

November 15, 2016 Advisory Council Meeting Materials Packet

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**ADVISORY COUNCIL MEETING
NOTICE & AGENDA
Teleconference Meeting
Tuesday, November 15, 2016, 9:00 a.m.**
Bureau of Electronic and Appliance Repair,
Home Furnishings and Thermal Insulation

Meeting Location: Department of Consumer Affairs
BEARHFTI Conference Room
4244 South Market Ct, Suite D

**Teleconference Phone Number: (866) 842-2981
Participant Passcode #: 4598662**

Advisory Council Members

Sharron Bradley, Industry (HFTI)
Burt Grimes, Industry (HFTI)
Donald Lucas, Public (HFTI)
Joanne Mikami, Public (EAR & HFTI)
David Yarbrough, Industry (HFTI)

Donald Erwin, Industry (EAR)
Judy Levin, Public (HFTI)
David Spears, Industry (EAR)
Leonard Price, Public (EAR)
David Velasquez, Industry (EAR)

Unless noticed for a specific time, items may be heard at any time during the period of the Council meeting. The Bureau welcomes and encourages public participation in its meetings. The public may take appropriate opportunities to comment on any issue before the Bureau at the time the item is heard. If public comment is not specifically requested, members of the public should feel free to request an opportunity to comment.

1. Welcome and Introductions
2. Set 2017 Meeting Dates

General Bureau Business Agenda Items

3. Licensing and Enforcement Update
4. Legislative Update
5. Regulatory Update
6. Budget Update
7. Bureau Outreach Update
8. Operations Update

Electronic and Appliance Repair Agenda Items

9. Service Contract Working Group Report Review
10. 2016 Vocational School Report

Home Furnishing and Thermal Insulation Agenda Items

11. 2017 Law Label Update
12. Furniture Reimbursement Statistics Update
13. TB 117-2013 and SB 1019 Compliance
14. Technical Bulletin 133 Proposal Review
15. Barrier Research Study Update
16. Home Furnishing Retail Advertisement Survey Proposal Review
17. 2017 Bureau Work Plan
18. Public Comment on Any Items not on the Agenda
19. Adjournment

This meeting facility is accessible to the physically disabled. A person who needs a disability-related accommodation or modifications in order to participate in the meeting may make a request by contacting Victoria Hernandez at (916) 999-2055 or for the hearing impaired, TDD (800) 326-2297; or by sending a written request to the Bureau at 4244 South Market Court, Suite D, Sacramento, CA 95834-1243, Attention: Victoria. Providing at least five working days' notice before the meeting will help ensure the availability of accommodations or modifications.

Interested parties should call the Bureau at (916) 999-2055 to confirm.

Agenda Item 3a: Bureau Licensing Update

LICENSING STATISTICS

June 2016 – September 2016

<i>EAR Registrations</i>	Jun 2016	Jul 2016	Aug 2016	Sep 2016
Appliance Service Dealer	2,629	2,622	2,619	2,621
Electronic Service Dealer	5,102	5,008	5,018	5,013
Combination Electronic/Appliance Service Dealer	634	629	629	624
Service Contract Administrator	43	44	44	44
Service Contract Seller	11,215	11,467	11,578	11,575
<i>Total EAR Registrations</i>	19,623	19,769	19,888	19,877

<i>HFTI Licenses</i>	Jun 2016	Jul 2016	Aug 2016	Sep 2016
Furniture Retailers	2,315	2,307	2,281	2,282
Bedding Retailers	1,592	1,623	1,625	1,625
Furniture & Bedding Retailers	11,715	11,712	11,741	11,782
Custom Upholsterers	497	502	503	506
Supply Dealers	136	134	131	130
Importers (includes overseas Manufacturers)	4,695	4,711	4,729	4,779
Manufacturers	1,481	1,489	1,497	1,508
Sanitizers	13	14	13	12
Wholesalers	170	172	170	172
Thermal Insulation Manufacturers	115	118	118	116
<i>Total HFTI Licenses</i>	22,729	22,782	22,808	22,912

Agenda Item 3b: Bureau Enforcement Update



There has been 1 case forwarded to the Attorney General's Office in FY 2016/2017, with 5 cases pending from prior years. There are currently 5 licensees on probation status.

