

BUREAU OF AUTOMOTIVE REPAIR
Department of Consumer Affairs

ORDER OF ADOPTION

(1) Amend Article 11.1, Chapter 1, Division 33, Title 16, California Code of Regulations, to read as follows:

ARTICLE 11.1. Administrative Citations and Fines for Motor Vehicle Inspection Program (“Smog Check”) Violations Licensees

§ 3394.25 Authority to Issue Administrative Citations and Administrative Fines for Smog Check Violations.

The director or ~~his/her~~their designee is authorized to determine when and against whom a citation will be issued and to issue citations containing orders of abatement and/or administrative fines for violations by a licensee or contractor of Health and Safety Code section 44000 et seq. and any regulations adopted pursuant thereto.

Note: Authority cited: Section 9882, Business and Professions Code. Reference: Sections 44002 and 44050, Health and Safety Code.

§ 3394.26 Administrative Fine Amounts for Violations by Smog Check Licensees.

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Note: Authority cited: Section 9882, Business and Professions Code. Reference: Sections 44002, 44050 and 44052, Health and Safety Code.

§ 3394.27 Compliance with Citations/Orders of Abatement Issued to Smog Check Licensees.

(a) If a ~~cited~~ person cited pursuant to section 3394.25 who has been issued an order of abatement is unable to complete the correction within the time set forth in the citation because of conditions beyond his or her control after the exercise of reasonable diligence, the cited person may request an extension of time in which to complete the correction from the director or ~~his/her~~their designee. Such a request is subject to approval by the director or ~~his/her~~their designee and shall be in writing and made within the time set forth for abatement.

(b) If administrative fine(s) are not paid after a citation has become final, the administrative fine(s) shall be added to the cited person’s license or registration renewal fee. A license or registration shall not be renewed without payment of the renewal fee and all administrative fines.

Note: Authority cited: Sections 9882, Business and Professions Code. Reference: Sections 44002, 44031.5 and 44050, Health and Safety Code.

(2) Amend Article 11.2, Chapter 1, Division 33, Title 16, California Code of Regulations, to read as follows:

§ 3394.40. Authority to Issue Citations and Fines for Unlicensed Practice Activity.

The ~~b~~Bureau chief or ~~his/her~~their designee is authorized to determine when and against whom a citation will be issued and to issue citations containing orders of abatement and fines for violations by any unlicensed person who is acting in the capacity of a licensee or registrant.

Note: Authority cited: Section 9882, Business and Professions Code. Reference: Sections 125.9, 148, 149, and 302(d), Business and Professions Code.

§ 3394.41 Citation Format.

A citation for unlicensed activity shall be issued whenever any fine is levied or any order of abatement is issued. Each citation shall be in writing and shall describe with particularity the nature and facts of each violation, including a reference to the statute(s) and/or regulation(s) alleged to have been violated. The citation shall inform the cited person of the right to contest the citation. The citation shall be served upon the cited person personally or by registered mail pursuant to Section 11505(c) of the Government Code.

Note: Authority cited: Section 9882, Business and Professions Code. Reference: Sections 125.9, 148, 149, and 302(d), Business and Professions Code; Section 11505(c), Government Code.

§ 3394.42 Citations for Unlicensed Practice Activity.

The ~~b~~Bureau chief or ~~his/her~~their designee is authorized to determine when and against whom a citation will be issued and to issue citations containing orders of abatement and fines against persons, as defined in Section 302(d) of Business and Professions Code, who are performing or who have performed services for which a license or registration is required under the statutes and regulations enforced by the Bureau of Automotive Repair. Each citation shall contain an order of abatement. Where appropriate, the ~~b~~Bureau chief or ~~his/her~~their designee shall levy a fine against any unlicensed person who is acting in the capacity of a licensee or registrant. Sanctions authorized under Article 11.2 Administrative Citations and Fines for Unlicensed Activity shall be separate from and in addition to any other civil or criminal actions.

Note: Authority cited: Section 9882, Business and Professions Code. Reference: Sections 125, 125.9, 148, 149, and 302(d), Business and Professions Code.

