary repair. This information shall also be noted legibly on the customer's copy of the invoice. The brightener shall be itemized as a part on said invoice in conformity with Regulation 2725(h). The service dealer shall not use the words "rebuilt," "rejuvenated" or "reconditioned" or words of similar import to describe the picture tube brightener or to describe its effect.

NOTE: Authority cited: Section 9814, Business and Professions Code. Reference: Sections 9841 and 9842 and 9846, Business and Professions Code.

2734. Color Television High Voltage

After any repair or adjustment is made to the circuit of a color television set which could change the set's high voltage above manufacturer's specifications, the high voltage reading shall be measured, adjusted or repaired to the manufacturer's specifications, and recorded on the invoice.

NOTE: Authority cited: Section 9814, Business and Professions Code. Reference: Sections 9841 and 9842, and 9847, Business and Professions Code.

2735. Warranty of Picture Tube

Where a picture tube is installed, the warranty card covering such tube, if any, shall be delivered to the customer by attaching the warranty card to the invoice.

2736. Guarantee of Repair or Installation

"Guarantee" or words of like import used in conjunction with the repair or installation of equipment as provided in the Act shall be provided the customer in writing and shall include disclosure of:

- (a) The nature and extent of the guarantee as to parts and/or labor.
- (b) The identity of the guarantor.
- (c) Where no guarantee is provided by the service dealer on his or her repair, or part thereof, or installation of equipment as provided in the Act, or part thereof, the invoice shall contain a written statement indicating repair parts or labor, or both parts and labor, which are not covered by the service dealer guarantee.
- (d) Where no guarantee is provided by the service dealer on his or her repair and the service dealer has failed to comply with subsection (c) of this section, the service dealer shall be deemed to have provided a 30-day labor and a 90-day parts guarantee on the repair.
- (e) The provisions of subsection (d) of this section shall not void or reduce any applicable guarantees or apply to a repair made under a manufacturer's guarantee or a service contract.

NOTE: Authority cited: Section 9814, Business and Professions Code. Reference: Sections 9841 and 9846, Business and Professions Code.

Article 4 - Accepted Trade Standards

2741. Electronic Sets and Appliances-General Provisions

The "accepted trade standards for good and workmanlike repair" of electronic sets and appliances within the meaning of Section 9841 of the Code shall include, but not be limited to, the following requirements:

- (a) Repair procedures shall be performed in accordance with O.E.M. service data specifications or the best available service data specifications where O.E.M. service data specifications are not readily available.
- (b) All components replaced in a repair which are indicated as being "safety related" shall be the equivalent of O.E.M. replacement parts.
- (c) All mounting hardware (screws, brackets, etc.) shall be reinstalled prior to returning the unit to the customer. If hardware is missing, the O.E.M. or suitable replacements should be made or the customer shall be notified and the notification shall be noted on the invoice.
- (d) Correct lead dress and component placement shall be performed as prescribed in O.E.M. or best available service data specifications and workmanlike soldering techniques shall be utilized.
- (e) Technicians shall not defeat AC interlock circuitry or polarization of AC plugs. If found defeated, technicians shall correct or notify the customer. The correction or notification shall be noted on the invoice.
- (f) Technicians shall not defeat "high" voltage or overvoltage protection circuits.
- (g) Technicians shall not bypass or exceed original ratings of fuses or circuit breakers. Where replacement(s) is necessary, technicians shall use O.E.M. or equivalent fuses or circuit breakers.
- (h) Technicians shall replace all shields, cages, tuner covers, and panels prior to returning the set or appliance to the customer.
- (i) When replacing a defective picture tube, technicians shall use an O.E.M. type or an equivalent type.

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(j) Potential shock and safety hazards shall be brought to the attention of the customer by the technician and shall be noted on the invoice.

(k) After reassembly of an electronic set, except for exclusively DC operated sets, an AC leakage test and a resistance safety test shall be performed.

The procedures for conducting the AC leakage test and the resistance safety test shall comply with the O.E.M. service data specifications. Where the O.E.M. service data specifications are not readily available, the AC leakage and the resistance safety test shall be performed in accordance with the best available service data specifications.

(l) A service dealer who has used a clamp-on piercing-valve to enter, test or add refrigerant to a refrigerator, freezer or air conditioner shall replace the clamp-on piercing-valve with a permanent solder in type valve or shall permanently seal the entry point of the clamp-on piercing-valve from the appliance's refrigeration system. A service dealer shall not be required to replace the clamp-on piercing-valve or permanently seal its entry point from the appliance's refrigeration system if he or she has advised the owner of the appliance in writing that the use of a clamp-on piercing-valve is only a temporary repair and the owner consents to its use.

NOTE: Authority cited: Section 9814, Business and Professions Code. Reference: Sections 9841 and 9842, Business and Professions Code.

2742. Microwave Ovens

This section and Section 2743 apply to the repair of a microwave oven used or sold for use in the home, home office, or private motor vehicle. For the purpose of this article, a microwave oven is defined as an electronic product designed to heat or cook food through the application of microwave energy at frequencies of 915 MHz and 2450 MHz which are assigned by the Federal Communications Commission.

NOTE: Authority cited: Section 9814, Business and Professions Code. Reference: Sections 9801 and 9841, Business and Professions Code.

2743. General Requirements-Microwave Ovens

All service dealers engaged in the repair of microwave ovens shall be subject to the following requirements:

(a) Service Responsibilities.

(1) A service dealer shall not defeat the interlock systems of a microwave oven.

(2) A service dealer shall not repair a microwave oven in such a manner as to cause leakage in excess of those standards specified in subsection (d) of this section.

(3) A service dealer shall perform a microwave emission leakage test in accordance with the measurement and test procedures set forth in subsection (b) of this section in the following instances:

(A) Where there is evidence of damage to the cabinet, safety interlocks, or the door, including, such parts as the glass, screen, seals, hinges, or latches.

(B) Where there is looseness or obvious wear or misalignment of the door and its component parts, or seal.

(C) Where there is repair to or replacement of a door, including its component parts, or seal.

(D) Where the service dealer has reason to believe, consistent with standards of good and accepted workmanlike repair, that the microwave oven is leaking microwave energy in excess of those limits specified in subsection (d) of this section.

(b) Measurement and Test Procedures.

(1) Leakage levels shall be determined by measurements in microwave power density made with an instrument system which:

(A) Reaches 90 percent of its steady-state reading within 3 seconds when the system is subjected to a steppe input signal.

(B) Has a leakage detector with an effective aperture of 25 square centimeters or less as measured in a plane wave, having no dimension exceeding 10 centimeters.

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(C) Is capable of measuring microwave oven leakage levels with an accuracy of plus 25 percent and minus 20 percent (plus or minus 1 decibel).

(D) Has been calibrated within the past 12 months.

(2) Measurements shall be made in accordance with the manufacturer's leakage test procedures or with the microwave oven operating at its maximum output and containing a load of 275 ± 15 milliliters of tap water initially at room temperature placed within the cavity at the center of the load-carrying surface provided by the manufacturer. The water container for the latter procedure shall be a low form 600-milliliter beaker having an inside diameter of approximately 8.5 centimeters and made of an electrically nonconductive material, such as glass or plastic.

(3) Measurements shall be made with the door fully closed.

(4) Measurements shall be made at points 5 centimeters or less from external surfaces of the oven.

(c) Training of Repair Personnel. The service dealer shall ensure that each technician who repairs microwave ovens in his or her employ is instructed in the test procedures, compliance criteria, and requirements of this section.

(d) Compliance Criteria.

(1) Where a service dealer is required by subsection (a) of this section to conduct a microwave emission leakage test, he or she shall determine whether the leakage of microwave emission is in excess of the following limits:

(A) For ovens manufactured after October 1, 1971, leakage in excess of five (5) milliwatts per square centimeter at any point five (5) centimeters or more from the external surface of the oven.

(B) For ovens manufactured before October 1, 1971, leakage in excess of ten (10) milliwatts per square centimeters at any point five (5) centimeters or more from the external surface of the oven.

(2) Microwave ovens shall be in compliance with this subsection if the maximum power density of microwave emission leakage measured in the test procedures specified in subsection (b) of this section does not exceed the microwave emission leakage limits specified in subsection (d)(1) of this section measured through at least one stirrer cycle.

(e) Invoice Requirements. Where a microwave emission leakage test was conducted, the service dealer shall indicate that fact on the invoice. If the emission leakage exceeds those limits as prescribed in subsection (d) of this section, the service dealer shall also notify the customer that the unit is a potential safety hazard.

NOTE: Authority cited: Section 9814, Business and Professions Code. Reference: Sections 9841 and 9842, Business and Professions Code.

2744. Ignition Interlock Devices

Ignition interlock device standards apply to the installation, calibration, maintenance, monitoring, or servicing of electrical devices installed in a motor vehicle that measure a motorist's breath sample for alcohol content, and, on the basis of that measurement, allow or not allow the vehicle's starter to be energized.

NOTE: Authority cited: Section 9814, Business and Professions Code. Reference: Section 9807, Business and Professions Code.

2744.1. Installation Standards Applicable to Ignition Interlock Devices

An electronic service dealer, as defined in subdivision (p) of Section 9801 of the Business and Professions Code, who installs, calibrates, maintains, monitors, or services any ignition interlock device shall:

(a) Prohibit customers or other unauthorized persons from observing the installation, calibration, maintenance, monitoring, or servicing of an ignition interlock device.

(b) Have all tools, test equipment, and manuals needed to install or otherwise service an ignition interlock device and to screen vehicles for acceptable mechanical and electrical condition prior to installation.

(c) Provide adequate security measures to prevent unauthorized persons from accessing secured materials (tamper seals or installation instructions).

(d) Install or service an ignition interlock device in a vehicle taking into account the condition of the vehicle's mechanical and electrical systems.

(e) Install or service an ignition interlock device following accepted trade standards and instructions from the ignition interlock device manufacturer.

