

 LEHMAN, LEE & XU 雷曼律师事务所 LEHMAN -China knowledge international perspective- LEE & XU		A PRC LAW FIRM	
		中文 Deutsch Español	
» Home » Resource Center » Laws and Regulations		<input type="text" value="Search"/>	
Practice Areas	Professionals	Offices	About Us
			Press Room
			Resource Center
			Careers

<p>Resource Center</p> <ul style="list-style-type: none"> Briefing Paper Series Forms and Statistics Presentations Glossary Laws and Regulations FAQs Newsletter Publications Law School Programs Links 	<p>Administrative License Law of the People's Republic of China - 2003</p> <p>(The Administrative License Law of the People's Republic of China was adopted at the 4th session of the Standing Committee of the 10th National People's Congress of the People's Republic of China on August 27, 2003. It is hereby promulgated and shall be implemented as of July 1, 2004)</p> <p>CONTENTS</p> <ul style="list-style-type: none"> Chapter I. General Provisions Chapter II. Establishment of an Administrative License Chapter III. Executive Organ for Administrative License Chapter IV. Procedures for Administrative License <ul style="list-style-type: none"> Section 1. Application and Acceptance Section 2. Examination and Decision Section 3. Time Limit Section 4. Hearing Section 5. Modification and Extension Section 6. Special Provisions Chapter V. Expenses of Administrative License Chapter VI. Supervision and Check Chapter VII. Legal Liabilities Chapter VIII. Supplementary Provisions <p>Chapter I General Provisions</p> <p>Article 1 In order to regulate the establishment and implementation of administrative licenses, to protect the legitimate rights and interests of citizens, legal persons and other organizations, to safeguard public interests and social order, to ensure and supervise the effective implementation of administrative management, the Law is formulated in accordance with the Constitution.</p> <p>Article 2 The term "administrative licenses" as mentioned in the Law refers to the acts that the administrative organs permit, upon examination according to law, the citizens, legal persons or other organization to engage in special activities according to their applications.</p> <p>Article 3 The Law shall be applicable to the establishment and implementation of administrative licenses.</p> <p>The Law shall not be applicable to the examination and approval of such matters as personnel, finance and foreign affairs of relevant administrative organs to other organs or public institutions directly under their administration.</p> <p>Article 4 The establishment and implementation of an administrative license shall tally with legal authority, scope, conditions and procedures.</p> <p>Article 5 The principle of publicity, fairness and impartiality shall be abided by in the establishment and implementation of an administrative license.</p> <p>The relevant regulations on an administrative license shall be announced to the public; those undisclosed shall not be the basis for the implementation of the administrative license. The implementation of the administrative license and the results thereof, except for those that concern the state secrets, commercial secrets or individual privacy, shall be disclosed.</p> <p>The applicants who meet the legal conditions and standards are entitled to obtain the equal right under an administrative license, the administrative organs shall not discriminate against any of them.</p> <p>Article 6 In the implementation of administrative license, the principle of facilitating people shall be abided by so as to enhance the efficiency and to render quality services.</p>
--	---

Article 7 With regard to an administrative organ's implementation of an administrative license, the citizens, legal person or other institutions shall be entitled to make statements, to defend themselves, to apply for administrative reconsideration or to file an administrative lawsuit in accordance with the law.

Where any of their legal rights and interests is impaired because of the administrative organs' unlawful implementation of the administrative license, it shall be entitled to demand compensation in accordance with the law.

Article 8 The administrative license obtained by a citizen, a legal person or any of other organizations in accordance with the law shall be protected by law. The administrative organs shall not change an effective administrative license without permission.

Where any of the laws, regulations and rules that the administrative license is based on is amended or abolished, or the objective circumstances that the administrative license rests on change greatly, in order to meet the demand of public interests, the administrative organ may modify or withdraw the effective administrative license. The damages caused to the properties of citizens, legal person or other institutions accordingly shall be compensated for by the administrative organ in accordance with the law.

Article 9 An administrative license obtained in accordance with the law shall not be transferred except for those that may be transferred in light of the legal conditions and procedures of the laws and regulations.

Article 10 The people's governments above the county level shall establish and perfect the supervisory system for the administrative licenses implemented by administrative organs, shall strengthen the supervision and examination over the administrative licenses implemented by administrative organs.

The administrative organs shall effectively supervise the activities of the citizens, legal persons or other institutions concerning the matters under administrative license.