(b) The ~~b~~Bureau chief or ~~his/her~~their designee shall hold, within sixty (60) days from the receipt of the request, an informal conference with the cited person. At the conclusion of the informal conference, the ~~b~~Bureau chief or ~~his/her~~their designee may affirm, modify or dismiss the citation, including any fine levied, order of abatement or order of correction issued. The ~~b~~Bureau chief or ~~his/her~~their designee shall state in writing the reasons for his or her action and transmit within fifteen (15) days a copy of his or her findings and decision to the cited person. Unless an administrative hearing as provided for in subdivision (b)(4) of Section 125.9 of Business and Professions Code was requested in a timely manner, an informal conference decision which affirms the citation shall be deemed to be a final order with regard to the citation issued, including the fine levied and the order of abatement.

(c) If the citation, including any fine levied or order of abatement or correction, is modified, the citation originally issued shall be considered withdrawn and a new citation issued. If the cited person desires a hearing to contest the new citation, he or she shall make a request in writing, within ten (10) days of receipt of the informal conference decision, to the ~~b~~Bureau chief or ~~his/her~~their designee. The hearing shall be conducted as provided for in subdivision (b)(4) of Section 125.9 of Business and Professions Code. A cited person may not request an informal conference for a citation which has been modified following an informal conference.

Note: Authority cited: Section 9882, Business and Professions Code. Reference: Sections 125.9, 148, 149, and 302(d), Business and Professions Code.

§ 3394.46 Disconnection of Telephone Service.

Nothing in this section shall preclude the ~~b~~Bureau from using the provisions of Section 149 of Business and Professions Code in addition to any citation for unlicensed activity issued to any person.

Note: Authority cited: Section 9882, Business and Professions Code. Reference: Sections 125.9, 148, 149 and 302(d), Business and Professions Code.

(3) Add new Article 11.3, Section 3394.50, Chapter 1, Division 33, Title 16, California Code of Regulations, to read as follows:

ARTICLE 11.3. Administrative Citations and Fines for Automotive Repair Act Violations by Registrants

§ 3394.50. Authority to Issue Citations, Fines, and Orders of Abatement to Automotive Repair Dealers and Citation Format.

(a) The Bureau chief or their designee is authorized to determine when and against whom a citation will be issued and to issue citations containing orders of abatement and

finances for violations by registrants of the Act or any regulation adopted pursuant thereto in this Division.

(b) Each citation shall be in writing and shall describe with particularity the nature and facts of each violation, including a reference to the statute(s) and/or regulation(s) alleged to have been violated. The citation shall inform the cited person of the right to contest the citation, the requirements for requesting an informal citation review conference or administrative hearing in section 3394.53, and the compliance requirements set forth in section 3394.52. The citation shall be served upon the cited person personally or by registered mail pursuant to Section 11505(c) of the Government Code.

Note: Authority cited: Sections 12.5, 125.9, 148, 9882, 9884.19, Business and Professions Code. Reference: Sections 10, 125.9, 148, 9882, 9882.3, and 9884.7, Business and Professions Code.

§ 3394.51 Administrative Fine Amounts, Orders of Abatement, and Citation Factors for Registered Automotive Repair Dealer Violations.

(a) The citation shall include an order of abatement and may include a fine not to exceed the amount specified in Section 125.9 of the Code.

(b) In determining whether to issue a citation and the amount of a fine if issued, the Bureau shall consider the following factors, as applicable:

- (1) The nature and gravity of the violation.
- (2) The registrant's history of violations and/or the number of violations found in the investigation.
- (3) The good or bad faith of the registrant, including any training regarding the subject matter of the violation prior to the issuance of a citation.
- (4) The failure to perform work for which money was received.
- (5) The extent to which the registrant has made restitution to affected consumers or mitigated or attempted to mitigate any damage or injury caused by the violation.
- (6) Whether the violation was willful or an inadvertent error.
- (7) The degree of negligence in the maintenance, care, custody, and/or repair of any affected motor vehicle.
- (8) The extent to which the registrant owners, directors, officers, partners, members, trustees, or responsible managing employee(s) performed any of the act(s) resulting in the violation(s).
- (9) The extent to which the registrant has cooperated with the Bureau's investigation.

