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Error may let drivers erase DUIs

LAW ENFORCEMENT: Officials say the use of unlicensed breath testers in O.C. could let 4,700 drop drunken-driving cases from their records.

By **SUSAN KELLEHER**
The Orange County Register

More than 4,700 drunken drivers in Orange County could have their driving records cleared because the Sheriff's Department and other police agencies used unlicensed breath-testing machines, the state Department of Motor Vehicles said.

The breath-analyzing ma-

chines — which can determine whether a driver goes to jail and loses his license for driving under the influence of alcohol — were used for 18 months in 1997 and 1998 without licensing required by the state, records show.

Every police agency in Orange County except Huntington Beach used the BAC Datamaster machines, all of which are operated

under a single license issued to the sheriff's crime lab. Huntington Beach is licensed to use its own equipment.

The sheriff's crime-lab license allows it to service the Datamaster machines and check whether they are giving accurate readings of a suspect's blood-alcohol level.

State records show that the lab wasn't licensed for that purpose until June 25, 1998, but the Sheriff's Department allowed the equipment to be used on DUI suspects before that, even though other certified breath-testing equipment was available.

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Sheriff's spokesman Lt. Hector Rivera disputes the state's contention that the equipment was not properly licensed. The lab, he said, met its licensing requirement when it submitted required paperwork to the state Department of Health Services in January 1997. State officials, however, said the equipment was not certified until 18 months later, when the lab completed all of the

requirements.

A letter from the state health department, which licenses labs to use the equipment to test drunken-driving suspects, says it is still waiting for proof that a key component of the lab's procedures for checking accuracy is valid. The Sheriff's Department is allowed to use the equipment in the meantime.

"We are in compliance with state and federal guidelines or mandates concerning the operation of the Datamaster," Rivera said.

"Yeah, they are now," said

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