Plan No. 2, which would merge the State Police with the California Highway Patrol. According to the Commission, the plan takes a small statewide law enforcement agency and consolidates it with a larger statewide law enforcement agency; the Commission believes this will result in both enhanced security services and budgetary savings of as much as $835,000 in the first full year alone. In May, the proposal was presented to the legislature, which is not expected to reject it; at this writing, the State Police is expected to become part of the Highway Patrol on July 1.

DEPARTMENT OF CONSUMER AFFAIRS

Director: Marjorie M. Berte
(916) 445-4465
Consumer Infoline:
(800) 344-9940
Infoline for the Speech/Hearing Impaired: (916) 322-1700

The Department of Consumer Affairs (DCA) oversees the activities of 37 administrative agencies which regulate 180 diverse professions, occupations, and industries. The primary function of DCA and its constituent agencies is to protect consumers from incompetent, dishonest, or impaired practitioners.

Most of the multi-member boards under DCA's jurisdiction are relatively autonomous of DCA control. However, the DCA Director is authorized to review and reject regulatory changes proposed by all DCA agencies; only a unanimous vote of the agency's board will override the Director's rejection. Additionally, the Department may intervene in matters regarding its boards if probable cause exists to believe that the conduct or activity of a board, its members, or its employees constitutes a violation of criminal law.

DCA maintains several divisions and units which provide support services to its constituent agencies, including a Legal Unit whose attorneys advise DCA boards at meetings and regulatory hearings; a Division of Investigation whose investigators gather evidence in complaint cases filed against the licensees of some DCA agencies; a Legislative Unit which assists agencies in drafting language for legislation and regulations affecting DCA agencies and their licensees; an Office of Examination Resources (formerly the Central Testing Unit) whose psychometricians analyze and assist in validating licensure examinations used by DCA agencies; and a Budget Office whose technicians assist DCA agencies in assessing their fiscal status and preparing budget change proposals for legislative review.

In addition to its functions relating to its various boards, bureaus, and examining committees, DCA is also charged with administering the Consumer Affairs Act of 1970. In this regard, the Department educates consumers, assists them in complaint mediation, and advocates their interests before the legislature, the courts, and its own constituent agencies.

The DCA Director also maintains direct oversight and control over the activities of several DCA bureaus and programs, including the following:

• ***Bureau of Automotive Repair***—*Chief: K. Martin Keller; (916) 255-4300; Toll-Free Complaint Number: (800) 952-5210.* Established in 1971 by the Automotive Repair Act (Business and Professions Code section 9880 *et seq.*), DCA's Bureau of Automotive Repair (BAR) registers automotive repair facilities; official smog, brake and lamp stations; and official installers/inspectors at those stations. BAR's regulations are located in Division 33, Title 16 of the California Code of Regulations (CCR). BAR's other duties include complaint mediation, routine regulatory compliance monitoring, investigating suspected wrongdoing by auto repair dealers, oversight of ignition interlock devices, and the overall administration of the California Smog Check Program, Health and Safety Code section 44000 *et seq.*, which provides for mandatory biennial emissions testing of motor vehicles in federally designated urban nonattainment areas, and districts bordering a nonattainment area which request inclusion in the Program. BAR licenses approximately 16,000 smog check mechanics who will check the emissions systems of an estimated nine million vehicles this year. Testing and repair of emissions systems is conducted only by stations licensed by BAR.

• ***Bureau of Security and Investigative Services***—*Chief: James C. Diaz; (916) 445-7366.* The Bureau of Security and Investigative Services (BSIS) regulates six industries: private security services (private patrol operators and armored contract carriers) (Business and Professions Code section 7580 *et seq.*), repossessors (Business and Professions Code section 7500 *et seq.*), private investigators (Business and Professions Code section 7512 *et seq.*), alarm company operators (Business and Professions Code section 7590 *et seq.*), firearms and baton training facilities (Business and Professions Code section 7585 *et seq.*), and locksmiths (Business and Professions Code section 6980 *et seq.*). BSIS' purpose is to protect the health, welfare, and safety of those affected by these industries. To accomplish this, the Bureau regulates and reviews these industries by its licensing procedures and by the adoption and enforcement of regulations. For example, BSIS reviews all complaints for possible violations and takes disciplinary action when violations are found. The Bureau's primary method of regulating, however, is through the granting or denial of initial/renewal license or registration applications.