Chapter II The Establishment of an Administrative License

Article 11 The establishment of an administrative license shall be in line with the rule of economic and social development, shall be propitious to the full play of the enthusiasm and initiative of the citizens, legal persons or other institutions, safeguard the public interests and social order, promote the harmonious development of the economy, society and ecological environment.

Article 12 An administrative license may be established for any of the following matters:

- (1) The special activities that directly bear on the state security, public security, macro-economic control, ecological environment protection, and those directly relate to the human health, safety of life and property, which shall be approved according to the legal requirements;
- (2) The development and utilization of the limited natural resources, allocation of public resources and the market entry of the special trades that directly concern public interests, which shall be entitled with special rights;
- (3) The vocations and trades that provide public services and directly relate to the public interests, which need qualification of special credit, conditions or skills;
- (4) The important equipment, facilities, products, articles that directly concern public security, human health, the safety of life and property, which shall be examined and approved by means of inspection, testing, and quarantine according to the technical standards or criterions;
- (5) The establishment of the enterprises or other institutions, which need to determine the subject qualification;
- (6) Other matters, for which administrative licenses may be established in accordance with the laws and regulations.

Article 13 For the matters listed in Article 12 of the Law, which may be regulated through the following methods, the administrative licenses aren't required to be established:

- (1) Those can be decided by the citizens, legal person or other institutions themselves;

(2) Those can be effectively regulated by the market competition mechanism;

(3) Those may be subject to the self-discipline management of the trade organizations or intermediary institutions;

(4) The matters that can be solved by the administrative organs by means of supervision afterwards or through other administrative methods.

Article 14 As to the matters listed in Article 12 of the Law, administrative licenses may be established by means of law. Where there is no governing law, administrative licenses may be established by means of administrative regulations.

Where necessary, the State Council may adopt the form of releasing decisions to establish administrative licenses. After implementation, except for the matters under temporary administrative licenses, the State Council shall timely propose to the National People's Congress and its Standing Committee to formulate laws, or formulate administrative regulations by itself.

Article 15 If there is no governing law or administrative regulation yet, an administrative license may be established by means of local regulations for any of the matters listed in Article 12 of the Law; if there is no governing law, administrative regulation and local regulation yet, but it is really necessary to establish an administrative license to conduct administrative management immediately, an temporary administrative license may be established by means of a regulation of the people's government of a province, autonomous region or municipality directly under the Central Government. If it is necessary to keep on implementing the administrative license after a year, the people's congress and its standing committee of the same level shall be proposed to formulate a local regulation.

No local regulation or government rule of the provinces, autonomous regions and municipalities directly under the Central Government may establish any administrative license for the qualifications of the citizens, legal persons or other institutions that shall be determined by the state; no administrative license and pre-administrative license may be established for the establishment and registration of enterprises or other institutions. The administrative licenses established thereby shall not hinder the individuals or enterprises of other regions from dealing in production and business and providing services in one region, shall not restrict the commodities of other regions from entering into the market of the local region.

Article 16 An administrative regulation may have specific requirements for the implementation of an administrative license within the scope of the matters prescribed by a statutory administrative license.

A local regulation may, within the scope of the matters of administrative license established by the laws and administrative regulations, make specific requirements for the implementation of the administrative license.

The regulation may make specific requirements for the implementation of the administrative license within the scope of the matters established by the upper law.

The regulations and rules shall not make specific requirements for the implementation of the administrative license set down by the upper law, shall not increase administrative license; for the specific conditions of administrative license, they shall not establish any other condition in violation of the upper law.

Article 17 Except for Articles 14 and 15 of the Law, no administrative license shall be set in any other regulatory document.

Article 18 In the establishment of an administrative license, the implementing organ, conditions, procedures and time limit shall be specified.

Article 19 Where an administrative license is to be established by means of drafting a law, a regulation or a regulation of the people's government of a province, autonomous region or municipality directly under the Central Government, the drafting entity shall consult the opinions through hearing and argumentation, etc., and shall give explanations to the law (regulation) making organ about the necessity to establish the administrative license, the potential effects on the economy and society and the opinions heard and adopted.

Article 20 The establishment organ of the administrative license shall periodically evaluate the administrative license it set. If it considers that an already established administrative license can be solved through any of the

methods listed in Article 13 of the Law, it shall modify the requirements for the establishment of the administrative license or abolish it in time.

