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HEALTH AND SAFETY CODE - HSC

DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406] (*Division 104 added by Stats. 1995, Ch. 415, Sec. 6.*)

PART 6. WHOLESALE FOOD [111940 - 113360] (*Part 6 added by Stats. 1995, Ch. 415, Sec. 6.*)

CHAPTER 5. Sanitary Control of Shellfish [112150 - 112280] (*Chapter 5 added by Stats. 1995, Ch. 415, Sec. 6.*)

ARTICLE 5. Proceedings [112250 - 112280] (*Article 5 added by Stats. 1995, Ch. 415, Sec. 6.*)

112250. (a) The Attorney General, any district attorney, or any city attorney to whom the department reports any violation of this chapter shall begin appropriate proceedings in the proper court.

(b) Before any alleged violation of this chapter is reported to the Attorney General, a district attorney, or a city attorney for the institution of a criminal proceeding, the person against whom this proceeding is contemplated may be given appropriate notice and an opportunity to show cause why he or she should not be prosecuted and to present additional facts that may mitigate the action. The showing may be presented either orally or in writing, in person, or by attorney.

(*Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.*)

112255. The department is not required to institute proceedings under this chapter for minor violations of this chapter, if the department believes that the public interest will be adequately served in the circumstances by a suitable written notice or warning.

(*Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.*)

112260. When the state asserts a violation of this chapter, the state need not negate any exemption or exception from the requirements of this chapter in any pleading, or in any trial, hearing, or other proceeding. The burden of proof with respect to any exemption or exception rests upon the person claiming its benefits.

(*Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.*)

112265. (a) Except to the extent otherwise provided in Section 112160 and subdivision (e) of Section 112180, or when a violation is asserted pursuant to Section 112240, when the department asserts a violation of this chapter, all affected persons shall be afforded an opportunity for an administrative hearing after 20 days notice.

(b) The notice shall include all of the following:

- (1) A statement of the time, place, and nature of the hearing.
- (2) A statement of the legal authority and jurisdiction under which the hearing is to be held.
- (3) A reference to the particular sections of the statutes, regulations, and rules involved.
- (4) A short and plain statement of the matters asserted.

(c) Opportunity shall be afforded all persons to respond and present evidence on the issues involved.

(d) Hearings authorized or required by this chapter shall be conducted by the department or any agent as the department may designate for that purpose.

(e) Oral proceedings or any part thereof shall be transcribed at the request of any person. The person requesting the transcription shall bear the cost of the transcript.

(f) Final decisions or orders adverse to any person shall be in writing or stated in the record. A final decision shall include findings of fact and conclusions of law, that shall be separately stated. Persons shall be notified either personally or by mail of any decision or order.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112270. In lieu of administrative proceedings pursuant to Section 112265, the department may proceed under Section 119940.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112275. A person who has exhausted all administrative remedies available within the department and who is aggrieved by a final decision or order is entitled to judicial review pursuant to this chapter.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112280. All regulations applicable to this chapter, and currently in effect at the time this chapter takes effect, shall remain in effect until the department adopts regulations pursuant to Section 112165.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)