Note: Authority cited: Sections 12.5, 125.9, 9882, 9884.19, Business and Professions Code. Reference: Sections 125.9, 9882 and 9884.7, Business and Professions Code.

§ 3394.52 Compliance with Citation/Order of Abatement for Automotive Repair Dealers; Remedies for Non-Compliance

(a) If a person cited pursuant to section 3394.50 who has been issued an order of abatement is unable to complete the correction within the time set forth in the citation because of conditions beyond their control after the exercise of reasonable diligence, the cited person may request an extension of time in which to complete the correction from the Bureau chief. Such a request shall be in writing and made within the time set forth for abatement.

(b) If a citation is not contested as provided in section 3394.53, or if the citation is contested and the cited person does not prevail, failure to abate the violation or to pay the assessed fine within the time allowed shall constitute a material failure to comply with the provisions of the Act or regulations for which the person was cited. If a hearing is not requested pursuant to this article, payment of any fine shall not constitute an admission of the violation charged.

(c) In addition to any other fines, penalties, and other remedies available to the Bureau, failure to timely comply with an order of abatement or pay an assessed fine as provided in subdivision (b) shall constitute a ground for disciplinary action.

(d) An assessed fine shall be paid within 30 days of the date of receipt of a citation, or as applicable, a final affirmed or modified citation as provided in section 3394.53. If a fine is not paid after a citation has become final, the fine shall be added to the cited person's license or registration renewal fee. A license or registration shall not be renewed without payment of the renewal fee and fine. "Final" for the purposes of this section shall mean: the Bureau's decision has become effective, the cited person did not submit a written request to contest the citation as required by section 3394.53, and the timeframe for submitting such a request under 3394.53 has passed.

Note: Authority cited: Sections 9882 and 9884.7, Business and Professions Code. Reference: Sections 125.9, 148, 149, 302(d) and 9884.7, Business and Professions Code.

§ 3394.53 Contested Citations; Informal Citation Review Conferences; and Hearings for Automotive Repair Dealers.

(a) A cited person may contest the citation by, requesting an informal citation review conference or administrative hearing, and obtain a decision on their appeal according to the procedures set forth in subdivisions (b)-(g).

(b) The person cited may, within 30 days after service of the citation, contest the citation by submitting a written request for an informal citation review conference to the Bureau chief or their designee.

(c) Upon receipt of a written request for an informal citation review conference, the panel specified in Section 3394.54, shall within 90 days of receipt of the request, hold an informal citation review conference with the cited person unless the panel cannot be established by the Bureau chief as specified in section 3394.54. If a panel cannot be established, the informal conference shall be held by the Bureau chief or their designee as specified in section 3394.54. The cited person may be accompanied and represented by legal counsel and/or an authorized representative. The conference shall be limited in scope to the time period, facts, and allegations specified in the citation served by the Bureau.

(d) If the informal citation review conference is conducted by a panel, the panel shall make a recommendation to the Bureau chief or their designee by majority vote whether to affirm, modify, or dismiss the citation, including any fine to be levied, order of abatement, or order of correction issued. The Bureau chief or their designee shall consider the recommendation of the panel in making their decision as set forth in subdivision (f).

(e) After an informal citation review conference is held, the Bureau chief or their designee may affirm, modify, or dismiss the citation, including any fine levied, order of abatement, or order of correction issued.

(1) If affirmed or dismissed, the Bureau chief or their designee shall state in writing the reasons for the findings and transmit within ten (10) days a copy of the decision to the cited person and the person's counsel and/or authorized representative, if any.

(2) If modified, the citation originally issued shall be considered withdrawn and a new citation issued. The new citation, including reasons for the decision, shall be mailed within ten (10) days to the cited person and the person's counsel and/or authorized representative, if any.

(f) If the cited person wishes to contest the decision or the new citation pursuant to Section 125.9 of the Code, the person shall, within 30 days after service of the decision or new citation, contest the decision or the new citation by submitting a written request for an administrative hearing to the Bureau chief or their designee. An informal citation review conference shall not be held on affirmed or modified citations.