The executive organ of an administrative license shall evaluate the information of the implementation of the administrative license and necessity of its existence, and shall report the relevant opinions to the establishing organ of the administrative license.

The citizens, legal person or other institutions may put forward opinions and suggestions to the establishment organ and executive organ about the establishment and implementation of the administrative license.

Article 21 Where any of the people's governments of the people's governments of the provinces, autonomous regions and municipalities directly under the Central Government considers an administrative license on economic affairs, which is established by means of administrative regulation, can be solved through any of the methods listed in Article 13 of the Law according to the economic and social development of this administrative area, it may stop implementing the administrative license within the administrative area upon reporting to and obtaining the approval of the State Council.

Chapter III Executive Organ for Administrative License

Article 22 An administrative license shall be implemented by the empowered administrative organ within its statutory functions.

Article 23 The organization with a function of managing public affairs under the authorization of a law or regulation shall, within the authorized scope, implement the administrative license in its own name. The provisions concerning the administrative organ in the Law shall be applicable to the empowered organizations.

Article 24 An administrative organ may, within its statutory functions, authorize other administrative organs to implement the administrative license in light of the laws, regulations and rules. The authorizing organ shall announce to the public the authorized administrative organs and the authorized particulars of the administrative license.

The authorizing administrative organ shall be responsible for supervising the implementation of the administrative license by the authorized administrative organs, and shall bear the legal liabilities for the consequences of implementation.

An authorized administrative organ shall, within the authorized scope, implement the administrative license in the name of the authorizing administrative organ; it shall not authorize any other organization or individual to implement the administrative license.

Article 25 Upon approval of the State Council, the people's governments of the provinces, autonomous regions and municipalities may decide one administrative organ to exercise the power of administrative license of the relevant administrative organs according to the principle of simplification, unification and efficiency.

Article 26 Where it is necessary to handle the administrative license through several interior institutions of the administrative organ, this administrative organ shall determine one institution to accept all the applications for the administrative license and serve all the decisions about the administrative license.

Where the administrative license is implemented separately by at least two departments of the local people's government in accordance with the law, the people's government of the same level shall determine one department to accept the applications for administrative license and inform the relevant departments of them, and handle these applications after the relevant departments have put forward their own opinions, organize the relevant departments to handle the applications jointly and intensively.

Article 27 When implementing the administrative license, the administrative organ may not require any applicant to buy the designated commodities and to accept paid services or have other unreasonable requests.

In handling an administrative license, the functionaries of the administrative organ may not exert any property from or accept any property of the applicants, neither may they seek for any other interests.

Article 28 The inspection, testing, and quarantine of the important equipment, facilities, products, articles that directly concern public security, human health, the safety of life and property shall be gradually organized and

implemented by the professional technical organizations that meet the statutory requirements. The professional technical organizations and the functionaries shall bear the legal liabilities for the conclusions they reach.

Chapter IV Procedures for the Administrative License

Section 1 Application and Acceptance

Article 29 Where a citizen, legal person or any of other institutions has to obtain an administrative license prior to dealing in a special activity, it shall file an application with the administrative organ. Where a standard application is required, the administrative organ shall provide the applicants with standard administrative license application. The application shall not contain any content that has no direct relationship with the licensing matters applied for.

An applicant may entrust an agent to file the application for administrative license, however, with the exception that the applicant shall file the application for administrative license in the office of the administrative organ.

An application for administrative license may be filed by means of letter, telegraph, telex, fax, electronic data interchange and email.

Article 30 An administrative organ shall display the licensing matters, basis, conditions, quantity, procedures and time limit as provided for in the laws, regulations and rules, the catalogue of the complete set of materials that shall be submitted and the exemplary application in its office place.

Where an applicant asks the administrative organ to account for or to give explanations about the displayed contents, the administrative organ shall do so to provide exact and liable information for it.

