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BUSINESS AND PROFESSIONS CODE - BPC

DIVISION 3. PROFESSIONS AND VOCATIONS GENERALLY [5000 - 9998.11] (*Heading of Division 3 added by Stats. 1939, Ch. 30.)*

CHAPTER 11.6. Alarm Companies [7590 - 7599.80] (*Chapter 11.6 added by Stats. 1982, Ch. 1210, Sec. 12.)*

ARTICLE 2. Administration [7591 - 7591.20] (*Article 2 added by Stats. 1982, Ch. 1210, Sec. 12.)*

7591. There is in the Department of Consumer Affairs a Bureau of Security and Investigative Services. The bureau is under the supervision and control of the director. The director shall administer and enforce the provisions of this chapter.

(*Amended by Stats. 1993, Ch. 1263, Sec. 13. Effective January 1, 1994.*)

7591.1. The Governor shall appoint a chief of the bureau at a salary to be fixed in accordance with Section 12080.3 of the Government Code. The chief shall serve under the direction and supervision of the director.

(*Added by Stats. 1982, Ch. 1210, Sec. 12.*)

7591.2. Every power and duty granted to or imposed upon the director under this chapter may be delegated to the chief, except that the director may not delegate authority to adopt or otherwise act upon any proposed decision of a hearing officer after a hearing under the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. The chief may delegate any power or duty granted to or imposed upon him or her under this chapter to the deputy chief, to the assistant chief, or to any inspection, investigation, or auditing personnel of the bureau.

(*Added by Stats. 1982, Ch. 1210, Sec. 12.*)

7591.3. The director, in accordance with the State Civil Service Act, and Section 159.5, may appoint and fix the compensation of such clerical, inspection, investigation, and auditing personnel, as well as an assistant chief, as may be necessary to carry out the provisions of this chapter. Except as otherwise provided in Section 159.5, all personnel shall perform their respective duties under the supervision and direction of the chief.

(*Added by Stats. 1982, Ch. 1210, Sec. 12.*)

7591.4. The chief shall gather evidence of violations of this chapter and of any rule or regulation established under this chapter by unlicensed persons who engage in a business for which a license is required under this chapter and shall furnish the same to prosecuting officers of any county or city or city and county for the purpose of prosecuting those violations.

(*Added by Stats. 1982, Ch. 1210, Sec. 12.*)

7591.5. It shall be the duty of the chief to initiate and conduct investigations into the business operations of alarm company operators on his or her own motion, if the alarm company operator is not operating in accordance with the provisions of this chapter, or there has been a written complaint to the bureau about the actions and conduct of the alarm company operator or his or her employees or agents.

(*Added by Stats. 1982, Ch. 1210, Sec. 12.*)

7591.6. The director, taking into consideration the recommendations of the advisory board, may establish and enforce such rules and regulations as may be reasonable and necessary for the examination and licensing of applicants, for the conduct of licensees, and for the general enforcement of the various provisions of this chapter in the protection of the public.

(*Added by Stats. 1982, Ch. 1210, Sec. 12.*)

7591.7. The chief or his or her designee may inspect, examine, or investigate the relevant records, books, accounts, and files created and maintained by the alarm company operator. The chief shall have access to those relevant business records, not including client information relating to the operational integrity of the alarm system, necessary to the examination for the purpose of performing a random audit to determine compliance with the provisions of this chapter.

(Added by Stats. 1982, Ch. 1210, Sec. 12.)

7591.8. The director may automatically suspend a license, registration, or firearm qualification card if it is determined that the continued possession of such a license, registration, or card by the licensee, registrant, or card holder presents an undue hazard to public safety which may result in substantial injury to another.

A licensee, registrant, or firearm qualification card holder may request a review by the Alarm Company Operator Disciplinary Review Committee as set forth in Section 7591.19 to appeal the suspension.

(Amended by Stats. 1984, Ch. 1299, Sec. 23.)

