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AB-181 Business and professions. (2015-2016)

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Assembly Bill No. 181

CHAPTER 430

An act to amend Sections 5055, 5070.1, 5087, 6735, 7083, 7200, 7200.5, 7200.7, 7201, 7202, 7208, 7209, 7209.5, 7210.5, 7211.1, 7211.2, 7215, 7215.5, 7217, 7303, 7303.2, 7313, 7395.1, 7401, 7404, 7407, 7685, 7818, 8508, 8513, 8552, 8611, and 17913 of, to add Sections 7314.3 and 7402.5 to, and to repeal Sections 7304, 7308, and 8516.5 of, the Business and Professions Code, and to amend Section 13995.40 of the Government Code, relating to business and professions.

[Approved by Governor October 02, 2015. Filed with Secretary of State October 02, 2015.]

LEGISLATIVE COUNSEL'S DIGEST

AB 181, Bonilla. Business and professions.

(1) Existing law provides for the practice of accountancy by the California Board of Accountancy. Existing law, until January 1, 2019, authorizes an individual whose principal place of business is not in this state and who has a valid and current license, certificate, or permit to practice public accountancy from another state to engage in the practice of public accountancy in this state under a practice privilege without obtaining a certificate or license subject to specified requirements. Existing law provides that an accountant whose license was canceled by operation of law, after nonrenewal, as specified, may, upon application to the board and meeting specified requirements, have his or her license placed into a retired status.

This bill would authorize an individual practicing public accountancy in this state under a practice privilege to be styled and known as a "certified public accountant" and use the abbreviation "C.P.A." The bill would prohibit the board from restoring that license in retired status to active or inactive status and instead would require the individual to apply for a new license in order to restore his or her license.

Existing law authorizes the board to issue a certified public accountant (CPA) license to an applicant who holds a valid and unrevoked CPA license in another state, under specified conditions.

This bill would require that an out-of-state applicant hold a current, active, and unrestricted CPA license in order to be issued a CPA license under this provision.

(2) The Professional Engineers Act provides for the regulation and licensure of professional engineers by the Board for Professional Engineers, Land Surveyors, and Geologists. A violation of the licensing provisions of the act is a misdemeanor. Existing law requires all civil engineering plans, calculations, specifications, and reports to be prepared by, or under the responsible charge of, a licensed civil engineer, as specified. Existing law requires all civil engineering plans, calculations, specifications, and reports for the construction of all public school structures to be prepared by, or under the responsible charge of, a licensed architect or a licensed civil engineer who is also licensed as a structural engineer. Existing law requires all civil engineering plans, calculations, specifications, and reports for the construction of all hospitals and other medical facilities having

surgery and emergency treatment areas to be prepared by, or under the responsible charge of, a licensed civil engineer who is also licensed as a structural engineer.

This bill would repeal the requirements that all civil engineering plans and other specified documents for construction of public school structures be prepared by, or under the responsible charge of, a licensed architect or a licensed civil engineer who is also licensed as a structural engineer. The bill would also repeal the requirements that all civil engineering plans and other specified documents for construction of specified hospital and medical facilities be prepared by, or under the responsible charge of, a licensed civil engineer who is also licensed as a structural engineer.

(3) Existing law establishes within the Department of Consumer Affairs a State Board of Guide Dogs for the Blind, which consists of 7 members appointed by the Governor. Existing law authorizes the board to issue licenses for guide dog training and instructional services. A violation of these licensing provisions is a misdemeanor.

This bill would also include dogs trained and provided for visually impaired persons within these licensing requirements. The bill would change reporting requirements from a calendar year to a fiscal year period and would make technical changes.

(4) The Barbering and Cosmetology Act provides for the licensure and regulation, including inspection, of barbers and cosmetologists by the State Board of Barbering and Cosmetology in the Department of Consumer Affairs. Existing law requires that the board consist of certain members, and authorizes the board to appoint an executive officer. Under existing law, these provisions are repealed on January 1, 2016.

This bill would extend the operation of the board and the executive officer to January 1, 2020.

Existing law also requires the board to conduct specified reviews and reports by various dates in the past.

This bill would delete those requirements and would require the board, no later than November 1, 2018, to conduct specified reviews regarding training and examinations and report its findings to specified committees of the Legislature. The bill would require the board to establish a protocol for inspecting establishments when an inspector has difficulty understanding or communicating with the owner, manager, or employees of the establishment due to language barriers, and to evaluate the protocol every two years to ensure that it remains current. The bill would require the board to establish a Health and Safety Advisory Committee to provide the board with advice and recommendations on health and safety issues before the board. The bill would also require the board to issue regulations for a personal service permit, as defined, that, among other things, may require an applicant for a personal service permit to have proof of liability insurance, and would authorize fees for the issuance and renewal of a personal service permit. The bill would require the board to report to the Legislature, on or before July 1, 2017, as specified, regarding the regulatory process and the issuance of personal service permits. The bill would also make technical, nonsubstantive changes to these provisions.

(5) Under the Funeral Directors and Embalmers Law, the Cemetery and Funeral Bureau regulates licensed funeral establishments and requires that they be operated by a licensed funeral director who is required to provide written information regarding funeral goods and services and prices to consumers. Existing law requires a funeral establishment that maintains an Internet Web site to also post that information on its Internet Web site provided by a link from the homepage. A violation of these provisions is a misdemeanor.

This bill would require that the funeral establishment's Internet Web site contain specified key words.

(6) Existing law provides for the licensure and regulation of structural pest control operators and registered companies by the Structural Pest Control Board. The California Constitution provides that laborers of every class who have worked upon or have furnished material for a property have a lien upon that property for the value of the labor done and material furnished. The California Constitution requires the Legislature to provide, by law, for the speedy and efficient enforcement of those liens. Existing law requires specified registered companies to provide notice regarding possible liens, as specified, to the owner of property prior to entering into a contract to provide work on that property. A violation of these provisions is a misdemeanor.

This bill would extend the notice requirements to all registered companies.