Article 31 When applying for administrative license, an applicant shall faithfully submit relevant materials to the administrative organ, report the actual information, and shall be liable for the authenticity of the substantial contents of the application materials. The administrative organ may not ask the applicant to submit technical materials and other materials that have nothing to do with the matters under the administrative license

Article 32 The administrative organ shall handle the applications for administrative license differently according to the following circumstances:

(1) For the matter applied for that are not subject to administrative license in accordance with the law, it shall inform the applicant of the rejection immediately;

(2) If the matter applied for isn't within the functions of the administrative organ, it shall make a decision of rejection immediately and shall inform the applicant to file an application for it with the relevant administrative organ;

(3) Where the errors in the application materials can be corrected on the spot, the applicant shall be permitted to correct them on the spot;

(4) Where the application materials are incomplete or inconsistent with the statutory form, it shall inform the applicant on the spot or inform it of all the items that need to be supplemented or corrected within 5 days; if it fails to do so within the time limit, the day when the application materials are accepted shall be considered as the acceptance day;

(5) Where the matter applied for falls within the functions of the administrative organ and application materials are complete and in consistency with the statutory form, or the applicant has supplemented and corrected all the items as required, the application for administrative license shall be accepted.

When accepting or rejecting an application for administrative license, the administrative organ shall issue a written proof with the special seal of the administrative organ and the clear indication of date.

Article 33 An administrative organ shall establish and perfect the relevant systems, shall promote electronic administration by government, shall announce matters under administrative license on the website of the administrative organ, facilitate the applicants to file for administrative license by means of data messages. It shall share the information concerning the administrative license with other administrative organs so as to increase efficiency.

Section 2 Examination and Decision

Article 34 Administrative organs shall examine the application materials submitted by the applicants.

Where the application materials are complete and tally with the statutory form, the administrative shall make a written decision about the administrative license on the spot if it is able to do so.

Where it is necessary to further verify the substantial contents of the applications in accordance with the statutory conditions and procedures, the administrative organ shall designate at least 2 personnel to conduct verifications.

Article 35 In accordance with law, where an administrative license is subject to the examination of the lower administrative organ before it is reported and submitted to the upper administrative organ for decision, the lower administrative organ shall directly submit the preliminary examination opinions and the complete set of application materials to the upper administrative organ within the statutory time limit. The upper administrative organ shall not require the applicant to provide the application materials again.

Article 36 When examining the applications for administrative license, if the administrative organ finds that any party has important direct interests to the matters under the administrative license, it shall inform the interested party. The applicant and the interested party shall be entitled to make a statement and defense. The administrative organ shall listen to the opinions of the applicant and the interested party.

Article 37 After the administrative organ has examined the application for administrative license, it shall make a decision about the administrative license in light of the prescribed procedures within the statutory time limit, unless the decision on the administrative license shall be made on the spot.

Article 38 Where an applicant meets the statutory requirements and standards, the administrative organ shall make a written decision about the approval of the administrative license.

Where the administrative organ makes a decision about the disapproval of the administrative license in accordance with the law, it shall give explanations to and inform the applicant that it is entitled to apply for administrative reconsideration or to file an administrative lawsuit.

Article 39 For an administrative organ that makes a decision about the approval of the administrative license, it shall issue one of the following certificates for administrative license with the seal of this administrative organ:

- (1) Permit, license or other kinds of licensing certificates;
- (2) Qualification certificate or other qualification certificates;
- (3) Documents of approval of the administrative organ or evidential documents;
- (4) Other certificates for administrative license as provided for in the laws and regulations.

Where an administrative organ conducts inspection, testing, or quarantine, it may stamp a label on or affix a seal of inspection, testing or quarantine to the qualified equipment, facilities, products and articles.

Article 40 Administrative organs shall give publicity to the decisions about the approval of the administrative license, which the general public are entitled to consult.

Article 41 For an administrative license set down by laws and regulations, if there is no regional limit on its application scope, the administrative license obtained by an applicant shall be of nationwide validity.

Section 3 Time Limit

Article 42 An administrative organ shall make a decision on the administrative license within 20 days from the day when it accepts such an application unless it can make a decision on the spot. If it can't make a decision within 20 days, it may extend for 10 days upon the approval of the person in charge of this administrative organ, and shall give explanations about the extension to the applicant. However, if it is otherwise provided for in any law and regulation, the latter shall prevail.

In accordance with Article 26 of the Law, where an administrative license is handled uniformly or jointly or collectively, the period shall not exceed 45 days; if it cannot be completed within 45 days, it may, upon the approval of the people's government of the same level, be extended for 15 days, and the applicant shall be notified of the reason for extension.

Article 43 For an administrative license that is subject to the examination of a lower administrative organ before it is reported and submitted to an upper administrative organ, the lower administrative organ shall complete the examination within 20 days from the day when the application for administrative license is accepted. But, if it is otherwise provided for in the laws and regulations, the latter shall prevail.