7591.9. If, upon investigation, the chief determines that an alarm company operator, a qualified manager, or an alarm agent is in violation of Sections 7597.1, 7597.2, 7597.3, 7597.5, 7597.6, 7598.51, 7598.53, 7599.32, 7599.33, 7599.34, 7599.36, 7599.37, 7599.38, 7599.39, 7599.40, 7599.41, 7599.42, 7599.43, 7599.44, 7599.45, 7599.46, 7599.47, 7599.48, 7599.49, 7599.50, 7599.51, 7599.52, 7599.53, 7599.54, 7599.55, 7599.58, and 7599.59, the director may issue a citation to, and fine, the alarm company operator, qualified manager, or alarm agent. The citation and fine assessment shall be in writing and shall describe with particularity the nature of the violation, including specific reference to the provision of law determined to have been violated. The citation shall contain an order of abatement fixing a reasonable time for abatement of the violation and may contain assessment of an administrative fine. The amount of the fine for any single investigation or audit of an alarm company operator, a qualified manager, or an alarm agent shall not exceed two thousand five hundred dollars (\$2,500).

A citation and fine assessment shall inform the alarm company operator, qualified manager, or alarm agent that if they desire a review by the Alarm Company Operator Disciplinary Review Committee, the review shall be requested by written notice to the chief within 30 days of the issuance of the citation and assessment, as appropriate. If a review is not requested pursuant to this section, payment of any fine shall not constitute an admission of the violation charged. A review shall be held pursuant to the provisions of Section 7591.19.

If the alarm company operator, qualified manager, or alarm agent fails to request a review or fails to pay the assessed fine within 30 days of the assessment, the license, certificate, or registration shall not be renewed pursuant to the provisions of this chapter until the assessed fine is paid.

Administrative fines collected pursuant to this section shall be deposited in the Private Security Services Fund.

(Amended by Stats. 2019, Ch. 377, Sec. 37. (SB 609) Effective January 1, 2020.)

7591.10. (a) The director may deny a license, certificate, or registration regulated by this chapter on the grounds that the applicant has done any of the following:

- (1) Knowingly made a false statement of fact required to be revealed in the application for a license.
- (2) Been convicted of a crime. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which the bureau is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.
- (3) Done any act involving dishonesty, fraud, or deceit with the intent to substantially benefit himself, herself, or another, or to substantially injure another.
- (4) Done any act which if done by a licensee would be grounds for suspension or revocation of a license.
- (5) Done any act without a license for which a license is required under this chapter.
- (6) Been refused a license under this chapter or had a license revoked.
- (7) Been an officer, partner, member, manager, or qualified manager of any person who has been refused a license under this chapter or whose license has been suspended or revoked.

The bureau may deny a license, certificate, or registration pursuant to this section only if the crime or act is substantially related to the qualifications, functions, or duties of the license, certificate, or registration for which application has been made.

The denial of a license, certificate, or registration shall be in writing and shall describe the basis for the denial. The denial shall inform the applicant that if he or she desires a review by the disciplinary review committee the review shall be requested within 30 days of the issuance of the denial. A review shall be held pursuant to the provisions of Section 7591.19.

(b) Notwithstanding any other provision of this chapter, no person shall be denied a license, certificate, or registration solely on the basis that he or she has been convicted of a felony, if he or she has obtained a certificate of rehabilitation pursuant to Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code, or solely on the basis that he or she has been convicted of a misdemeanor, if he or she has met all applicable requirements of the criteria of rehabilitation as provided in Section 7591.12.

(Amended (as amended by Stats. 2015, Ch. 140, Sec. 3) by Stats. 2018, Ch. 406, Sec. 8. (SB 904) Effective January 1, 2019.)

7591.11. (a) The bureau shall deny a firearms permit, pursuant to Chapter 2 (commencing with Section 29800) of Division 9 of Title 4 of Part 6 of the Penal Code, to any licensee, qualified manager, or alarm agent who has been convicted of a felony, unless the felony conviction has been reduced pursuant to Section 17 of the Penal Code or the person has been pardoned by the Governor. The licensee, qualified manager, or alarm agent shall not have a right to a review or a hearing if the denial is made pursuant to this section.

(b) The bureau shall not issue a firearms permit pursuant to this chapter to an applicant who, within the past 12 months, has been found incapable of exercising appropriate judgment, restraint, and self-control, for the purposes of carrying and using a firearm during the course of his or her duties pursuant to the assessment required under Section 7583.47 for a permit associated with a security guard registration.

(Amended by Stats. 2016, Ch. 800, Sec. 47. (SB 1196) Effective January 1, 2017.)

7591.12. (a) When considering the denial, suspension, or revocation of a license, certificate, or registration, for which application has been made under this chapter, the chief, in evaluating the rehabilitation of the applicant and his or her present eligibility for a license, certificate, or registration shall consider all the following criteria:

(1) The nature and severity of the act or crime under consideration as grounds for denial.