Existing law requires a structural pest control operator to provide a report detailing the results of an inspection for wood destroying pests or organisms prior to commencing work on a contract or expressing an opinion regarding the presence or absence of wood destroying pests or organisms, to the Structural Pest Control Board, within the Department of Consumer Affairs, as specified. Existing law requires that the pest control operator deliver a copy of the report to the person requesting inspection, or designated agent, within 10 business days of the inspection. Existing law requires a pest control operator to deliver a copy of that report to the owner or the owner's agent within 10 working days of an inspection.

This bill would remove the requirement that the pest control operator provide the owner of the property or the owner's agent with a copy of the report, unless the owner was the person who requested the inspection.

(7) Existing law creates the California Travel and Tourism Commission and provides for the membership and meetings of the commission.

This bill would specify that all meetings of the commission take place in California and would authorize commissioners to attend meetings of the commission by conference telephone or other technology.

(8) This bill would make various other nonsubstantive changes.

(9) Because this bill would expand the definition of a crime, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 5055 of the Business and Professions Code is amended to read:

5055. Any person who has received from the board a certificate of certified public accountant, or who is authorized to practice public accountancy in this state pursuant to Article 5.1 (commencing with Section 5096), may, subject to Section 5051, be styled and known as a "certified public accountant" and may also use the abbreviation "C.P.A." No other person, except a firm registered under this chapter, shall assume or use that title, designation, or abbreviation or any other title, designation, sign, card, or device tending to indicate that the person using it is a certified public accountant.

SEC. 2. Section 5070.1 of the Business and Professions Code is amended to read:

5070.1. (a) The board may establish, by regulation, a system for the placement of a license into a retired status, upon application, for certified public accountants and public accountants who are not actively engaged in the practice of public accountancy or any activity that requires them to be licensed by the board.

(b) No licensee with a license in a retired status shall engage in any activity for which a permit is required.

(c) The board shall deny an applicant's application to place a license in a retired status if the permit is subject to an outstanding order of the board, is suspended, revoked, or otherwise punitively restricted by the board, or is subject to disciplinary action under this chapter.

(d) (1) The holder of a license that was canceled pursuant to Section 5070.7 may apply for the placement of that license in a retired status pursuant to subdivision (a).

(2) Upon approval of an application made pursuant to paragraph (1), the board shall reissue that license in a retired status.

(3) The holder of a canceled license that was placed in retired status between January 1, 1994, and January 1, 1999, inclusive, shall not be required to meet the qualifications established pursuant to subdivision (e), but shall be subject to all other requirements of this section.

(e) The board shall establish minimum qualifications to place a license in retired status.

(f) The board may exempt the holder of a license in a retired status from the renewal requirements described in Section 5070.5.

(g) The board shall establish minimum qualifications for the restoration of a license in a retired status to an active status. These minimum qualifications shall include, but are not limited to, continuing education and payment of a fee as provided in subdivision (h) of Section 5134.

(h) The board shall not restore to active or inactive status a license that was canceled by operation of law, pursuant to subdivision (a) of Section 5070.7, and then placed into retired status pursuant to subdivision (d). The individual shall instead apply for a new license, as described in subdivision (c) of Section 5070.7, in order to restore his or her license.

SEC. 3. Section 5087 of the Business and Professions Code is amended to read:

5087. (a) The board may issue a certified public accountant license to any applicant who is a holder of a current, active, and unrestricted certified public accountant license issued under the laws of any state, if the board determines that the standards under which the applicant received the license are substantially equivalent to the standards of education, examination, and

experience established under this chapter and the applicant has not committed acts or crimes constituting grounds for denial under Section 480. To be authorized to sign reports on attest engagements, the applicant shall meet the requirements of Section 5095.

(b) The board may in particular cases waive any of the requirements regarding the circumstances in which the various parts of the examination were to be passed for an applicant from another state.

SEC. 4. Section 6735 of the Business and Professions Code is amended to read:

6735. (a) All civil (including structural and geotechnical) engineering plans, calculations, specifications, and reports (hereinafter referred to as "documents") shall be prepared by, or under the responsible charge of, a licensed civil engineer and shall include his or her name and license number. Interim documents shall include a notation as to the intended purpose of the document, such as "preliminary," "not for construction," "for plan check only," or "for review only." All civil engineering plans and specifications that are permitted or that are to be released for construction shall bear the signature and seal or stamp of the licensee and the date of signing and sealing or stamping. All final civil engineering calculations and reports shall bear the signature and seal or stamp of the licensee, and the date of signing and sealing or stamping. If civil engineering plans are required to be signed and sealed or stamped and have multiple sheets, the signature, seal or stamp, and date of signing and sealing or stamping shall appear on each sheet of the plans. If civil engineering specifications, calculations, and reports are required to be signed and sealed or stamped and have multiple pages, the signature, seal or stamp, and date of signing and sealing or stamping shall appear at a minimum on the title sheet, cover sheet, or signature sheet.

(b) Notwithstanding subdivision (a), a licensed civil engineer who signs civil engineering documents shall not be responsible for damage caused by subsequent changes to or uses of those documents, if the subsequent changes or uses, including changes or uses made by state or local governmental agencies, are not authorized or approved by the licensed civil engineer who originally signed the documents, provided that the engineering service rendered by the civil engineer who signed the documents was not also a proximate cause of the damage.

SEC. 5. Section 7083 of the Business and Professions Code is amended to read:

7083. (a) Notwithstanding any other law, licensees shall notify the registrar, on a form prescribed by the registrar, in writing within 90 days of any change to information recorded under this chapter. This notification requirement shall include, but not be limited to, changes in business address, personnel, business name, qualifying individual bond exemption pursuant to Section 7071.9, or exemption to qualify multiple licenses pursuant to Section 7068.1.

(b) Failure of the licensee to notify the registrar of any change to information within 90 days shall cause the change to be effective the date the written notification is received at the board's headquarters office.

(c) Failure to notify the registrar of the changes within the 90 days is grounds for disciplinary action.