(g) If the decision or new citation is not contested, then the informal citation review conference decision shall be deemed to be the final order with regard to the citation issued.

Note: Authority cited: Sections 12.5, 125.9, 148, 9882, and 9884.7, Business and Professions Code. Reference: Sections 10, 125.9, 148, 9882, and 9884.7, Business and Professions Code.

§ 3394.54 Informal Citation Review Conference Panel

(a) For the purposes of conducting the informal citation review conference and making a recommendation pursuant to section 3394.53, a panel of three representatives (“panel”) shall be appointed by the Bureau chief. The panel shall be composed of one representative each from the Bureau, the public, and the automotive repair industry, which shall render a recommendation by majority vote. The members of the panel shall serve at no expense to the Bureau.

(b) Once a request for informal citation review conference has been received in compliance with section 3394.53, the Bureau shall notify the cited person of the composition of the panel, including the name of each appointed panel member, within 14 days of the date of receipt of the request unless a panel cannot be established as described in this section. If a panel is established pursuant to this section, the cited person may provide a written objection to the appointment of any panel member for any of the reasons set forth in subdivision (e) within 14 days of the date of receipt of the Bureau’s panel appointment notice. The objection shall include all of the following: the reason for the objection, copies of all evidence and argument on which the cited person relies when the written objection is filed, and the authorized signature, title, and contact information (telephone, email, or mailing address) of the person submitting the objection on behalf of the cited person, if any.

(c) All evidence and argument regarding the objection shall be considered by the Bureau chief. The Bureau chief shall make the final decision on the composition of the panel before the informal citation review conference is held and shall send written notice of their decision at least 14 days before the date set for the informal citation review conference. There shall be no oral hearing or further administrative review of this decision.

(d) The Bureau chief may establish multiple panels as necessary to carry out the informal citation review conference process within the timeframes specified in section 3394.53. However, if at any time a panel cannot be established to conduct the informal citation review conference for the reasons set forth in subsections (e) or (h), the Bureau chief or their designee shall conduct the conference and the Bureau chief or their designee shall send written notice of: (1) the inability to establish a panel, (2) the factual basis for determining that a panel cannot be established within the timeframes required to hold the informal conference in section 3394.53; and, (3) the informal conference will be held by the Bureau chief or their designee. Such written notice shall be provided at least 14 days before the date set for the informal citation review conference.

(e) A panel member shall be subject to disqualification from participating in any informal citation review conference in which the member cannot accord a fair and impartial decision, including for the following reasons:

- (1) for bias, prejudice, or interest in the proceeding as provided by Government Code section 11425.40 or Government Code section 87100;
- (2) for receipt of an impermissible ex parte communication as provided in Government Code section 11430.10, the effect of which cannot be eliminated as provided in Government Code section 11430.40;
- (3) to maintain the separation of the adjudicative function from the investigative, prosecutorial, and advocacy functions as required by Government Code section 11425.30; or,
- (4) for any of the grounds specified in Code of Civil Procedure section 170.1.

(f) A panel member who is subject to disqualification shall voluntarily disqualify themselves from a proceeding. If a panel member is absent or unable to serve before an informal citation review conference is held, another panel member shall be assigned to the panel by the Bureau chief in order to maintain the composition of the panel as provided in this section. If the panel member is unable to participate after an informal citation review conference is held, but before a decision is rendered, the matter shall be reheard with a new panel appointed by the Bureau chief unless the Bureau chief is unable to appoint a new panel as specified in this section.

(g) For the purposes of this section “impermissible ex parte communication” shall include direct or indirect communication between any panel member and/or any party to the proceeding including investigative or prosecutorial staff of the Bureau and/or the cited person’s legal counsel and/or authorized representative regarding any pending issue to be decided during the citation review conference without notice and opportunity for all parties to participate in the communication. As used herein, “pending” shall mean between the time the Bureau receives a written request for an informal citation review conference and the time the informal citation review panel affirms, modifies, or dismisses the citation. Communications involving matters not in controversy as specified in Government Code sections 11430.20 and 11430.30 shall not be considered impermissible.

