

CALIFORNIA DEPARTMENT OF CONSUMER AFFAIRS

ANNUAL REPORT 2000-2001

Gray Davis, Governor
State of California

Aileen Adams, Secretary
State and Consumer Services Agency

Kathleen Hamilton, Director
Department of Consumer Affairs

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State and Consumer Services Agency

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Public Employees' Retirement System
Science Center
State Teachers' Retirement System

December 31, 2001

Message from Aileen Adams, Secretary State and Consumer Services Agency

I am very pleased to present the Department of Consumer Affairs' Annual Report and congratulate its Director and staff on a year filled with many innovative and successful programs. These achievements include:

Promoting Energy Conservation

The Department spearheaded an effective statewide energy conservation media campaign which reached 95 percent of California adults and contributed to a decline in energy consumption statewide by as much as 14 percent at peak.

Retiring 28,000 Cars that Failed Smog Tests

The Bureau of Automotive Repair retired more than 28,000 polluting cars and assisted more than 18,000 consumers with Smog Check repairs since July 1, 2000, saving an estimated 9,500 tons of pollution a year.

Establishing an Office of Privacy Protection

The first Office of Privacy Protection in the nation serves as a clearinghouse for consumer information and assistance with privacy-related issues, including identity theft—one of the fastest growing crimes in America.

Initiating Online Professional Licensing

Through the Governor's support of eGovernment initiatives, for the first time, professionals such as registered nurses, cosmetologists, and security guards, can go online and become licensed in California, and consumers can file complaints on the Department of Consumer Affairs' Web site.

Providing Direct Assistance to Consumers

Department staff handled more than one million telephone calls through the Consumer Information Center and provided information on energy conservation and efficiency to an additional 2.5 million consumers through public appearances and direct mailings. In addition, the Department assisted in the resolution of 12,000 consumer complaints and returned more than \$5.2 million to consumers last fiscal year alone.

Governor Davis has signed significant legislation to strengthen California's lemon law; combat identity theft by restricting the public posting of Social Security numbers by government entities and enhancing the ability of victims to block reporting of fraudulent credit activities contained in their credit reports; and improve financial protections by fighting gender-based pricing and requiring credit card companies to disclose how long it would take to pay off credit card debt if consumers only make the minimum payment each month.

We will continue to be guided by voices from the field. By listening to our constituents at public hearings, during dozens of community meetings, and through thousands of calls and Web site communications, we are best able to promote and protect the interests of California's consumers and ensure the highest standards of practice among the Department's 2.3 million licensees.



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December 31, 2001

Message from Kathleen Hamilton, Director

Pursuant to Business and Professions Code Section 312, 327, and 336, the following is the Department of Consumer Affairs (Department) Annual Report for 2000/2001.

The attached Statistical Profile provides a compilation of data reflecting license, complaint, enforcement, and other activity for the year.

The Department has continued its focus on its essential mission “to promote and protect the interests of California consumers.”

The following summary information recaps department highlights over the past year.

Energy Conservation

Perhaps the most significant consumer issue of the past year has been the changing electricity market in California. Confronted with increased electric utility rates, the potential for blackouts, the need to promote energy conservation and greater use of energy efficient products, Governor Davis directed the Department of Consumer Affairs in Executive Orders D-18-01 and D-30-01 to undertake a statewide public education effort to promote energy conservation.

As directed by SB 5X (Sher), the Department developed a statewide media campaign that promoted energy conservation and helped avoid blackouts throughout the spring and summer of 2001. The campaign is credited with generating an overall 8% reduction in electricity usage, with an impressive 14% reduction during peak demand periods in June 2001.

The Department's media campaign also promoted California's "20/20" utility bill rebate offer. With over 30% of utility customers participating, blackouts were avoided during the summer of 2001 and consumers saw reduced energy bills.

The Department also coordinated with community groups and other state agencies serving low-income and senior communities to assist in the delivery of information regarding energy-related financial assistance programs. Working with the Department of Aging, consumer assistance materials were distributed throughout California's 33 area agencies on aging.