• ***Bureau of Electronic and Appliance Repair***—*Chief: Curt Augustine; (916) 445-4751.* Created in 1963, the Bureau of Electronic and Appliance Repair (BEAR) registers service dealers who repair major home appliances, electronic equipment, cellular telephones, photocopiers, facsimile machines, and equipment used or sold for home office and private motor vehicle use. Under SB 798 (Rosenthal) (Chapter 1265, Statutes of 1993), BEAR also registers and regulates sellers and administrators of service contracts for the repair and maintenance of this equipment. BEAR is authorized under Business and Professions Code section 9800 *et seq.*; its regulations are located in Division 27, Title 16 of the CCR. The Electronic and Appliance Repair Dealer Registration Law requires service dealers to provide an accurate written estimate for parts and labor, provide a claim receipt when accepting equipment for repair, return replaced parts, and furnish an itemized invoice describing all labor performed and parts installed.

• ***Bureau of Home Furnishings and Thermal Insulation***—*Chief: Karen Hatchel; (916) 324-1448.* The Bureau of Home Furnishings and Thermal Insulation (BHFTI) regulates the home furnishings and insulation industries in California. The Bureau's mandate is to ensure that these industries provide safe, properly labeled products which comply with state standards. Additionally, BHFTI is to protect consumers from fraudulent, misleading, and deceptive trade practices by members of the home furnishings and insulation industries; BHFTI is also responsible for toy safety testing for the state of California. The Bureau is established in Business and Professions Code section 19000 *et seq.*

BHFTI establishes rules regarding furniture and bedding labeling and sanitation. The Bureau enforces the law by conducting extensive laboratory testing of products randomly obtained by BHFTI inspectors from retail and wholesale establishments throughout the state. To enforce its regulations, which are codified in Division 3, Title 4 of the CCR, BHFTI has access to premises, equipment, materials, and articles of furniture. The Bureau may

issue notices of violation, withhold products from sale, and refer cases to the Attorney General or local district attorney's offices for possible civil penalties. BHFTI may also revoke or suspend a licensee's registration for violation of its rules.

• ***Tax Preparer Program***—*Administrator: Jacqueline Bradford; (916) 324-4977.* Pursuant to Business and Professions Code section 9891 *et seq.*, the Tax Preparer Program registers approximately 19,000 tax preparers in California. The Program's regulations are codified in Division 32, Title 16 of the CCR. Registrants must be at least eighteen years old; have a high school diploma or pass an equivalency exam; and must have completed sixty hours of instruction in basic personal income tax law, theory, and practice within the previous eighteen months or have at least two years' experience equivalent to that instruction. Prior to registration, tax preparers must deposit a bond or cash in the amount of $5,000 with the Program. Members of the State Bar, accountants regulated by the state or federal government, and those authorized to practice before the Internal Revenue Service are exempt from the Program's registration requirement.

Governor Wilson recently appointed Marilyn Nielsen of Woodland as DCA's Assistant Deputy Director for Board Relations, and San Diegan Raymond G. Saatjian as Deputy Director of Legislative and Regulatory Review.

MAJOR PROJECTS

DCA Publishes Annual Report. In late May, DCA published *Consumer Protection: From Promise to Performance*, its 1993–94 annual report which catalogues the accomplishments of the Department, its administrative units, and its constituent occupational licensing agencies during 1993–94. Several events highlighted in the annual report include (1) DCA's creation of the Consumer Information Center, with forty advisors who answer 60,000 consumer inquiries per month via a toll-free hotline number; (2) its successful investigation of Winston Tire Company for selling unnecessary parts and services, which led to a $1.4 million settlement (including $700,000 to the Sacramento and Ventura county district attorney's offices); (3) its development of a 25-minute video entitled *Rebuilding After A Disaster* to assist consumers affected by the January 1994 Northridge earthquake; and (4) its substantial internal administrative reorganization as part of its participation in the Governor's performance budgeting pilot program.

The annual report also includes brief summaries of the 1993–94 accomplishments of DCA's regulatory boards, bureaus, and programs, and their numerical statistics in the areas of licensing, exam pass rates, complaints, investigations, and enforcement actions.

Registration of Unlawful Detainer Assistants. On May 19, DCA published notice of its intent to implement AB 1573 (Burton) (Chapter 1011, Statutes of 1993), which defines the term "unlawful detainer assistant" as a person who, for compensation, renders assistance or advice in the prosecution of an unlawful detainer claim or action, including any bankruptcy petition that may affect the unlawful detainer action or claim. Under AB 1573, unlawful detainer assistants—who need not be attorneys but may not practice law—must register with the county clerk in the county in which he/she resides and performs unlawful detainer assistance, pay an application fee of $175 and a biennial registration renewal fee of $175, post a bond of $25,000, and disclose to the county clerk at the time of registration or renewal specified information concerning whether he/she or his/her business entity has ever been held liable in certain types of civil actions or been convicted of certain criminal offenses.