(f) Verify that the ignition interlock device is functioning properly after it has been installed in the vehicle or serviced.

(g) Ensure that an interlock ignition device is not installed or serviced in a manner that could adversely affect the performance of the ignition interlock device or impede the safe operation of the vehicle.

(h) Restore a vehicle to its original condition when an interlock ignition device is removed. All severed wires must be permanently reconnected and insulated with heat shrink tubing or equivalent.

NOTE: Authority cited: Section 9814, Business and Professions Code. Reference: Section 9807, Business and Professions Code.

Article 5 - False or Misleading Advertising

2751. Advertising by Service Dealer

Advertising which shall be deemed untrue or misleading includes, but is not limited to, advertising which fails to conform to the following specifications:

(a) Advertisement for repair of sets or appliances shall contain all of the following information as a protection to those persons answering the advertisement:

(1) The firm name and address of the business enterprise as shown on its service dealer's state registration certificate.

(2) The business telephone number as listed in the local telephone directory.

(b) The use of words such as, "guarantee," "guaranteed," "no fix-no pay," or words of like import, are prohibited unless the terms or qualifications are clearly and completely stated including the disclosure of:

(1) The nature and extent of the guarantee as to time, parts, and/or labor.

(2) The identity of the guarantor; e.g., clearly identifying whether the service dealer, the manufacturer, the retailer, or any combination thereof is the guarantor.

(c) If such terms as "repaired in the home" are included in an advertisement, it shall also be stated therein that there will be a charge if repairs cannot be completed in the home if such is the case.

(d) If the price for a picture tube is quoted in an advertisement, the advertisement shall disclose the following:

(1) Whether the price quoted includes installation.

(2) Whether the picture tube offered is new, used, rebuilt, or rejuvenated.

(e) The use of the word "free" is not permitted in any advertisement unless the article or service is actually free, or if the offer is conditioned in anyway, such conditions are clearly set forth in the advertisement.

(f) Terms such as "24 hour," "Day and Night," or words of like import, shall not be used to describe the operations of the firm unless such service is actually available to the public at any time during the 24 hours of the day and night. An answering service that relays messages for scheduling service calls for a later time shall not be sufficient.

(g) It shall not be stated or implied in any advertisement that repairs or services will be performed by any person who is "Factory Trained," a "Factory Specialist," "Factory Authorized," "Authorized," "Licensed," "Certified," or words of like import, unless such words are true and not misleading.

(h) The words "Discount coupons," "Discount prices" or words of similar import shall not be used in any advertisement unless the normal or customary price which is being discounted is prominently displayed in such advertisement and is referred to as such, i.e., "\$5.00 off regular service call price ... regular service call \$17.50."

(i) If the price of a service call, as it is defined in Section 2702(r) of these Regulations, is quoted in an advertisement, no charges shall be made in addition to the service call charge advertised except as provided in Section 9844 of the Act.

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NOTE: Authority cited: Sections 9814 and 9841, Business and Professions Code. Reference: Sections 9841 and 9846, Business and Professions Code.

2752. Quotation of Service Call Charge

The service dealer shall quote a charge for each service call, as defined in Regulation 2702(r), and the diagnosis fee, if one is to be charged, prior to making each service call. No charges shall be made in addition to the service call charge quoted, except as provided in Section 9844 of the Act. If a diagnosis fee is charged, it shall be included in the service call charge.

NOTE: Authority cited: Section 9814, Business and Professions Code. Reference: Section 9844, Business and Professions Code.

2753. Rejuvenation or Restoration

Where the picture tube has been rejuvenated or restored in the repair of a television set, the term "rebuilt" or "reconditioned" shall not be used to describe such rejuvenation or restoration.

NOTE: Authority cited: Sections 9814 and 9841, Business and Professions Code. Reference: Sections 9841, 9842, and 9847, Business and Professions Code.

2754. Alignment

The use of the term "alignment" to describe the repair of a set, shall conform to the definition of alignment as set forth in Regulation 2702(c).

NOTE: Authority cited: Section 9814, Business and Professions Code. Reference: Section 9841, Business and Professions Code.

Article 5.5 - Service Contractors

2755. Definition of Product

For the purpose of the rules and regulations contained in this chapter, the term 'home health care products' are products purchased by an individual consumer for the purpose of personal care or personal health care. These products are powered by an AC cord or battery and include but are not limited to, personal grooming equipment, body care and skin products, oral care products, blood pressure monitors, electric wheelchairs, portable humidifiers, nebulizers, or air purifiers, or other like equipment.

NOTE: Authority cited: Section 9814.5, Business and Professions Code. Reference: Sections 9830.5, 9855, and 9855.2, Business and Professions Code.

2756. Registration of Service Contractors

An application for registration as service contractor shall be filed with the bureau on an application form (Form 61A-2, Rev. 01/04) prescribed and provided by the bureau and accompanied by the prescribed fee. In addition to the information required by Section 9830.5 of the Code, an application shall also include the following:

(a) The service contractor's telephone number, mailing address, and the service contractor's business name, business address and business telephone number if different than the information relating to the individual service contractor.

(b) A service contract seller shall disclose the name and address of all service contract administrators which it uses to administer its service contracts.

(c) A service contract administrator shall disclose the name and address of the service contract sellers who sell or offer contracts administered by the administrator.

(d) A copy of the service contractor's proposed service contract form.

(e) The current value, based upon the full purchase price of the service contract paid by the service contract holder, of all service contracts in force, unless the service contractor has purchased or has arranged to have purchased on its behalf a service contract reimbursement insurance policy covering its service contracts or the service contracts which it administers.

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(f) Proof of financial responsibility which complies with one of the following requirements:

(1) The most recent annual report on Form 10-K required by the Securities and Exchange Commission which complies with the provisions of Section 9855.2(a)(1) of the Code. A foreign corporation may submit a comparable regulatory filing which complies with the provisions of Section 2757.3 and includes an audited statement.

(2) A copy of a service contract reimbursement insurance policy which complies with the provisions of Section 9855.4 of the Code.

(3) Copies of contracts which evidence that a service contract seller sells service contracts which are administered by a service contract administrator who has obtained a service contract reimbursement insurance policy covering the seller's service contracts.

(4) Evidence of a funded escrow account which complies with the provisions of Section 2757.5. Such evidence shall disclose the name and address of the financial institution which holds the funded escrow account, the escrow account number, the escrow account instructions, and the most recent financial statement for the escrow account from the financial institution holding the escrow account. The applicant shall also grant the Director or his or her designee the authority to verify with the financial institution holding the escrow account the fund condition of the account.

(5) The most recent audited financial statement reflecting a net worth of not less than one hundred million dollars (\$100,000,000) which complies with Section 9855.2(a)(1)(B) of the Code. This audited financial statement and the registration renewal shall be filed annually with the bureau.

(g) A service contractor who is a service contract administrator shall only be allowed to demonstrate financial responsibility by submitting a copy of the service contract reimbursement insurance policy covering the service contracts which it administers.

(h) Where the service contractor is a sole proprietor, the owner shall disclose his or her social security number. Where the service contractor is a partnership, it shall disclose its federal employer identification number. Individuals identified in the application shall disclose a form of official identification from a state or federal government, such as a driver's license number or state identification number or passport number.

(i) Criminal and adverse administrative licensing history information in any jurisdiction relating to the service contractor and the following individuals:

(1) Sole proprietorship - Individual owner.

(2) Partnership - All general partners.

(3) Company submitting a Form 10-K with its application - The individual in charge of the company's service contract program.

(4) Company not submitting a Form 10-K with its application - All officers and directors of the company and the individuals in charge of the company's service contract program.

(j) Signatures from the following individuals:

(1) Sole proprietorship - Individual owner.

(2) Partnership - All general partners.

(3) Corporation - The officer or individual in charge of its service contract program.

NOTE: Authority cited: Section 9814.5, Business and Professions Code. Reference: Sections 9830.5 and 9855.2, Business and Professions Code.

2757. Financial Responsibility; Sellers of Another's Service Contracts

(a) A service contract seller shall provide proof of financial responsibility as specified in Section 2756(f).

(b) A person who is not the obligor on a service contract, but sells such service contracts on behalf of another person who is the obligor on the service contract, shall be deemed to be a service contract seller. Such a seller shall be required to meet all the requirements of registration except that such seller shall be allowed to provide proof of financial responsibility for those service contracts by identifying by date, document title, and if applicable, account number of the evidence of financial responsibility submitted by the obligor on such service contracts.

NOTE: Authority cited: Section 9814, Business and Professions Code. Reference: Sections 9855 and 9855.2, Business and Professions Code.

2757.1. "Deferred Revenues from Service Contracts in Force;" Defined

For purposes of complying with the requirements of Sections 9855.2(a)(1), 9855.2(a)(4), and 9855.3(c)(4) of the Code, the term "deferred revenues from service contracts in force" shall mean the full purchase price of the service contract paid by the service contract holder.

NOTE: Authority cited: Section 9814, Business and Professions Code. Reference: Sections 9855.2 and 9855.3, Business and Professions Code.

2757.2 Net Worth Test on Form 10-K; Defined

For purposes of complying with the requirements of Sections 9855.2(a)(1) and 9855.3(c)(1) of the Code, the term "a net worth greater than the sum of the deferred revenues from service contracts in force" shall be calculated by comparing the sum of the "deferred revenue from all service contracts in force" as of the date of the audited financial statement included in the Form 10-K (or acceptable substitute) filing with the stockholders' equity reported on the financial statement. The amount of stockholders' equity shall exceed the sum of the deferred revenues from service contracts in force in order for the requirements of Sections 9855.2(a)(1) and 9855.3(c)(1) of the Code to be met.

NOTE: Authority cited: Section 9814, Business and Professions Code. Reference: Sections 9855.2 and 9855.3, Business and Professions Code.