SEC. 6. Section 7200 of the Business and Professions Code is amended to read:

7200. (a) There is in the Department of Consumer Affairs a State Board of Guide Dogs for the Blind in whom enforcement of this chapter is vested. The board shall consist of seven members appointed by the Governor. One member shall be the Director of Rehabilitation or his or her designated representative. The remaining members shall be persons who have shown a particular interest in dealing with the problems of persons who are blind or visually impaired and at least two of them shall be persons who are blind or visually impaired who use guide dogs.

(b) This section shall remain in effect only until January 1, 2018, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2018, deletes or extends that date. Notwithstanding any other law, the repeal of this section renders the board subject to review by the appropriate policy committees of the Legislature.

SEC. 7. Section 7200.5 of the Business and Professions Code is amended to read:

7200.5. The board shall have exclusive authority in this state to issue licenses for the instruction of persons who are blind or visually impaired in the use of guide dogs and for the training of guide dogs for use by persons who are blind or visually impaired. It shall also have exclusive authority in this state to issue licenses to operate schools for the training of guide dogs and the instruction of persons who are blind or visually impaired in the use of guide dogs.

SEC. 8. Section 7200.7 of the Business and Professions Code is amended to read:

7200.7. A fee equal to no more than 0.005 of all school expenses incurred in the most recently concluded school fiscal year, as specified in the audit required under Section 7217, shall be paid no later than April 30 of each year for renewal of a school's

license pursuant to Section 7200.5. The board shall, by regulation, define the exact amount of the fee. All fees collected pursuant to this section shall be deposited into the Guide Dogs for the Blind Fund, which is hereby created.

SEC. 9. Section 7201 of the Business and Professions Code is amended to read:

7201. No person shall be eligible to membership in the board who is a stockholder in, or an owner of, or financially interested directly or indirectly, in any company, organization, or concern supplying, delivering, or furnishing any guide dogs for use by persons who are blind or visually impaired.

SEC. 10. Section 7202 of the Business and Professions Code is amended to read:

7202. Each of the appointed members of the board shall hold office for a term of four years and until his or her successor is appointed and qualified or until one year shall have elapsed since the expiration of the term for which he or she was appointed, whichever first occurs. No person shall serve as an appointed member of the board for more than two consecutive terms.

SEC. 11. Section 7208 of the Business and Professions Code is amended to read:

7208. Pursuant to the provisions of the Administrative Procedure Act the board may make such rules and regulations as are reasonably necessary to:

(a) Govern the procedure of the board.

(b) Govern the admission of applicants for examination for license to instruct persons who are blind or visually impaired in the use of guide dogs or to engage in the business of training, selling, hiring, or being in the business of supplying guide dogs for persons who are blind or visually impaired.

(c) Govern the operation of schools which furnish guide dogs and train persons who are blind or visually impaired to use guide dogs.

(d) The reissuance of licenses.

(e) The reexamination of licensees.

SEC. 12. Section 7209 of the Business and Professions Code is amended to read:

7209. A person to be eligible for examination as an instructor must (a) have a knowledge of the special problems of persons who are blind or visually impaired and how to teach them, (b) be able to demonstrate by actual blindfold test under traffic conditions his or her ability to train guide dogs with whom persons who are blind or visually impaired would be safe, (c) be suited temperamentally and otherwise to instruct persons who are blind or visually impaired in the use of guide dogs, and (d) have had at least three years' actual experience, comprising such number of hours as the board may require, as an instructor, and have handled 22 person-dog units; or its equivalent, as determined by the board, as an apprentice under a licensed instructor or under an instructor in a school satisfactory to the board.

SEC. 13. Section 7209.5 of the Business and Professions Code is amended to read:

7209.5. Except as the context otherwise requires, as used in this chapter the term "instructor" means a person who instructs persons who are blind or visually impaired in the use of guide dogs or who engages in the business of training, selling, hiring, or supplying guide dogs for persons who are blind or visually impaired.

SEC. 14. Section 7210.5 of the Business and Professions Code is amended to read:

7210.5. It is unlawful to solicit funds for any person purporting to provide guide dogs for persons who are blind or visually impaired in this state unless the person for whose benefit the solicitation is made holds a valid and unimpaired license issued by the State Board of Guide Dogs for the Blind.

As used in this section "person" means an individual, firm, partnership, association, corporation, limited liability company, or cooperative association.

SEC. 15. Section 7211.1 of the Business and Professions Code is amended to read:

7211.1. (a) As a condition of renewal of an instructor's license, the instructor shall provide proof of completion of not less than 8 hours of continuing education. The board shall determine the form of proof.

(b) Continuing education shall meet the criteria specified in Section 166, and shall be in one or more of the following subject matter areas:

- (1) Blindness and mobility.
- (2) Health issues relating to blindness.
- (3) Instructing persons who are blind or visually impaired.
- (4) Care and training of dogs.

SEC. 16. Section 7211.2 of the Business and Professions Code is amended to read:

7211.2. A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this article. The board may order the license suspended or revoked, or may decline to issue a license, 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 the provisions of Section 1203.4 of the Penal Code allowing such 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.

SEC. 17. Section 7215 of the Business and Professions Code is amended to read:

7215. No person shall sell, give, or furnish any guide dog to a person who is blind or visually impaired unless the following requirements have been met:

- (a) The dog has been immunized against distemper and rabies.
- (b) The dog has been spayed or neutered.
- (c) The dog has been examined by a licensed veterinarian and found to be in good health.

A certificate from a veterinarian certifying to the foregoing shall be delivered to the recipient of the dog at the time the dog is assigned to a client.

SEC. 18. Section 7215.5 of the Business and Professions Code is amended to read:

7215.5. (a) During the first year following the successful training of each person-dog unit, and release from a guide dog training school of the trained person supplied with a guide dog, the school may retain title to the trained dog. During this probationary year, the school may enter into a contractual agreement with the user of the dog describing the conditions under which the user may maintain the status of legal custodian of the dog. During the probationary year, the school, acting in what it deems to be the best interest of the user, the dog, or the public, may temporarily or permanently resume possession of the dog.