AB 1573 also requires unlawful detainer assistants to use written contracts with their clients, and requires DCA to adopt regulations including the standard form contract to be used; the contract must include provisions relating to the services to be performed, their cost, and a statement (in ten-point bold-face type) that the unlawful detainer assistant is not an attorney and may not perform the legal services that an attorney performs. Contracts must be in English and in the language of the client if the client is non-English-speaking.

DCA's proposed regulatory changes would provide the specific form and content of the standard form contract, and specify terms and conditions for its use; require the assistant to disclose civil liability and/or criminal conviction information to the client in the contract; and set forth requirements in cases where a language other than English is used in oral sales presentations or negotiations leading to execution of the contract.

At this writing, DCA is scheduled to hold a public hearing on these proposed regulatory changes on July 11 in Sacramento.

OAL Disapproves BEAR Service Contractor Registration Regulations. On April 7, the Office of Administrative Law (OAL) rejected BEAR's adoption of new Article 5.5 (sections 2755–2760), Title 16 of the CCR; the new rules would implement SB 798 (Rosenthal) (Chapter 1265, Statutes of 1993) by establishing a system for the registration and regulation of service contractors in California.

Among other things, the proposed regulations would specify the information and documentation which must be provided to BEAR by an applicant seeking registration as a service contractor; provide a procedure for the registration, as a service contract seller, of a person who is not an obligor on a service contract but sells such service contract on behalf of another person who is an obligor on the service contract; interpret existing statutory law requiring service contractors to demonstrate financial responsibility by, *inter alia*, the establishment of an escrow account equal to 25% of the deferred revenues from service contracts in force or to have a net worth greater than the amount of deferred revenues from service contracts in force; specify records which must be kept by service contractors; specify the procedure by which service contractors must file their service contract forms with BEAR; and provide that the initial registration and annual renewal fee shall be $60 for each place of business operated in California by a service contractor. *[15:1 CRLR 27; 14:1 CRLR 19–20; 13:4 CRLR 22]*

OAL rejected the proposed rules on grounds that they failed to satisfy the clarity, necessity, and consistency requirements of Government Code section 11349.1, and because BEAR failed to incorporate by reference a form which service contractor registrants are required to use. At this writing, BEAR staff is correcting the deficiencies noted by OAL, and is expected to release modified language of the proposed service contractor registration regulations for a 15-day comment period at the end of June.

BAR Rulemaking. The following is a status update on several BAR rulemaking proceedings undertaken over the past few months:

• On January 24, OAL approved BAR's amendments to section 3340.30, Title 16 of the CCR. The changes to subsections (a) and (f) of section 3340.30 establish a $65 initial examination fee and renewal examination fee for Smog Check Program technicians; and subsection 3340.30(c), which currently limits technicians to taking BAR's qualification examination no more than three times in any 12-month period, was deleted. *[15:1 CRLR 27]*

• On May 8, OAL approved BAR's emergency amendments to sections 3340.22.2, 3340.35, and 3340.50.4, Title 16 of the CCR.

Section 3340.22.2 specifies the characteristics of the sign which Smog Check Program stations must post describing the statutory repair cost limits. Previously,

Figure 6 of the section contained the language to be used in the sign; BAR's amendments to section 3340.22.2 states that BAR will provide the updated language to be posted on the sign.

Sections 3340.35 and 3340.50.4 previously stated the cost of Smog Check certificates to licensed stations at $7; BAR's changes to these sections increase the cost of a certificate to the licensed station to $7.75 each, based on changes in the Consumer Price Index and pursuant to Health and Safety Code section 44060(c)(3).

On May 19, BAR published notice of its intent to permanently adopt these changes; at this writing, the Bureau is scheduled to hold a public hearing on the proposed changes on July 7 in Sacramento.

LEGISLATION

SB 523 (Kopp), as amended May 3, is the California Law Revision Commission's bill to standardize and update the provisions of the Administrative Procedure Act (APA) governing state agency adjudication procedures, including the procedures for taking enforcement action against occupational licenses utilized by most DCA agencies. *[14:2&3 CRLR 1; 9:3 CRLR 1]* The APA was enacted in 1945, and has not been comprehensively reviewed or amended since that time. Unfortunately, SB 523 falls somewhat short of the Commission's 1993 recommendations for sweeping changes in APA adjudicative procedures—due largely to opposition by the Attorney General's Office, DCA, its constituent agencies, and other agencies subject to the APA.

