

Adopt Sections 101170(o), (p), (q), and (r) to read:

101170 CRIMINAL RECORD CLEARANCE (Continued)

101170

(o) If the Department determines that any licensee or individual specified in Health and Safety Code Section 1596.871(b) is arrested for a crime for which, if convicted, an individual is not eligible, by law, to receive an exemption, pending completion of its investigation into the facts underlying the arrest, the Department may take the following actions:

(1) If the arrested individual is a licensee, the Department may notify the licensee, by telephone or in writing, to immediately cease operation for up to 30 days.

(2) If the individual arrested is not a licensee, the Department may notify the licensee and the individual associated with the facility, by telephone or in writing, that the individual may not be present in the facility for up to 30 days.

(p) After the Department notifies the licensee, pursuant to Section 101170(o)(1), or the individual pursuant to Section 101170(o)(2), he or she may present a written appeal that:

(1) he or she is not the individual who was arrested,

(2) he or she has not been arrested for a crime that by law an individual is not eligible to receive an exemption, or

(3) he or she was arrested for a crime that by law an individual is not eligible to receive an exemption but the charges have been dropped or reduced to a crime that by law an individual would be eligible to receive an exemption.

The appeal shall contain the licensee's or individual's current address and telephone number. After the Department receives the appeal and any supporting documentation, it shall review the appeal and notify the licensee or individual of its decision within five (5) working days.

(q) Should the Department determine at any time during the 30 days referred to in Sections 101170(o)(1) and (o)(2) that the criminal charges have been dropped or reduced to a charge for a crime that by law an individual would be eligible to receive an exemption, the Department shall immediately rescind the notice.

(r) Nothing in this section shall be interpreted to supercede the Department's authority under Sections 1596.886 and 1596.8897 of the Health and Safety Code.

Authority cited: Section 1596.81, Health and Safety Code.

Reference: Sections 1596.81(b) and 1596.871, Health and Safety Code.

Adopt Sections 102370(n), (o), (p), and (q) to read:

102370 CRIMINAL RECORD CLEARANCE (Continued)

102370

(n) If the Department determines that any licensee or individual specified in Health and Safety Code Section 1596.871(b) is arrested for a crime for which, if convicted, an individual is not eligible, by law, to receive an exemption, pending completion of its investigation into the facts underlying the arrest, the Department may take the following actions as it deems necessary:

- (1) If the arrested individual is a licensee, the Department may notify the licensee, by telephone or in writing, to immediately cease operation for up to 30 days.
- (2) If the individual arrested is not a licensee, the Department may notify the licensee and the individual associated with the facility, by telephone or in writing, that the individual may not be present in the facility for up to 30 days.
- (3) If the individual arrested is the licensee's spouse or a dependent adult that resides in the licensee's home, the Department may notify the licensee, by telephone or in writing, to immediately cease operation for up to 30 days.

(o) After the Department notifies the licensee, pursuant to Section 102370(n)(1) or (n)(3), or the individual pursuant to Section 102370(n)(2), he or she may present a written appeal that:

- (1) he or she is not the individual who was arrested,
- (2) he or she has not been arrested for a crime that by law an individual is not eligible to receive an exemption, or
- (3) he or she was arrested for a crime that by law an individual is not eligible to receive an exemption but the charges have been dropped or reduced to a crime that by law an individual would be eligible to receive an exemption.

The appeal shall contain the licensee's or individual's current address and telephone number. After the Department receives the appeal and any supporting documentation, it shall review the appeal and notify the licensee or individual of its decision within five (5) working days.

(p) Should the Department determine at any time during the 30 days referred to in Sections 102370(n)(1), (n)(2), and (n)(3) that the criminal charges have been dropped or reduced to a charge for a crime that by law an individual would be eligible to receive an exemption, the Department shall immediately rescind the notice.

(q) Nothing in this section shall be interpreted to supercede the Department's authority under Sections 1596.886 and 1596.8897 of the Health and Safety Code.

Authority cited: Section 1596.81, Health and Safety Code.

Reference: Sections 1596.871 and 1597.59, Health and Safety Code.