CITATIONS ISSUED			
Year	EAR	HFTI	Total
2012-13	442	26	468
2013-14	1,047	488	1,535
2014-15	1,007	489	1,496
2015-16	985	537	1,522
2016-17	188	110	298

TELEPHONE DISCONNECTS ORDERED			
Year	EAR	HFTI	Total
2012-13	3	5	8
2013-14	0	0	0
2014-15	19	4	23
2015-16	78	19	97
2016-17	3	4	7

CONSUMER COMPLAINTS						
OPENED				CLOSED		
Year	EAR	HFTI	Total	EAR	HFTI	Total
2012-13	703	263	966	734	276	1,010
2013-14	730	272	1,002	718	277	995
2014-15	739	307	1,046	705	297	1,002
2015-16	678	299	977	758	303	1,061
2016-17	200	72	272	201	75	276

INTERNAL CASES (Investigations)						
OPENED				CLOSED		
Year	EAR	HFTI	Total	EAR	HFTI	Total
2012-13	646	332	978	700	278	978
2013-14	1,336	670	2,006	1,301	685	1,986
2014-15	1,155	622	1,777	1,215	626	1,841
2015-16	1,048	584	1,632	1,109	607	1,716
*2016-17	200	154	354	208	119	327

* through September 30, 2016

Agenda Item 3c: Northern California Enforcement Sweep



Enforcement Sweeps 2016

The Bureau's efforts to exercise enforcement pertaining to unlicensed and delinquent activity in California for 2016. We also addressed several complaints and Infractions during this time. Sweeps were successful and provided a way to maintain high levels of enforcement while in the interim we look to hire new Field Representatives.

- I. San Jose/Bay Area- September 2016
 - 50 Site Visits
 - 15 \$250 Citations issued- 7 were closed because of renewals
 - 9 Out of Business
 - 15 businesses in compliance as of 11/15/2016
- II. Yolo-Solano and North Counties–2016
 - 12 Site Visits
 - 3 \$250 Citations
 - 3 Out of Business
 - 6 businesses in compliance as of 11/15/2016
- III. Santa Rosa/Sonoma/Napa and surrounding areas-October 2016
 - 11 Site Visits
 - 3 \$250 Citations
 - 3 Out of Business
 - 4 businesses in compliance as of 11/15/2016
- IV. Contra Costa County-October 2016
 - 4 Site Visits
 - 2 \$250 Citations issued
 - 1 Out of Business
 - 0 Compliance – Site visits were recent
- V. **Overall Sweep Statistics for 2016**
 - **158 Site Visits**
 - **28 \$250 Citations issued**
 - **76 Out of Business**
 - **41 businesses in compliance as of 11/15/2016**

The Bureau will be continuing efforts of follow up throughout the next two months to ensure higher levels of compliance by the end of 2016. We anticipate a new Field Representative on board by February 2017 who will take point on these efforts to ensure future compliance of these Enforcement Sweeps.

Agenda Item 5: Regulatory Update

Program	Subject	Issue	CCR Section(s)	Priority	Status
HFTI	Licensing Fee Increases	Raise HFTI licensing fees following passage of AB1175	4 CCR 1107	High	OAL approved. Fee increase goes into effect December 1, 2016
EAR	Registration Fee Increases	Raise EAR registration fees following passage of AB1175	16 CCR 2760	High	At OAL for review
EAR	Citation Fee Cap Increase	Align citation fees with allowed fines in general statute	16 CCR 2771 and 2772	High	Cancelled
EAR	Service Contract Application	Revise to no longer require in regulation	16 CCR 2756	High	Bureau currently drafting.
HFTI	Advertising	Update advertising regulations to address current market practices	4 CCR 1300 et seq.	High	Research and discussion phase - Retailer Surveys In Progress
HFTI	Thermal Insulation	Revise to make language current	Title 24, Part 12	High	Bureau working with technical experts.