Among other things, SB 523 would permit related cases to be consolidated into a single proceeding; provide for proceedings to compel discovery to be held before an administrative law judge (ALJ) instead of in superior court; extend to an ALJ the authority to order a deposition and provide for notice to the parties of the deposition petition; clarify the availability of alternative dispute resolution (ADR) techniques in an adjudicative proceeding; provide that a settlement conference may be separate from the prehearing conference; allow prehearing conferences to be held by telephone; simplify and broaden the application of restitution provisions; allow agency members to vote electronically whether to adopt or nonadopt the ALJ's proposed decision; and clarify that where an ALJ is required for a formal adjudicative proceeding under the APA, such use is also required if the proceeding is conducted informally or for an emergency decision.

SB 523 would also enact an "Administrative Adjudication Bill of Rights," which would specify the minimum due process and public interest requirements that must be satisfied in a hearing that is subject to the APA, including notice and an opportunity to be heard, written hearing procedures made available to the parties, open hearings, neutrality of the presiding officer, disqualification of the presiding officer, and a written decision based upon the hearing record. The bill would expressly prohibit ex parte communications; extend language assistance requirements to witnesses; require credibility findings of the presiding officer to be given "great weight" upon review; expand provisions governing allegations of sexual conduct, sexual harassment, assault, or battery to apply in all cases; limit the application of the APA to constitutionally and statutorily required hearings of state agencies; and clarify that the APA is not intended to override a conflicting or inconsistent statute or federal law that governs a particular matter.

The bill would also enhance flexibility by creating an informal hearing procedure; providing subpoena power to all adjudicating agencies, presiding officers, and attorneys for the parties; providing for the enforcement of orders and sanctions arising from APA adjudicative proceedings; providing for an emergency decision procedure for decisions in which immediate interim relief is required; allowing the presiding officer to grant motions for intervention; encouraging the use of ADR techniques, such as mediation and arbitration; allowing the use of telephone hearings in certain circumstances with the consent of the parties; and creating a declaratory decision procedure for agency advice. *[A. CPGE&ED]*

AB 1180 (Morrissey). The APA requires specified state agencies to follow certain procedures with respect to administrative adjudications. As introduced February 23, this bill would permit a small business, as defined, to utilize an alternative hearing procedure when a state agency seeks to impose a civil penalty on that business. *[A. CPGE&ED]*

AB 1374 (Speier), as amended May 22, would require all state agencies, on or before January 31, 1997, to accept payment by credit card or other payment device (such as an ATM card or debt card). *[A. Appr]*

SB 342 (Campbell). Existing law authorizes state agencies to impose fees for and to collect for the cost, including specified components, of providing services, inspections, or audits to persons, firms, corporations, and other entities. As amended March 22, this bill would prohibit a state agency from characterizing as a fee any amount charged beyond the estimated actual or reasonable cost of providing the service, inspection, or audit for which the charge is made, including those cost components specified in existing law. *[A. CPGE&ED]*

AB 573 (Goldsmith), as amended April 6, and **SB 338 (Campbell)**, as amended April 27, would require state agencies to deposit revenue from the imposition of fines and penalties into the general fund, with specified exceptions. These provisions would become operative July 1, 1996. *[A. Floor]*

AB 895 (Kaloogian). Existing law provides that in making appointments to state boards and commissions, the Governor and every other appointing authority shall be responsible for nominating a variety of persons of different backgrounds, abilities, interests, and opinions in compliance with specified state policy. As introduced February 22, this bill would make a technical, nonsubstantive change. *[A. Desk]*

AB 141 (Bowen). The California Public Records Act (PRA) requires state and local agencies to make records subject to disclosure under the Act available to the public upon request, subject to certain conditions. As amended May 11, this bill would prohibit state and local agencies from selling, exchanging, furnishing, or otherwise providing a public record subject to disclosure under the Act to a private entity in a manner that prevents a state or local agency from providing the record pursuant to the Act. The bill would state that it does not require a state or local agency to use the State Printer to print public records nor prevent the destruction of records pursuant to law.

The bill would also exempt from the above prohibition contracts entered into prior to January 1, 1996, between the County of Santa Clara and a private entity for the provision of public records subject to disclosure under the Act. *[S. GO]*

AB 142 (Bowen). The PRA provides, among other things, that any person may receive a copy of any identifiable public record from a state or local agency upon payment of fees covering the direct costs of duplication or any applicable statutory fee. As amended April 3, this bill would expressly provide that any agency that has information that constitutes an identifiable public record that is in an electronic format shall, unless otherwise prohibited by law, make that information available in an electronic format, when requested by any person, thus imposing a state-mandated local program with respect to local agencies. It would specify that direct costs of duplication shall include the costs associated with duplicating electronic records.