(h) The Bureau chief has discretion to remove any member of the panel for reasons such as absence or unavailability, failure to proceed in the manner required by this article, or for any of the reasons set forth in subdivision (e).

(i) This section shall become operative on July 1, 2023

Note: Authority cited: Sections 12.5, 9882, and 9884.7, Business and Professions Code. Reference: Sections 125.9, 148, 9882, and 9884.7, Business and Professions Code; Sections 11430.10, 11430.20, 11430.30, 11430.40, 11425.30, 11425.40, and 87100, Government Code.

§ 3394.55 Nondisclosure of Citation for Automotive Repair Dealers

(a) The Bureau shall offer to an automotive repair dealer that is eligible for remedial training to prevent the Bureau's public disclosure on the Internet of a citation as required by Section 27 of the Code, if the requirements in subdivision (b) are met. This offer of remedial training shall be included with the citation notice and shall describe the eligibility criteria and process for completing the training as specified in this section.

(b) For an automotive repair dealer to be eligible for the remedial training set forth in subdivision (a), the following shall apply:

(1) The citation shall not be for a violation of Section 9884.7(a)(1), with respect to the issuance of certificates of compliance under Section 9888.6(a), Section 9884.7(a)(4), or Section 9884.7(a)(5) of the Code.

(2) The automotive repair dealer meets the requirements for remedial training pursuant to Section 9882(a)(2)(B)(ii) and the cited person is within the categories of eligible persons set forth in Section 9884.7(d)(1). The registrant or other persons who directly or indirectly controls or conducts the business as provided in Section 9884 of the Code and section 3351 shall attend and successfully complete the remedial training.

(c) An automotive repair dealer shall provide proof to the Bureau of attendance and successful completion of remedial training provided by a Bureau-certified provider pursuant to section 3395.8. Proof means a certificate of completion showing the person's name, date of completion, Bureau-issued provider number, name of the course, and the course provider's name.

(d) Each registrant and any other person identified pursuant to Section 9884(b)(3) of the Code who directly or indirectly controls or conducts more than one automotive repair dealer business is entitled to one citation nondisclosure per automotive repair dealer registration.

(e) The registrant may not use the same remedial training course certification of completion for multiple automotive repair dealers.

Note: Authority cited: Sections 12.5, and 9882, 9884.7, Business and Professions Code. Reference: Sections 27, 125.9, 148, 9882, 9884, 9884.7, and 9888.6, Business and Professions Code

(4) Add new Article 12.5, Section 3395.7, Chapter 1, Division 33, Title 16, California Code of Regulations, to read as follows:

Article 12.5 Remedial Training for Automotive Repair Dealers and Course Provider Certification Program

Section 3395.7 Remedial Training Course Content.

(a) Remedial training courses shall be administered by a certified provider in a classroom or online setting, including but not limited to, pre-recorded or live audio or video teleconferences, webinars, seminars, podcasts, broadcasts, or lectures via the internet. The training shall include instruction on automotive repair dealer compliance with the laws and regulations relating to all of the following areas:

- (1) Estimate Requirements (section 3353);
- (2) Customer Authorization (sections 3353.1, 3353.2, and 3354);
- (3) Invoice Requirements (section 3356);
- (4) Accepted Trade Standards (Article 8);
- (5) Sublet Repair (section 3353(d));
- (6) Return of Parts (section 3355);
- (7) Advertising Requirements (section 3372.1);
- (8) Guarantees and Warranties (sections 3375, 3376, and 3377); and
- (9) Maintenance of Records (section 3358);

(b) A remedial training course shall provide a minimum of eight hours of instruction, exclusive of lunch and rest breaks.

Note: Authority cited: Sections 9882, 9884.7, Business and Professions Code.
Reference: Sections 9884.7, 9884.8, 9884.9, 9884.10, and 9884.11, Business and Professions Code

Section 3395.8. Application and Petition Requirements for Remedial Training Providers for Automotive Repair Dealers; Renewal.

