



# REGULATORY AGENCY ACTION

to include the chassis, chassis cab, and that portion of a motorhome devoted to its propulsion. The bill would also define "motorhome" for these purposes to mean a vehicular unit built on, or permanently attached to, a self-propelled motor vehicle chassis, chassis cab, or van, which becomes an integral part of the completed vehicle, designed for human habitation for recreational or emergency occupancy. This bill passed the Assembly on June 1 and is pending in the Senate Judiciary Committee.

**SB 2863 (Doolittle).** The Unruh Act currently regulates the contents of retail installment sales contracts; and the Rees-Levering Motor Vehicle Sales and Finance Act currently regulates the contents of conditional sales contracts for the sale of a motor vehicle, as defined. This bill, as amended on May 5, would provide that any vehicle required to be identified pursuant to a specified provision of the Vehicle Code does not come within the meaning of "goods" for purposes of the Unruh Act, but does come within the meaning of "motor vehicle" for purposes of the Rees-Levering Act. This bill passed the Senate on June 2 and is pending in the Assembly Finance and Insurance Committee.

## RECENT MEETINGS:

At its May 12 meeting, the Board sustained Orange County Suzuki's (OCS) protest against an attempted franchise termination by U.S. Suzuki Motor Corporation. In a decision entitled *SDB, Inc., dba Orange County Suzuki v. U.S. Suzuki Motor Corp.*, No. PR-916-87 (May 18, 1988), the NMVB held that Suzuki had not met its statutory burden under section 3066(b) of the Vehicle Code of proving good cause to terminate OCS' franchise.

OCS' problems began when its lease on a motorcycle dealership facility in Costa Mesa expired in July 1986. For approximately one year, OCS searched for alternative premises, and finally found another Costa Mesa site. On July 9, 1987, a Suzuki representative inspected the proposed facility and orally informed OCS that the location would not be approved, because the building did not have "full frontage glass walls" as purportedly required by the franchise agreement and Suzuki's own Dealer Development Guide (DDG). In spite of this oral rejection, OCS signed a ten-year lease on the facility on July 10, and protested the attempted termination of its franchise agreement to the NMVB in September 1987.

The NMVB found that Suzuki's sole

basis for terminating the franchise was the window problem. However, the Board found that Suzuki had misrepresented its DDG standards to OCS. The standards require only that the front of the building should be "largely constructed of glass," and the Board found that of a 48-foot-long showroom, a 24' x 11' (264 square feet) area is glass. Further, the Board found that the DDG standard was "never published nor distributed to the individual franchisees," and thus did not constitute a published requirement which OCS was bound to satisfy under the terms of its franchise agreement. Thus, the Board found that Suzuki unreasonably withheld its approval of the new location, and failed to satisfy its burden of proving other factors set forth in the Vehicle Code.

## FUTURE MEETINGS:

To be announced.

## BOARD OF OSTEOPATHIC EXAMINERS

*Executive Director: Linda Bergmann (916) 322-4306*

In 1922, California voters approved a constitutional initiative which created the Board of Osteopathic Examiners (BOE). BOE regulates entry into the osteopathic profession, examines and approves schools and colleges of osteopathic medicine and enforces professional standards. The 1922 initiative, which provided for a five-member Board consisting of practicing osteopaths, was amended in 1982 to include two public members. The Board now consists of seven members, appointed by the Governor, serving staggered three-year terms.

## MAJOR PROJECTS:

**Regulatory Changes.** On June 6, OAL approved the Board's amendments to sections 1630, 1647, 1681, and 1690, Chapter 16, Title 16 of the California Code of Regulations. (For detailed background information, see CRLR Vol. 8, No. 2 (Spring 1988) p. 119.)

**Oral/Practical Examination.** Eighty-two applicants sat for the Board's Oral/Practical Examination on March 20, with 77 passing.