Existing law provides for the state and local administration of a system for the

registration of certain vital information on prescribed forms, and specifies the procedure for managing that information, including the availability and confidentiality of certain information. This bill would define the term "vital records" for this purpose, expand the authority of the State Registrar to adopt related regulations to include confidential portions of any vital record, and require applicants for copies of vital records to submit an application with prescribed information under penalty of perjury. *[A. GO]*

SB 323 (Kopp). Existing provisions of the PRA require each state and local agency, as defined, to make its records open to public inspection at all times during office hours, except as specifically exempted from disclosure by law. As amended May 16, this bill would revise the definitions of the terms "local agency," "writing," and "public agency"; provide for public inspection of public records and copying in all forms; and require public agencies to ensure that systems used to collect and hold public records be designed to ensure ease of public access. The purpose of this bill is to increase public access to computerized information kept by agencies.

Existing law requires an agency to justify withholding any record by demonstrating that the record in question is exempt under express provisions of the PRA, or that—on the facts of the particular case—the public interest served by not making the record public clearly outweighs the public interest served by disclosure of the record. This bill would require the agency to identify the provision of law on which it based its decision to withhold a record or, if withholding is based on the public interest, to state the public interest in disclosure and the public interest in nondisclosure.

The PRA authorizes document requestors to file a petition in superior court alleging that public records are being improperly withheld. The bill would prohibit a public official or agency defending the withholding of records against a petition in the superior court that public records are being improperly withheld from the public from offering a rationale not given by the official or agency in denying disclosure of the public records. *[S. Appr]*

AB 958 (Knight). Under the PRA, certain records, including test questions, scoring keys, and other examination data used to administer an academic examination, are exempt from disclosure. As amended May 17, this bill would require, upon the request of any member of the legislature, the disclosure to that member of any test questions or material provided by the state Department of Education and administered as part of a statewide testing program to pupils enrolled in the public schools. The bill would state that the member shall keep this material confidential. *[A. Appr]*

AB 63 (Katz). Existing law provides that the cost limit for repairs under BAR's Smog Check Program shall be a minimum of $450, except as specified. As amended February 23, this bill would, until January 1, 1998, delete the $450 cost limit and instead prescribe repair cost limits of $50 to $300 for specified classes of vehicles. The bill would reinstate the $450 cost limit on and after January 1, 1998. *[S. Trans]*

AB 1383 (Speier), as amended May 4, would repeal existing law which requires DCA's Arbitration Review Program to regulate and certify arbitration programs for "lemon law" disputes between auto manufacturers and consumers.

Existing law generally provides for relief for a failure to comply with the Song-Beverly Consumer Warranty Act. That Act requires, if a manufacturer or its representative in this state is unable to service or repair a new motor vehicle to conform to the applicable express warranties after a reasonable number of attempts, the manufacturer to either promptly replace the new motor vehicle or promptly make restitution to the buyer, as specified. Existing law specifically provides that if the buyer establishes a violation of this provision, the buyer shall recover damages, reasonable attorneys' fees, and costs and may recover a civil penalty, except as specified. This bill would delete the specific provisions regarding recovery of damages, attorneys' fees, and costs, and a civil penalty. *[A. Appr]*

AB 1381 (Speier). The Automotive Consumer Notification Act requires the seller of a vehicle to include a specified "lemon law" disclosure if that vehicle has been returned, or should have been returned, to the dealer or manufacturer for failure to conform to warranties. As amended April 26, this bill would revise and recast the Automotive Consumer Notification Act within the provisions of the Vehicle Code. The bill would require the manufacturer to retitle specified defective vehicles in its name, request DMV to inscribe the ownership certificate with a "lemon buy-back" notation, affix a "lemon buy-back" decal to the left door frame of the vehicle, deliver a specified notice to the transferee of the vehicle, and obtain the transferee's acknowledgment. The bill would provide that any person damaged by the failure of a manufacturer or dealer to comply with these requirements shall have the same rights and remedies as those provided to a buyer of consumer goods by specified provisions relating to warranty. The bill would provide that it shall apply only to vehicles reacquired by a manufacturer on or after the effective date of the Act. *[A. Floor]*

SB 1085 (Wright), as amended April 5, is a spot bill making minor changes in the law requiring DCA to certify qualified third-party dispute resolution processes to resolve "lemon law" disputes. *[S. Rls]*