Article 44 If an administrative organ makes a decision of administrative license, it shall issue and serve the applicant the certificate of administrative license, or stamp a label, affix a seal of inspection, testing or quarantine, within 10 days from the day when such a decision is made.

Article 45 In accordance with the law, where an administrative organ needs hearing, bid invitation, auction, inspection, testing, quarantine or expert evaluation, the required time shall not be included in the time limit specified in this Section.

Section 4 Hearing

Article 46 For a hearing as provided for the implementation of administrative license in any law, regulation or rule, or for any other licensing matters of great importance to the public interests that the administrative organ considers it necessary to hold a hearing, the administrative organ shall announce it to the public and hold a hearing.

Article 47 Where an administrative license is of direct significance to the interests of the applicant or others, before the administrative organ makes a decision about the administrative license, it shall inform the applicant or the interested party of the right to request for a hearing. Where the applicant or interested party applies for a hearing within 5 days from the day when it is informed of such right, the administrative organ shall organize a hearing within 20 days.

The applicant and interested party shall not pay for the expenses arising from the administrative organ's organization of the hearing.

Article 48 The hearing shall proceed according to the following procedures:

(1) The administrative organ shall notify the applicant and interested party of the time and place of the hearing 7 days before it is held, and shall announce it to the public where necessary;

(2) The hearing shall be held openly;

(3) The administrative organ shall designate a person to host the hearing, the person shall not be from the persons who are responsible for the examination of the application for administrative license, where the applicant or interested party considers that the host or hostess of the hearing is of direct interest to the matters under administrative license, it shall be entitled to apply for withdrawal;

(4) While holding a hearing, the persons who are responsible for the examination of an application for administrative license shall provide proofs, reasons for the examination opinions, the applicant and the interested party may produce evidence, defend and conduct cross-examinations;

(5) Transcripts shall be made for a hearing. The attendees of the hearing shall sign their names on or affix their seals to the transcripts after they have confirmed them as inerrant.

The administrative organ shall make a decision on the administrative license according to the transcripts of the hearing.

Section 5 Modification and Extension

Article 49 Where a licensee requests for modifying the matters under administrative license, it shall file an application to the administrative organ that made the decision about the administrative license. If it meets the statutory conditions and standards, the administrative organ shall handle the modification procedures in accordance with the law.

Article 50 Where a licensee needs to extend the valid period of an administrative license it obtained in accordance with the law, it shall file an

application with the administrative organ that made the decision about the administrative license 30 days prior to the expiry of the valid period of this administrative license. But, if it is otherwise provided for in the laws, regulations and rules, the latter shall prevail.

An administrative organ shall decide whether to approve the extension prior to the expiry of the valid period of this administrative license; if it fails to make a decision within the time limit, it shall be deemed that the extension has been approved.

Section 6 Special Provisions

Article 51 The implementing procedures for the administrative license shall be governed by the pertinent provisions in this Section, if there are any; if it isn't provided for in this section, they shall be governed by other relevant provisions in this Chapter.

Article 52 The procedures for the State Council to implement an administrative license shall be governed by the relevant laws and administrative regulations.

Article 53 When implementing the licensing matters listed in Article 12 (2) of the Law, the administrative organ shall make a decision by adopting fair competitive methods, such as bid invitation and auction, etc, but if it is otherwise provided for in the laws, administrative regulations, the latter shall prevail.

The specific procedures for the administrative organ to decide an administrative license by means of bid invitation and auction shall be in line with the relevant laws and administrative regulations.

After the administrative organ has determined the bid winner or buyer according to the bid or auction procedures, in accordance with the law, it shall issue a certificate for the administrative license to the bid winner or buyer.

Where an administrative organ fails to adopt the forms of bid invitation and auction in violation of the Law, or violates the procedures for bid invitation or auction, impairing the legitimate rights and interests of the applicant, the applicant may apply for administrative reconsideration or file an administrative lawsuit according to law.

Article 54 When implementing the licensing matters listed in Article 12 (3) of the Law, namely, holding a national examinations for the purpose of granting the citizens any special qualification in accordance with the law, the administrative organ shall make decisions about the administrative license according to applicants' examination marks and other statutory requirements; when granting a special qualification to the legal persons or other organizations, the administrative organ shall make decisions about the administrative license according to the evaluation results in the aspects of the structure of professionals of the applicants, technical conditions, business performance and management level. But, if it is otherwise provided for in the laws and regulations, the latter shall prevail.