## LEGISLATION:

**AB 3949 (Leslie)** would authorize an administrative law judge to order a licensee to pay the costs of investigation associated with disciplinary proceedings when the licensee is found guilty of unprofessional conduct. This bill passed the Assembly on May 19 and is pending

in the Senate Business and Professions Committee.

**SB 2565 (Keene)** concerns reports filed pursuant to section 805 of the Business and Professions Code, relating to peer reviews. The measure would clarify existing law regarding immunity of hospitals, persons, or organizations for peer review actions which are required to be reported to various state agencies. The bill would establish specific procedural guidelines for professional review actions and the reporting thereof in order for immunity to attach. SB 2565 passed the Senate on May 12 and is pending in the Assembly Health Committee.

**SB 2536 (Craven)** would add the charging of an unconscionable fee to the grounds for disciplinary action which may be taken against osteopathic physicians and surgeons. The bill passed the Senate on May 9 and is pending in the Assembly Health Committee.

The following is a status update on bills reported in CRLR Vol. 8, No. 2 (Spring 1988) at pages 119-20:

**SB 2267 (Greene)** has been amended several times and now specifies that osteopathic medical students enrolled in an approved school are not to be discriminated against, as described therein. The bill passed the Senate on June 2 and is now pending in the Assembly Health Committee.

**AB 4197 (Isenberg)** would authorize BOE to establish a substance abuse diversion program. The bill was amended on April 7 to include a provision stating that the committees established therein would be responsible for promoting the program to the public and within the profession, and for providing all licentiates with written information concerning the program. The bill passed the Assembly on May 19 and is pending in the Senate Appropriations Committee at this writing.

**AB 4622 (Bader)** would authorize a program of reciprocity between BOE and other state boards, specifying requirements which may include passage of a special examination prepared by one of several organizations enumerated therein. The bill passed the Assembly on May 19 and is pending in the Senate Appropriations Committee.

**SB 2491 (Montoya)**, as amended in June, would still clarify the extent to which a health facility is prohibited from discriminating against a physician and surgeon on the basis of whether the individual holds an MD or DO degree. The bill would also mandate specific procedures to ensure high professional and ethical practices and would provide



that violations of provisions therein may be enjoined by a district attorney. SB 2491 passed the Senate on May 9 and is pending in the Assembly Health Committee.

**AB 1924 (Bader)**, as amended, would require the Office of Statewide Health Planning and Development to create a special program to increase, particularly in underserved areas, the number of primary care osteopathic surgeons in the state. The bill would also require the Health Manpower Policy Commission to recommend contract criteria for this program, which would be funded through the contingent fund of the Board, as well as through the General Fund. AB 1924 is scheduled for an August vote on the Senate floor.

#### RECENT MEETINGS:

At its March 19 meeting, the Board discussed requiring licensees to disclose the location of their primary practice site on their renewal applications. This information is not presently requested on the application form; only the doctor's home address is requested. Board staff stated that it has had trouble reaching doctors in the past, and it would be much easier to find them at their offices. The Board will look into the feasibility of this action, and whether it may legally request this information.

#### FUTURE MEETINGS:

October 21 in Pomona.

### PUBLIC UTILITIES COMMISSION

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The California Public Utilities Commission (PUC) was created in 1911 to regulate privately-owned utilities and ensure reasonable rates and service for the public. Today the PUC regulates the service and rates of more than 25,000 privately-owned utilities and transportation companies. These include gas, electric, local and long distance telephone, radio-telephone, water, steam heat utilities and sewer companies; railroads, buses, trucks, and vessels transporting freight or passengers; and wharfingers, carloaders, and pipeline operators. The Commission does not regulate city- or district-owned utilities or mutual water companies.

It is the duty of the Commission to see that the public receives adequate service at rates which are fair and reason-

able, both to customers and the utilities. Overseeing this effort are five commissioners appointed by the Governor with Senate approval. The commissioners serve staggered six-year terms.

