CHAPTER 29. FIRE PREVENTION

FIRE PREVENTION CODE
Act 207 of 1941

AN ACT to provide for the prevention of fires and the protection of persons and property from exposure to the dangers of fire or explosion; to authorize the investigation of fires and the discovery of crime or other offenses in relation thereto; to require the razing, repair, or alteration of buildings, and the clearing and improvement of premises which constitute a fire hazard or a menace to the peace, security, or safety of persons or property; to control the construction, use, and occupancy of buildings and premises in relation to safety, including fire safety; to provide for the certification of fire inspectors and the delegation of certain powers to those certified fire inspectors; to provide for the regulation of the storage and transportation of hazardous material; to provide for the issuance of certificates; to prohibit the use of certain fire extinguishers and fire extinguishing agents; to provide immunity from liability for certain persons; to provide for the administration and enforcement of this act; to prescribe penalties; to provide for the promulgation of rules; to provide for the assessment of fees; and to repeal acts and parts of acts.

History: 1941, Act 207, Imd. Eff. June 16, 1941;—Am. 1952, Act 113, Eff. Sept. 18, 1952;—Am. 1961, Act 102, Eff. Sept. 8, 1961;—Am. 1978, Act 3, Imd. Eff. Feb. 7, 1978;—Am. 1980, Act 247, Eff. Oct. 1, 1980;—Am. 1984, Act 314, Imd. Eff. Dec. 21, 1984;—Am. 2006, Act 187, Imd. Eff. June 19, 2006;—Am. 2006, Act 337, Imd. Eff. Aug. 15, 2006.

The People of the State of Michigan enact:

29.1 Definitions.

Sec. 1. As used in this act:

(a) "Bureau" means the bureau of fire services created in section 1b.

(b) "Director" means the director of the department of labor and economic growth.

(c) "Department" means the department of labor and economic growth.

(d) "Building" means a structure, framework, or place for housing 1 or more persons or a tank, receptacle, or container for the storage of commodities or other materials.

(e) "Premises" means a lot or parcel of land, exclusive of buildings, and includes a parking lot, tourist camp, trailer camp, airport, stockyard, junkyard, wharf, pier, and any other place or enclosure.

(f) "Fire hazard" means a building, premises, place, or thing that, because of its nature, location, occupancy, condition, or use, may cause loss, damage, or injury to persons or property by fire, explosion, or action of the elements.

(g) "Person" means an individual, partnership, corporation, or voluntary association.

(h) "Owner" means a person with an ownership interest in property, and includes a trustee, a board of trustees of property, and a person with a freehold interest in property. Owner does not include a lessee or mortgagee of property.

(i) "Organized fire department" means a department, authority, or other governmental entity that safeguards life and property from damage from explosion, fire, or disaster and that provides fire suppression and other related services in this state. Organized fire department includes any lawfully organized firefighting force in this state.

(j) "State fire marshal" means the individual appointed by the director under section 1b.

(k) "Firm" means a sole proprietorship, partnership, association, or corporation.

(*l*) "Vehicle" means a tank vehicle or bulk transportation vehicle, excluding the tractor of a tank vehicle or bulk transportation vehicle.

(m) "Hazardous material" means explosives, pyrotechnics, flammable gas, flammable compressed gas, nonflammable compressed gas, flammable liquid, combustible liquid, oxidizing material, poisonous gas, poisonous liquid, irritating material, etiologic material, radioactive material, corrosive material, or liquefied petroleum gas.

(n) "Firefighter" means a member of an organized fire department, including a volunteer member or a member paid on call, who is responsible for, or is in a capacity that includes responsibility for, the extinguishment of fires, the directing of the extinguishment of fires, the prevention and detection of fires, and the enforcement of the general fire laws of this state. Firefighter does not include a person whose job description, duties, or responsibilities do not include direct involvement in fire suppression.

(o) "Place of public assemblage" means a room or other space in a building if the room or other space can accommodate 50 or more individuals, including connected rooms and spaces that share a common means of entrance and egress. Place of public assemblage does not include a private 1- or 2-family dwelling.

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(p) "Fire chief" or "chief of an organized fire department" means the chief operating officer of an organized fire department.

(q) "Board" means the state fire safety board created in section 3b.

(r) "Terminal" means a location where an aboveground liquid storage tank containing a flammable liquid is located.