(b) Within 15 days after the end of each fiscal year, each licensed school shall report to the board the following:

- (1) The number of dog ownership titles transferred to dog users pursuant to this section during the calendar year.
- (2) The number of title recoveries and reposessions made by the school pursuant to this section during the calendar year.
- (3) The number, type, and amount of charges assessed for followup training, instruction, veterinary, or boarding services, pursuant to this section, which make a distinction between users who have acquired title to their dogs and users who have not acquired title.
- (4) The views of the governing entity of the school as to any problems or concerns relative to compliance with the provisions of this section, along with recommendations for appropriate legislative or administrative changes commensurate with the purposes of this section.

(c) Immediately upon completion of the first year following the successful training referred to above, if the training school and the dog user are mutually satisfied with the operation of the person-dog unit, title to the dog shall be transferred to the user who is blind or visually impaired if the user so desires. Transfer of title shall be evidenced by a transfer of title agreement executed by both parties thereto. The school may retain an option to recover title and possession to the guide dog subject to conditions described in the transfer of title agreement. These conditions may include, but are not limited to, the following:

- (1) If in the school's opinion, the guide dog is being misused or neglected or mistreated by its user who is blind or visually impaired.

(2) If the user to whom the dog was furnished has ceased to use the dog as a guide and the dog is not too old to be retrained as a guide for another person who is blind or visually impaired.

(3) If, in the school's opinion, the dog is no longer a safe guide and the user refuses to cease using the dog as a guide after being requested by the school to cease this use.

(d) The guide dog school shall make no distinction as to the quality or extent of followup or supportive services available to its blind graduates based on whether they elect to acquire title to their dogs or allow title to remain with the school after the probationary year. The school may, however, make this distinction when assessing reasonable and appropriate charges for followup training, instruction, veterinary, or boarding services.

(e) No applicant for admission to a guide dog training school, nor any enrolled student, shall be required by the school prior to completion of his or her training to sign any instrument or to announce his or her intention regarding transfer of title of the dog from the school to himself or herself upon completion of the training and probation period.

SEC. 19. Section 7217 of the Business and Professions Code is amended to read:

7217. (a) Within 60 days after the termination of the fiscal year of a school, there shall be furnished to the board the following:

(1) A list of students accepted for training and those who have completed training.

(2) A list of the number of dogs trained.

(b) Within 90 days after the end of a fiscal year, there shall be furnished to the board an independent audit of the school's finances by a certified public accountant licensed by this state.

SEC. 20. Section 7303 of the Business and Professions Code is amended to read:

7303. (a) Notwithstanding Article 8 (commencing with Section 9148) of Chapter 1.5 of Part 1 of Division 2 of Title 2 of the Government Code, there is in the Department of Consumer Affairs the State Board of Barbering and Cosmetology in which the administration of this chapter is vested.

(b) The board shall consist of nine members. Five members shall be public members, and four members shall represent the professions. The Governor shall appoint three of the public members and the four professional members. The Senate Committee on Rules and the Speaker of the Assembly shall each appoint one public member. Members of the board shall be appointed for a term of four years, except that of the members appointed by the Governor, two of the public members and two of the professions members shall be appointed for an initial term of two years. No board member may serve longer than two consecutive terms.

(c) The board may appoint an executive officer who is exempt from civil service. The executive officer shall exercise the powers and perform the duties delegated by the board and vested in him or her by this chapter. The appointment of the executive officer is subject to the approval of the director. In the event that a newly authorized board replaces an existing or previous bureau, the director may appoint an interim executive officer for the board who shall serve temporarily until the new board appoints a permanent executive officer.

(d) The executive officer shall provide examiners, inspectors, and other personnel necessary to carry out the provisions of this chapter.

(e) This section shall remain in effect only until January 1, 2020, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2020, deletes or extends that date. Notwithstanding any other law, the repeal of this section renders the board subject to review by the appropriate policy committees of the Legislature.

SEC. 21. Section 7303.2 of the Business and Professions Code is amended to read:

7303.2. The board shall conduct the following reviews, and shall report its findings and recommendations to the Assembly Committee on Business and Professions and the Senate Committee on Business, Professions, and Economic Development no later than November 1, 2018:

(a) The board, pursuant to Section 139, shall review the 1,600-hour training requirement for cosmetologists, conduct an occupational analysis of the cosmetology profession in California, and conduct a review of the national written examination for cosmetologists and of the practical examination, in order to evaluate whether both examinations assess critical competencies for California cosmetologists and meet professional testing standards.

(b) The board shall review the Spanish language examination if, by January 1, 2016, the pass rate for Spanish speakers did not increase to the average pass rate for all other language examinations during the two-year period prior to January 1, 2016.

SEC. 22. Section 7304 of the Business and Professions Code is repealed.

SEC. 23. Section 7308 of the Business and Professions Code is repealed.

SEC. 24. Section 7313 of the Business and Professions Code is amended to read:

7313. (a) (1) To ensure compliance with the laws and regulations of this chapter, the board's executive officer and authorized representatives shall, except as provided by Section 159.5, have access to, and shall inspect, any establishment or mobile unit during business hours or at any time in which barbering, cosmetology, or electrolysis are being performed. It is the intent of the Legislature that inspections be conducted on Saturdays and Sundays as well as weekdays, if collective bargaining agreements and civil service provisions permit.

(2) The board shall maintain a program of random and targeted inspections of establishments to ensure compliance with applicable laws relating to the public health and safety and the conduct and operation of establishments. The board or its authorized representatives shall inspect establishments to reasonably determine compliance levels and to identify market conditions that require targeted enforcement. The board shall not reduce the number of employees assigned to perform random inspections, targeted inspections, and investigations relating to field operations below the level funded by the annual Budget Act and described in supporting budget documents, and shall not redirect funds or personnel-years allocated to those inspection and investigation purposes to other purposes.

(b) To ensure compliance with health and safety requirements adopted by the board, the executive officer and authorized representatives shall, except as provided in Section 159.5, have access to, and shall inspect the premises of, all schools in which the practice of barbering, cosmetology, or electrolysis is performed on the public. Notices of violation shall be issued to schools for violations of regulations governing conditions related to the health and safety of patrons. Each notice shall specify the section violated and a timespan within which the violation must be corrected. A copy of the notice of violation shall be provided to the Bureau for Private Postsecondary Education.