(2) Total criminal record.

(3) Evidence of any act committed subsequent to the act or crime under consideration as grounds for a denial, suspension, or revocation which also could be considered as grounds for denial under Section 7591.10.

(4) The time that has elapsed since commission of the act or crime referred to in paragraph (1) or (2).

(5) The extent to which the applicant has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against the applicant.

(6) Evidence, if any, of rehabilitation submitted by the applicant.

(b) When considering a petition for reinstatement of a license, certificate, or registration, the chief shall evaluate evidence of rehabilitation, considering those criteria of rehabilitation listed in subdivision (a).

(Added by Stats. 1982, Ch. 1210, Sec. 12.)

7591.13. (a) The chief or his or her designee may issue a citation, in accordance with Section 148, against a person who is not otherwise exempt under this chapter and is acting or offering to act in the capacity of a licensee, registrant, permitholder, or certificate holder under this chapter without a valid license, registration, permit, or certificate, as applicable, under this chapter.

(b) The chief or his or her designee may issue a citation against a person who places, or causes to be placed, an advertisement in any written, printed, or verbal communication for the purposes of soliciting business as an alarm company operator without a license under or an exemption from this chapter.

(c) A citation issued under this section may contain an assessment of an administrative fine up to five thousand dollars (\$5,000) or, where appropriate, an order of abatement fixing a reasonable period of time not to exceed 30 days for abatement, or both that fine and order of abatement.

(d) A citation issued under this section shall meet the following requirements:

(1) Be in writing and describe with particularity the nature of the violation, including specific reference to the provision of this chapter or the regulation adopted thereunder determined to have been violated.

(2) Inform the cited person that if he or she desires a hearing to contest the finding of a violation, that hearing shall be requested by written notice to the bureau within 30 days of the issuance of the citation.

(3) Inform the cited person that if he or she desires an informal conference with the chief or his or her designee to contest the finding of a violation, that informal conference shall be requested by written notice to the bureau within 10 days of the issuance of the citation.

(4) Be served upon the cited person in person or by certified mail.

(e) The chief or his or her designee shall consider the following factors when determining the amount of an administrative fine under this section:

(1) The good or bad faith exhibited by the cited person.

(2) The nature and severity of the violation.

(3) Evidence that the violation was willful.

(4) History of violations of the same or similar nature.

(5) The extent to which the cited person has cooperated with the bureau.

(6) The extent to which the cited person has mitigated or attempted to mitigate any damage or injury caused by his or her violation.

(7) Any other factors as justice may require.

(f) The time allowed for abatement of a citation issued under this section shall begin the first day after the order of abatement has been served. If a cited person who has been issued an order of abatement is unable to complete the correction within the timeframe set forth in the citation because of conditions beyond his or her control after the exercise of reasonable diligence, the person cited may request any extension of time in which to complete the correction from the chief or his or her designee. The request for an extension shall be in writing and shall be made within the timeframe set forth for abatement.

(g) If a person cited pursuant to this section desires a hearing to contest the citation, the cited person shall, within 30 days after service of the citation, file in writing a request for an administrative hearing to the chief or his or her designee regarding the acts charged in the citation, in accordance with paragraph (4) of subdivision (b) of Section 125.9.

(h) (1) In addition to, or instead of, requesting an administrative hearing, as provided for in subdivision (d), a person cited pursuant to this section may, within 10 days after service of the citation, contest the citation by submitting a written request for an informal citation conference to the chief or his or her designee.

(2) Upon receipt of a written request for an informal citation conference pursuant to paragraph (1), the chief or his or her designee shall, within 30 days, hold an informal citation conference with the cited person. If an informal citation conference is held, the chief or his or her designee may affirm, modify, or dismiss the citation, including any fine levied or order of abatement issued, at the conclusion of the informal citation conference. If affirmed or modified, the citation originally issued shall be considered withdrawn and an affirmed or modified citation shall be mailed to the cited person and his or her legal counsel, if any, within 15 days of the date of the informal citation conference.

(3) If a cited person wishes to contest a citation that is affirmed or modified pursuant to paragraph (2), the person shall, within 30 days of receiving the affirmed or modified citation, file in writing a request for an administrative hearing to the chief or his or her designee regarding the acts charged in the affirmed or modified citation, in accordance with paragraph (4) of subdivision (b) of Section 125.9.