(s) "Attended terminal" means a terminal, other than a remote control terminal, where an individual knowledgeable in the aboveground liquid storage tank filling operation is physically in attendance and control during the entire delivery of a flammable liquid and has as his or her primary responsibility supervising the storage tank filling operation.

(t) "Unattended terminal" means a terminal, other than a remote control terminal or an attended terminal, where an individual knowledgeable in the aboveground liquid storage tank filling operation is only in attendance during a portion of the time when a flammable liquid is being delivered or the individual's primary responsibility is a function other than supervising the storage tank filling operation.

(u) "Remote control terminal" means a terminal where filling an aboveground liquid storage tank with a flammable liquid is controlled at a remote location by the individual who conveyed the flammable liquid to the terminal.

(v) "Pipeline" means a pipeline that conveys a flammable liquid from a crude petroleum wellhead collection site to a refinery or terminal or from a refinery to a terminal. Pipeline does not mean gathering lines that convey a flammable liquid from the wellhead to a crude petroleum collection tank or piping used in a plant operation.

(w) "Fire alarm system" means an assemblage of components that indicates or provides a warning of a fire emergency, installation of which is required by the bureau under rules promulgated under section 3c.

(x) "Fire suppression system" means an integrated combination of a fire alarm system and fire suppression equipment that, as a result of predetermined temperature, rate of temperature rise, products of combustion, flame, or human intervention, will discharge a fire extinguishing substance over a fire area, installation of which is required by the bureau under rules promulgated under section 3c.

(y) "Flammable liquid" means a liquid with a flash point below 100 degrees Fahrenheit and a vapor pressure that does not exceed 40 pounds per square inch absolute at 100 degrees Fahrenheit.

(z) "Combustible liquid" means a liquid with a flash point at or above 100 degrees Fahrenheit and below 200 degrees Fahrenheit.

(aa) "Owner of a vehicle" means 1 or more of the following:

(*i*) A person who rents or leases the vehicle or has the exclusive use of the vehicle for a period greater than 30 days.

(*ii*) Subject to subparagraph (*iii*), a person who holds legal title to the vehicle.

(*iii*) If the vehicle is the subject of a conditional sale or lease agreement with the right of purchase upon performance of the conditions in the agreement, and if the conditional vendee or lessee has the immediate right of possession, or if a mortgagor of a vehicle is entitled to possession, the conditional vendee or lessee or mortgagor.

(bb) "Noncommercial transportation" means the occasional transportation of personal property by an individual not for compensation or in the furtherance of a commercial enterprise, and transportation not regulated under the motor carrier safety act of 1963, 1963 PA 181, MCL 480.11 to 480.25.

History: 1941, Act 207, Imd. Eff. June 16, 1941;—CL 1948, 29.1;—Am. 1973, Act 199, Imd. Eff. Jan. 11, 1974;—Am. 1978, Act 3, Imd. Eff. Feb. 7, 1978;—Am. 1980, Act 247, Eff. Oct. 1, 1980;—Am. 1981, Act 186, Imd. Eff. Dec. 23, 1981;—Am. 1982, Act 144, Eff. Oct. 28, 1982;—Am. 1987, Act 70, Imd. Eff. June 29, 1987;—Am. 1996, Act 152, Imd. Eff. Mar. 25, 1996;—Am. 2006, Act 189, Imd. Eff. June 19, 2006.

Compiler's note: For transfer of powers and duties of the state fire safety board from the department of state police to the department of consumer and industry services, see E.R.O. No. 1997-2, compiled at MCL 29.451 of the Michigan Compiled Laws.

For transfer of certain authority, powers, functions, and responsibilities of the state fire marshal and the fire marshal division of the department of state police to the director of the department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

Former law: See Act 79 of 1911; Act 178 of 1915, being CL 1929, §§ 603 to 620.

Administrative rules: R 29.2801 et seq. of the Michigan Administrative Code.

29.1a Short title.

Sec. 1a. This act shall be known and may be cited as the “fire prevention code”.

History: Add. 1945, Act 86, Imd. Eff. Apr. 11, 1945;—CL 1948, 29.1a;—Am. 1980, Act 247, Eff. Oct. 1, 1980.