(c) With prior written authorization from the board or its executive officer, any member of the board may enter and visit, in his or her capacity as a board member, any establishment, during business hours or at any time when barbering, cosmetology, or electrolysis is being performed. The visitation by a board member shall be for the purpose of conducting official board business, but shall not be used as a basis for any licensing disciplinary action by the board.

(d) The board shall adopt a protocol for inspecting establishments when an inspector has difficulty understanding or communicating with the owner, manager, or employees of the establishment due to language barriers. The board shall evaluate the protocol every two years to ensure the protocol remains current.

SEC. 25. Section 7314.3 is added to the Business and Professions Code, to read:

7314.3. The board shall establish a Health and Safety Advisory Committee to provide the board with advice and recommendations on health and safety issues before the board.

SEC. 26. Section 7395.1 of the Business and Professions Code is amended to read:

7395.1. (a) A student who is enrolled in a school of cosmetology approved by the Bureau for Private Postsecondary Education in a course approved by the board may, upon completion of a minimum of 60 percent of the clock hours required for graduation in the course, work as an unpaid extern in a cosmetology establishment participating in the educational program of the school of cosmetology.

(b) A person working as an extern shall receive clock hour credit toward graduation, but that credit shall not exceed eight hours per week and shall not exceed 10 percent of the total clock hours required for completion of the course.

(c) The externship program shall be conducted in cosmetology establishments meeting all of the following criteria:

(1) The establishment is licensed by the board.

(2) The establishment has a minimum of four licensees working at the establishment, including employees and owners or managers.

(3) All licensees at the establishment are in good standing with the board.

(4) Licensees working at the establishment work for salaries or commissions rather than on a space rental basis.

(5) No more than one extern shall work in an establishment for every four licensees working in the establishment. No regularly employed licensee shall be displaced or have his or her work hours reduced or altered to accommodate the placement of an extern in an establishment. Prior to placement of the extern, the establishment shall agree in writing sent to the school and to all affected licensees that no reduction or alteration of any licensee's current work schedule shall occur. This shall not prevent a licensee from voluntarily reducing or altering his or her work schedule.

(6) Externs shall wear conspicuous school identification at all times while working in the establishment, and shall carry a school laminated identification, that includes a picture, in a form approved by the board.

(d) (1) No less than 90 percent of the responsibilities and duties of the extern shall consist of the acts included within the practice of cosmetology as defined in Section 7316.

(2) The establishment shall consult with the assigning school regarding the extern's progress during the unpaid externship. The owner or manager of the establishment shall monitor and report on the student's progress to the school on a regular basis, with assistance from supervising licensees.

(3) A participating school shall assess the extern's learning outcome from the externship program. The school shall maintain accurate records of the extern's educational experience in the externship program and records that indicate how the extern's learning outcome translates into course credit.

(e) Participation in an externship program made available by a school shall be voluntary, may be terminated by the student at any time, and shall not be a prerequisite for graduation.

(f) The cosmetology establishment that chooses to utilize the extern is liable for the extern's general liability insurance, as well as cosmetology malpractice liability insurance, and shall furnish proof to the participating school that the establishment is covered by both forms of liability insurance and that the extern is covered under that insurance.

(g) (1) It is the purpose of the externship program authorized by this section to provide students with skills, knowledge, and attitudes necessary to acquire employment in the field for which they are being trained, and to extend formalized classroom instruction.

(2) Instruction shall be based on skills, knowledge, attitudes, and performance levels in the area of cosmetology for which the instruction is conducted.

(3) An extern may perform only acts listed within the definition of the practice of cosmetology as provided in Section 7316, if a licensee directly supervises those acts, except that an extern may not use or apply chemical treatments unless the extern has received appropriate training in application of those treatments from an approved cosmetology school. An extern may work on a paying client only in an assisting capacity and only with the direct and immediate supervision of a licensee.

(4) The extern shall not perform any work in a manner that would violate law.

SEC. 27. Section 7401 of the Business and Professions Code is amended to read:

7401. (a) An individual licensed pursuant to Section 7396 shall report to the board at the time of license renewal, his or her practice status, designated as one of the following:

(1) Full-time practice in California.

(2) Full-time practice outside of California.

(3) Part-time practice in California.

(4) Not working in the industry.

(5) Retired.

(6) Other practice status, as may be further defined by the board.

(b) An individual licensed pursuant to Section 7396 shall, at the time of license renewal, identify himself or herself on the application as one of the following:

(1) Employee.

(2) Independent contractor or booth renter.

(3) Salon owner.

(c) An individual licensed pursuant to Section 7347 shall report to the board at the time of license renewal, whether either of the following is applicable to him or her:

(1) He or she has a booth renter operating in the establishment.

(2) He or she has an independent contractor operating in the establishment.

SEC. 28. Section 7402.5 is added to the Business and Professions Code, to read:

7402.5. (a) For purposes of this section, a "personal service permit" means a permit that authorizes an individual to perform services, for which he or she holds a license pursuant to this chapter, outside of an establishment, as defined in Section 7346, in accordance with the regulations established by the board.

(b) The board may issue a personal service permit to an individual who meets the criteria for a personal service permit set forth in regulation.

(c) The board shall issue regulations regarding a personal service permit. In establishing the regulations, the board shall hold, at a minimum, two stakeholder meetings.

(1) The board shall determine the appropriate licensing categories that may apply for a personal service permit in order to protect consumer safety.

(2) The board shall authorize a personal service permit holder to perform services outside of a licensed establishment.

(3) The board shall not exempt a personal service permit holder from any of the board's existing regulations or requirements on health and safety.

(4) The board shall not require a personal service permit holder to be employed by an establishment, unless the board determines that it would be necessary in order to maintain consumer safety.

(5) The regulations may require an applicant for a personal service permit to have proof of liability insurance and to pass a criminal background clearance.

(d) A personal service permit shall be valid for two years and shall be renewed prior to expiration. The fee for a personal service permit shall be no greater than fifty dollars (\$50). The fee for the renewal of a personal service permit shall be no greater than fifty dollars (\$50). The delinquency fee shall be 50 percent of the renewal fee in effect on the date of the renewal.