(4) A cited person shall not request a subsequent informal conference with respect to a citation that is modified or affirmed during an informal conference under this subdivision.

(i) When an order of abatement is not contested or if the order is appealed and the person or entity cited does not prevail, failure to abate the violation charged within the timeframe specified in the citation or within 30 days after the appeal, whichever is later, shall constitute a violation and failure to comply with the order of abatement.

(j) This section shall not apply to a violation of this chapter that is subject to Section 7591.9.

(k) The sanctions authorized under this section shall be separate from, and in addition to, all other remedies either civil or criminal.

(l) Administrative fines collected pursuant to this section shall be deposited in the Private Security Services Fund.

(Added by Stats. 2012, Ch. 291, Sec. 6. (SB 1077) Effective January 1, 2013.)

7591.14. It is the intent of the Legislature, consistent with Section 128.5 of the Business and Professions Code, that the bureau shall not maintain a reserve balance of funds greater than the amount necessary to fund operating expenses of the bureau and that the bureau shall periodically review fees pursuant to this chapter to evaluate the appropriateness of each fee and the regulatory costs associated with each fee.

(Added by Stats. 2017, Ch. 429, Sec. 49. (SB 547) Effective January 1, 2018.)

7591.17. The Governor shall appoint an Alarm Company Operator Disciplinary Review Committee.

The disciplinary review committee shall consist of three members who are actively engaged in business as licensed alarm company operators and two public members. The committee shall meet every 60 days, or more or less frequently as may be required. The members shall be paid per diem pursuant to Section 103 and shall be reimbursed for actual travel expenses. The members shall serve at the pleasure of the Governor.

(Amended by Stats. 1992, Ch. 1135, Sec. 10.4. Effective January 1, 1993. Operative March 1, 1993, pursuant to Sec. 30 of Ch. 1135.)

7591.18. (a) The Alarm Company Operator Disciplinary Review Committee shall perform the following functions:

- (1) Affirm, rescind, or modify all appealed decisions concerning administrative fines assessed by the bureau against alarm company operators or their employees.
- (2) Affirm, rescind, or modify all appealed decisions concerning denial, revocation, or suspension of licenses, and certificates, registrations, or permits issued by the bureau, except denials or suspensions ordered by the director in accordance with Chapter 5 (commencing with Section 11500) of Division 3 of Title 2 of the Government Code.

(b) The Alarm Company Operator Disciplinary Review Committee may grant a probationary license, certificate, registration, or permit with respect to the appealed decisions described in subdivision (a).

(Amended by Stats. 2012, Ch. 291, Sec. 7. (SB 1077) Effective January 1, 2013.)

7591.19. (a) (1) An alarm company operator, qualified manager, or alarm agent may request a review by the Alarm Company Operator Disciplinary Review Committee to contest the assessment of an administrative fine, unless the fine is assessed pursuant to Section 7591.13, or to appeal a denial, revocation, or suspension, unless the denial or suspension is ordered by the director in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code or in accordance with Section 7591.8 of this code.

(2) A request for a review shall be by written notice to the bureau within 30 days of the issuance of the citation and assessment, denial, or suspension.

(3) Following a review by the disciplinary review committee, the appellant shall be notified within 30 days, in writing, by regular mail, of the committee's decision.

(4) If the appellant disagrees with the decision made by the Alarm Company Operator Disciplinary Review Committee, he or she may request a hearing as outlined in subdivision (b). A request for a hearing following a decision by the disciplinary review committee shall be by written notice to the bureau within 30 days of the committee's decision.

(5) If the appellant does not request a hearing within 30 days, the review committee's decision shall become final.

(b) (1) An alarm company operator, qualified manager, or alarm agent may request a hearing in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code if he or she contests an assessment of an administrative fine, or to appeal a denial, suspension, or revocation. A hearing may also be requested if the appellant disagrees with the decision made by the Alarm Company Operator Disciplinary Review Committee.

(2) A request for a hearing shall be by written notice to the bureau within 30 days of the issuance of the decision by the review committee. A hearing pursuant to this subdivision shall be available only after a review by the disciplinary review committee.

(Amended by Stats. 2012, Ch. 291, Sec. 8. (SB 1077) Effective January 1, 2013.)

7591.20. The disciplinary review committee shall be provided all evidence used by the bureau in reaching its decision prior to hearing an appeal.

(Added by Stats. 1982, Ch. 1210, Sec. 12.)