HFTI	Citation Fee Cap Increase	Align citation fees with allowed fines in general statute	4 CCR 1383.2	Medium	On hold
EAR	Disciplinary Guidelines	Update with additional probationary provisions	16 CCR 2775	Medium	Bureau currently drafting
HFTI	Disciplinary Guidelines	Update with additional probationary provisions	4 CCR 1379	Medium	Bureau currently drafting
EAR	Advertising	Update advertising regulations to address current market practices and to require registration numbers in advertisement	16 CCR 2751 et seq.	Medium	Research and discussion phase
HFTI	Labeling Updates	Revise to make language current, add plumage label example	4 CCR 1125 et seq.	Medium	Research and discussion phase
HFTI	Laboratory Terminology	Update to include current materials	TBD	Medium	Research and discussion phase

EAR	Obsolete technology	Remove references to picture tube grading and other technology that is no longer relevant	16 CCR 2727 et seq.	Low	Bureau currently drafting
HFTI	TB 133 Changes	Review prior drafts for relevancy	4 CCR 1374	Low	Under consideration
HFTI	Water Beds	Remove and update references	TBD	Low	Under consideration

Program	Subject	Issue	CCR Section(s)	Priority	Status
HFTI	Plumage	Update cleanliness requirements, evaluate oxygen standard, update citation regulations to remove obsolete fine authority for section 1192.1, and add fine authority for section 1193.	4 CCR 1193(h), 1383.2	Low	Under consideration
HFTI	Damaged Feathers	Assess current damaged feather failure rate and evaluate changing current standard to sliding scale	4 CCR 1193(b), 1193(c)	Low	Under consideration
HFTI	Mattresses	Update flammability regulations to include smoldering resistance requirements of 16 CFR 1632	TBD	Low	Under consideration
HFTI	Obsolete Regulations	Repeal obsolete language within the general provisions and citation regulations	4 CCR 1114-1121, 1383.2	Low	Under consideration
EAR	Registration Renewals	Update registration renewal regulations and applications to include criminal history inquiry	TBD	Low	Under consideration

Agenda Item 7: Bureau Outreach Update



2016 Outreach Update

Focus	Development	Implementation
Web Development	<p>Website redevelopment: merging existing 3 sites into to one easily navigated platform.</p> <p>Integrated new material, brochures, languages and expanded topics and links.</p>	<p>Bureau’s new site debuted in March with some minor issues and adjustments; the site is fully functional, meeting the easy to navigate goal and is populated with relevant historic information of the 3 previous websites. Continuing to refine and adding relevant new material.</p>
Literature Material	<p>Labeling, Licensing, Upholstery and Sales Re-ceipting brochure and handout material created.</p> <p>In the process of adding a Compliance Resolution Guide to assist the Complaint Resolution Unit being fully integrated within the Bureau.</p>	<p>New brochures are being utilized in field outreach efforts, mailings, in addition to being handed out at the Bureau.</p> <p>Translation into Spanish, Mandarin and Russian is scheduled for January 2017.</p>
Social Media Development	<p>Emerge with connecting with Facebook and other blog related sources with Department to provide helpful tips and topics.</p>	<p>Topics included: bed sanitizing, department resources and articles, license check, participating in outreach events, and sharing helpful tip articles from other sources.</p>
Language Outreach	<p>Development of additional language resources to improve connectivity with non-speaking English dialects, both written and voice.</p>	<p>Designated email and phone lines for Spanish and Mandarin speakers. Integrated Google Translator into new Website</p>