2757.3. Foreign Corporation; Form 10-K Substitute

(a) For a foreign corporation to comply with the requirements of Sections 9855.2(a)(1) and 9855.3(c)(1) of the Code, an acceptable substitute for the annual report on Form 10-K required by the Securities and Exchange Commission shall consist of a complete copy of the filing made by the foreign corporation with a governmental agency of its home government that has regulatory oversight of a public securities exchange on which stock of such foreign corporation is traded. Such a filing shall include a set of financial statements audited by an independent accounting firm in order to be deemed an acceptable substitute for a Form 10-K filing. The complete copy shall be translated into the English language.

(b) If a foreign corporation does not make a filing with a foreign governmental agency of its home government that has regulatory oversight of a public securities exchange on which stock of such foreign corporation is traded because the corporation is substantially owned by the government of the country in which the corporation is domiciled, the Director may accept as an acceptable substitute for a Form 10-K filing documentation which consists of all of the following:

(1) A complete set of audited financial statements prepared by a firm of independent public accountants that practice, either directly or through affiliated firms, in more than one country, including but not limited to the United States and is licensed or otherwise has comparable authority under the laws of the country in which it is performing the audit to engage in the practice of public accounting;

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(2) A description of the company, its history, principal lines of business, and current operations; and

(3) A section entitled "management's discussion and analysis of financial conditions and results of operation" that provides the same information required by Item 303 of Regulation S-K (17 CFR §229.303) for the similar section contained in a Form 10-K filing.

The substitute for a Form 10-K filing shall be translated into the English language.

NOTE: Authority cited: Section 9814, Business and Professions Code. Reference: Sections 9855.2 and 9855.3, Business and Professions Code.

2757.4. Subsidiary Corporation Filing a Form 10-K

A service contract seller which is a majority-owned subsidiary of another (parent) corporation may demonstrate its financial responsibility as required by Sections 9855.2(a)(1) and 9855.3(c)(1) of the Code by filing, with its application for registration or renewal, either a copy of the Form 10-K of its parent corporation or, where its parent corporation is a foreign corporation, a Form 10-K substitute as specified in section 2757.3, provided that such filing includes a statement signed by an authorized officer of the parent corporation evidencing a full guarantee by the parent corporation of the service contract obligations of the subsidiary corporation. Absent such a guarantee from the parent corporation, the service contract seller shall comply with the financial responsibility requirements of the law using one of the other means provided for in Sections 9855.2(a) and 9855.3(c) of the Code.

NOTE: Authority cited: Section 9814, Business and Professions Code. Reference: Sections 9855.2 and 9855.3, Business and Professions Code.

2757.5. Funded Escrow Account; Defined

(a) For purposes of complying with the requirements of Section 9855.2(a)(4) and 9855.3(c)(4) of the Code, the term "a funded account held in escrow" shall mean an account held at a federal or state chartered bank or savings institution. Such account shall be held in trust for the benefit of the service contract holders and funds in such account may not be released by the trustee except as provided for in Sections 2757.5 and 2757.6.

(b) The escrow agreement between the service contract seller and the bank or savings institution shall at a minimum specify all of the following:

(1) All escrow fees of any kind shall be paid by the service contract seller and shall not be the responsibility of the Director of the Department of Consumer Affairs.

(2) The investment alternatives for deposited funds held in escrow shall be limited to the investment alternatives allowed for in Government Code Section 16430 for funds of California governmental entities that maintain deposits with banks or savings institutions.

(3) The escrow agreement shall explicitly provide the Director or his or her designee the right, at any time and at his or her sole discretion, to review or audit any or all activity related to the escrow account(s) held for the purpose of meeting service contract deposit requirements.

(4) The withdrawal of escrow funds, for any reason, shall require an approval signature from an escrow officer of the bank or savings institution with signature authority for the account.

(5) The escrow account trustee shall notify the Director, through the bureau, immediately, by facsimile and by letter, of any intended disbursement to be made out of the escrow account for any reason. The notification shall indicate that the Director has five (5) working days to suspend the disbursement pending the Director's review or other action, and shall indicate the last date for the Director's action. If the Director does not order the suspension of disbursements from the account before the end of the fifth working day, the escrow account trustee is authorized to make the previously notified distribution as planned.

(c) The required minimum balance in such account shall be equal to a minimum of 25 percent of the deferred revenues from the service contracts in force. The minimum balance shall be calculated by multiplying the sum total of the deferred revenues from all service contracts in force as of the last business day of the calendar quarter in which the calculation is being made by the number 0.25.

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(d) The service contract seller shall file a statement with the funded escrow account trustee no less than once each calendar quarter, such statement shall be due by the 15th working day following the close of the calendar quarter. The statement shall indicate the escrow account aggregate ending balance from the previous calendar quarter, the number of new or renewal service contracts sold during the quarter, the aggregate sales price of the contracts sold during the quarter, the number and aggregate sales price of all service contracts expiring during the quarter, and the service contract seller's calculation of the new aggregate required balance in the funded escrow account. The statement shall be signed by an authorized representative or officer of the service contract seller.

The escrow account trustee shall utilize the information contained in the statement balance of the funded escrow account to calculate the deposit amount or the amount available to refund. Such calculation shall be made no less often than once each calendar quarter within 20 working days after the close of the immediately preceding calendar quarter. The escrow account trustee shall notify the service contract seller of its findings within five working days after the trustee has completed its calculations. The service contract seller shall then have 10 working days to deposit such additional funds as the trustee calculates are required to meet the required minimum balance required by law. Interest earned on the funded escrow account may be used to meet the minimum funding requirement. Should the service contract seller fail to deposit the required funds in the escrow account, the trustee shall immediately notify the director of the deficiency and the director shall take appropriate action, including, but not limited to, the filing of a petition for an interim order of suspension.

(e) If there is a surplus of funds in the funded escrow account, the trustee may return such surplus funds as requested by the service contract seller.

(f) Prior to releasing funds from the escrow account to the service contract seller, the escrow account trustee shall notify the Director, through the bureau, by facsimile and mail, five (5) working days prior to the day funds will be released to the service contract seller. The notice shall include the calculation made by the escrow account trustee to determine the amount of funds to be released and the pertinent data supplied by the service contract seller for the calculation. The notification shall indicate that the Director has five (5) working days to suspend the disbursement pending the Director's review or other action, and shall indicate the last date for the Director's action. If the Director does not order the suspension of disbursements from the account before the end of the fifth working day, the escrow account trustee is authorized to make the previously notified distribution as planned.

NOTE: Authority cited: Section 9814, Business and Professions Code. Reference: Sections 494, 9855.2 and 9855.3, Business and Professions Code.

2757.6. Release of Escrow Account Funds to Assist Service Contractholders

(a) The Director may direct the trustee to release funds held in the funded escrow account of a service contract seller under the following conditions:

(1) The service contract seller petitions the Director, through the bureau, to release funds in the account in order to pay for repair services required to meet obligations to service contractholders. Such a petition shall contain evidence that the service contract seller is unable to meet his or her obligations except through the use of funds in the escrow account.

Such a petition shall include financial statements and an accompanying written narrative by an officer of the service contractor, signed under penalty of perjury, detailing the financial conditions of the service contractor and why the service contractor is unable to meet its service contract obligations except by use of escrow funds. The petition shall present a plan for corrective action that details how the service contractor will correct the deficiency in its funded escrow account or will otherwise discharge its obligations to the service contract holders.

(2) A service contractholder or group of service contract holders petitions the Director, through the bureau, to release funds in the account in order to pay for repair services required to meet obligations to service contractholders. Such petition shall set forth the efforts the service contractholders took to obtain repair service from the service contract seller (or obligor).

(b) Upon receipt of a petition requesting the release of funds held in the funded escrow account of a service contract seller, the Director shall investigate the claims made in such petition and shall, within thirty (30) days,

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issue his or her decision on the petition. If the Director grants the petition, he or she may order appropriate action to protect the interests of service contractholders which includes, but, is not limited to:

(1) The issuance of an interim order restricting the service contractor's ability to enter into new service contracts during the period when the Director has authorized the trustee to release funds from the escrow account to pay for repair services.

(2) Requiring the service contractor to appoint a third party to process applications from service contract holders for escrow account funds to pay for covered repairs.

NOTE: Authority cited: Section 9814, Business and Professions Code. Reference: Sections 494, 9855.2, 9855.3 and 9863, Business and Professions Code.

2758. Service Contractors; Record Keeping

(a) Every service contractor shall maintain or arrange for the maintenance of a record of the following:

(1) The number of total service contracts which are in effect.

(2) The duration remaining on all service contracts.

(3) The retail purchase price of its service contracts.

(4) The names and addresses of its service contract holders where provided by the service contract holder.

(5) The methods or means which have been used by the service contractor to meet the requirements of section 9855.2 of the Code during the immediate past five years or since it has been registered with the bureau as a service contractor, whichever is shorter.

Where the service contractor has elected to use a funded escrow account as proof of financial responsibility, the Director or his or her designee shall have the authority to audit and/or verify with the financial institution holding the escrow account the status of the fund condition of the account.

(b) A service contract administrator shall maintain a record of the name and address of all sellers who sell or offer contracts administered by the administrator.

(c) A service contract seller shall maintain a record of the name and address of all administrators which it uses to administer its service contracts.

(d) A service contractor shall provide to the director annually at the time for renewal of its registration proof of financial responsibility as specified in Section 2756(f). The service contractor shall also provide to the director at that time the current value, based upon the full purchase price of the service contract paid by the service contract holder, of all service contracts in force, unless the service contractor has purchased or has arranged to have purchased on its behalf a service contract reimbursement insurance policy covering its service contracts or the service contracts which it administers.

NOTE: Authority cited: Section 9814, Business and Professions Code. Reference: Sections 9847.5, 9855 and 9855.2, Business and Professions Code.

2758.5. Service Contract; Filing

The service contractor or its authorized representative shall file with the bureau, prior to its use, a service contract form, including revisions or modifications to a service contract previously filed with the bureau.

NOTE: Authority cited: Section 9814, Business and Professions Code. Reference: Section 9855.3, Business and Professions Code.