In late 1987, the PUC renamed three of its organizational units to clarify their roles and responsibilities. The former Evaluation and Compliance Division, which implements Commission decisions, monitors utility compliance with Commission orders, and advises the PUC on utility matters, is now called the Commission Advisory and Compliance Division. The former Public Staff Division, charged with representing the long-term interests of all utility ratepayers in PUC rate proceedings, is now the Division of Ratepayer Advocates. The former Policy and Planning Division is now the Division of Strategic Planning.

The PUC is available to answer consumer questions about the regulation of public utilities and transportation companies. However, it urges consumers to seek information on rules, service, rates, or fares directly from the utility. If satisfaction is not received, the Commission's Consumer Affairs Branch (CAB) is available to investigate the matter. The CAB will take up the matter with the company and attempt to reach a reasonable settlement. If a customer is not satisfied by the informal action of the CAB staff, the customer may file a formal complaint.

#### MAJOR PROJECTS:

*Educational Fund Created.* On May 11, the PUC formally announced the creation of a \$16.5 million consumer trust fund to promote awareness and understanding of telecommunications among Pacific Bell's customers. PacBell was recently ordered to deposit the money into an interest-bearing trust fund, as part of its penalty for engaging in deceptive marketing practices. (See CRLR Vol. 8, No. 2 (Spring 1988) p. 121 and Vol. 7, No. 2 (Spring 1987) p. 106 for background information.)

The five-member trust fund disbursement committee, which will decide which educational activities will be funded by the fund, includes Anthony D. Samson, Chief of the San Diego District Attorney's Fraud Division; Carl Oshiro, San Francisco consumer advocate attorney; Kim Malcolm, representing the PUC's Division of Ratepayer Advocates; Jack Eckley, a PacBell regulatory affairs manager; and PUC Public Advisor Rob Feraru, who will chair and coordinate disbursement committee activities.

The committee met on May 18 and

again on June 30; it plans to issue a request for proposals during fall 1988, with the first grants awarded by late 1988 or early 1989.

*Customer-Owned Pay Telephone Services.* The PUC has initiated an investigation of customer-owned pay telephone (COPT) services due to numerous complaints from both customers and the pay phone companies themselves. Most of the consumer complaints have concerned overcharges for local and long distance phone calls. COPT providers have charged Pacific Bell with anticompetitive tactics, including the payment of unfairly large commissions to keep its pay phones in prime business locations.

The PUC will hear testimony and hold workshops to help clarify issues in three phases. Phase I will concern cross-subsidies; that is, the use by a utility company of income from a monopoly-based service, such as toll calls within local calling areas, to compete with other companies that do not have revenue from a monopoly service. The PUC will examine whether these cross-subsidies occur and whether they violate any law, PUC order, and/or harm the public interest.

Phase II will concern the basic set of features the public may expect from any pay phone; the aspects of pay phone pricing which should be regulated by the PUC; and additional protections which may be needed.

Phase III will examine how costs can be minimized while increasing consumer choices in pay phone use. (For background information on COPTs, see CRLR Vol. 6, No. 2 (Spring 1986) p. 98; Vol. 6, No. 1 (Winter 1986) p. 82; and Vol. 5, No. 3 (Summer 1985) p. 96.)

*Alternate Operator Services.* On April 13, the PUC directed alternate operator service (AOS) providers in California to comply with PUC regulations requiring certification and filing of tariffs by telephone companies. The PUC action is in response to growing consumer complaints about excessive charges when making credit card or other "coinless" calls from pay phones.

AOS firms link up calls from coinless pay phones with long distance carriers. AOS firms typically service privately owned pay telephones, such as those in hotels, motels, and hospitals.

The PUC directed AOS companies to apply for certificates of public convenience and necessity and submit proposed tariffs within sixty days. This certification is necessary in order for an AOS provider to operate within the state.

*Sexually-Oriented and Adult Phone*