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BUSINESS AND PROFESSIONS CODE - BPC

DIVISION 8. SPECIAL BUSINESS REGULATIONS [18400 - 22949.92.2] (Division 8 added by Stats. 1941, Ch. 44.)

CHAPTER 3. Home Furnishings [19000 - 19221] (Heading of Chapter 3 amended by Stats. 1972, Ch. 749.)

ARTICLE 9. Enforcement [19200 - 19214] (Article 9 added by Stats. 1941, Ch. 46.)

19200. The chief or any inspector shall have access to the premises, equipment, materials, partly finished and finished articles and records of any person subject to the provisions of this chapter.

(Amended by Stats. 1949, Ch. 787.)

19200.5. (a) The chief or any inspector may open any articles of upholstered furniture or bedding, including pillows or cushions belonging to or forming a part thereof, or insulation for the purpose of inspecting concealed filling material and may take either the entire article or samples of filling material or insulation in such quantities as may be necessary for analysis.

(b) The bureau shall reimburse the manufacturer, distributor, or retailer for the actual cost of any article or sample of filling material or insulation taken for analysis under subdivision (a) unless the article or sample is found to be in violation of this chapter or any regulation adopted by the bureau.

(Amended by Stats. 2012, Ch. 90, Sec. 1. (AB 1443) Effective January 1, 2013.)

19201. The chief or any inspector may determine the fitness of any secondhand or damaged article of bedding or filling material, for sanitization and sale.

(Amended by Stats. 1988, Ch. 1448, Sec. 27.)

19202. The bureau may condemn, withhold from sale, seize, or destroy any upholstered furniture or bedding or any filling material or insulation which is found to be in violation of this chapter.

(Amended by Stats. 1984, Ch. 1456, Sec. 12.)

19203. The tag to be affixed to any article of condemned upholstered furniture or bedding, or any material or insulation, by an inspector shall be a red tag and shall contain such information as may be required by the chief.

(Amended by Stats. 1984, Ch. 1456, Sec. 13.)

19204. Every person who removes, or causes to be removed, any tag or device placed upon any upholstered furniture or bedding or any material or insulation, by an inspector is guilty of a violation of this chapter.

(Amended by Stats. 1984, Ch. 1456, Sec. 14.)

19205. The failure of any person to produce upon demand of an inspector any article that has been condemned and ordered held on a notice of violation signed by such person, or a notice of violation that the person has refused to sign, is a violation of this chapter.

(Amended by Stats. 1993, Ch. 1264, Sec. 89. Effective January 1, 1994.)

19206. No person shall interfere with, obstruct or otherwise hinder any inspector of the bureau or of the department's Division of Investigation in the performance of his or her duties.

(Amended by Stats. 1993, Ch. 1264, Sec. 90. Effective January 1, 1994.)

19207. Any inspector having knowledge of a violation of any of the provisions of this chapter shall notify the chief of the violation.

(Amended by Stats. 1941, Ch. 1206.)

19208. The chief or his or her authorized designee may cite any person licensed under and subject to the provisions of this chapter to participate in an office conference before the chief to show cause why he or she should not be subject to any or a range of disciplinary actions or to prosecution for any violation of this chapter.

(Amended by Stats. 2002, Ch. 405, Sec. 52. Effective January 1, 2003.)

19209. Except as otherwise required to comply with the provisions of Article 9.5 of this chapter, the proceedings in any hearing or disciplinary action under this chapter shall be conducted in accordance with Chapter 5 of Part 1 of Division 3 of Title 2 of the Government Code.

(Amended by Stats. 1955, Ch. 1045.)

19210. After a hearing, a license may be suspended, revoked, reprimanded, or placed on probation for a violation of any of the provisions of this chapter or of the rules and regulations of the bureau, or for a violation of Article 1 (commencing with Section 17500) of Chapter 1 of Part 3 of Division 7 of the Business and Professions Code, relating to false or misleading advertising; provided, however, that the license of a wholesaler or retailer shall not be suspended in the absence of a finding that the wholesaler or retailer knowingly offered for sale or sold articles not conforming to the requirements of this chapter or the rules and regulations of the bureau.

In any order of suspension or revocation, the bureau may impose conditions relative to the disposition of articles not conforming to the requirements of this chapter or the rules and regulations of the bureau, or may impose conditions relative to the completion or fulfillment of any orders or contracts entered into prior to the date of the hearing.

(Amended by Stats. 1987, Ch. 850, Sec. 22.)

19211. Any person who has been denied a license, or who has had their license revoked, or whose license is under suspension, or who has failed to renew their license while it was under suspension, or any person who has been a member of any limited liability company or of any partnership, or an officer or director of any corporation, or an officer or person acting in a managerial capacity of any firm or association, whose license has been revoked, or whose license is under suspension, or who has failed to renew a license while it was under suspension, and while acting as a member, officer, director, or person acting in a managerial capacity, participated in any of the prohibited acts for which the license was suspended, or revoked, shall be prohibited from serving as a member of any licensed limited liability company or of any licensed partnership, or as an officer or director of any licensed corporation, or as an officer or person acting in a managerial capacity of any licensed firm or association, and the employment, election, or association of a person in this capacity by a licensee shall constitute grounds for disciplinary action against the licensee.