Article 6 – Fees

2760. Fees

(a) The service dealer initial registration fee and annual renewal fee shall be one hundred sixty-five dollars (\$165) for each location engaging in the business of repair or installation of electronic equipment as defined in the Act and one hundred sixty-five dollars (\$165) for the repair of appliances.

(b) The service dealer initial registration fee shall be three hundred twenty-five dollars (\$325) for each location engaging in the business of repair or installation of electronic equipment as defined in the Act and the repair of appliances.

(c) The annual registration renewal fee shall be three hundred dollars (\$300) for each location engaging in the business of repair or installation of electronic equipment as defined in the Act and the repair of appliances.

(d) The service contractor initial registration fee and annual renewal fee shall be seventy-five dollars (\$75) for each place of business engaged in the issuing, selling, offering for sale and/or administering of service contracts in this state.

NOTE: Authority cited: Section 9814, Business and Professions Code. Reference: Section 9873, Business and Professions Code.

Article 7 - Miscellaneous

2764. Record Keeping - Customer-related Records

A legible original or legible copy of the following records shall be retained by the service dealer for a period of at least three years: invoice, customer claim check, estimate records, and employee records.

NOTE: Authority cited: Section 9814, Business and Professions Code. Reference: Sections 9842 and 9847, Business and Professions Code.

2765. Return of Replaced Parts, Exemptions

Section 9843 requires that the service dealer shall return replaced parts to the customer excepting parts that the service dealer needs to return to the manufacturer or distributor under a warranty arrangement or parts that are exempted by regulation, as follows:

(a) Electronic or appliance parts that are repairable and are replaced or sold on an exchange basis, including picture tubes, printed circuit components, tuners and plug-in modules.

(b) Parts that are removed from appliances, as defined in Regulation 2702(f), providing the customer has waived the return of such parts in writing, including refrigeration compressors, condensers and evaporator coils; refrigerator and freezer doors and liners; washing machine transmissions, agitators and tubs; and dryer drums.

(c) Parts that contain toxic material which have been identified as a health hazard by a government public health agency, or where the manufacturer of the replacement part provides specific safety disposal procedures for such parts.

NOTE: Authority cited: Section 9814, Business and Professions Code. Reference: Section 9843, Business and Professions Code.

2766. Rebuilt Units - Guarantees

Where a service dealer has guaranteed the performance of a rebuilt electronic set, appliance or component part thereof, all components of the rebuilt unit shall be included under such guarantee.

NOTE: Authority cited: Section 9814, Business and Professions Code. Reference: Section 9846, Business and Professions Code.

2767. Substantial Relationship Criteria

For the purposes of denial, suspension, or revocation of the registration of a repair service dealer pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a crime or act shall be considered to be substantially related to the qualifications, functions or duties of a service dealer if to a substantial degree it evidences present or potential unfitness of a service dealer to perform the functions authorized by his registration in a manner consistent with the public health, safety, or welfare. Such crimes or acts shall include but not be limited to those involving the following:

- (a) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate any provision or term of Chapter 20, Division 3 of the Business and Professions Code.
- (b) Conviction of a crime involving fiscal dishonesty.

NOTE: Authority cited: Section 9814, Business and Professions Code. Reference: Sections 475, 480, 488, 490 and 9841, Business and Professions Code.

2768. Criteria for Rehabilitation

(a) The bureau shall evaluate the rehabilitation of the applicant, registrant, or petitioner and his or her present eligibility for a registration:

- (1) When considering the denial of a registration under the provisions of Section 480 of the Code;
- (2) When considering the suspension or revocation of a registration on the grounds that a service dealer has been convicted of a crime;
- (3) When considering a petition for reinstatement of a registration under the provisions of Section 11522 of the Government Code.

(b) In evaluating the rehabilitation of the applicant, registrant, or petitioner, the bureau shall consider the following criteria:

- (1) The nature and the severity of the act(s) or crime(s) under consideration.
- (2) Evidence of any act(s) committed subsequent to the act(s) or crime(s) under consideration as grounds for denial which also could be considered as grounds for denial under Section 480 of the Business and Professions Code when considering an applicant pursuant to subsection (a)(1) of this section.
- (3) Total criminal record when considering a person pursuant to subsections (a)(2) and (a)(3) of this section.
- (4) The time that has elapsed since commission of the act(s) or crime(s) under consideration.
- (5) The extent to which the applicant, registrant, or petitioner has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against the applicant, registrant, or petitioner.
- (6) Evidence, if any, of rehabilitation submitted by the applicant, registrant, or petitioner. Such evidence may include, but is not limited to, proof of additional training or education, evidence of service to the community, and, if applicable, evidence of expungement proceedings, pursuant to Section 1203.4 of the Penal Code.

NOTE: Authority cited: Section 9814, Business and Professions Code. Reference: Sections 475, 480, 482 and 9841, Business and Professions Code.

2770. Complaint Information System

The bureau shall provide a system designed to provide individual members of the consuming public information regarding complaints and disciplinary actions against registrants and information regarding their registration status as specified below, unless in the determination of the bureau disclosure of such complaint information would be unduly prejudicial to registrants.

(a) Information to be Provided Regarding Complaints. The bureau shall maintain a system of information, regarding complaints received. The system shall provide for information relating to the preceding 3 years. The system will afford to members of the public, upon written request, all of the following regarding a particular registrant:

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- (1) The number of such complaints which, after investigation including contact with the registrant, have been found by bureau staff to indicate probable violations of the bureau's registration law or regulations.
 - (2) With respect to each such complaint, the following information:
 - (A) Its date of receipt by year.
 - (B) Its disposition, by indicating whether the matter has been:
 1. referred to formal disciplinary action;
 2. found to involve a minor violation not in itself meriting disciplinary action;
 3. disposed of through settlement, compromise or complaint mediation; or
 4. disposed of through any other action, formal or informal, taken against the registrant.
 - (3) Such general cautionary statement, as the bureau may deem appropriate, regarding the utility of complaint information to individual consumers in their selection of registrants.
 - (4) If a complaint which was initially determined to indicate a probable violation of law is later found by the bureau's staff upon further investigation not to truly involve a violation, it shall be deleted from the complaint system.
 - (5) Such comparative data as may be considered by the bureau to be informative to consumers, which may include the average number of valid complaints received against registrants in a given region or locality.
- (b) Information to be Provided Regarding Disciplinary Action. The bureau shall maintain records showing the disciplinary history of all current registration holders and shall provide to members of the public, upon written request, the following information:
- (1) Whether any current registrant has ever been disciplined and, if so, when and for what offense.
 - (2) Whether any current registrant has been named in any disciplinary action.
- (c) Information to be Provided Regarding Registration Status. The bureau shall maintain records showing certain registration information for all current registration holders and for three (3) years following the inactivation of registration. The bureau shall provide to members of the public, upon written request, the following information regarding past and current registrants:
- (1) The name of the service dealer as it appears in the bureau's records.
 - (2) The registration number.
 - (3) The address of record and telephone number.
 - (4) The date of original registration.
 - (5) The date or dates such registration expired, lapsed, or was terminated and, if applicable, the reason for termination.
- (d) Quantity of Information to be Provided Per Week. To avoid undue delay in the bureau's response to other requesters and in order that no one requester may overburden the bureau's system, the bureau may establish reasonable limits on the number of requests per week from any one requester which the bureau may handle.

NOTE: Authority cited: Section 9814, Business and Professions Code. Reference: Sections 9814, 9860 and 9863, Business and Professions Code.

2771. Citations: Assessment of Civil Penalties

- (a) Citations issued pursuant to Section 125.9 and 148 of the Code include violations of the provisions of the Electronic and Appliance Repair Dealer Registration Law ("Act") and any regulations adopted pursuant to any provisions of the Act. The Chief is authorized to issue citations containing orders of abatement and fines for violations of the provisions of law referred to in this section.
- (b) A citation shall be issued whenever any order of abatement is issued or any fine is levied. Each citation shall be in writing and shall describe with particularity the nature and facts of the violation, including a reference to the statute or regulations alleged to have been violated. The citation shall be served upon the individual personally or by certified mail. Each citation issued shall contain an order of abatement. Citations may contain a civil penalty. Where citations issued include a civil penalty they shall be classified according to the nature of the violation and shall indicate the classification on the face thereof as follows:

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(1) Class "A" violations are violations which the Chief has determined involve a person who, while operating as a service dealer, has violated a statute or regulation relating to the repair or installation of equipment as provided for in the Act and which either has caused (1) the death of or bodily injury to another person or (2) fire damage to property or (3) a person who has committed a class "B" violation and has three or more prior separate class "B" violations within the 36 month period immediately preceding the act serving as the basis for the citation, without regard to whether the actions to enforce the previous citations have become final. However, the increase in the civil penalty required by this paragraph shall not be due and payable unless and until the previous actions have been terminated in favor of the bureau. A class "A" violation is subject to a civil penalty in the amount of not less than seven hundred fifty dollars (\$750) and not exceeding two thousand five hundred dollars (\$2,500) for each and every violation.

(2) Class "B" violations are violations which the Chief has determined involve either (1) a person who, while operating as a service dealer, has violated a statute or a regulation relating to the repair or installation of equipment, as provided for in the Act and which caused damage, other than death or fire damage or bodily harm or (2) a person who has committed a class "C" violation and has three or more prior separate class "C" violations which have been terminated in favor of the bureau within the 36 month period immediately preceding the act serving as the basis for the citation without regard to whether the actions to enforce the previous citations have become final. However, the increase in the civil penalty required by this paragraph shall not be due and payable unless and until the previous actions have been terminated in favor of the bureau. A class "B" violation is subject to a civil penalty in the amount not less than two hundred fifty dollars (\$250) and not exceeding seven hundred fifty dollars (\$750) for each and every violation.