The Department's "Energy Team" produced and distributed consumer assistance publications dealing with blackout preparedness and financial assistance services, and established a special toll-free telephone service to respond to public inquiries. Through public appearances, outreach events and direct mail, the Department reached 2.5 million consumers and businesses. The overall campaign was produced in six languages and reached 95% of California adults.

Consumer Relations and Outreach

The Department's emerging Consumer Relations and Outreach Division handled over 1 million telephone and e-mail inquiries from consumers and businesses, assisted in the resolution of 12,000 consumer complaints, and returned more than \$5.2 million to injured consumers.

The Division has developed a new online consumer complaint form to facilitate the handling of consumer problems for consumers with computer access. The Department is currently receiving an average of 600 online complaints per month.

The Division's new interactive voice response system provides consumers with direct access to forms and consumer education materials 24 hours a day, seven days a week. As always, telephone assistance is available in multiple languages and personal operator assistance is provided toll-free Monday through Friday from 8:00 a.m. to 6:00 p.m. and on Saturday from 8:00 a.m. to 4:30 p.m.

Over the past year, the Division has reached nearly one million California consumers through its participation in more than 50 community events.

The Consumer Relations and Outreach Division also worked with the Policy, Research and Planning Division to assist in a department-wide review of current policies and practices regarding the disclosure of consumer complaint information to the public.

Consumer Complaint Disclosure

A broadly crafted 1979 Complaint Disclosure policy has produced various policies and practices within the Department's numerous regulatory programs. In an effort to standardize departmental policy and to provide consumers with important information, the Department recently undertook a series of public hearings to discuss enhanced access to consumer complaint information.

New Programs and Initiatives

The Department of Consumer Affairs has implemented several important consumer protection bills: AB 2394 (Firebaugh), established a Task Force to review and report on issues affecting the cultural and linguistic competence of physicians and dentists in California; SB 129 (Peace), established the Office of Privacy Protection in the Department—the first office of its kind in the nation; SB 1988 (Speier) established a two-year pilot program to determine the extent of auto body fraud in California and recommend solutions to the Legislature; and SB 115 (Solis) established California's air quality environmental justice program to protect and assist the residents of areas particularly beset by air pollution.

The Task Force on Culturally and Linguistically Competent Physicians and Dentists, composed of an esteemed cadre of 37 advocates and experts, held a series of public meetings, submitted an initial Sub-Committee report to the Legislature, and plans to continue its study and community-based hearings throughout the coming year. The Task Force's final report is due to the Legislature in 2003.

The Department's Office of Privacy Protection (Office), established in July 2001, has opened its doors and begun the important work of educating the public on how to protect personal and financial privacy, how to combat the growing threat of identity theft, and how consumers can get their names removed from telemarketing lists.

Additionally, the Office will be working closely with privacy rights organizations, law enforcement, and the business community to promote best practices and protect the public. Consumer education materials dealing with identity theft and financial privacy are already available from the Office.

The Department's Bureau of Automotive Repair (BAR) has implemented the Auto Body Repair Inspection Program created in SB 1988 (Speier). Under the program, consumers can request a free inspection of recent collision repairs that cost over \$2,500. Appointments are made by state inspectors to inspect qualified vehicles at consumers' homes or offices. The Bureau is responding to more than 50 inspection requests a day from California consumers.

BAR also began working with the Air Resources Board to carry out the important environmental justice objectives of SB 115 (Solis). This program provides smog check testing and financial assistance for needed auto repairs to communities suffering from significant air pollution. In the first event, held in Pacoima in August, 19 vehicles were accepted into the repair assistance portion of the Consumer Assistance Program (CAP). 12 of those vehicles have already been repaired.

Additionally, BAR initiated new, innovative approaches to the “Smog Check” program. Along with California’s Environmental Protection Agency, BAR crafted and entered into an Agreement of Cooperation with the city of Tijuana, Mexico, to develop a pilot smog program for Tijuana.