In accordance with the law, a special qualification examination for the citizens shall be organized and held openly by the administrative organ or trade organization. The administrative organ or trade organization shall announce the signing conditions, measures, subjects and the general outline for the qualification examination. But, no compulsory pre-examination training for the qualification examination shall be organized, and no textbook or other supplementary materials shall be specified.

Article 55 When implementing the licensing matters listed in Article 12 (4) of the Law, namely, conducting inspection, testing or quarantine according to the technical standards or criteria, the administrative organ shall make decisions according to the pertinent results.

Within 5 days from the day when the administrative organ accepts an application, at least 2 functionaries shall be designated to conduct inspection, testing or quarantine according to the technical standards or criteria. If it is able to determine whether the equipment, facilities, products or articles accord with the technical standard or criteria and it is unnecessary make further analysis to the results of the inspection, testing or quarantine, the administrative organ shall make a decision about the administrative license on the spot.

If the administrative organ decides to disapprove the administrative license according to the results of inspection, testing and quarantine, it shall make a

written explanation about the technical standard or criterion on which the decision is based.

Article 56 When implementing the matters listed in Article 12 (5) of the Law, the administrative organ shall register an applicant on the spot if the application materials submitted thereby are complete and accord with the statutory form. If it is necessary to verify the substantial content of the application materials, the administrative organ shall implement Article 34 (3) of the Law.

Article 57 For an administrative license with quantitative restrictions, where the applications of at least 2 applicants meet the statutory conditions and standards, the administrative organ shall decide to approve the administrative license according to the priority order of accepting the applications for the administrative license. But, if it is otherwise provided for in the laws and regulations, the latter shall prevail.

Chapter V Costs of Administrative License

Article 58 When implementing an administrative license and conducting inspection on the licensing matters, the administrative organ shall not charge anything for that; but if it is otherwise provided for in the laws and administrative regulations, the latter shall prevail.

When offering exemplary application form of administrative license, the administrative organ shall not charge anything for that.

The essential fund for the administrative organ to implement an administrative license shall listed in the budget of this administrative organ, which shall be ensured, checked and appropriated by the finance department of the same level according to the ratified budget.

Article 59 Where an administrative organ charges fees for the implementation of administrative license in accordance with the laws and administrative regulations, the fees shall accord with the announced statutory items and standards; the fees collected shall be entirely turned in to the treasury, which shall not be withheld, impropriated, privately divided openly or in disguised form by any organ or individual. The finance departments shall not refund openly or in disguised form the fees charged for the implementation of the administrative license.

Chapter VI Supervision and Check

Article 60 The upper administrative organs shall strengthen the supervision and inspection over the lower administrative organs in the implementation of the administrative licenses, and shall get the illegal acts right in time.

Article 61 The administrative organs shall establish and perfect the supervision system, shall perform the supervisory duties by means of checking the relevant materials reflecting the information about the licensees' activities under the administrative license.

When conducting supervision and inspection over a licensee' activities under the administrative license, an administrative organ shall note down the information about the supervision and inspection and the handling result, and transfer the notes to the archival department upon the signatures of the supervisors or inspectors. The public shall be entitled to consult the supervisory and inspecting notes of the administrative organ.

The administrative organ shall create conditions to link with the archival computer systems of the licensees and other relevant administrative organs to check the licensees' activities under the administrative license.

Article 62 In accordance with the law, an administrative organ may conduct random examination, check and testing on the products manufactured and run by a licensee, and shall examine the production and operation places on the spot. When conducting examination, the administrative organ may consult or require the licensee to submit relevant materials in accordance with the law; the licensee shall faithfully offer the relevant information and materials.

In accordance with the laws and administrative regulations, the administrative organ shall conduct periodical examinations on the important equipment and facilities that directly concern the public security, human health and safety of life and property. And it shall issue relevant evidential documents to those that are found to be qualified upon examination.

Article 63 When conducting supervision and examination, the administrative organ may not hinder the licensee from engaging in normal production and

operation activities, may not ask for or accept the licensee's property, and may not seek for other interests.

Article 64 Where a licensee conducts activities in violation of the matters under the administrative license in a area outside the jurisdiction of the licensing administrative organ, the administrative organ located in the area where the illegal activities are conducted shall send a copy of the illegal facts and punishments to the licensing administrative organ according to law.