(Amended by Stats. 2023, Ch. 508, Sec. 38. (SB 814) Effective January 1, 2024.)

19212. The performance by any partnership, limited liability company, corporation, firm, or association of any act or omission constituting a cause for disciplinary action, likewise constitutes a cause for disciplinary action against any licensee who is a member of that partnership or limited liability company, or an officer or director of that corporation, or an officer or person acting in a managerial capacity of that firm or association, if the licensee participated in the prohibited act or omission.

(Amended by Stats. 2023, Ch. 508, Sec. 39. (SB 814) Effective January 1, 2024.)

19213. The bureau may monitor compliance with all insulation standards, including those adopted by the Energy Resources Conservation and Development Commission, pursuant to Section 25402 of the Public Resources Code, by conducting periodic inspections with its own personnel, or by requiring inspections conducted by an approved independent third party laboratory, of manufacturers, distributors, or retailers of insulation material sold within the state in order to determine their compliance with this article. The bureau shall annually test all categories of insulation products for which standards have been adopted. The bureau may require those manufacturers, distributors, or retailers that are inspected and found not in compliance with this article, or any regulation implementing it, to pay such reasonable fees as are necessary to cover the costs of inspections and testing necessary to investigate and enforce compliance by those manufacturers, distributors, and retailers. Fees shall be fixed in an amount not more than the cost of testing and inspection with a minimum fee of two hundred dollars (\$200) for each test or inspection. The bureau may also conduct, or contract with approved independent third party laboratories to conduct, independent performance tests of insulation materials sold in the state, in order to determine compliance with its adopted standards. Where a fee is not paid, the full amount of the assessed fee shall be added to the fee for the renewal of a license. A license shall not be renewed without payment of the renewal fee and all fees for testing and inspection.

(Amended by Stats. 1993, Ch. 1264, Sec. 92. Effective January 1, 1994.)

19213.1. The bureau may require a licensee who sells or manufactures furniture and bedding products that are inspected and found not to be in compliance with this chapter, or any regulation implementing it, to pay those reasonable fees as are necessary to cover the costs of inspections and testing necessary to investigate and enforce compliance by those licenses. Fees shall be fixed in an amount not more than the cost of testing and inspection except that the minimum fee shall be two hundred dollars (\$200) for each test or inspection. The range of fees for testing or inspection shall be fixed by the bureau in an amount not less than two hundred dollars (\$200) and not more than five hundred dollars (\$500) for each test or inspection. Where a fee is not paid, the full amount of the assessed fee shall be added to the fee for the renewal of a license. A license shall not be renewed without payment of the renewal fee and all fees for testing and inspection.

(Amended by Stats. 1993, Ch. 1264, Sec. 93. Effective January 1, 1994.)

19214. Any person who violates or proposes to violate any provision of this chapter relating to insulation standards may be enjoined by any court of competent jurisdiction. The court may make those orders or judgments, including the appointment of a receiver, as may be necessary to prevent the use or employment by any person of any practices which violate this chapter, or which may be necessary to restore to any person in interest any money or property, real or personal, which may have been acquired by means of any practice which violates any provision of this chapter.

Actions for injunction under this section may be prosecuted by the Attorney General or any district attorney, county counsel, city attorney, or city prosecutor in this state in the name of the people of the State of California upon their own motion or upon the complaint of any board, officer, person, corporation, association, partnership, limited liability company, or by any person acting for the interests of itself, its members, or the general public.

(a) A person who violates any provision of this chapter shall be liable for a civil penalty not to exceed two thousand five hundred dollars (\$2,500) for each violation, which shall be assessed and recovered in a civil action brought in the name of the people of the State of California by the Attorney General or by any district attorney, county counsel, city attorney, or city prosecutor in any court of competent jurisdiction. The unit for a separate and distinct offense regarding insulation in violation of this chapter is each and every bag, bale, package, roll, or other container sold, offered for sale, or possessed with intent to sell or install contrary to the provisions of this chapter.

(b) If the action is brought by the Attorney General, one-half of the penalty collected shall be paid to the treasurer of the county in which the judgment was entered, and one-half to the Treasurer. If brought by a district attorney or county counsel, the entire amount of penalty collected shall be paid to the treasurer of the county in which the judgment was entered. If brought by a city attorney or city prosecutor, one-half of the penalty shall be paid to the treasurer of the county and one-half to the city.

(c) If the action is brought at the request of the bureau, the court shall determine the reasonable expenses incurred by the bureau in the investigation and prosecution of the action.

Before any penalty collected is paid out pursuant to subdivision (b), the amount of the reasonable expenses incurred by the bureau shall be paid to the Treasurer.

(Amended by Stats. 2023, Ch. 508, Sec. 40. (SB 814) Effective January 1, 2024.)