Video Products	Public Affairs Unit collaborating with the Department to create small infomercials for the website. Highlight topics such as labeling, licensing, upholstery to receipting. Mimicking brochures except in an audio/video format.	Implementation stalled due to ongoing delays with resources. Exploring having two videos for the beginning of 2017.
Industry Relations	Reach out to and visit small to large retailers, manufacturers, industry partners, technical colleges, and meeting with licensees.	Continuing to participate in industry-wide events, collaborating with other government agencies i.e. Board of Equalization, department wide events, city and county sponsored programs, visiting and learning from industry and manufacturers, colleges, retailers associations, technical associations.
Public Events	Community involvement with industry, consumers, special interest groups, fairs and joint operations with other government entities.	Since the beginning of the 2016 Outreach Plan, over 20 community events have been conducted. From senior groups and partnership with other government entities, to visiting campuses for technical training in the fields regulated.



Community Outreach Events:

April 19	Belle Coledge Community Center (CSLB)	Sacramento
April 20	Cortona Park Center (CSLB)	Brentwood
May 4	Carson Business Resource Expo	Carson
May 7	Asian Cultural Festival, Mira Mesa Community Park	San Diego
May 11	Taiwanese American Foundation	San Diego
May 13	Goleta Branch Library (CSLB)	Goleta
May 14	Korean Cultural Educational Day, Irvine Civic Center	Irvine
May 26	Moreno Valley Senior Center (CSLB)	Moreno Valley
June 3	Sun City Library Community Event	Menifee
July 12	Whittier Senior Center (CSLB)	Whittier
July 20	Business Resource Center Conference	LA Valley College
August 12	Senior Scam Stopper Event	Meridian of Cheviot Hills
August 17	Norwalk Business Resources Seminar (BOE)	Norwalk
October 12	El Monte BOE Event	El Monte
October 25	Los Medanos College	Pittsburg
November 1	Los Angeles Trade Technical College	Los Angeles
November 1	La Puente Adult Education Programs	La Puente
November 2	Inter Coast Colleges & Career Institutes	Los Angeles
November 18	Meadowbrook Senior Living (CSLB)	Agoura Hills
December 5	San Gabriel Valley Non Profit Empowerment Symp.	<i>tentative</i>

Agenda Item 8: Bureau Operations Update



Bureau Operation Update

Personnel

- Two Field Representative positions for Northern California territories are vacant. The Central Valley territory became vacant in May, and the Northern territory in June 2016 due to retirement of staff. Currently recruiting with a vacancy posting and floating an online exam to broaden the candidacy pool for the upcoming interviews slated in November.
- Office Technician vacancy for the front office since August; we are currently recruiting to fill the position.

Facility Update/Expenditures

- Re-grouping of personnel seating to better facilitate Field Investigations collaboration with the Enforcement Unit, and the newly added Complaint Resolution Unit.
- 11 Combo Office Printer/Fax/Copier units purchased for field personnel.
- 3 Desktop PC units for the main office; older units became non-compatible with anticipated upgrades. For the 17/18 fiscal year, 8 more PC's have been slated to adjust for obsolete units.
- One sedan and one cargo van budgeted for this fiscal year to replace vehicles with over 180k miles, requiring excessive repairs.
- Accreditation expenditures

Agenda Item 11: 2017 Law Label Update



MINOR PRODUCT LABELING VIOLATIONS

Minor violations include:

- Incorrect font size
- Format issues
- Percentages of components are >5% difference (with the exception of plumage products)
- Incorrect component terminology/physical configuration missing
- Label size
- Misspelled required words
- Including information on the law and TB117-2013/SB1019 label that is not permitted
- Label material incorrect
- Net weight or finished size incorrect or missing
- Missing or incorrect information on the Federal labeling
- Federal label format incorrect
- Misuse of Type No. 1 and Type No. 2 law labels
- Labels not securely attached to the product
- Labels concealed or obstructed from view
- Required information is not printed in its entirety
- Misleading information in the “other” information section of the law label

Minor label violations constitute approximately 80% noncompliance rate, meaning only 20% are in compliance. Manufacturers do not receive an NOV or citation for minor violations, only a discrepancy notice. Companies are not reimbursed for the cost of the product secured when a minor label violation is evident. The Bureau provides education and assistance to the manufacture to allow corrections in their next production of labels.

