

Big Breakthrough in Toxic Furniture



After five years of resistance from chemical manufacturers, we scored a breakthrough in the fight to remove toxics from furniture sold in California.

The Consumer Federation of California and a coalition of firefighters, public health officers, environmental groups, parents, scientists and many others have been working to change a 37 year old state regulation that saturated California homes with toxic flame retardant chemicals.

Governor Jerry Brown issued a statement in June calling on state regulators to revise the standard that has loaded upholstered furniture sold in our state with chlorinated or brominated flame retardant chemicals.

This is an important victory for consumers and we applaud Governor Brown's decision.

While evidence shows that these chemicals don't stop fires, they do migrate into the dust in our homes, and from there, into our bodies. The blood streams of pregnant women and toddlers in California have the world's highest levels of fire retardant chemicals linked to neurological damage,

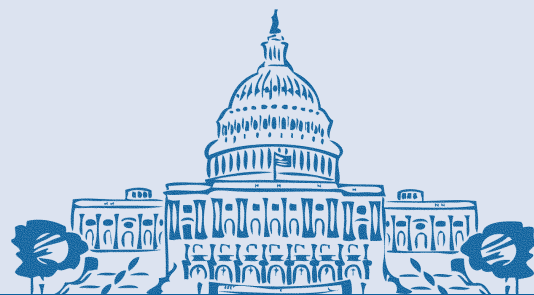
reproductive harm and other harm to human health and the environment. When these chemicals smolder they release dioxin and furan, which are linked to non-Hodgkin's lymphoma and brain cancer that occur at elevated rates among firefighters exposed to this toxic smoke.

The California standard affects other states because most furniture sold in the US is California compliant.

The good news is that an alternative non-toxic furniture flammability safety standard has been developed by safety experts. Chemical manufacturers spent \$23 million in California, stopping five separate pieces of legislation that would have required adoption of a non-toxic regulation.

The turning point came when the Chicago Tribune revealed the long campaign of flame retardant manufacturers' lies, intimidation and influence peddling.

While this is a milestone—the fight isn't over. The chemical industry will be working hard in the upcoming months to dilute the new standards and we will be testifying and continuing the fight on behalf of consumers.



2012 LEGISLATIVE SUMMARY

The following is a brief legislation report on key consumer rights bills (partial list).

CFC supported Senate bills

SB 1208 (Leno) is sponsored by CFC and would require publicly traded corporations to disclose the retirement compensation of the company's five most highly compensated retirees.

SB 491 (Evans), co-sponsored by CFC, would have provided access to class arbitrations to settle consumer contract disputes. The bill was introduced to clarify California's ability to regulate unconscionable contract terms within the limits of a US Supreme Court decision in *AT&T v. Concepcion*.

SB 1170 (Leno) would regulate providers of annuity products to elderly veterans, eliminating predatory marketing practices that have steered veterans into unsafe investments at exorbitant fees.

SB 956 (Lieu) would require Buy Here Pay Here dealerships to obtain a California Finance Lenders license from the Department of Corporations.

SB 890 (Leno) would require that debt buyers have essential information about a debt before they try to collect it or bring a lawsuit, and share that information with the consumer on request.

SB 1538 (Simitian) would provide a notification requirement ensuring a woman is aware of her breast density so she can make informed decisions about her healthcare.

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CFC supported Assembly bills

AB 2296 (Block) would require for-profit colleges to report accurate job placement success rates and average salaries earned by graduates.

AB 2006 (John Perez) would authorize state-chartered credit unions to provide financial services to Californians who do not have bank accounts.

AB 1447 (Feuer) would prohibit a car dealer from forcing the buyer to pay in person and require that Buy Here Pay Here dealers issue warranties on each car.

AB 1830 (V.M. Pérez) would enable the CPUC to provide mobile home park residents with safeguards against unreasonable water service rates.

AB 2149 (Butler) would create a statewide policy against non-cooperation in settlement agreements in any cases alleging a violation of the Elder Abuse and Dependent Adult Civil Protection Act.

AB 40 (Yamada) would help ensure abuse involving the elderly and dependent adults is properly handled by mandating the cases be reported to both the local Long-Term Care Ombudsman and local law enforcement.

AB 1648 (Brownley) would increase transparency in campaigns and elections, requiring disclosure of political advertisement donors.

CFC opposed Senate bills

SB 1161 (Padilla) will undermine the CPUC's ability to investigate unfair advertising practices, inflated fees on phone bills, phone service outages, privacy violations and other consumer complaints.

AB 1098 (Hagman), would weaken requirement that an insurer warranty the quality, fit and safety of aftermarket imitation crash parts used to repair an insured vehicle.



Medical Privacy Under Attack

BY RICHARD HOLOBER, EXECUTIVE DIRECTOR

Consumer groups are fighting an attack on California's medical privacy law. Medical records giant McKesson Corporation is sponsoring Assembly Bill 439 (Skinner). The bill would have created loopholes in the Confidentiality of Medical Information Act (CMIA), immunizing health care corporations that repeatedly let strangers get their hands on confidential health records without the patient's consent.

Current law prohibits health care providers from the unauthorized disclosure of private patient records. Privacy violations are subject to actual damages and/or nominal damages of \$1000 per record, as well as civil penalties. As amended in June 2012, AB 439 would have eliminated court ordered damage awards if the violator established an "affirmative defense"

in which it showed that the records release was negligent, no patient suffered harm, and corrective steps were taken to tighten records security.

The Senate Judiciary Committee heard AB 439 in early July, where opposition was expressed by the Consumer Federation of California, Consumer Action, Consumer Watchdog, CALPIRG, Privacy Rights Clearinghouse, California Alliance for Retired Americans, Electronic Frontier Foundation and World Privacy Forum.