Article 65 Where any individual or organization discovers any activity in violation of the matters under an administrative license, it shall be entitled to inform the administrative organ, which shall verify and deal with such activity in time.

Article 66 Where a licensee fails to perform the obligation of exploiting and utilizing of natural resources in accordance with the law, or of utilizing public resources, the administrative organ shall order it to get right within a time limit; where the licensee fails to get right within the time limit, the administrative organ shall punish it in accordance with the relevant laws and administrative regulations.

Article 67 A licensee, who has acquired the administrative license for the market access to a special trade of direct importance to the public interests, shall provide the users with safe, convenient and stable services at a fair price in accordance with the service and charging standards as provided for by the state and the conditions as specified by the administrative organ in accordance with the law, and shall perform the obligation of offering universal services. Without the approval of the licensing administrative organ, it may not stop or suspend its business.

For a licensee that fails to fulfill the obligations specified in the preceding paragraph, the administrative organ shall order it to get right or take effective measures to urge it perform its obligations.

Article 68 For the important equipment and facilities that directly concern public security, human health and safety of life and property, the administrative organ shall supervise and urge the design, construction, installation and use entities to establish relevant self-check system.

When conducting supervision and check, if the administrative organ finds that there is potential safety hazard in the important equipment and facilities that directly concern the public security, human health and safety of life and property, it shall order the design, construction, installation and use entities to stop building, installing and using such equipment and facilities and to get right immediately.

Article 69 The decision-making administrative organ or its upper administrative organ may, under any of the following circumstances, annul an administrative license according to the request of the interested party or according to its functions:

(1) The functionaries of the administrative organ decide to approve an administrative license as the result of abusing their power and neglecting their duties;

(2) A decision on approving an administrative license is made due to the decision-makers' excess of their statutory power;

(3) A decision on approving an administrative license is made in violation of the statutory procedures;

(4) An applicant who doesn't meet the applying qualification or the statutory conditions has been approved of an administrative license;

(5) Other circumstances under which the administrative licenses may be annulled in accordance with the law.

Where a licensee obtains an administrative license through cheating, offering bribes or any other illegal methods, such administrative license shall be annulled;

Where the annul of an administrative license in accordance with the preceding two paragraphs may seriously impair the public interests, it shall not be annulled.

Where the annul of an administrative license in accordance with the first paragraph in this Article has impaired the legal rights and interests of the licensee, the administrative organ shall compensate for it in accordance with the law. Where an administrative license is annulled according to the second paragraph of this Article, the interests obtained by the licensee on the basis of this administrative license shall not be protected.

Article 70 In accordance with the law, an administrative organ shall, under any of the following circumstances, handle the procedures for the cancellation of the pertinent administrative licenses:

- (1) An administrative license fails to be extended at the expiry of its valid period;
- (2) An administrative license grants a citizen special qualification, but the citizen is dead or loses capacity for action;
- (3) A legal person or any other institution terminates in accordance with the law;
- (4) An administrative license is annulled or withdrawn, or the certificate for administrative license is revoked in light of the law;
- (5) The matters under an administrative license are unable to be implemented due to force majeure;
- (6) Other circumstances specified by the laws and regulations in which the administrative licenses shall be canceled.

Chapter VII Legal Liabilities

Article 71 Where an administrative organ establishes an administrative license in violation of Article 17 of the Law, it shall be ordered to get right by the relevant organ, or the administrative license shall be annulled in accordance with the law.

Article 72 Where an administrative organ and any of its functionaries violates any of the provisions of the Law under any of the following circumstances, it shall be ordered to get right by the superior administrative organ or the supervisory organ; if the circumstances are serious, the direct liable persons in charge and other direct liable persons shall be given an administrative sanction in accordance with the law:

- (1) Failing to accept the applications for administrative license that meet the statutory requirements;
- (2) Failing to display the materials in the offices that shall be displayed in accordance with the law;
- (3) Failing to perform the statutory duty of keeping the applicant and the interested party informed during the period of accepting, examining and deciding an administrative license;
- (4) For an applicant whose application materials are incomplete or inconsistent with the statutory form, it fails to inform, once and for all, the applicant of all the items that shall be supplemented or corrected;
- (5) Failing to explain why an application for the administrative license is rejected, or why the administrative license is disapproved in accordance with the law;
- (6) Failing to hold a hearing as required by the law.