MAJOR PRODUCT LABELING VIOLATIONS

Major label violations are generally addressed during an actual Bureau inspection. Inspectors may withhold from sale these products until requirements are met.

Major violations include:

- No percentage and/or components listed in the “All New Material” section of the law label
- No registry number or incorrect/invalid registry number printed on the law label.
- Law and/or flammability label not attached or not legible
- Label not printed in English
- Inside filling materials misidentified and deceiving to the consumer
- No SB1019 label attached
- SB1019 label attached, but no boxes checked
- Noncompliant plumage labeling (plumage products are considered major violations when percentages differ, when plumage components exceed maximums allowed, and when specie designation is incorrect)

The Bureau is actively communicating with the industry/manufacturers regarding labeling requirements and plans to continue this outreach effort. The BEARHFTI website has posted several documents regarding labeling.

PROPOSED BHFTI REGULATION CHANGES/UPDATES

Article 1 General Provision:

Percent variance: The Bureau will discuss the removal of percentage requirements or augmentation of variances. At present, California allows a 5 percent variance from reported content on the Law Label.

Article 2 Official Law Labels for Upholstered Furniture and bedding and for Bulk Filling Material:

- Update label examples reflecting all requirements, correct format, label size, print size, etc. (1126 (f))
- Label Type No. 3 has an incorrect word “consistent” should be “consist”
- Label Type No. 9 has an added word, omit “the” in the certification statement
- Examine our universal definitions and terminology and include recent acceptable terms, Article 3 1135, Article 7 1238, Article 8 1247.
 - Examples include: “rebonded polyurethane foam pad,” “lyocell fiber,” “used materials,” and “vicoelastic polyurethane foam pad.”
- Add Plumage label examples (1126 (f))
- Add definition for “mattress” (1136 Definitions of Types of Bedding)
- Add definition for “resilient filling material” (1135 Terms of Definitions and Label Requirements)
- Add definition for “New material” (1135 Terms of Definitions and Label Requirements)

Article 5 Plumage Regulations:

- 1193 (h) Plumage cleanliness standard: In the past 20 years, Bureau testing results have shown plumage samples to be less than 5 grams of oxygen per 100,000 grams of sample; therefore the Bureau recommends that we update our regulations to reflect the more stringent oxygen number not exceeding 10 grams of oxygen per 100,000 grams of sample (current regulations state 20 grams of oxygen per 100,000 grams of sample). The update will reflect what is accepted internationally (International Down and Feather Bureau, IDFB) and considers the upmost cleanliness for the consumer, 10 being a cleaner plumage product.
- 1193 (a), (b), (c) Damaged feather criteria: The Bureau regulations in Title 4, CCR, Article 5, requires specific maximums allowed for damaged feathers. The IDFB is the international trade association of the down/feather industry (processors of raw material and/or producers of finished articles, filled with down/feathers). The IDFB’s goal is to develop and promote International Standards for down and feather fillings (IDFB Standards contain definitions and testing regulations.). The IDFB developed a sliding scale for maximums allowed for damaged feathers in blended waterfowl feather and down products. The Bureau will evaluate whether to adopt partial, or all, of the sliding scale maximums for damaged feathers for blended waterfowl feather and down products. This will provide more realistic and obtainable results for the plumage industry and will not cause economic or health and safety hazards to the consumer.

Article 9 Sanitization Regulations:

- 1255 Records (e) has many discrepancies; the titles in both tables have “Sanitization” spelled incorrectly, the label numbers are incorrect, the second table is missing the word “Record”.
- 1256 Official Sanitization Label Requirements. (d) (1) omit the word “shall”, (d)(2) add the word “used” to say “secondhand used article..”, (e) (2) add the word “used”.