AB 1457 (Granlund), as introduced February 24, would require vehicle manufacturers to supply specified emission control service information to all licensed Smog Check stations, if that information is supplied to franchised automotive dealers. The bill would also require vehicle manufacturers to contract with after-market emissions parts manufacturers to supply those manufacturers with information necessary for the manufacture of emissions-related parts and standardized test equipment. *[A. Trans]*

AB 809 (Hauser). Under existing law, an automotive repair dealer is required to pay a fee for each place of business operated by him in this state and to register with BAR. These forms are required to contain sufficient information to identify the automotive repair dealer, including name, address, retail seller's permit number, if required, and other identifying data which is prescribed by BAR. As amended April 25, this bill would provide that the forms shall also require a statement by the dealer that each location is in an area that, pursuant to local zoning ordinances, permits the operation of a facility for the repair of motor vehicles. This bill would further require the forms to include a statement signed by the dealer under penalty of perjury that the information provided is true. This bill would also provide that a state agency is not authorized or required by this provision to enforce a city, county, regional, air pollution district, or air quality management district, rule or regulation regarding the site or operation of a facility that repairs motor vehicles. *[S. B&P]*

SB 827 (Kelley) as amended May 9, would exempt from BAR's registration requirement a person whose primary business is the wholesale supply of new or rebuilt automotive parts who solely engages in the remachining of individual automotive parts and who does not engage in repairing or diagnosing malfunctions of motor vehicles or motorcycles. *[S. Floor]*

SB 137 (Craven), as amended May 9, would repeal provisions authorizing DCA to direct BAR to create, with existing Bureau resources, an advisory committee to conduct a specified study on auto body repair, and authorize DCA and BAR to adopt regulations implementing a system for the issuance of citations for violations of the Automotive Repair Act. This bill

would also require information on an application for registration including a written statement signed under penalty of perjury, as specified. *[S. Floor]*

AB 1270 (McPherson). Under existing law, alarm company operators must file a written application for a BSIS license containing specified information, including the name of the applicant and the location of the address for which the license is sought. In addition, within three working days after commencing employment, any employee performing the function of alarm agent who is not registered with BSIS is required to submit an application for registration and his/her fingerprints. As amended May 17, this bill would provide that the name and address of an applicant for an alarm company operator's license and the name, address, and other employee records of an applicant for registration with the Bureau as an alarm agent shall not be released for commercial purposes. The bill would also provide that these restrictions shall not preclude release of information to the public regarding the status of an operator's license or agent's registration or the release of information to law enforcement or other governmental agencies for other authorized purposes.

Under existing law, a licensed alarm company operator is required to maintain a file or record of specified information on employees and make it available to BSIS. Existing law prohibits the Bureau and DCA from releasing that employee information to any persons other than governmental agencies. This bill would delete that prohibition. *[A. Floor]*

AB 952 (Gallegos, Speier). The Alarm Company Act provides for the licensing and regulation of alarm companies. For those purposes, an alarm company operator is defined to exclude any entity retained to monitor alarm systems provided the entity does not perform any other duties within the definition of an alarm company operator. As amended March 27, this bill would delete that exclusion and instead provide that the definition includes any entity that is retained by a licensed alarm company operator or any other person or entity to monitor one or more alarm systems, whether or not the entity performs any other duties within the definition of an alarm company operator, as specified. *[S. B&P]*

AB 53 (Murray). BSIS licenses and regulates private investigators, private security services licensees, and alarm company operators and agents. Existing law authorizes the sheriff or the chief or other head of a municipal police department to issue a license to carry a pistol, revolver, or other firearm capable of being concealed upon the person. As amended April 6, this bill would establish procedures for BSIS to issue a permit allowing private investigators, private security services licensees, and alarm company operators and agents to carry a pistol, revolver, or other firearm capable of being concealed upon the person in a concealed manner in accordance with recommendations of the Concealed Weapons Permit Board (CWPB), which would be created by the bill. The bill would establish the CWPB, consisting of specified members, and would set forth its duties. The bill would provide that on or after January 1, 1997, this procedure is the exclusive means whereby these persons may carry a concealed weapon; and provide procedures for the sheriff or the chief or other head of a municipal police department wherein the applicant for a permit resides or maintains a business to object to the issuance of a permit. The bill would authorize the DCA Director to adopt and enforce reasonable rules to establish qualifications to be a bodyguard.