Article 73 For any of the functionaries who asks for or accepts the property of others' or seeks for other interests when implementing an administrative license and exercising supervision and inspection, if he constitutes a crime, he shall be subject to criminal responsibilities; if the violation doesn't constitute a crime, he shall be given an administrative sanction in accordance with the law.

Article 74 When implementing an administrative license, an administrative organ is under any of the following circumstances shall be ordered to get right by its superior administrative organ or by the supervisory organ, the direct liable persons in charge and other direct liable persons shall be given an administrative sanction; if the violation constitute a crime, they shall be subject to criminal responsibilities.

- (1) Granting an administrative license to an applicant who doesn't meet the statutory requirements or making a decision about the approval of an administrative license by exceeding its statutory functions;
- (2) Failing to grant an administrative license to an applicant who meets the statutory requirements or to make a decision about the approval of the administrative license within the statutory time limit;

(3) Having made a decision on approving an administrative license, which shall be decided according to the results of bid invitation or auction, or the exam scores that the applicants get in the examination, without taking the forms of bid invitation, auction or examination, or inconsistent with the results of bid invitation or auction, or with the exam scores the applicants get.

Article 75 When implementing an administrative license, an administrative organ that charges fees without permission or fails to charges fees according to the statutory items and standards shall be ordered to refund the fees collected illegally by its superior administrative organ or by the supervisory organ. The direct liable persons in charge and other liable persons shall be given an administrative sanction in accordance with the law.

The fees collected in implementing an administrative license in accordance with the law are withheld, misappropriated, divided privately or divided in a disguised form shall be ordered to be refunded; the direct liable persons in charge and other direct liable persons shall be given an administrative sanction; those who constitute a crime shall be subject to criminal responsibilities.

Article 76 Where an administrative organ impairs the legitimate rights and interests of the parties concerned due to its illegal implementation of an administrative license, it shall make compensations in accordance with the compensation law of the state.

Article 77 Where an administrative organ fails to perform its supervisory functions or fails to do a good job in this aspect, which causes serious consequences, it shall be ordered to get right by its superior administrative organ or by the supervisory organ, the direct liable persons in charge and other direct liable persons shall be given an administrative sanction in accordance with the law; and those whose violation has constituted a crime shall be subject to criminal responsibilities.

Article 78 Where an applicant for administrative license conceals any relevant information or provides false materials in applying for an administrative license, the administrative organ shall not accept its application or shall not grant it such administrative license, and shall give it a warning; if such an application for administrative license directly concerns the public security, human health and safety of life and property, the applicant shall not re-apply for this administrative license within a year thereafter.

Article 79 A licensee that has obtained an administrative license by illegal means of cheating or offering bribes shall be given an administrative punishment by the administrative organ in accordance with the law; if the administrative license directly concerns public security, human health and safety of life and property, the applicant shall not re-apply for it within 3 years thereafter; if the licensee's violation has constituted any crime, he shall be subject to criminal liabilities in accordance with the law.

Article 80 Where a licensee commits any of the following acts, he shall be given an administrative punishment by the administrative organ in accordance with the law; if the offense constitutes a crime, it shall be subject to the criminal responsibilities according to law:

- (1) Altering, buying and selling at a profit, leasing or lending a certificate of administrative license, or transferring an administrative license by other illegal means;
- (2) Conducting activities that exceed the scope of an administrative license;
- (3) Concealing the relevant information from the administrative organ responsible for the supervision and check, offering false materials or refusing to offer authentic materials that reflect its activities;
- (4) Other illegal acts as provided for in the laws, regulations and rules.

Article 81 Without an administrative license, any of the citizens, legal persons or other institutions engaged in the activities under an administrative license shall be stopped by the administrative organ in accordance with the law, and shall be given an administrative punishment; those whose violation has constituted any crime shall be subject to criminal responsibilities.

Chapter VIII Supplementary Provisions

Article 82 In the Law, the time limit for the administrative organs to implement an administrative license shall be calculated according to the working days, not including the legal holidays and leaves.

Article 83 The Law shall be implemented as of July 1, 2004.

In accordance with Law, the legislative organs shall clean up the relevant regulations prior to the implementation of the Law; those inconsistent with the Law shall be abolished from the day when it is implemented.



[RSS Feeds](#)



[BOOKMARK](#)



[privacy policy](#) | [terms of use](#) | [sitemap](#) | [contact us](#) | [links](#) | © Lehman, Lee & Xu All rights reserved