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HEALTH AND SAFETY CODE - HSC

DIVISION 26. AIR RESOURCES [39000 - 44475.3] (*Division 26 repealed and added by Stats. 1975, Ch. 957.)*

PART 5. VEHICULAR AIR POLLUTION CONTROL [43000 - 44299.91] (*Part 5 added by Stats. 1975, Ch. 957.)*

CHAPTER 5. Motor Vehicle Inspection Program [44000 - 44127] (*Chapter 5 added by Stats. 1982, Ch. 892, Sec. 2.)*

ARTICLE 7. Denial, Suspension, and Revocation [44072 - 44072.11] (*Article 7 added by Stats. 1991, Ch. 386, Sec. 11.)*

44072. Any license issued under this chapter and the regulations adopted pursuant to it may be suspended or revoked by the director. The director may refuse to issue a license to any applicant for the reasons set forth in Section 44072.1. The proceedings under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the director shall have all the powers granted therein.

(*Added by Stats. 1991, Ch. 386, Sec. 11.*)

44072.1. The director may deny a license if the applicant, or any partner, officer, or director thereof, does any of the following:

- (a) Fails to meet the qualifications established by the bureau pursuant to Articles 2 (commencing with Section 44010) and 3 (commencing with Section 44030) and the regulations adopted for the issuance of the license applied for.
- (b) Was previously the holder of a license issued under this chapter, which license has been revoked and never reissued or which license was suspended and the terms of the suspension have not been fulfilled.
- (c) Has committed any act that, if committed by any licensee, would be grounds for the suspension or revocation of a license issued pursuant to this chapter.
- (d) Has committed any act involving dishonesty, fraud, or deceit whereby another is injured or whereby the applicant has benefited.
- (e) Has acted in the capacity of a licensed person or firm under this chapter without having a license therefor.
- (f) Has entered a plea of guilty or nolo contendere to, or been found guilty of, or been convicted of a crime substantially related to the qualifications, functions, or duties of the licenseholder in question, and the time for appeal has elapsed or the judgment of conviction has been affirmed on appeal, irrespective of an order granting probation following the conviction, suspending the imposition of sentence, or of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw a plea of guilty and to enter a plea of not guilty, or setting aside the plea or verdict of guilty, or dismissing the accusation or information.

(*Amended by Stats. 2009, Ch. 307, Sec. 102. (SB 821) Effective January 1, 2010.*)

44072.2. The director may suspend, revoke, or take other disciplinary action against a license as provided in this article if the licensee, or any partner, officer, or director thereof, does any of the following:

- (a) Violates any section of this chapter and the regulations adopted pursuant to it, which related to the licensed activities.
- (b) Is convicted of any crime substantially related to the qualifications, functions, or duties of the licenseholder in question.
- (c) Violates any of the regulations adopted by the director pursuant to this chapter.
- (d) Commits any act involving dishonesty, fraud, or deceit whereby another is injured.
- (e) Has misrepresented a material fact in obtaining a license.
- (f) Aids or abets unlicensed persons to evade the provisions of this chapter.
- (g) Fails to make and keep records showing his or her transactions as a licensee, or fails to have those records available for inspection by the director or his or her duly authorized representative for a period of not less than three years after completion of any transaction to which the records refer, or refuses to comply with a written request of the director to make the records available for inspection.
- (h) Violates or attempts to violate the provisions of this chapter relating to the particular activity for which he or she is licensed.

(Amended by Stats. 2009, Ch. 307, Sec. 103. (SB 821) Effective January 1, 2010.)

44072.3. A plea or verdict of guilty or a conviction following a plea of nolo contendere is a conviction within the meaning of this article. The director may order the license suspended or revoked or may decline to issue a license, 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 Section 1203.4 of the Penal Code allowing the person to withdraw a plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

(Added by Stats. 1991, Ch. 386, Sec. 11.)

44072.4. The director may take disciplinary action against any licensee after a hearing as provided in this article by any of the following:

- (a) Imposing probation upon terms and conditions to be set forth by the director.
- (b) Suspending the license.
- (c) Revoking the license.

(Added by Stats. 1991, Ch. 386, Sec. 11.)

44072.5. Upon the effective date of any order of suspension or revocation of any license governed by this chapter, the licensee shall surrender the license to the director.