Under existing law, any person, except as specified, who brings or possesses certain firearms within any state or local public building or at any meeting required to be open to the public, or within specified state offices or residences of specified state officials, or within school zones, is guilty of a public offense, punishable as specified. The bill would exempt from these prohibitions persons issued a permit to carry a concealed firearm under the above provisions, and, in certain instances, honorably retired peace officers authorized to carry a concealed or loaded weapon.

Existing law requires the Attorney General to keep and properly file, among other things, forms and records pertaining to licenses to carry concealed firearms. This bill would also require the Attorney General to keep and properly file a copy of each permit issued by BSIS under the above provisions. *[A. Appr]*

AB 1541 (Lee). Under the Repossessors Act, BSIS licenses and regulates persons engaged in the business of repossessing personal property. As amended May 17, this bill would revise various provisions of that Act. Among other things, this bill would change the title of the act to the Collateral Recovery Act; change references to personal property to collateral; specify that a licensed repossession agency and a legal owner, registered owner, lienholder, lessor, or lessee are not liable for the act or omission of each other in connection with making, accepting, or carrying out an assignment, as specified; specify the contents of an application for a license by a limited liability company; authorize a repossession agency to assign a license to another entity, with consent of BSIS Chief; with respect to storing personal effects or other personal property not covered by a security agreement, delete the requirement that they be stored at the location of the licensed agency and waive the inventory requirement under specified circumstances; with respect to special license plates, as specified, provide for removal from a repossessed vehicle and disclosure to the registered owner that the plates will be destroyed if not claimed within sixty days; on the notice of seizure of a vehicle, specify that a repossession agency is not responsible for tire failure unless the failure is due to the negligence of the agency; with regard to collateral subject to registration under the Vehicle Code, provide that repossession occurs when the repossessor gains entry to the collateral or when the collateral becomes connected to a tow truck; and delete as a prohibited act the failure to disclose in communications with the consumer that the repossession agency is attempting to collect a debt.

Existing law generally requires a vehicle to be registered before it may be driven or hauled on a highway. This bill would exempt a repossessed vehicle from the registration requirement solely for the purpose of transporting it from the point of repossession to the storage facilities of the repossessor, and from those storage facilities to a licensed motor vehicle auction. *[A. Appr]*

AB 123 (Rainey). Existing law defines a locksmith as a person who engages in the business of installing, repairing, opening, modifying locks, or who originates keys for locks. It is a misdemeanor for a person who is not licensed as a locksmith to perform these services, subject to specified exceptions. As amended March 28, this bill would create an exception for an agent or employee of a retail establishment that has a primary business other than providing locksmith services. The locksmith services must be limited in scope and performed on the premises on locks purchased from the retail establishment, as specified. In addition, an unlicensed agent or employee of the retail establishment may not represent himself/herself to be a licensed locksmith or a locksmith, redesign or implement a master key system, perform locksmithing services on automotive locks, or possess specified locksmith tools. This bill would also exempt from licensing requirements law enforcement officers, firefighters, and emergency medical personnel who perform locksmith services in the course of their duties. *[S. B&P]*

AB 581 (Hoge). The Private Security Services Act requires a licensee, qualified

manager of a licensee, or security guard who, in the course of his/her employment, carries a firearm to complete a course of training in the carrying and use of firearms and to receive a firearms qualification card prior to the carrying of a firearm. Existing law requires a person entering the employ of a licensee to perform the functions of a security guard or a security patrolperson to complete a course in the exercise of the power to arrest prior to being assigned to a duty location. As amended March 23, this bill would revise and recast these provisions and would exempt peace officers, as defined, from the training requirements of these provisions. *[A. CPGE&ED]*

AB 1226 (Martinez). Existing law, added by initiative statute, prohibits any attorney from disclosing or permitting to be disclosed to a defendant the address or telephone number of a victim or witness, unless specifically permitted to do so by the court after a hearing and a showing of good cause; the initiative statute provides that any amendment of its provisions by the legislature shall require a two-thirds vote of the membership of each house. As amended April 25, this bill would require the court, when the defendant is acting as his/her own attorney, to endeavor to protect the address and telephone number of a victim or witness by providing for contact only through a private investigator licensed by BSIS and appointed by the court or by imposing other reasonable restrictions, absent a showing of good cause as determined by the court. *[A. Floor]*

AB 1610 (Archie-Hudson). Existing law voids any home solicitation contract or offer for the repair or restoration of residential premises signed and dated by the buyer within a prescribed period from when a disaster causes damages to the residential premises, except as otherwise provided. Existing law also provides a buyer with a right to cancel this type of home solicitation contract or offer that is not void under the above-described provision within a prescribed time period. Existing law defines a disaster for purposes of these provisions to mean an earthquake, flood, fire, hurricane, riot, storm, tidal wave, or other similar sudden or catastrophic occurrence. As introduced February 24, this bill would revise this definition to mean a sudden or catastrophic occurrence for which a state of emergency or local emergency has been declared, as specified. *[S. Jud]*