Compiler's note: For transfer of certain authority, powers, functions, and responsibilities of the state fire marshal and the fire marshal division of the department of state police to the director of the department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

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29.1b Bureau of fire services; creation; state fire marshal as head of bureau; membership; powers and duties; financial transactions and records.

Sec. 1b. (1) The bureau of fire services is created in the department.

(2) The governor shall appoint a state fire marshal to serve as the head of the bureau. The state fire marshal shall possess not less than 10 years' experience in 1 or more of the following areas:

(a) Safeguarding life and property from damage from explosion, fire, disaster, or other fire-related emergencies.

(b) Delivery of fire suppression or related fire services or emergency response services.

(c) Fire investigation or the provision of related investigation services to law enforcement or fire service agencies.

(d) Training of firefighters or fire investigators.

(e) Enforcement of the general fire laws of this state.

(3) The bureau shall include the following:

(a) The state fire marshal.

(b) The firefighters training council created under section 3 of the firefighters training council act, 1966 PA 291, MCL 29.363.

(c) The board.

(d) Any other agency, board, or commission designated as a part of the bureau by law.

(4) The bureau shall have all of the authority, powers, duties, functions, and responsibilities transferred from the fire marshal division of the department of state police to the department under Executive Reorganization Order No. 2003-1, MCL 445.2011. The department shall perform the budgeting, procurement, and related management functions of the bureau. The bureau shall administer the authority, powers, duties, functions, and responsibilities vested in the bureau and may make internal organizational changes to ensure efficient administration.

(5) To implement the amendatory act that added this section, the state budget director shall determine and authorize the most efficient methods for the bureau to handle financial transactions and records in the financial management system of this state.

History: Add. 2006, Act 189, Imd. Eff. June 19, 2006.

Compiler's note: Enacting section 1 of Act 189 of 2006 provides:

"Enacting section 1. This amendatory act does not affect the transfer of authority, powers, duties, functions, and responsibilities under this act to the department of environmental quality under Executive Reorganization Order Nos. 1997-2 and 1998-2, MCL 29.451 and 29.461, or to the department of state police and the director of the department of state police under Executive Reorganization Order No. 2003-1, MCL 445.2011."

For transfer of certain authority, powers, functions, and responsibilities of the state fire marshal and the fire marshal division of the department of state police to the director of the department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

29.1c Bureau of fire services; duties; powers.

Sec. 1c. (1) The bureau shall do all of the following:

(a) Serve as a focal point for matters relating to fire services in this state.

(b) Coordinate with the fire investigation unit of the department of state police activities relating to fire investigations, fire investigator training, and the provision of related assistance to local law enforcement and fire service agencies.

(c) Provide forms that cities, villages, and townships may use to grant permits for fireworks under section 243b of the Michigan penal code, 1931 PA 328, MCL 750.243b.

(2) The bureau may do 1 or more of the following:

(a) Establish a program for the reporting and central compilation of fire service personnel credentials, including, but not limited to, qualifications, tests, examinations, certifications, educational experience, and training.

(b) Participate in the child fire setting and juvenile arson program.

(c) Participate in the national fire incident reporting system.

(d) Operate an accelerant detecting canine program.

(e) All other things necessary to achieve the objectives and purposes of the bureau under this act and other laws that relate to the purposes and responsibilities of the bureau.

(3) The state fire marshal may organize or reorganize the bureau and appoint deputies, assistants, and employees with titles, powers, and duties related to the administration and enforcement of this act.

History: Add. 2006, Act 189, Imd. Eff. June 19, 2006.

Compiler's note: For transfer of certain authority, powers, functions, and responsibilities of the state fire marshal and the fire

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marshal division of the department of state police to the director of the department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

29.1d State fire marshal; duties.

Sec. 1d. The state fire marshal shall do all of the following:

(a) Oversee and direct fire service programs in this state that are vested in the bureau.

(b) Perform the powers and duties of the state fire marshal under this act in a manner that maximizes the effective administration of the fire service of this state.

(c) Serve as policy advisor to the governor on the development and administration of fire service policies, programs, and procedures.

(d) Participate in the development, review, and implementation of the Michigan hazard mitigation plan.

(e) Provide information for the development and regular updating of the Michigan hazard analysis, including the structural fires element, and the Michigan emergency management plan required under section 7a of the emergency management act, 1976 PA 390, MCL 30.407a.

History: Add. 2006, Act 189, Imd. Eff. June 19, 2006.