(e) The board shall report on the progress of the regulatory process and issuance of personal service permits to the Legislature on or before July 1, 2017.

(1) The report shall be submitted in compliance with Section 9795 of the Government Code.

(2) The requirement to report to the Legislature under this subdivision is inoperative on July 1, 2021, pursuant to Section 10231.5 of the Government Code.

SEC. 29. Section 7404 of the Business and Professions Code is amended to read:

7404. The grounds for disciplinary action are as follows:

(a) Unprofessional conduct which includes, but is not limited to, any of the following:

(1) Incompetence or gross negligence, including failure to comply with generally accepted standards for the practice of barbering, cosmetology, or electrology or disregard for the health and safety of patrons.

(2) Repeated similar negligent acts.

(3) Conviction of any crime substantially related to the qualifications, functions, or duties of the licenseholder, in which case, the records of conviction or a certified copy shall be conclusive evidence thereof.

(4) Advertising by means of knowingly false or deceptive statements.

(b) Failure to comply with the requirements of this chapter.

(c) Failure to comply with the rules governing health and safety adopted by the board and approved by the State Department of Public Health, for the regulation of establishments, or any practice licensed and regulated under this chapter.

- (d) Failure to comply with the rules adopted by the board for the regulation of establishments, or any practice licensed and regulated under this chapter.
- (e) Continued practice by a person knowingly having an infectious or contagious disease.
- (f) Habitual drunkenness, habitual use of or addiction to the use of any controlled substance.
- (g) Obtaining or attempting to obtain practice in any occupation licensed and regulated under this chapter, or money, or compensation in any form, by fraudulent misrepresentation.
- (h) Failure to display the license or health and safety rules and regulations in a conspicuous place.
- (i) Engaging, outside of a licensed establishment and for compensation in any form whatever, in any practice for which a license is required under this chapter, except that when the service is provided because of illness or other physical or mental incapacitation of the recipient of the service and when performed by a licensee obtained for the purpose from a licensed establishment.
- (j) Permitting a license to be used where the holder is not personally, actively, and continuously engaged in business.
- (k) The making of any false statement as to a material matter in any oath or affidavit, which is required by the provisions of this chapter.
- (l) Refusal to permit or interference with an inspection authorized under this chapter.
- (m) Any action or conduct which would have warranted the denial of a license.
- (n) Failure to surrender a license that was issued in error or by mistake.

SEC. 30. Section 7407 of the Business and Professions Code is amended to read:

7407. The board shall establish by regulation a schedule of administrative fines for violations of this chapter. All moneys collected under this section shall be deposited in the board's contingent fund.

The schedule shall indicate for each type of violation whether, in the board's discretion, the violation can be corrected. The board shall ensure that it and the Bureau for Private Postsecondary Education do not issue citations for the same violation.

SEC. 31. Section 7685 of the Business and Professions Code is amended to read:

7685. (a) (1) Every funeral director shall provide to any person, upon beginning discussion of prices or of the funeral goods and services offered, a written or printed list containing, but not necessarily limited to, the price for professional services offered, which may include the funeral director's services, the preparation of the body, the use of facilities, and the use of automotive equipment. All services included in this price or prices shall be enumerated. The funeral director shall also provide a statement on that list that gives the price range for all caskets offered for sale.

(2) The list shall also include a statement indicating that the survivor of the deceased who is handling the funeral arrangements, or the responsible party, is entitled to receive, prior to the drafting of any contract, a copy of any preneed agreement that has been signed and paid for, in full or in part, by or on behalf of the deceased, and that is in the possession of the funeral establishment.

(3) The funeral director shall also provide a written statement or list that, at a minimum, specifically identifies a particular casket or caskets by price and by thickness of metal, or type of wood, or other construction, interior and color, in addition to other casket identification requirements under Part 453 of Title 16 of the Code of Federal Regulations and any subsequent version of this regulation, when a request for specific information on a casket or caskets is made in person by any individual. Prices of caskets and other identifying features such as thickness of metal, or type of wood, or other construction, interior and color, in addition to other casket identification requirements required to be given over the telephone by Part 453 of Title 16 of the Code of Federal Regulations and any subsequent version of this regulation, shall be provided over the telephone, if requested.

(b) (1) Each licensed funeral establishment that maintains an Internet Web site shall post on its Internet Web site the list of funeral goods and services that are required to be included in the establishment's general price list, pursuant to federal rule, and a statement that the general price list is available upon request.

(2) Information posted pursuant to paragraph (1) shall be provided by a link from the homepage of the Internet Web site with a word or combination of words, including, but not limited to, "goods," "merchandise," "products," or "services."

(3) An establishment that posts on its Internet Web site home page the words "price information" or a similar phrase that includes the word "price," with a link that leads to the establishment's general price list, need not comply with paragraphs (1) or (2).

(4) Nothing in this subdivision shall be construed to affect an establishment's obligations under federal or state law effective prior to January 1, 2013.

(5) This subdivision shall become operative on January 1, 2013.

SEC. 32. Section 7818 of the Business and Professions Code is amended to read:

7818. The board, pursuant to the provisions contained in Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, may adopt, amend or repeal rules and regulations to carry out the provisions of this chapter.

SEC. 33. Section 8508 of the Business and Professions Code is amended to read:

8508. "Household" means any structure and its contents that are used for persons and their convenience.

SEC. 34. Section 8513 of the Business and Professions Code is amended to read:

8513. (a) The board shall prescribe a form entitled "Notice to Owner" that shall describe, in nontechnical language and in a clear and coherent manner using words with common and everyday meaning, the pertinent provisions of this state's mechanics lien laws and the rights and responsibilities of an owner of property and a registered pest control company thereunder. Each company registered under this chapter, prior to entering into a contract with an owner for work for which a company registration is required, shall give a copy of this "Notice to Owner" to the owner, his or her agent, or the payer.

(b) No company that is required to be registered under this chapter shall require or request a waiver of lien rights from any subcontractor, employee, or supplier.