BUREAU HIGHLIGHTS

Bureau of Automotive Repair

California requires certain vehicles to pass Smog Check in order to be registered with the Department of Motor Vehicles. Administered by the Bureau of Automotive Repair (BAR), the Consumer Assistance Program (CAP) offers consumers two options if their vehicles fail a biennial smog check: repair assistance or vehicle “retirement.” Qualified consumers may pay as little as \$20 for smog check repairs, with CAP contributing up to \$500 for the repairs. Or, consumers may choose to “retire” vehicles that don’t meet California’s clean air requirements. CAP pays \$1,000 to take these cars permanently off the road. The cars are crushed by licensed dismantlers and the metal is recycled. To date, CAP has repaired more than 18,000 vehicles and taken another 28,000 polluting cars off the road, saving California’s environment an estimated 9,500 tons of air pollution a year.

Working in partnership with California community colleges, BAR has established a Welfare-to-Work program designed to provide participants with the knowledge and training necessary to take advantage of new career opportunities in the automotive industry and become financially self-sufficient. To date, 143 participants have completed the 400-hour training program and have been successfully employed in the automotive field.

Bureau of Barbering and Cosmetology

The Department's Bureau of Barbering and Cosmetology (BBC) worked effectively with local and state public health and welfare officials to combat the outbreak of a pedicure-related bacterial infection that affected more than 100 consumers. The BBC quickly disciplined Fancy Nails Salon in Watsonville by revoking the establishment's license in April 2001, and then adopted emergency regulations addressing the cleaning and disinfecting of whirlpool foot spas. This Bureau has also launched online licensing services and stepped up its enforcement efforts. The BBC revoked four times as many licenses as last year and increased license suspensions by 500%.

Cemetery and Funeral Bureau

In response to complaints of egregious mismanagement, the Department's Cemetery and Funeral Bureau (CFB) revoked the license of the Woodlawn Cemetery in Compton in March 2001, and placed the Evergreen Cemetery in Los Angeles on five years probation. In that action, the Department insisted on the establishment of a secure \$50,000 fund to reimburse injured consumers and required cemeteries to secure and set aside 200 gravesites to accommodate the expected needs of consumers who "pre-purchased" cemetery services. Additionally, the Bureau's tenacity resulted in a criminal conviction against the owners of Woodlawn Cemetery, an important signal to the industry that improper cemetery practices will not be tolerated.

The purchase of cemetery and funeral services constitutes the third most financially significant purchase consumers will ever make. The Department intends to maintain its vigilant enforcement of current laws, and will work closely with consumer advocates in the coming year to identify needed protections for consumers.

Hearing Aid Dispensers Bureau

Following last year's sunset review process, the Hearing Aid Dispensers program was established as a Bureau within the Department. The Bureau's Advisory Committee has been appointed and begun work on a consumer education and outreach effort, as well as a new monitoring and enforcement plan. The Hearing Aid Dispensers Bureau will be working directly with programs serving the aged and disabled, and expects to coordinate unannounced neighborhood inspections of retail hearing aid dispensers with law enforcement and to review advertising claims made by retailers.

Bureau of Security and Investigative Services

The events of September 11, 2001 highlighted the need to examine the role of the Bureau of Security and Investigative Services (BSIS) in contributing to airport and homeland security. The Bureau, which licenses private security guards, immediately entered into renewed discussions with the industry and the Department of Justice to explore greater utilization of "Livescan" for expediting criminal background checks. The Bureau expects to consider legislation in 2002 to require use of Livescan, to increase training of private security guards, and to discontinue use of "temporary" guard cards.

eGovernment and Online Services

Through an Executive Order (D-17-00), the Governor established eGovernment to provide enhanced access to government information and delivery of government services. The Department was selected to participate in two of the Governor's three eGovernment pilot projects aimed at speeding up government services to businesses.

The first project was online licensing service, which debuted in January 2001 and continues to expand to provide enhanced convenience to more than 500,000 professionals seeking licensure in California. Registered nurses, cosmetologists and security guards can apply for and renew licenses online 24 hours a day.

The Department also participated in the State Government Business Review Study, which took a critical look at business processes for approximately 25 different agencies in California. The study concluded that the Department of Consumer Affairs business processes were among the top four government services that businesses would like to see online.

Also, in response to the Governor's Executive Order, the Department's Bureau of Automotive Repair implemented a Web-based system whereby consumers and licensees can look up the license status, disciplinary actions, and complaint history of automotive repair dealers, Smog Check stations, or Smog Check technicians.