(a) Any person ("applicant") seeking Bureau certification to provide remedial training as authorized by section 9884.7(d) of the Code shall submit a completed application which includes all of the following:

- (1) The following applicant identifying information:
 - (A) Full legal name;
 - (B) Applicant's active State Bar of California license number and expiration date;
 - (C) Social Security number;
 - (D) Physical address;
 - (E) Mailing address;
 - (F) Telephone number; and
 - (G) Email address, if any.

(2) Whether the applicant is serving or has previously served in the United States military.

(3) Whether the applicant is an honorably discharged member of the United States Armed Forces. If the applicant affirmatively states they meet this criterion, they shall provide the following documentation along with the application to receive expedited review: a certificate of release or discharge from active duty (DD-214) or other documentary evidence showing the date and type of discharge.

(4) Whether the applicant was admitted to the United States as a refugee, has been granted asylum by the Secretary of Homeland Security or the Attorney General of the United States, or has a special immigrant visa (SIV). If the applicant affirmatively states they meet any of these criteria, they shall provide the applicable documentation below with the application to receive expedited review:

(A) Form I-94, arrival/departure record, with an admission class code such as "RE" (refugee) or "AY" (asylee) or other information designating the person a refugee or asylee;

(B) Special Immigrant Visa that includes the "SI" or "SQ";

(C) Permanent Resident Card (Form I-551), commonly known as a "green card," with a category designation indicating that the person was admitted as a refugee or asylee; or,

(D) an order from a court of competent jurisdiction or other documentary evidence that provides reasonable assurances to the Bureau that the applicant qualifies for expedited licensure per Section 135.4 of the Code.

(5) Whether the applicant has ever been convicted of any crime or offense for which a license may be denied pursuant to section 480 of the Code.

(6) Applicants are required to disclose convictions under California Health and Safety Code sections 11357(b), (c), (d), (e), and section 11360(b) which are less than two years old.

(7) Whether the applicant has ever had a license, registration, or certification that was formally disciplined by a licensing board in or outside of California, including the Bureau, or any program in the Department of Consumer Affairs (Department) or the State Bar of California. "Discipline" for purposes of this section includes reproof, suspension, revocation, probation or any other form of restriction placed on the license, registration, or certification.

(8) If the applicant answers affirmatively to any of the items in subdivisions (a)(5) or (a)(7), the applicant shall provide a written statement explaining the details

regarding any criminal conviction or disciplinary action. For criminal convictions, the statement shall include: the date and place of arrest, name of the court, court case number, code section violated, brief explanation of the offense, and the sentence imposed. For discipline, the written statement shall include the date and nature of the disciplinary action, name and location of the public agency, and the fine or sentence imposed.

(9) A course outline and course description for the remedial training course that consists of, at a minimum, all of the following:

(A) All of the subjects listed in section 3395.7(a) and the specific content areas to be taught for each subject. The course description shall describe:

(i) The subject matter of the course;

(ii) The remedial education objectives of the course; and

(iii) How the course content is designed to meet those educational objectives.

(B) The method of instruction for the course offered. Teaching methods for each course shall describe any lecture, seminar, audiovisual, online interactive, or any other instruction method.

(C) An explanation of how the proposed course will measure student participation, interaction, and attendance, for example, participant attendance reports by instructors, in-content quizzes, participant polls, real time participant video requirements, and records of participant log in and log out times. The explanation shall also include how the applicant will ensure attendance is recorded accurately.

(10) A certification by the applicant under penalty of perjury under the laws of the State of California that all statements made in the application and all documents provided by the applicant to the Bureau in support of the application are true and correct.

(b) The Bureau will notify the applicant in writing within 60 days of the date of submission whether their application is approved or denied. If denied, the denial shall include the reasons for the denial, and notification that the applicant must submit a new application to obtain Bureau certification as a certified provider. Upon the Bureau's approval, an applicant shall become a certified provider and be issued a certification if no grounds for denial exist as provided in section 3395.10. The certification shall be valid for five years from the date of issuance and shall expire unless renewed prior to the expiration date of the certification as provided in this section. After a certificate has expired, the certificate is automatically cancelled and the provider must apply as a new applicant in accordance with this section if they seek to again offer remedial training as a Bureau certified provider.