(c) Each company registered under this chapter that acts as a subcontractor for another company registered under this chapter shall, within 20 days of commencement of any work for which a company registration is required, give the preliminary notice in accordance with Chapter 2 (commencing with Section 8200) of Title 2 of Part 6 of Division 4 of the Civil Code, to the owner, his or her agent, or the payer.

(d) Each company registered under this chapter that acts as a prime contractor for work for which a company registration is required shall, prior to accepting payment for the work, furnish to the owner, his or her agent, or the payer a full and unconditional release from any claim of mechanics lien by any subcontractor entitled to enforce a mechanics lien pursuant to Section 8410 of the Civil Code.

(e) Each company registered under this chapter that subcontracts to another company registered under this chapter work for which a company registration is required shall furnish to the subcontractor the name of the owner, his or her agent, or the payer.

(f) A violation of the provisions of this section is a ground for disciplinary action.

SEC. 35. Section 8516.5 of the Business and Professions Code is repealed.

SEC. 36. Section 8552 of the Business and Professions Code is amended to read:

8552. It is unlawful for any person to advertise or represent in any manner that any pest control work, in whole or in part, has been done upon any structure, unless the work has been performed by a registered company, except as otherwise provided in this chapter.

SEC. 37. Section 8611 of the Business and Professions Code is amended to read:

8611. (a) Each branch office shall have a branch supervisor designated by the registered company to supervise and assist the company's employees who are located at that branch. The branch supervisor shall be an individual who is licensed by the board as an operator or a field representative in the branch or branches of business being conducted and his or her license shall be prominently displayed in the branch office.

(b) If a branch supervisor ceases for any reason to be connected with a registered company, the company shall notify the registrar in writing within 10 days from that cessation. If this notice is given, the company's branch office registration shall remain in force for a reasonable length of time to be determined by rules of the board, during which period the company shall submit to the registrar in writing the name of another qualified branch supervisor.

SEC. 38. Section 17913 of the Business and Professions Code is amended to read:

17913. (a) The fictitious business name statement shall contain all of the information required by this subdivision and shall be substantially in the following form:

FICTITIOUS BUSINESS NAME STATEMENT

The following person (persons) is (are) doing business as

*

at ** :

This business is conducted by ****

The registrant commenced to transact business under the fictitious business name or names listed above on

I declare that all information in this statement is true and correct. (A registrant who declares as true any material matter pursuant to Section 17913 of the Business and Professions Code that the registrant knows to be false is guilty of a misdemeanor punishable by a fine not to exceed one thousand dollars (\$1,000).)

Registrant signature

Statement filed with the County Clerk of ____ County on

NOTICE—IN ACCORDANCE WITH SUBDIVISION (a) OF SECTION 17920, A FICTITIOUS NAME STATEMENT GENERALLY EXPIRES AT THE END OF FIVE YEARS FROM THE DATE ON WHICH IT WAS FILED IN THE OFFICE OF THE COUNTY CLERK, EXCEPT, AS PROVIDED IN SUBDIVISION (b) OF SECTION 17920, WHERE IT EXPIRES 40 DAYS AFTER ANY CHANGE IN THE FACTS SET FORTH IN THE STATEMENT PURSUANT TO SECTION 17913 OTHER THAN A CHANGE IN THE RESIDENCE ADDRESS OF A REGISTERED OWNER. A NEW FICTITIOUS BUSINESS NAME STATEMENT MUST BE FILED BEFORE THE EXPIRATION.

THE FILING OF THIS STATEMENT DOES NOT OF ITSELF AUTHORIZE THE USE IN THIS STATE OF A FICTITIOUS BUSINESS NAME IN VIOLATION OF THE RIGHTS OF ANOTHER UNDER FEDERAL, STATE, OR COMMON LAW (SEE SECTION 14411 ET SEQ., BUSINESS AND PROFESSIONS CODE).

(b) The fictitious business name statement shall contain the following information set forth in the manner indicated in the form provided by subdivision (a):

(1) Where the asterisk (*) appears in the form, insert the fictitious business name or names. Only those businesses operated at the same address and under the same ownership may be listed on one fictitious business name statement.

(2) Where the two asterisks (**) appear in the form: If the registrant has a place of business in this state, insert the street address, and county, of his or her principal place of business in this state. If the registrant has no place of business in this state, insert the street address, and county, of his or her principal place of business outside this state.

(3) Where the three asterisks (***) appear in the form: If the registrant is an individual, insert his or her full name and residence address. If the registrants are a married couple, insert the full name and residence address of both parties to the marriage. If the registrant is a general partnership, copartnership, joint venture, or limited liability partnership, insert the full name and residence address of each general partner. If the registrant is a limited partnership, insert the full name and residence address of each general partner. If the registrant is a limited liability company, insert the name and address of the limited liability company, as set out in its articles of organization on file with the California Secretary of State, and the state of organization. If the registrant is a trust, insert the full name and residence address of each trustee. If the registrant is a corporation, insert the name and address of the corporation, as set out in its articles of incorporation on file with the California Secretary of State, and the state of incorporation. If the registrants are state or local registered domestic partners, insert the full name and residence address of each domestic partner. If the registrant is an unincorporated association other than a partnership, insert the name of each person who is interested in the business of the association and whose liability with respect to the association is substantially the same as that of a general partner.

(4) Where the four asterisks (****) appear in the form, insert whichever of the following best describes the nature of the business: (i) "an individual," (ii) "a general partnership," (iii) "a limited partnership," (iv) "a limited liability company," (v) "an unincorporated association other than a partnership," (vi) "a corporation," (vii) "a trust," (viii) "copartners," (ix) "a married couple," (x) "joint venture," (xi) "state or local registered domestic partners," or (xii) "a limited liability partnership."

(5) Where the five asterisks (***** appear in the form, insert the date on which the registrant first commenced to transact business under the fictitious business name or names listed, if already transacting business under that name or names. If the registrant has not yet commenced to transact business under the fictitious business name or names listed, insert the statement, "Not applicable."

(c) The registrant shall declare that all of the information in the fictitious business statement is true and correct. A registrant who declares as true any material matter pursuant to this section that the registrant knows to be false is guilty of a misdemeanor punishable by a fine not to exceed one thousand dollars (\$1,000).