(3) Class "C" violations are violations which the Chief has determined involve a person who, while operating as a service dealer has violated a statute or regulation relating to the repair or installation of equipment provided for in the Act and which has caused neither property nor monetary damage or bodily harm. A class "C" violation is subject to a civil penalty in the amount of not less than fifty dollars (\$50) and not exceeding two hundred fifty dollars (\$250) for each and every violation.

(c) In assessing the amount of a civil penalty, the Chief shall consider the following criteria:

1. The good or bad faith exhibited by the cited person.
2. The nature and severity of the violation.
3. Evidence that the violation was willful.
4. History of previous violations.
5. The extent to which the cited person has cooperated with the bureau's investigation.
6. The extent to which the cited person has mitigated or attempted to mitigate any loss caused by his/her violation.
7. The extent of consumer injury which is a direct and proximate result of the violation.
8. Such other matters as justice may require.

(d) If a cited person who has been issued an order of abatement is unable to complete the correction within the time set forth in the citation because of conditions beyond his or her control after the exercise of reasonable diligence, the person cited may request an extension of time from the Chief in which to complete the correction. Such a request shall be in writing.

(e) When an order of abatement is not contested or if the order is appealed and the person cited does not prevail, failure to abate the violation charged within the time allowed shall constitute a violation and failure to comply with the order of abatement. The time allowed for the abatement of a violation shall begin when the order of abatement is final and has been served. Such failure may result in disciplinary action being taken by the bureau or other appropriate judicial or regulatory relief being taken against the person cited.

(f) The Chief is authorized to issue citations containing orders of abatement and fines against persons, partnerships, corporations or associations who are performing or who have performed services for which registration is required by the Code. Each citation issued shall contain an order of abatement. Where appropriate the Chief shall levy a fine for such unlicensed activity in accordance with subdivision (b)(3) of Section 125.9 of the Code. The provisions of this section shall apply to the issuance of citations for unlicensed activity under this subsection. The sanction authorized under this section shall be separate from and in addition to any other civil or criminal remedies.

NOTE: Authority cited: Section 9814, Business and Professions Code. Reference: Sections 125.9 and 148, Business and Professions Code.

2772. Contest of Citations, Citation Review Conference

(a) In addition to requesting a hearing provided for in subdivision (b)(4) of Section 125.9 of the Code, the person cited may, within ten (10) days after service of the citation, notify the Chief in writing of his or her request for a citation review conference with the Chief or his or her designee regarding the acts charged in the citation.

(b) The Chief or his or her designee shall hold, within 30 days from the receipt of the request, a citation review conference with the person cited or his or her legal counsel or authorized representative. At the conclusion of the citation review conference the Chief or his or her designee may affirm, modify or dismiss the citation, including any fine levied or order of abatement issued. The Chief or his or her designee shall state in writing the reasons for his or her action and transmit a copy of his or her findings and decision to the person cited. This decision shall be deemed to be a final order with regard to the citation issued, including the fine levied and the order of abatement.

(c) The person cited does not waive his or her right to request a hearing to contest a citation by requesting a citation review conference after which the citation is affirmed by the Chief or his or her designee. If the citation, including any fine levied or order of abatement, is modified, the citation originally issued shall be considered withdrawn and new citation issued. If a hearing is requested for the subsequent citation, it shall be requested within 30 days in accordance with subdivision (b)(4) of Section 125.9.

NOTE: Authority cited: Section 9814, Business and Professions Code. Reference: Sections 125.9 and 125.95, Business and Professions Code.

2775. Disciplinary Guidelines

In reaching a decision on a disciplinary action under the Administrative Procedure Act (Government Code Section 11400 et seq.), the bureau shall consider the disciplinary guidelines entitled "Bureau of Electronic and Appliance Repair, Disciplinary Guidelines (June 1997)" which are hereby incorporated by reference. Deviation from these guidelines and orders, including the standard terms of probation, is appropriate where the bureau in its sole discretion determines that the facts of the particular case warrant such deviation - for example: the presence of mitigating factors; the age of the case; evidentiary problems.

NOTE: Authority cited: Sections 9814 and 9814.5, Business and Professions Code; and Sections 11400.20 and 11400.21, Government Code. Reference: Sections 125.3 and 9841, Business and Professions Code; and Sections 11400.20, 11400.21 and 11425.50(e), Government Code.

Guidelines for Disciplinary Penalties and Terms of Probation

The Bureau recognizes that these penalties and conditions of probation are guidelines, and that each disciplinary case must be assessed individually. If individual circumstances exist that justify omissions or deviations from these guidelines, the Bureau asks that these be explained by the Administrative Law Judge hearing the case. This will help the Bureau to better evaluate proposed decisions and to make decisions that accurately reflect the facts of each specific disciplinary matter. Should a probationary period be part of a proposed decision, the Bureau requests that the Administrative Law Judge impose the “Standard Terms and Conditions of Probation” in all disciplinary matters and the “Special Term and Condition of Probation for False and Misleading Advertising Violations,” as appropriate. These terms and conditions are intended to protect the public from continued illegal behavior and to facilitate the rehabilitation of the probationer without being unduly burdensome or anti-competitive.

FACTORS IN AGGRAVATION AND IN MITIGATION

The Bureau normally submits cases for the filing of an accusation based on investigations and the use of undercover equipment operations in order to detect and document violations of the Electronic and Appliance Dealer Law.

In determining the proper penalty within the suggested ranges, the following factors should be considered:

A. FACTORS IN AGGRAVATION

1. Prior warnings from the Bureau;
2. Prior Notices of Violations;
3. Prior Office Conferences with the Bureau;
4. Prior adverse inspection reports;
5. Prior demonstrations of incompetence;
6. Prior history of citations;
7. Prior history of formal disciplinary action;
8. Failure to permit Bureau inspection of records;
9. Attempts to intimidate consumer;
10. Negligent or willfully improper repair work that endangers consumer;
11. Evidence the unlawful act was part of a pattern of practice;
12. Failure to comply with a Bureau request for corrective action;
13. Currently on probation for improper acts;
14. Failure to successfully complete prior period of probation;
15. Failure to pay court judgment to victim;
16. Violation of previous court order; and
17. Any other conduct with constitutes fraud or gross negligence.

B. FACTORS IN MITIGATION

1. Evidence that respondent accepted and complied with Bureau suggested resolution to consumer complaint;
2. Evidence of voluntary participation in program for self or employees relating to compliance with Bureau laws and regulations;
3. Evidence of voluntary purchase and use of equipment and to bring respondent’s business into compliance;
4. Evidence of resolution of all consumer complaints with a subsequent change in business practice; and
5. Evidence of internal control or audit designed to eliminate errors.

ELECTRONIC AND APPLIANCE REPAIR, HOME FURNISHINGS, AND THERMAL INSULATION
DISCIPLINARY GUIDELINES

PENALTY GUIDELINES

The Bureau suggests that in cases involving multiple violations, orders for suspension or other discipline run concurrently.

Untrue or Misleading Statements or Advertisement

Business and Professions Code 9841(a)(1)

California Code of Regulations Sections 2720, 2751

Minimum: Revocation, Revocation Stayed, 30 days suspension, 3 years probation with Standard Probation Terms and Special Term of Probation for False and Misleading Advertising Violations.

Maximum: Revocation

False Promises to a Customer

Business and Professions Code 9841(a)(2)

Minimum: Revocation, Revocation Stayed, 30 days suspension, 3 years probation with Standard Probation Terms.

Maximum: Revocation

Fraud or Dishonest Dealing

Business and Professions Code 9841(a)(3)

Minimum: Revocation, Revocation Stayed, 60 days suspension, 5 years probation with Standard Probation Terms.

Maximum: Revocation

Incompetence or Negligence

Business and Professions Code 9841(a)(4)

Minimum: Revocation, Revocation Stayed, 60 days suspension, 3 years probation with Standard Probation Terms.

Maximum: Revocation

Failure to Comply with Statute or Regulation

Business and Professions Code Section 9841(a)(5), 9800 et. seq. California Code of Regulations Sections 2700 et. seq.

Minimum: Revocation, Revocation Stayed, 10 days suspension, 2 years probation with Standard Probation Terms.

Maximum: Revocation

Note: Penalty imposed should depend upon the severity of the violation.

Willful Departure or Disregard of Accepted Trade Standards

Business and Professions Code Section 9841(a)(6)

California Code of Regulations Sections 2741, 2743

Minimum: Revocation, Revocation Stayed, 30 days suspension, 3 years probation with Standard Probation Terms.

Maximum: Revocation

ELECTRONIC AND APPLIANCE REPAIR, HOME FURNISHINGS, AND THERMAL INSULATION
DISCIPLINARY GUIDELINES

Conviction of a Crime Substantially Related to Qualifications, Functions & Duties

Business and Professions Code Section 9841(a)(7)

Minimum: Revocation, Revocation Stayed, 30 days suspension, 3 years probation with Standard Probation Terms.

Maximum: Revocation

Note: Penalty imposed should depend upon the severity of the violation.

Acts or Crimes Pursuant to Business and Professions Code Section 480

Business and Professions Code Section 9841(a)(7)

California Code of Regulations Section 2767

Minimum: Revocation, Revocation Stayed, 30 days suspension, 3 years probation with Standard Probation Terms.

Maximum: Revocation

Note: Penalty imposed should depend upon the severity of the violation.

Holding Registration for Disciplined Former Registrant

Business and Professions Code Section 9841(c)

Minimum: Revocation, Revocation Stayed, 90 days suspension, 3 years probation with Standard Probation Terms.

Maximum: Revocation

Invoice Regulations

Business and Professions Code Section 9842

California Code of Regulations Sections 2720, 2723, 2723.5, 2725, 2727, 2730, 2731, 2732, 2733, 2734, 2735, 2736

Minimum: Revocation, Revocation Stayed, 10 days suspension, 2 years probation with Standard Probation Terms.

Maximum: Revocation

Return of Replaced Parts

Business and Professions Code Section 9843

California Code of Regulations Section 2765

Minimum: Revocation, Revocation Stayed, 30 days suspension, 2 years probation with Standard Probation Terms.