(c) The abandonment date for an application that has been returned to the applicant as incomplete shall be 12 months from the date of returning the application in accordance with Section 142 of the Code. An applicant who abandons an application must submit a new application to obtain Bureau certification as a certified provider.

(d) To renew a certification, the certified provider shall submit a course outline and course description as specified in subdivision (a)(9) for Bureau review and approval at least 60 days prior to their certification expiration date. Bureau approval of the outline and description is a requirement for renewal of the certification. The Bureau will notify the certified provider in writing within 60 days of the date of submission whether their renewal is approved or denied. The denial shall include the reasons for the denial, and an explanation of the process for appealing or requesting reconsideration in accordance with section 3395.10. A certified provider who is denied renewal must submit a new application to obtain Bureau certification as a certified provider.

(e) Certified providers may voluntarily surrender their certification by notifying the Bureau in writing of the request and receiving written notice from the Bureau chief or their designee that the Bureau chief has consented to the surrender.

(1) A request for consent to surrender a certification shall include all of the following: their certified provider name, the Bureau-issued provider certification number, the certified provider's physical and mailing addresses, and the reason(s) why the certified provider seeks to surrender their certification. The Bureau chief or their designee reserves the right to evaluate the certified provider's request and to exercise their discretion whether or not to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances, including initiation or continuance of disciplinary action as authorized by Section 118 of the Code.

(2) Within 15 days of the date of the Bureau chief's written notice of consent to the surrender, the certified provider shall no longer provide remedial training as authorized by this section. Certified providers who voluntarily surrender their certification shall reapply as a new applicant in accordance with this section if they seek to offer remedial training as a Bureau certified provider.

(f) A previously certified provider ("petitioner") shall wait one year from the effective date of a revocation decision or the denial date of a previous petition to petition for reinstatement of a certification. A petitioner shall submit to the Bureau chief or their designee a petition that includes all of the following:

- (1) All of the items required in subdivision (a)(1) through (9) of this section;
- (2) Any documents or evidence of rehabilitation the petitioner would like the Bureau chief to consider as provided in section 3395; and,
- (3) Any written arguments the petitioner supporting the request for reinstatement.

(g) A certified provider shall notify the Bureau in writing of any changes to the information submitted to the Bureau under subdivisions (a)(1)-(2) and (a)(5)-(7) within 60 days of the date of making any changes, or receiving notice of any change in the case of criminal conviction or disciplinary matters referenced in subdivisions (a)(5) and (a)(7).

Note: Authority Cited: Sections 9882 and 9884.7, Business and Professions Code; Reference: Sections 30, 31, 114.5, 115.4, 118, 135.4, 142, 163.5, 480, 9882, 9884 and 9884.7, Business and Professions Code; Section 11522, Government Code; Section 11361.5, Health and Safety Code.

Section 3395.9 General Requirements for Remedial Training Providers for Automotive Repair Dealers.

(a) When registering students for a remedial training course, a certified provider shall obtain the following:

- (1) Student name;
- (2) Automotive repair dealer registration number; and,
- (3) Bureau-issued citation number, if any.

(b) Upon successful completion of the course by the student, a certified provider shall issue to the student a certificate of completion that shall include the information contained in subdivision (a), and, at a minimum, all the following:

- (1) Certified provider's name; and
- (2) Certified provider's Bureau-issued certification number.

(c) A certified provider shall report to the Bureau, within three business days of the student's completion of the course, each student who has successfully completed the remedial training course. The report shall include the information in subdivision (b) in this section and a copy of the certificate of completion issued to the student. For the purposes of this section "successfully completed" or "successful completion" shall mean full attendance and completion of the period of instruction by the student and the completion of all requirements of the course provider.

(d) A certified provider shall establish within 30 days of initial Bureau approval a minimum three-year document retention policy for the records required by this Article, including records of participant attendance, copies of certificates of completion for each student completing a course, and dates and locations of instruction.