Compiler's note: For transfer of certain authority, powers, functions, and responsibilities of the state fire marshal and the fire marshal division of the department of state police to the director of the department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

29.1e Uniforms, equipment, and other articles; prohibited acts; violation; penalty; "facsimile" defined.

Sec. 1e. (1) The bureau shall provide the state fire marshal and any deputy state fire marshals with suitable uniforms, equipment, and other articles necessary to carry out this act. The state fire marshal shall prescribe the uniforms and equipment for the state fire marshal and any deputy state fire marshals.

(2) A person shall not sell, furnish, possess, wear, exhibit, display, or use a badge, patch, uniform, or facsimile of a badge, patch, or uniform of the state fire marshal or a deputy state fire marshal unless 1 or more of the following apply:

(a) The person is authorized to do so by the state fire marshal.

(b) The person is the state fire marshal or a deputy state fire marshal.

(c) The badge is a retirement badge and is in the possession of a retired state fire marshal or deputy state fire marshal.

(d) The badge, patch, or uniform is the badge, patch, or uniform of a deceased state fire marshal or deputy state fire marshal and is in the possession of his or her spouse, child, or next of kin.

(e) The person is a collector of badges, patches, uniforms, or facsimiles. A badge, patch, uniform, or facsimile possessed as part of a collection shall be in a container or display case when being transported.

(f) The person is in the theatrical profession and wears the badge, patch, uniform, or facsimile while actually engaged in following that profession.

(3) A person who violates subsection (2) is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $500.00, or both. A charge under or a conviction or punishment for a violation of this section does not prevent a person from being charged with, convicted of, or punished for any other violation of law arising from the same transaction.

(4) As used in this section, "facsimile" includes both an exact replica of an existing item and a close imitation of an existing item.

History: Add. 2006, Act 189, Imd. Eff. June 19, 2006.

Compiler's note: For transfer of certain authority, powers, functions, and responsibilities of the state fire marshal and the fire marshal division of the department of state police to the director of the department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

29.2 Administration and enforcement of act.

Sec. 2. Except as otherwise provided in this act, the administration and enforcement of this act are the responsibility of the bureau.

History: 1941, Act 207, Imd. Eff. June 16, 1941;—CL 1948, 29.2;—Am. 1965, Act 200, Imd. Eff. July 16, 1965;—Am. 1973, Act 199, Imd. Eff. Jan. 11, 1974;—Am. 2006, Act 189, Imd. Eff. June 19, 2006.

Compiler's note: For transfer of certain authority, powers, functions, and responsibilities of the state fire marshal and the fire marshal division of the department of state police to the director of the department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties of the department of environmental quality under the aboveground storage tank program from department of environmental quality to bureau of fire services, department of licensing and regulatory affairs, see E.R.O. No. 2012-7, compiled at MCL 29.462.

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29.2a Rules; promulgation; ad hoc committees.

Sec. 2a. (1) Rules promulgated under this act shall be promulgated pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(2) The state fire marshal, after consultation with the board, may appoint ad hoc committees to assist the bureau, including the board and the state fire marshal, in promulgating rules under this act. The committees shall consist of as many members as the state fire marshal considers necessary, but shall include at least 2 persons who are representatives of 1 or more fire associations having a direct interest in the rules and at least 1 person who is representative of the persons owning facilities regulated by this act.

(3) The committees appointed under subsection (2) shall serve during the promulgation of the rules, may make recommendations on the content of the rules, and may recommend revisions in the rules.

(4) The board shall make recommendations on the content of the rules promulgated under this act and may recommend revisions in proposed rules or existing rules.

History: Add. 1978, Act 3, Imd. Eff. Feb. 7, 1978;—Am. 1980, Act 247, Eff. Oct. 1, 1980;—Am. 2006, Act 189, Imd. Eff. June 19, 2006.

Compiler's note: For transfer of certain authority, powers, functions, and responsibilities of the state fire marshal and the fire marshal division of the department of state police to the director of the department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties of the department of environmental quality under the aboveground storage tank program from department of environmental quality to bureau of fire services, department of licensing and regulatory affairs, see E.R.O. No. 2012-7, compiled at MCL 29.462.