(Added by Stats. 1991, Ch. 386, Sec. 11.)

44072.6. The expiration or suspension of a license by operation of law or by order or decision of the director or a court of law, or the voluntary surrender of a license by a licensee shall not deprive the director of jurisdiction to proceed with any investigation of, or action or disciplinary proceedings against, the licensee, or to render a decision suspending or revoking the license.

(Added by Stats. 1991, Ch. 386, Sec. 11.)

44072.7. All accusations against licensees shall be filed within three years after the act or omission alleged as the ground for disciplinary action, except that with respect to an accusation alleging a violation of subdivision (d) of Section 44072.2, the accusation may be filed within two years after the discovery by the bureau of the alleged facts constituting the fraud or misrepresentation prohibited by that section.

(Amended by Stats. 2001, Ch. 357, Sec. 5. Effective January 1, 2002.)

44072.8. When a license has been revoked or suspended following a hearing under this article, any additional license issued under this chapter in the name of the licensee may be likewise revoked or suspended by the director.

(Added by Stats. 1991, Ch. 386, Sec. 11.)

44072.9. After suspension of the license upon any of the grounds set forth in this article, the director may reinstate the license upon proof of compliance by the applicant with all provisions of the decision as to reinstatement. After revocation of a license upon any of the grounds set forth in this article, the license shall not be reinstated or reissued within a period of one year after the effective date of revocation.

(Added by Stats. 1991, Ch. 386, Sec. 11.)

44072.10. (a) Notwithstanding Sections 44072 and 44072.4, the director, or the director's designee, pending a hearing conducted pursuant to subdivision (e), may temporarily suspend any smog check station or technician's license issued under this chapter, for a period not to exceed 60 days, if the department determines that the licensee's conduct would endanger the public health, safety, or welfare before the matter could be heard pursuant to subdivision (e), based upon reasonable evidence of any of the following:

- (1) Fraud.
- (2) Tampering.
- (3) Intentional or willful violation of this chapter or any regulation, standard, or procedure of the department implementing this chapter.
- (4) A pattern or regular practice of violating this chapter or any regulation, standard, or procedure of the department implementing this chapter.

(b) If a motor vehicle dealer sells any used vehicle, knowing that the vehicle has been fraudulently certified, that act shall be additional grounds for suspension or revocation pursuant to Section 11705 of the Vehicle Code. A dealer's license revoked pursuant to this subdivision shall not be reinstated for any reason for a period of at least five years.

(c) The department shall revoke the license of any smog check technician or station licensee who fraudulently certifies vehicles or participates in the fraudulent inspection of vehicles. A fraudulent inspection includes, but is not limited to, all of the following:

(1) Clean piping, clean plugging, clean glassing, clean tanking, or any other fraudulent inspection practice, as defined by the department.

(2) Tampering with a vehicle emission control system or test analyzer system.

(3) Tampering with a vehicle in a manner that would cause the vehicle to falsely pass or falsely fail an inspection.

(4) Intentional or willful violation of this chapter or any regulation, standard, or procedure of the department implementing this chapter.

(d) Once a license has been revoked for a smog check station or technician under subdivision (a) or (c), the license shall not be reinstated for any reason. A hearing shall be held and a decision issued within 60 days after the date on which the notice of the temporary suspension was provided unless the time for the hearing has been extended, or the right to a hearing has been waived, by the licensee.

(e) The hearing shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, or by court order.

(f) The department shall adopt, by regulation, procedures to ensure that any affected licensee is provided adequate notice and opportunity to be heard, except as otherwise provided in subdivision (a), prior to issuing an order temporarily suspending a license under this section.

(Amended by Stats. 2023, Ch. 681, Sec. 22. (AB 1263) Effective January 1, 2024.)

44072.11. (a) The department may refuse to issue or renew a license for a smog check station or technician who is subject to a 60-day suspension pursuant to Section 44072.10.

(b) Any smog check station or technician's license granted by the department is a privilege and not a vested right, and may be revoked or suspended by the department for any of the reasons specified in Section 44072.1 or on evidence that the station or technician is not in compliance with any of the requirements of subdivision (a).

(Added by Stats. 1994, Ch. 27, Sec. 53. Effective March 30, 1994.)