(d) (1) At the time of filing of the fictitious business name statement, the registrant filing on behalf of the registrant shall present personal identification in the form of a California driver's license or other government identification acceptable to the county clerk to adequately determine the identity of the registrant filing on behalf of the registrant as provided in subdivision (e) and the county clerk may require the registrant to complete and sign an affidavit of identity.

(2) In the case of a registrant utilizing an agent for submission of the registrant's fictitious business name statement for filing, at the time of filing of the fictitious business name statement, the agent filing on behalf of the registrant shall present personal identification in the form of a California driver's license or other government identification acceptable to the county clerk to adequately determine the identity of the agent filing on behalf of the registrant as provided in subdivision (e). The county clerk may also require the agent to submit a notarized statement signed by the registrant declaring the registrant has authorized the agent to submit the filing on behalf of the registrant.

(e) If the registrant is a corporation, a limited liability company, a limited partnership, or a limited liability partnership, the county clerk may require documentary evidence issued by the California Secretary of State and deemed acceptable by the county clerk, indicating the current existence and good standing of that business entity to be attached to a completed and notarized affidavit of identity, for purposes of subdivision (d).

(f) The county clerk may require a registrant that mails a fictitious business name statement to a county clerk's office for filing to submit a completed and notarized affidavit of identity. A registrant that is a corporation, limited liability company, limited partnership, or limited liability partnership, if required by the county clerk to submit an affidavit of identity, shall also submit documentary evidence issued by the California Secretary of State indicating the current existence and good standing of that business entity.

(g) A county clerk that chooses to establish procedures pursuant to this section shall prescribe the form of affidavit of identity for filing by a registrant in that county.

SEC. 39. Section 13995.40 of the Government Code is amended to read:

13995.40. (a) Upon approval of the initial referendum, the office shall establish a nonprofit mutual benefit corporation named the California Travel and Tourism Commission. The commission shall be under the direction of a board of commissioners, which shall function as the board of directors for purposes of the Nonprofit Corporation Law.

(b) The board of commissioners shall consist of 37 commissioners comprising the following:

(1) The director, who shall serve as chairperson.

(2) (A) Twelve members, who are professionally active in the tourism industry, and whose primary business, trade, or profession is directly related to the tourism industry, shall be appointed by the Governor. Each appointed commissioner shall represent only one of the 12 tourism regions designated by the office, and the appointed commissioners shall be selected so as to represent, to the greatest extent possible, the diverse elements of the tourism industry. Appointed commissioners are not limited to individuals who are employed by or represent assessed businesses.

(B) If an appointed commissioner ceases to be professionally active in the tourism industry or his or her primary business, trade, or profession ceases to be directly related to the tourism industry, he or she shall automatically cease to be an appointed commissioner 90 days following the date on which he or she ceases to meet both of the eligibility criteria specified in subparagraph (A), unless the commissioner becomes eligible again within that 90-day period.

(3) Twenty-four elected commissioners, including at least one representative of a travel agency or tour operator that is an assessed business.

(c) The commission established pursuant to Section 15364.52 shall be inoperative so long as the commission established pursuant to this section is in existence.

(d) Elected commissioners shall be elected by industry category in a referendum. Regardless of the number of ballots received for a referendum, the nominee for each commissioner slot with the most weighted votes from assessed businesses within that industry category shall be elected commissioner. In the event that an elected commissioner resigns, dies, or is removed from office during his or her term, the commission shall appoint a replacement from the same industry category that the commissioner in question represented, and that commissioner shall fill the remaining term of the commissioner in question. The number of commissioners elected from each industry category shall be determined by the weighted percentage of assessments from that category.

(e) The director may remove any elected commissioner following a hearing at which the commissioner is found guilty of abuse of office or moral turpitude.

(f) (1) The term of each elected commissioner shall commence July 1 of the year next following his or her election, and shall expire on June 30 of the fourth year following his or her election. If an elected commissioner ceases to be employed by or with an assessed business in the category and segment which he or she was representing, his or her term as an elected commissioner shall automatically terminate 90 days following the date on which he or she ceases to be so employed, unless, within that 90-day period, the commissioner again is employed by or with an assessed business in the same category and segment.

(2) Terms of elected commissioners that would otherwise expire effective December 31 of the year during which legislation adding this subdivision is enacted shall automatically be extended until June 30 of the following year.

(g) With the exception of the director, no commissioner shall serve for more than two consecutive terms. For purposes of this subdivision, the phrase "two consecutive terms" shall not include partial terms.

(h) Except for the original commissioners, all commissioners shall serve four-year terms. One-half of the commissioners originally appointed or elected shall serve a two-year term, while the remainder shall serve a four-year term. Every two years thereafter, one-half of the commissioners shall be appointed or elected by referendum.

(i) The selection committee shall determine the initial slate of candidates for elected commissioners. Thereafter the commissioners, by adopted resolution, shall nominate a slate of candidates, and shall include any additional candidates complying with the procedure described in Section 13995.62.

(j) The commissioners shall elect a vice chairperson from the elected commissioners.

(k) The commission may lease space from the office.

(l) The commission and the office shall be the official state representatives of California tourism.

(m) (1) All commission meetings shall be held in California.

(2) Commissioners may participate in meetings by means of conference telephone and other technology.

(n) No person shall receive compensation for serving as a commissioner, but each commissioner shall receive reimbursement for reasonable expenses incurred while on authorized commission business.

(o) Assessed businesses shall vote only for commissioners representing their industry category.

(p) Commissioners shall comply with the requirements of the Political Reform Act of 1974 (Title 9 (commencing with Section 81000)). The Legislature finds and declares that commissioners appointed or elected on the basis of membership in a particular tourism segment are appointed or elected to represent and serve the economic interests of those tourism segments and that the economic interests of these members are the same as those of the public generally.

(q) Commission meetings shall be subject to the requirements of the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1).

(r) The executive director of the commission shall serve as secretary to the commission, a nonvoting position, and shall keep the minutes and records of all commission meetings.

SEC. 40. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.