Consumer groups opposing AB 439 were willing to modify CMIA's mandatory \$1000 damage award for each record breached, and instead grant a court discretion to determine the appropriate level of damages, after it reviewed the totality of the circumstances surrounding a privacy breach. However, the bill



would have protected businesses from any possibility of damages, even for repeat violations, as long as the “affirmative defense” was established each time the violator was hauled before a judge.

Consumer groups pointed out that the potential exposure to damage awards is an essential deterrent for businesses that might otherwise cut corners when it comes to enhancing the security of medical records.

Californians agree. The CFC commissioned a statewide survey in June of 600 likely November 2012 voters. The survey by Grove Insight found 77% support for the CMIA’s right to sue a health care provider for damages of \$1000 per patient record breach. Support ran across the political spectrum. 87% of Democrats, 73% of Decline to State voters, and 67% of Republicans support current medical privacy law. 14% of voters surveyed opposed this law.

According to the survey, support for the medical privacy law *increased* when voters heard the industry argument that lawsuits could cost privacy violators “tens of millions of dollars.” 32% of voters said that made them *more likely* to support the law, and only 15% said they were more likely to oppose the law – nearly identical to the opposition level at the start of the survey. 43% said the argument made no difference.

Lax records security gives consumers good reason to support strong penalties for privacy violations. Reports filed with the US Secretary of Health and Human Services show a 97% increase in the number of health records breached from 2010 to 2011. The average number of patient records compromised in each reported breach increased from 26,968 in 2010 to 49,394 in 2011.

A September 2011 Price Waterhouse Coopers LLP survey of medical industry executives covering a range of hospitals, physician groups, insurers and pharmacy corporations found that over half of surveyed executives acknowledged that they were aware of a privacy or security breach at their company in the past two years. Despite this, only 47 percent of the com-

November Ballot Recommendations

The Consumer Federation of California Policy Board Recommends:

Yes on Prop 30 Restores Education Funding

Provides \$8.5 billion a year in funding to public schools, public colleges and universities and public safety programs. Raises personal income taxes for seven years on individuals earning over \$250,000 per year and couples earning over \$500,000 per year filing joint returns. Temporary ¼% sales tax increase for four years. Without this initiative, K-12 education, community colleges, CSU and UC face devastating cuts.

While the recession has squeezed middle class incomes, the concentration of wealth at the very top has increased. Prop 30 asks the top 2% of income earners to pay a bit more to keep schools and colleges open.



No on Prop 32

Exempts Super PACs from Campaign Finance Limits

Funded by billionaires, Proposition 32 deceptively claims the measure will rein in campaign contributions from both unions and corporations. In truth, the one-sided measure will strangle union members from joining together to contribute to campaigns, but it does nothing to stop the flow of money from the wealthy.

Proposition 32 exempts secretive Super PACs and corporate front groups from raising unlimited amounts of money to support their candidates and defeat their opposition. The result: even more politicians owned by the big business, cutting education, carving out corporate tax loopholes, and catering to polluters.

No on Prop 33

Raises Auto Insurance Costs on Good Drivers

Funded by Mercury Insurance’s billionaire Chairman George Joseph, Prop 33 is nearly an identical replay of Mercury’s unsuccessful 2010 initiative aimed at raising auto insurance costs on millions of drivers.

Prop 33 would allow insurance companies to charge higher rates to customers with perfect driving records if they have not purchased auto insurance at some point in the past five years. Drivers must pay this unfair penalty even if they did not own a car or need insurance at the time. It discriminates against people who have been ill, unemployed, students entering the workforce, eco-friendly by taking public or other transportation, and who then need car insurance to drive again.



No On Prop 38

Tax Hike on Working Poor and Middle Class

Funded by a billionaire, Prop 38 would raise taxes on low and moderate income Californians to fund early childhood and K-12 education. Perhaps well-intended, Prop 38 fails the test of tax fairness. It punishes poor Californians who are struggling to survive by permanently raising taxes on taxable incomes as low as \$7,316 a year. The measure provides no funding for community colleges and public universities. It stands in sharp contrast to Prop 30, which targets the top 2% of income earners for a temporary tax hike to fund K-12 schools and public higher education.

ABOUT US

The Consumer Federation of California (CFC) is a non-profit advocacy organization. Since 1960, CFC has been a powerful voice for consumer rights, campaigning for state and federal laws that place consumer protection ahead of corporate profit. Each year, CFC testifies before the California legislature on dozens of bills that affect millions of our state's consumers and appears before state agencies in support of consumer regulations.

Contributions are not tax deductible.



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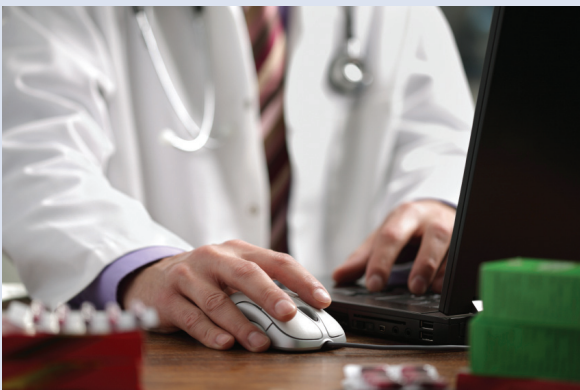
Medical Privacy Under Attack

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panies surveyed were taking steps to address privacy and security issues.

The Senate Judiciary Committee approved AB 439 based on draft amend-

ments granting a judge more discretion to overcome a corporation's "affirmative defense." A judge could consider the corporation's track record of previous privacy violations in assessing its diligence in strengthening records security. These amendments alleviate much of our concern that AB 439 would make health care providers less vigilant in safeguarding patient records. Once the amendments are printed the bill goes to the Senate Floor for a vote in August.



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