Maximum: Revocation

Estimate for Repairs/Diagnosis Fee

Business and Professions Code Section 9844

California Code of Regulations, Sections 2721, 2722, 2722.5, 2722.6

Minimum: Revocation, Revocation Stayed, 30 days suspension, 2 years probation with Standard Probation Terms.

ELECTRONIC AND APPLIANCE REPAIR, HOME FURNISHINGS, AND THERMAL INSULATION
DISCIPLINARY GUIDELINES

Maximum: Revocation

Installation Charge Disclosure

Business and Professions Code Section 9844.1

Minimum: Revocation, Revocation Stayed, 30 days suspension, 2 years probation with Standard Probation Terms.

Maximum: Revocation

Compensation Based on Parts Replaced

Business and Professions Code Section 9845

Minimum: Revocation, Revocation Stayed, 10 days suspension, 2 years probation with Standard Probation Terms.

Maximum: Revocation

Records Maintenance - Service Dealers

Business and Professions Code Section 9847

California Code of Regulations Section 2764

Minimum: Revocation, Revocation Stayed, 10 days suspension, 2 years probation with Standard Probation Terms.

Maximum: Revocation

Records Maintenance - Service Contractors

Business and Professions Code Section 9847.5

California Code of Regulations 2758

Minimum: Revocation, Revocation Stayed, 2 years probation with Standard Probation Terms.

Maximum: Revocation

Service Contractor Registration Requirements

Business and Professions Code Section 9855.2

Minimum: Revocation, Revocation Stayed, 3 years probation with Standard Probation Terms.

Maximum: Revocation

Service Contract on File with Director Before Use

Business and Professions Code Section 9855.3

Minimum: Revocation, Revocation Stayed, 2 years probation with Standard Probation Terms.

Maximum: Revocation

Contract Reimbursement Insurance Obligations

Business and Professions Code Section 9855.4

Minimum: Revocation, Revocation Stayed, 5 years probation with Standard Probation Terms.

Maximum: Revocation

ELECTRONIC AND APPLIANCE REPAIR, HOME FURNISHINGS, AND THERMAL INSULATION
DISCIPLINARY GUIDELINES

Failure to Comply with California Civil Code Sections 1794.4 and 1794.41

Business and Professions Code Section 9855.5

Minimum: Revocation, Revocation Stayed, 3 years probation with Standard Probation Terms.

Maximum: Revocation

Contract Cancellation Refund

Business and Professions Code Section 9855.6

Minimum: Revocation, Revocation Stayed, 3 years probation with Standard Probation Terms.

Maximum: Revocation

Fraud or Dishonest Dealing - Service Contractors

Business and Professions Code Section 9855.7(a) California Code of Regulations Section 2755 et seq

Minimum: Revocation, Revocation Stayed, 5 years probation with Standard Probation Terms.

Maximum: Revocation

Conviction of Crime Substantially Related to Qualifications, Functions or Duties of Service Contractors

Business and Professions Code Section 9855.7(b)

Minimum: Revocation, Revocation Stayed, 3 years probation with Standard Probation Terms.

Maximum: Revocation

Note: Penalty imposed should conform to the severity of the violation.

Assisting/Abetting or Conspiring to Violate any Statute or Regulation

Business and Professions Code Section 9855.7(c)

Minimum: Revocation, Revocation Stayed, 3 years probation with Standard Probation Terms.

Maximum: Revocation

Note: Penalty imposed should depend upon the severity of the violation.

STANDARD TERMS AND CONDITIONS OF PROBATION

A. Obey all laws

During the period of probation, respondent(s) shall comply with all statutes, regulations and rules governing electronic and appliance repair.

B. Comply with probation program

Respondent shall fully comply with the probation established by the Bureau and shall cooperate with the representatives of the Bureau.

C. Submit quarterly reports

Respondent shall submit quarterly reports, under penalty of perjury. The reports shall certify and document compliance with all the conditions of probation.

ELECTRONIC AND APPLIANCE REPAIR, HOME FURNISHINGS, AND THERMAL INSULATION
DISCIPLINARY GUIDELINES

D. Maintain valid registration

Respondent shall, at all times while on probation, maintain an active current registration with the Bureau, including any period during which suspension or probation is tolled.

Should respondent's registration, by operation of law or otherwise, expire, upon renewal or reinstatement respondent's registration shall be subject to any and all terms of this probation not previously satisfied.

E. Personal Appearance at Bureau Office

Report, by personal appearance of respondent or respondent's authorized representative, to the _____ office on a schedule set by the Bureau, but no more frequently than each quarter, on the methods used and success achieved in maintaining compliance with the terms and conditions of probation.

F. Cooperation with Bureau inspections

Provide Bureau representatives unrestricted access to inspect all business locations, including business records required to be maintained in accordance with Section 9847 and 9847.5 of the Business and Professions Code.

G. Payment re Cost Recovery

Within ____ days of the effective date of this decision and order, respondent shall pay the Bureau its costs and charges of investigating and enforcing this matter in the amount of \$_____.

(Alternately, when it is established that a payment plan is appropriate)

Respondent shall pay the Bureau its costs and charges of investigating and enforcing this matter in the amount of \$_____ in _____(##) equal, consecutive monthly payments of \$_____ per month. The first payment shall be due within 30 calendar days of the effective date of this decision and order. The following _____(##) monthly payments shall be due by the first of the following month. Any payment that is not received by the seventh day of the month shall be considered late. Any late payments shall be a violation of probation.

H. Violation of Probation

If a respondent violates the conditions of his/her probation, the Bureau, after giving the respondent notice and an opportunity to be heard, may set aside the stay order and impose the stayed discipline (revocation/suspension) of the respondent's registration.

If during the period of probation, an accusation or petition to revoke probation has been filed against respondent's registration or the Attorney General's Office has been requested to prepare an accusation or petition to revoke probation against the respondent's registration, the probationary period shall automatically be extended and shall not expire until the accusation or petition has been acted upon by the Bureau. Upon successful completion of probation, the respondent's registration will be fully restored.

SPECIAL PROBATION TERM AND CONDITION FOR FALSE AND MISLEADING ADVERTISING

Respondent shall submit proofs of all advertisement to the Bureau prior to publication for a period of one year.

Respondent shall maintain copies of all advertisements subject to regulatory authority of the Bureau for a period of 3 years. The documents must be made available to Bureau field representative upon demand.

All costs, including, but not limited to: field, laboratory, and administrative costs associated with the probation of respondent's registration shall be paid by respondent to the Bureau.

OTHER RELATED CODE SECTIONS

Retail Sale,
Delivery and Repair Transactions,
Time of Delivery & Repair
(Civil Code Section 1722)

Song-Beverly Consumer Warranty Act
(Civil Code Sections 1794.4-1794.41)

Mechanic's Lien Law
(Civil Code Sections 3051-3059)

**Retail Sale, Delivery and Repair Transactions and Time of Delivery & Repair
(Civil Code Section 1722)**

1722. Retail sale and delivery, and service or repair transactions; time of delivery, service or repair; damages for failure to deliver or to commence service or repair; cable television; utilities; void contracts

(a) (1) Whenever a contract is entered into between a consumer and a retailer with 25 or more employees relating to the sale of merchandise which is to be delivered by the retailer or the retailer's agent to the consumer at a later date, and the parties have agreed that the presence of the consumer is required at the time of delivery, the retailer and the consumer shall agree, either at the time of the sale or at a later date prior to the delivery date, on a four-hour time period within which any delivery shall be made. Whenever a contract is entered into between a consumer and a retailer with 25 or more employees for service or repair of merchandise, whether or not the merchandise was sold by the retailer to the consumer, and the parties have agreed that the presence of the consumer is required at the time of service or repair, upon receipt of a request for service or repair under the contract, the retailer and the consumer shall agree, prior to the date of service or repair, on a four-hour period within which the service or repair shall be commenced. Once a delivery, service, or repair time is established, the retailer or the retailer's agent shall deliver the merchandise to the consumer, or commence service or repair of the merchandise, within that four-hour period.

(2) If the merchandise is not delivered, or service or repair are not commenced, within the specified four-hour period, except for delays caused by unforeseen or unavoidable occurrences beyond the control of the retailer, the consumer may bring an action in small claims court against the retailer for lost wages, expenses actually incurred, or other actual damages not exceeding a total of six hundred dollars (\$600).

(3) No action shall be considered valid if the consumer was not present at the time, within the specified period, when the retailer or the retailer's agent attempted to make the delivery, service, or repairs or made a diligent attempt to notify the consumer by telephone or in person of its inability to do so because of unforeseen or unavoidable occurrences beyond its control. If notification is by telephone, the retailer or the retailer's agent shall leave a telephone number for a return telephone call by the consumer to the retailer or its agent, to enable the consumer to arrange a new two-hour period for delivery, service, or repair with the retailer or the retailer's agent.

(4) In any small claims action, logs and other business records maintained by the retailer or the retailer's agent in the ordinary course of business shall be prima facie evidence of the time period specified for the delivery, service, or repairs and of the time when the merchandise was delivered, or of a diligent attempt by the retailer or the retailer's agent to notify the consumer of delay caused by unforeseen or unavoidable occurrences.

(5) It shall be a defense to the action if a diligent attempt was made to notify the consumer of the delay caused by unforeseen or unavoidable occurrences beyond the control of the retailer or the retailer's agent, or the retailer or the retailer's agent was unable to notify the consumer of the delay because of the consumer's absence or unavailability during the four-hour period, and, in either instance, the retailer or the retailer's agent makes the delivery, service, or repairs within two hours of a newly agreed upon time or, if the consumer unreasonably declines to arrange a new time for the delivery, service, or repairs.

(b) (1) Cable television companies shall inform their subscribers of their right to service connection or repair within a four-hour period, if the presence of the subscriber is required, by offering the four-hour period at the time the subscriber calls for service connection or repair. Whenever a subscriber contracts with a cable television company for a service connection or repair which is to take place at a later date, and the parties have agreed that the presence of the subscriber is required, the cable company and the subscriber shall agree, prior to the date of service connection or repair, on the time for the commencement of the four-hour period for the service connection or repair.