2001-02 Sunset Review Results

The Department continues to collaborate with the Joint Legislative Sunset Review Committee (JLSRC) on evaluations of the Department's regulatory programs.

1999/2000

The Department continued to implement reforms that arose out of the 1999/2000 sunset review of the Contractors State License Board (CSLB). The Department appointed an Enforcement Monitor to conduct an independent and comprehensive review of CSLB's enforcement policies and practices. The Department has provided the initial Enforcement Monitor report to the Legislature. The report noted CSLB's commitment to consumer protection and the progress CSLB has made on important issues such as the restructuring of its enforcement program, improved disclosure of complaint information, addressing organizational needs for improved training and more proactive enforcement, meeting licensing timeframe guidelines, preparing new occupational analyses and testing materials, revising operational and training manuals, and providing the public with beneficial education materials and access to Web-based information.

However, the report noted that CSLB must continue to address shortcomings in meeting its consumer protection mandates in the areas of license screening, consumer complaint handling, enforcement actions, and remedies for consumer victims. At JLSRC's December 6, 2001 hearing, the Enforcement Monitor recommended that immediate action be taken on four of the 33

recommendations in the report. Specifically, the Enforcement Monitor recommended legislation to:

1. Update CSLB's statutory mandate to clearly state that consumer protection is CSLB's first priority;
2. Review fee structure, which has been unchanged since 1994, to enable the Board to meet the demands for service improvement and greater enforcement services;
3. Require fingerprinting and criminal history verification for new licensees; and
4. Require consistent annual statistical reporting by CSLB's enforcement program.

CSLB indicated to the JLSRC that it would be supportive of legislation to implement these recommendations. The Department's review of the Enforcement Monitor's recommendations will be provided to the JLSRC as part of the Department's final Sunset Review Report and Recommendations to the Legislature in the spring of 2002.

The Enforcement Monitor project will continue until January 31, 2003 when a final assessment and recommendations will be completed and provided to the Legislature.

2000/2001

The 2000/2001 Sunset Review process included reviews of the Board of Accountancy, the Dental Board of California, the Committee on Dental Auxiliaries, and the Board of Guide Dogs for the Blind. These reviews included critical evaluations of operations and consumer protection activities.

The Board of Accountancy was continued through 2006, following negotiations between the industry, the Legislature, the Board of Accountancy, and the Department, which ultimately established two different pathways for obtaining a California Certified Public Accountant license:

1. A modification of the current license requirements, which requires all applicants to possess a bachelor's degree; or
2. An alternative to the current requirements offering reciprocity with other states for candidates who have met education, training, and examination requirements substantially similar to those specified in the National Uniform Accountancy Act (UAA).

The UAA is the model for licensing requirements in most other states, providing candidates with reciprocity for practice in other states.

The Department provided a critical assessment of the California Dental Board that resulted in the effective "sunset" of the Board. Based upon reports of inaction, failure to investigate consumer complaints in a timely fashion, failure to implement new laws, and resistance to implementing new scope of practice provisions for dental assistants and hygienists, the Board will be "repealed" effective January 1, 2002. Provisions were adopted to provide for the appointment of a new Board.

The Committee on Dental Auxiliaries was established as a separate entity and was continued through 2005.

Operation of the Board of Guide Dogs for the Blind was approved to continue through 2009.

2001/2002

The Department's 2001/2002 sunset reviews will continue in the coming year. The eight boards and one bureau currently under review are:

Acupuncture Board
Cemetery and Funeral Bureau
Chiropractors Board
Medical Board of California
Board of Optometry
Physical Therapy Board
Physician Assistant Committee
Board of Podiatric Medicine
Respiratory Care Board

Conclusion

The Department of Consumer Affairs continues to work with the Legislature, consumer advocacy groups, businesses, law enforcement, other state agencies, and the general public in addressing issues of primary concern to California's 34 million consumers. The need for vigilant consumer protection is particularly apparent during these challenging economic times, so our commitment to consumer service remains steadfast. The Department remains positioned as an advocate for consumer protection and will continue to identify marketplace trends and consumer needs in the months ahead.