SB 258 (O'Connell). Existing law does not regulate persons who perform home inspections for a fee. As amended May 11, this bill would define terms related to paid home inspections, establish a standard of care for home inspectors, and prohibit certain inspections in which the inspector or the inspector's employer, as specified, has a financial interest. The bill would also provide that contractual provisions seeking to limit the liability of home inspectors to the cost of the inspection are contrary to public policy and invalid. The bill would, in addition, identify and limit the persons who can bring an action arising out of a home inspection. *[S. Jud]*

SB 1077 (Greene), as amended March 29, would abolish DCA's Tax Preparer Program, and instead require tax preparers to post a $5,000 bond with the Secretary of State. The bill would preserve existing law requiring tax preparers to complete a minimum of 20 hours of continuing education each year. SB 1077 is similar to 1994's SB 2037 (McCorquodale), which followed comprehensive 1993 oversight hearings by the Senate Subcommittee on Efficiency and Effectiveness in State Boards and Commissions *[14:2&3 CRLR 19]*; that bill was killed on the Senate floor on the last day of the 1993–94 session for reasons unrelated to the abolition of the Tax Preparer Program. *[A. CPGE&ED]*

LITIGATION

A series of cases challenging the state's diversion of money from agency special funds to the general fund is proceeding toward trial. ***Malibu Video Systems, et al. v. Kathleen Brown, et al.***, No. BC082830 (Los Angeles County Superior Court), and ***Abramovitz, et al. v. Wilson, et al.***, No. BC120571 (Los Angeles County Superior Court), both class actions filed by Los Angeles attorney Richard I. Fine on behalf of state licensees, allege that the State of California illegally diverted money from the reserve funds of special-funded agencies in California. "Special-funded agencies" (including all the regulatory programs in DCA) receive funding support not from the general fund but from licensing and other fees imposed on their licensees; those fees are generally passed on by the licensees to the consumers of their services as a cost of doing business. In the Budget Acts of 1991–92, 1992–93, and 1993–94, the legislature included provisions which reduced the reserve funds of special-funded agencies down to three months' worth of operational expenses, and diverted the rest to the general fund. In *Malibu Video Systems*, Fine claims that the 1991–94 diversions reduced the total amount in special-funded agencies' reserve funds by 46% (from $1.569 billion in 1991 to $848.5 million in 1994); in *Abramovitz*, Fine makes similar allegations as to the 1994–95 budget. Fine alleges that these funds were collected for consumer protection purposes, and that diverting them to help pay the state's deficit both deprives consumers of protection from incompetent and dishonest practitioners and serves to double-tax taxpayers who are consumers of the services of state licensees. *[14:4 CRLR 22; 12:4 CRLR 1]*

At this writing, the two cases have been consolidated and a settlement conference is scheduled for December 6; petitioners' motion for class certification is scheduled to be heard on January 22, 1996; and petitioners' motion for summary judgment is scheduled to be heard on February 14, 1996. Fine also plans to file a new action challenging similar diversions required by the 1995–96 budget. A similar federal court lawsuit filed by Fine, ***Malibu Video Systems, et al. v. Kathleen Brown, Treasurer of the State of California, et al.***, No. CV942093-RMT(EX) (C.D. Cal.), has been stayed pending resolution of the state court cases.

OFFICE OF THE LEGISLATIVE ANALYST

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Created in 1941, the Legislative Analyst's Office (LAO) is responsible for providing analysis and nonpartisan advice on fiscal and policy issues to the California legislature.

LAO meets this duty through four primary functions. First, the office prepares a detailed, written analysis of the Governor's budget each year. This analysis, which contains recommendations for program reductions, augmentations, legislative revisions, and organizational changes, serves as an agenda for legislative review of the budget. Second, LAO produces a companion document to the annual budget analysis which paints the overall expenditure and revenue picture of the state for the coming year. This document also identifies and analyzes a number of emerging policy issues confronting the legislature, and suggests policy options for addressing those issues. Third, the Office analyzes, for the Assembly Ways and Means Committee and the Senate Appropriations and Budget and Fiscal Review Committees, all proposed legislation that would affect state and local revenues or expenditures. The Office prepares approximately 3,700 bill analyses annually. Finally, LAO provides information and conducts special studies in response to legislative requests.

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