(e) In order to maintain certification, a certified provider shall respond to any inquiries by the Bureau, provide any information or documents requested by the Bureau, and cooperate in any investigation conducted by the Bureau regarding the certified

provider's compliance with the requirements of this Article. Failure to respond to the Bureau within 30 days of the date of the Bureau's written inquiry or request for documents or information constitutes grounds for denial of any application or revocation of certification by the Bureau pursuant to section 3395.10.

(f) A certified provider shall make any location where training is provided or where records required by this Article are maintained available for inspection to authorized representatives of the Bureau during normal business hours. This includes permitting an authorized representative of the Bureau to monitor a training course to determine whether the objectives of the course are being met and the course is presented as approved by the Bureau.

Note: Authority Cited: Sections 9882, and 9884.7, Business and Professions Code; Reference: Sections 9882 and 9884.7, Business and Professions Code.

Section 3395.10 Grounds for Denial or Revocation of Certification for Providers of Remedial Training for Automotive Repair Dealers.

(a) An application for certification as a certified provider of remedial training ("certified provider") pursuant to section 3395.8 or a request to renew a certification may be denied or a certificate revoked for any of the following reasons:

- (1) For denial of an application to be certified as a provider, any grounds for denial authorized by Section 480 of the Code;
- (2) For revocation of a certified provider's certification, any grounds for discipline set forth in Section 490 of the Code, any substantially related act resulting in disciplinary action against any registration or license issued to a certified provider by the Bureau or any program in the Department, or the State Bar of California or any other substantially related act resulting in disciplinary action against any registration or license issued to a certified provider by any other governmental entity as authorized by Section 141 of the Code;
- (3) Noncompliance with any provision in section 3395.8 or 3395.9;
- (4) Failure to accurately document student attendance for all training hours;
- (5) Providing any false, or misleading information to students, the Department, or Bureau; or,
- (6) Any conduct that constitutes fraud as defined in subdivisions (e)(1)-(5) of Section 9884.7 of the Code.

(b) The Bureau shall provide an applicant or certified provider with a written notice of the denial or revocation of the provider certification if the Bureau seeks to deny an application or revoke any certification pursuant to this section. The notice shall include the basis for the denial or revocation, as applicable, and the process and procedure for appealing the denial or revocation according to this section. The applicant or certified provider may submit a written request for reconsideration to the Bureau chief or their designee of either the denial or revocation within 15 days of the date of the Bureau's

written notice of such denial or revocation. The written request shall provide the reasons the applicant or certified provider requests a reconsideration of the denial or revocation. In making a request for reconsideration, the applicant or certified provider does not waive the right to appeal under subdivision (c).

(c) Regardless of whether or not the applicant or certified provider requests reconsideration as provided in subdivision (b), an applicant or certified provider may appeal the denial or revocation of a provider certification by requesting an informal hearing under the Administrative Procedure Act (commencing with Section 11445.10 of the Government Code) within 30 days of the date of the Bureau's written notice specified in subdivision (b).

(d) If the denial or revocation notice is withdrawn by the Bureau chief or their designee after the Bureau chief grants a reconsideration, the application shall be deemed approved, or the certification deemed unrestricted. The request for an informal hearing, if any, shall be deemed to be withdrawn.

(e) Providers wishing to reinstate their certification after a period of one year or more from the effective date of the decision revoking the certification or from the date of the denial of a similar request to reinstate the certification shall follow the procedures specified in section 3395.8.

(f) For the purposes of this section, the following definitions apply:

(1) "Disciplinary action" means any form of restriction placed on the license, registration, permit or other indicia of licensure including reproof, suspension, revocation, probation, or any other form of restriction.

(2) "Substantially related" has the meaning set forth in section 3395.2 as it relates to the qualifications, functions, or duties of a certified provider of remedial training.

Note: Authority Cited: Sections 9882 and 9884.7, Business and Professions Code; Reference: Sections 141, 480, 490, 9882 and 9884.7, Business and Professions Code; Sections 11445.10, 11445.20, and 11522, Government Code.