Article 13 Flammability Regulations:

- Show label examples (as opposed to only verbiage) reflecting all requirements, correct format, label size, print size, etc. and include the SB1019 FR Chemical Statement (1374.3 Labeling) OR possibly include example flammability labels under Article 2.
- 1374.3 Labeling. (e) add (c)(1).

Agenda Item 13: TB 117-2013 and SB 1019 Compliance



LAB ANALYSIS STATISTICS

FR CHEMICAL LABELING

Samples Received with the Flame Retardant Chemical Statement 01/01/2016 – 11/01/2016				
“NO” Chemicals Checked	Contains Chemicals	No Box Checked	FR Doc Request Sent	DTSC Analysis Conducted
72	32	4	15	10
67%	29%	4%	21% of those marked “NO”	14% of those marked “NO”
Total TB117-2013 Samples Received: 128 (107 w/SB1019 or 84%)				

Samples Analyzed with the “NO” Flame Retardant Chemical Statement Results as of 11/01/2016				
Type Test	Pass		Fail	
	No.	%	No.	%
DTSC Analysis (10)	7	70	3	30
FR Doc Review (15 in 2016)	5	33	10	67

LAB TEST RESULTS - Data for FY 15/16 and FYTD 16/17:

Completed Samples 07/01/15 - 11/01/16				
Type Test	Pass		Fail	
	No.	%	No.	%
TB117-2013 (upholstered furniture)	192	81	44 (17 for TB117-2013 specific)	19 (7% for TB117-2013 specific)
16CFR1633 (mattress/mattress sets)	46	65	25	35
16CFR1632 (Mattress/mattress pads)	7	100	0	0
TB133	9	82	2	18
Plumage (Feather & Down)	2	40	3	60
Thermal Insulation	19	83	4	17
*Bedding (no flam)	(40)	N/A	0	N/A
**Labeling	61	17	298	83
Total ¹	275	78	78	22

*Comforter, bed pillows, decorator pillows, quilts, body pillow or any other type of products that did not require flammability testing or plumage analysis.

**This category includes labeling results for products with the exception of Thermal Insulation products.

¹Total results do not include bedding or labeling.

Agenda Item 16: Home Furnishings Retail Advertisement Survey

Truth in Advertising for Furniture Retailers Survey Summary

The Bureau is missing or lacking sufficient quantities of surveys from the following regions:

Southern California

Central Valley

Central Coast

Silicon Valley

Problem: Existing Regulations make it difficult to define the following sections of Article 10 – False and Misleading Advertising: Section 1302 (b), 1305, and 1312

Based on the completed surveys the Bureau would like to recommend changes Article 10

The surveys indicate 80% of retailers mark up their products less than 100 % of the wholesale price.

The Bureau will recommend retailers use a standard formula of no more than 100% of the wholesale price when advertising sale prices.

$(\text{Retailers purchase price}) \times 2 - \%(\text{advertised mark-down}) = \text{advertised price}$

Example: A chair is purchased for \$50.00, the advertised sale is 40% off.
 $\$50.00 \times 2 = \$100.00 - 40\% = \$60.00$

The advertised sale price cannot exceed \$60.00.

The Bureau will offer an exception to the standard formula for retailers who mark-up products higher than 100%. The retailers will bear the burden of providing documentation and reasoning for the pricing.

The Bureau will eliminate Section 1305 and redefine Section 1312 to include a more specific definition of the terms "liquidation", "going out of business" and "closing".

Based on the surveys nearly all of the retailers believe six months is too long for an advertised "special sale".

Retailers will be required to notify the Bureau within ten days of advertising a "special sale". A retailer can request an extension for any "special sale" lasting longer than three months and they will be limited to one "special sale" every two years.