(2) If the service connection or repair is not commenced within the specified four-hour period, except for delays caused by unforeseen or unavoidable occurrences beyond the control of the company, the subscriber may bring an action in small claims court against the company for lost wages, expenses actually incurred or other actual damages not exceeding a total of six hundred dollars (\$600).

OTHER RELATED CODE SECTIONS – TIME OF DELIVERY AND REPAIR

(3) No action shall be considered valid if the subscriber was not present at the time, within the specified period, that the company attempted to make the service connection or repair or made a diligent attempt to notify the subscriber by telephone or in person of its inability to do so because of unforeseen or unavoidable occurrences beyond its control. If notification is by telephone, the cable television company or its agent shall leave a telephone number for a return telephone call by the subscriber to the company or its agent, to enable the consumer to arrange a new two-hour period for service connection or repair.

(4) In any small claims action, logs and other business records maintained by the company or its agents in the ordinary course of business shall be prima facie evidence of the time period specified for the commencement of the service connection or repair and the time that the company or its agents attempted to make the service connection or repair, or of a diligent attempt by the company to notify the subscriber in person or by telephone of a delay caused by unforeseen or unavoidable occurrences.

(5) It shall be a defense to the action if a diligent attempt was made to notify the subscriber of a delay caused by unforeseen or unavoidable occurrences beyond the control of the company or its agents, or the company or its agents were unable to notify the subscriber because of the subscriber's absence or unavailability during the four-hour period, and, in either instance, the cable television company commenced service or repairs within a newly agreed upon two-hour period.

(6) No action shall be considered valid against a cable television company pursuant to this section when the franchise or any local ordinance provides the subscriber with a remedy for a delay in commencement of a service connection or repair and the subscriber has elected to pursue that remedy. If a subscriber elects to pursue his or her remedies against a cable television company under this section, the franchising or state or local licensing authority shall be barred from imposing any fine, penalty, or other sanction against the company, arising out of the same incident.

(c) (1) Utilities shall inform their subscribers of their right to service connection or repair within a four-hour period, if the presence of the subscriber is required, by offering the four-hour period at the time the subscriber calls for service connection or repair. Whenever a subscriber contracts with the utility for a service connection or repair, and the parties have agreed that the presence of the subscriber is required, and the subscriber has requested a four-hour appointment, the utility and the subscriber shall agree, prior to the date of service connection or repair, on the time for the commencement of the four-hour period for the service connection or repair.

(2) If the service connection or repair is not commenced within the four-hour period provided under paragraph (1) or another period otherwise agreed to by the utility and the subscriber, except for delays caused by unforeseen or unavoidable circumstances beyond the control of the utility, the subscriber may bring an action in small claims court against the utility for lost wages, expenses actually incurred, or other actual damages not exceeding a total of six hundred dollars (\$600).

(3) No action shall be considered valid if the subscriber was not present at the time, within the specified period, that the utility attempted to make the service connection or repair or made a diligent attempt to notify the subscriber by telephone or in person of its inability to do so because of unforeseen or unavoidable occurrences beyond its control. If notification is by telephone, the utility or its agent shall leave a telephone number for a return telephone call by the subscriber to the utility or its agent, to enable the consumer to arrange a new two-hour period for service connection or repair.

(4) In any small claims action, logs and other business records maintained by the utility or its agents in the ordinary course of business shall be prima facie evidence of the time period specified for the commencement of the service connection or repair and of the time that the utility attempted to make the service connection or repair, or of a diligent attempt by a utility to notify the subscriber in person or by telephone of a delay caused by unforeseen or unavoidable occurrences.

(5) It shall be defense to the action if a diligent attempt was made by the utility to notify the subscriber of a delay caused by unforeseen or unavoidable occurrences beyond the control of the utility, and the utility commenced service within a newly agreed upon two-hour period.

(d) Any provision of a delivery, service, or repair contract in which the consumer or subscriber agrees to modify or waive any of the rights afforded by this section is void as contrary to public policy.

Song-Beverly Consumer Warranty Act (Related Civil Code Sections 1794.4-1794.41)

Chapter 1 - Consumer Warranty Protection

Article 1 - General Provisions

1794.4. Service contract; contents

(a) Nothing in this chapter shall be construed to prevent the sale of a service contract to the buyer in addition to or in lieu of an express warranty if that contract fully and conspicuously discloses in simple and readily understood language the terms, conditions, and exclusions of that contract, provided that nothing in this section shall apply to a home protection contract issued by a home protection company that is subject to Part 7 (commencing with Section 12740) of Division 2 of the Insurance Code.

(b) Except as otherwise expressly provided in the service contract, every service contract shall obligate the service contractor to provide to the buyer of the product all of the services and functional parts that may be necessary to maintain proper operation of the entire product under normal operation and service for the duration of the service contract and without additional charge.

(c) The service contract shall contain all of the following items of information:

(1) A clear description and identification of the covered product.

(2) The point in time or event when the term of the service contract commences, and its duration measured by elapsed time or an objective measure of use.

(3) If the enforceability of the service contract is limited to the original buyer or is limited to persons other than every consumer owner of the covered product during the term of the service contract, a description of the limits on transfer or assignment of the service contract.

(4) A statement of the general obligation of the service contractor in the same language set forth in subdivision (b), with equally clear and conspicuous statements of the following:

(A) Any services, parts, characteristics, components, properties, defects, malfunctions, causes, conditions, repairs, or remedies that are excluded from the scope of the service contract.

(B) Any other limits on the application of the language in subdivision (b) such as a limit on the total number of service calls.

(C) Any additional services which the service contractor will provide.

(D) Whether the obligation of the service contractor includes preventive maintenance and, if so, the nature and frequency of the preventive maintenance that the service contractor will provide.

(E) Whether the buyer has an obligation to provide preventive maintenance or perform any other obligations and, if so, the nature and frequency of the preventive maintenance and of any other obligations, and the consequences of any noncompliance.

(5) A step-by-step explanation of the procedure that the buyer should follow in order to obtain performance of any obligation under the service contract including the following:

(A) The full legal and business name of the service contractor.

(B) The mailing address of the service contractor.

(C) The persons or class of persons that are authorized to perform service.

(D) The name or title and address of any agent, employee or department of the service contractor that is responsible for the performance of any obligations.

(E) The method of giving notice to the service contractor of the need for service.

(F) Whether in-home service is provided or, if not, whether the costs of transporting the product, for service or repairs will be paid by the service contractor.

(G) If the product must be transported to the service contractor, either the place where the product may be delivered for service or repairs or a toll-free telephone number that the buyer may call to obtain that information.

OTHER RELATED CODES – MECHANICS LIEN LAW

(H) All other steps that the buyer must take to obtain service.

(I) All fees, charges, and other costs that the buyer must pay to obtain service.

(6) An explanation of the steps that the service contractor will take to carry out its obligations under the service contract.

(7) A description of any right to cancel the contract if the buyer returns the product or the product is sold, lost, stolen, or destroyed, or, if there is no right to cancel or the right to cancel is limited, a statement of the fact.

(8) Information respecting the availability of any informal dispute settlement process.

(d) Subdivisions (b) and (c) are applicable to service contracts on new or used home appliances and home electronic products entered into on or after July 1, 1989. They are applicable to service contracts on all other new or used products entered into on and after July 1, 1991.

(e) This section shall become operative on January 1, 2008.

1794.41. Service contract provisions

(a) No service contract covering any motor vehicle, home appliance, or home electronic product purchased for use in this state may be offered for sale or sold unless all of the following elements exist:

(1) The contract shall contain the disclosures specified in Section 1794.4 and shall disclose in the manner described in that section the buyer's cancellation and refund rights provided by this section.

(2) The contract shall be available for inspection by the buyer prior to purchase and either the contract, or a brochure which specifically describes the terms, conditions, and exclusions of the contract, and the provisions of this section relating to contract delivery, cancellation, and refund, shall be delivered to the buyer at or before the time of purchase of the contract. Within 60 days after the date of purchase, the contract itself shall be delivered to the buyer. If a service contract for a home appliance or a home electronic product is sold by means of a telephone solicitation, the seller may elect to satisfy the requirements of this paragraph by mailing or delivering the contract to the buyer not later than 30 days after the date of the sale of the contract.

(3) The contract is applicable only to items, costs, and time periods not covered by the express warranty. However, a service contract may run concurrently with or overlap an express warranty if (A) the contract covers items or costs not covered by the express warranty or (B) the contract provides relief to the purchaser not available under the express warranty, such as automatic replacement of a product where the express warranty only provides for repair.

(4) The contract shall be cancelable by the purchaser under the following conditions:

(A) Unless the contract provides for a longer period, within the first 60 days after receipt of the contract, or with respect to a contract covering a used motor vehicle without manufacturer warranties, a home appliance, or a home electronic product, within the first 30 days after receipt of the contract, the full amount paid shall be refunded by the seller to the purchaser if the purchaser provides a written notice of cancellation to the person specified in the contract, and if no claims have been made against the contract. If a claim has been made against the contract either within the first 60 days after receipt of the contract, or with respect to a used motor vehicle without manufacturer warranties, home appliance, or home electronic product, within the first 30 days after receipt of the contract, a pro rata refund, based on either elapsed time or an objective measure of use, such as mileage or the retail value of any service performed, at the seller's option as indicated in the contract, or for a vehicle service contract at the obligor's option as determined at the time of cancellation, shall be made by the seller to the purchaser if the purchaser provides a written notice of cancellation to the person specified in the contract.

(B) Unless the contract provides for a longer period for obtaining a full refund, after the first 60 days after receipt of the contract, or with respect to a contract covering a used motor vehicle without manufacturer warranties, a home appliance, or a home electronic product, after the first 30 days after the receipt of the contract, a pro rata refund, based on either elapsed time or an objective measure of use, such as mileage or the retail value of any service performed, at the seller's option as indicated in the contract, or for a vehicle service contract at the obligor's option as determined at the time of cancellation, shall be made by the seller to the purchaser if the purchaser provides a written notice of cancellation to the person specified in the contract. In addition, the seller may assess a cancellation or administrative fee, not to exceed 10 percent of the price of the service contract or twenty-five dollars (\$25), whichever is less.

OTHER RELATED CODES – MECHANICS LIEN LAW

(C) If the purchase of the service contract was financed, the seller may make the refund payable to the purchaser, the assignee, or lender of record, or both.

(b) Nothing in this section shall apply to a home protection plan that is issued by a home protection company which is subject to Part 7 (commencing with Section 12740) of Division 2 of the Insurance Code.

(c) If any provision of this section conflicts with any provision of Part 8 (commencing with Section 12800) of Division 2 of the Insurance Code, the provision of the Insurance Code shall apply instead of this section.

1794.45. Information Regarding Service Contract Terms and Conditions

(a) A retailer that sells a service contract pursuant to Section 1794.4 shall do either of the following during the period that the service contract is in effect.

(1) Maintain contract information that includes a description of the terms and conditions of the service contract, and provide that information to the purchaser of the service contract or other beneficiary upon request.

(2) Upon request from the purchase of the service contract or other beneficiary, obtain a copy of the service contract, and provide that copy to the requester within 10 business days after receiving the request.

(b) This section shall not apply to a vehicle service contract, as defined in subdivision (c) of Section 12800 of the Insurance Code.

**Mechanic's Lien Law
(Civil Code Sections 3051-3059)**

3051. Possessory liens for services, repairs, etc.; exceptions

Every person who, while lawfully in possession of an article of personal property, renders any service to the owner thereof, by labor or skill, employed for the protection, improvement, safekeeping, or carriage thereof, has a special lien thereon, dependent on possession, for the compensation, if any, which is due to him from the owner for such service; a person who makes, alters, or repairs any article of personal property, at the request of the owner, or legal possessor of the property, has a lien on the same for his reasonable charges for the balance due for such work done and materials furnished, and may retain possession of the same until the charges are paid; and foundry proprietors and persons conducting a foundry business, have a lien, dependent on possession, upon all patterns in their hands belonging to a customer, for the balance due them from such customers for foundry work; and plastic fabricators and persons conducting a plastic fabricating business, have a lien, dependent on possession, upon all patterns and molds in their hands belonging to a customer, for the balance due them from such customer for plastic fabrication work; and laundry proprietors and persons conducting a laundry business, and drycleaning establishment proprietors and persons conducting a drycleaning establishment, have a general lien, dependent on possession, upon all personal property in their hands belonging to a customer, for the balance due them from such customer for laundry work, and for the balance due them from such customers for drycleaning work, but nothing in this section shall be construed to confer a lien in favor of a wholesale drycleaner on materials received from a drycleaning establishment proprietor or a person conducting a drycleaning establishment; and veterinary proprietors and veterinary surgeons shall have a lien dependent on possession, for their compensation in caring for, boarding, feeding, and medical treatment of animals.

This section shall have no application to any vessel, as defined in Section 21 of the Harbors and Navigation Code, to any vehicle, as defined in Section 670 of the Vehicle Code, which is subject to registration pursuant to that code, to any manufactured home, as defined in Section 18007 of the Health and Safety Code, to any mobilehome, as defined in Section 18008 of the Health and Safety Code, or to any commercial coach, as defined in Section 18001.8 of the Health and Safety Code, whether or not the manufactured home, mobilehome, or commercial coach is subject to registration under the Health and Safety Code.

3051a. Possessor liens; services over \$300 and safekeeping over \$200 requested by nonowners; notice to holder of legal title

That portion of any lien, as provided for in the next preceding section, in excess of three hundred dollars (\$300) for any work, services, or care, or in excess of two hundred dollars (\$200) for any safekeeping, rendered

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or performed at the request of any person other than the holder of the legal title, shall be invalid, unless prior to commencing any such work, service, care, or safekeeping, the person claiming such lien shall give actual notice in writing either by personal service or by registered letter addressed to the holder of the legal title to such property, if known.

3052. Sale by lien holder at auction; notice of sale; redemption; application of proceeds

If the person entitled to the lien provided in Section 3051 is not paid the amount due, and for which such lien is given, within 10 days after the same shall have become due, then such lienholder may proceed to sell such property, or so much thereof as may be necessary to satisfy such lien and costs of sale at public auction, and by giving at least 10 days' but not more than 20 days' previous notice of such sale by advertising in some newspaper published in the county in which such property is situated; or if there be no newspaper printed in such county, then by posting notice of sale in three of the most public places in the town and at the place where such property is to be sold, for 10 days previous to the date of the sale; provided, however, that within 20 days after such sale, the legal owner may redeem any such property so sold to satisfy such lien upon the payment of the amount thereof, all costs and expenses of such sale, together with interest on such sum at the rate of 12 percent per annum from the due date thereof or the date when the same were advanced until the repayment. The proceeds of the sale must be applied to the discharge of the lien and the cost of keeping and selling the property; the remainder, if any, must be paid over to the legal owner thereof.

3052.5 Service dealers registered with Bureau of Electronic and Appliance Repair Services; lien; notice; disposition of products of nominal value; alternative methods

(a) Sections 3052 and 3052b shall not apply to any service dealer registered with the Bureau of Repair Services pursuant to Chapter 20 (commencing with Section 9800) of Division 3 of the Business and Professions Code if the dealer reasonably believes that the serviced product is of nominal value. For purposes of this section, nominal value shall be ascertained as follows: the product is not readily salable for more than the legitimate charges against it, and either the original retail value of the product was under two hundred dollars (\$200) and the product is over three years old, or the original retail value is over two hundred dollars (\$200) and the product is over six years old.

Service dealers may use any available materials or information, including, but not limited to, industry publications, code dates, sales records, or receipts to assist in determining value and age of the serviced product.

(b) A service dealer may select one of the following alternative methods for the disposal of unclaimed serviced products determined to have a value as specified in subdivision (a):

(1) The service dealer may provide the owner of the product with the following written notice to be mailed following completion of work on the serviced product:

DATE BROUGHT IN _____

DATE MAILED _____

DATE PRODUCT TO BE SOLD IF NOT CLAIMED _____

NOTICE: YOUR PRODUCT HAS BEEN DETERMINED BY THIS SERVICE DEALER TO BE ONE WHICH WAS EITHER ORIGINALLY SOLD FOR LESS THAN \$200 AND IS NOW OVER THREE YEARS OLD OR ONE WHICH WAS ORIGINALLY SOLD FOR MORE THAN \$200 AND WHICH IS NOW OVER SIX YEARS OLD AND THE CHARGES FOR SERVICING YOUR PRODUCT WILL EXCEED ITS CURRENT VALUE. UNDER CALIFORNIA CIVIL CODE SECTION 3052.5(a) IF YOU OR YOUR AGENT FAIL TO CLAIM YOUR PRODUCT WITHIN 90 DAYS AFTER THE DEALER MAILS A COPY OF THIS NOTICE TO YOU IT MAY BE SOLD OR OTHERWISE DISPOSED OF BY HIM OR HER.

The notice shall be sent by certified mail, return receipt requested. A serviced product may be disposed of 90 days after the date of deliverance evidenced by the signature in the returned receipt.

(2) The service dealer may publish public notice of the intended sale in a newspaper of general circulation. The notice shall contain a description of the serviced product, the name of the serviced product owner, and the time by which and place where the product may be redeemed. The notice shall be published for a minimum of five times. A serviced product may be disposed of 90 days after the last date of publication.

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(3) A service dealer may, upon receipt of any product to be serviced by him or her, provide the owner of the product with the following notice, written in at least 10-point boldface type:

DATE BROUGHT IN _____

DATE MAILED _____

DATE PRODUCT TO BE SOLD IF NOT CLAIMED _____

NOTICE: YOUR PRODUCT HAS BEEN DETERMINED BY THIS SERVICE DEALER TO BE ONE WHICH WAS EITHER ORIGINALLY SOLD FOR LESS THAN \$200 AND IS NOW OVER THREE YEARS OLD OR ONE WHICH WAS ORIGINALLY SOLD FOR MORE THAN \$200 AND WHICH IS NOW OVER SIX YEARS OLD AND THE CHARGES FOR SERVICING YOUR PRODUCT WILL EXCEED ITS CURRENT VALUE. UNDER CALIFORNIA CIVIL CODE SECTION 3052.5(a) IF YOU OR YOUR AGENT FAIL TO CLAIM YOUR PRODUCT WITHIN 90 DAYS AFTER THE DEALER MAILS A COPY OF THIS NOTICE TO YOU IT MAY BE SOLD OR OTHERWISE DISPOSED OF BY HIM OR HER.

PRINT YOUR NAME AND MAILING ADDRESS WHERE NOTICE MAY BE SENT TO YOU IN THE SPACE PROVIDED BELOW AND SIGN WHERE INDICATED TO SHOW THAT YOU HAVE READ THIS NOTICE.

(Print name)

(Street Address)

(City, State and Zip Code)

IF YOU DO NOT AGREE WITH THE ABOVE DETERMINED VALUE OF YOUR ITEM, DO NOT SIGN THIS DOCUMENT.

Signature: _____
(Owner or Agent)

This notice shall be signed, addressed, and dated by the owner, with a copy to be retained by both the owner and the service dealer. At the completion of service, the service dealer shall by first-class mail, mail a completed copy of the notice to the owner of the serviced product at the address given on the notice form. A serviced product may be disposed of 90 days after the date of mailing.

(c) For purposes of this section, an owner is the person or agent who authorizes the original service or repair, or delivers the product to the service dealer.

3059. Mechanic's lien

The liens of mechanics, for materials and services upon real property, are regulated by Chapter 4 (commencing with Section 8400) of Title 2 of Part 6 of Division 4.