Administrative rules: R 28.101 et seq.; R 29.1 et seq.; R 29.501 et seq.; R 29.551 et seq.; R 29.601 et seq.; R 29.1101 et seq.; R 29.2201 et seq.; R 29.2301 et seq.; R 29.2501 et seq.; R 29.2801 et seq.; R 29.3101 et seq.; and R 29.3801 et seq. of the Michigan Administrative Code.

29.2b Delegation of authority to enforce fire safety rules; certification of individuals; rules; ordinances; fire inspectors; duration, renewal, and revocation of delegated authority; review of decisions.

Sec. 2b. (1) On request by resolution of a governing body of an organized fire department, the bureau may delegate to 1 or more individuals employed as full-time fire inspectors by the organized fire department and certified under subsection (2) the authority to enforce 1 or more of the fire safety rules promulgated under this act.

(2) The bureau shall promulgate rules as provided in this section establishing qualifications for certification of an individual described in subsection (1). The state fire marshal shall certify an individual who meets the qualifications established by the bureau. The delegation of authority under subsection (1) does not prohibit a city, village, or township from adopting fire safety ordinances or a city, village, township, or other governmental entity otherwise authorized from employing persons as fire inspectors.

(3) The authority delegated under subsection (1) may be delegated for not more than 2 years, but may be renewed under subsection (1) for subsequent 2-year periods. The authority shall be revoked by the bureau, if the bureau finds that the employee is not in compliance with subsection (1) or if the governing body of the employing city, village, or township, by resolution, requests the revocation.

(4) The board shall review all decisions of the bureau delegating or revoking authority under subsection (1) and may overrule a decision if it is made contrary to subsection (1).

History: Add. 1980, Act 247, Eff. Oct. 1, 1980;—Am. 2006, Act 189, Imd. Eff. June 19, 2006.

Compiler's note: For transfer of powers and duties of the fire marshal division programs relating to coordination of fire inspector training programs, including state certified fire inspector school and the biennial recertification of fire inspectors, from the department of state police to the department of consumer and industry services, see E.R.O. No. 1997-2, compiled at MCL 29.451 of the Michigan Compiled Laws.

For transfer of certain authority, powers, functions, and responsibilities of the state fire marshal and the fire marshal division of the department of state police to the director of the department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

Administrative rules: R 28.101 et seq.; R 29.1 et seq.; R 29.501 et seq.; R 29.551 et seq.; R 29.601 et seq.; R 29.1101 et seq.; R 29.2201 et seq.; R 29.2301 et seq.; R 29.2501 et seq.; R 29.2801 et seq.; R 29.3101 et seq.; and R 29.3801 et seq. of the Michigan Administrative Code.

29.2c Hospital operation and maintenance inspection fees; plan review and construction inspection fees for hospitals and schools; disposition; establishment of fee schedule.

Sec. 2c. (1) To implement and enforce this act, the bureau may charge hospitals operation and maintenance inspection fees and may charge hospitals and schools plan review and construction inspection fees as provided in this section.

(2) Fees charged under subsection (1) shall be deposited in the general fund in a restricted account. The

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fees collected under this act and placed in the restricted account shall be used only to fund the services for which the fees were collected and shall remain in the restricted account at the end of the fiscal year.

(3) The fees charged under this section shall be established in a fee schedule contained in each fiscal year's appropriations act for the department.

History: Add. 1996, Act 147, Imd. Eff. Mar. 25, 1996;—Am. 2006, Act 189, Imd. Eff. June 19, 2006.

Compiler's note: For transfer of certain authority, powers, functions, and responsibilities of the state fire marshal and the fire marshal division of the department of state police to the director of the department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

29.3 Repealed. 1965, Act 200, Imd. Eff. July 16, 1965.

Compiler's note: The repealed section authorized commissioner of state police to promulgate rules, and provided for judicial review.

29.3a Repealed. 1978, Act 3, Imd. Eff. Feb. 7, 1978.

Compiler's note: The repealed section pertained to adoption and promulgation of fire safety rules and standards.

29.3b State fire safety board; creation; appointment, qualifications, terms, and removal of members; quorum; voting; hearing; chairperson; regular and special meetings; conducting business at public meeting; expenses; appropriation; minutes; record; availability of certain writings to public; confidentiality; reports, analyses, or summaries.

Sec. 3b. (1) The state fire safety board is created in the bureau and shall consist of 17 members who are residents of this state. Of the members:

(a) Three shall be representatives of organized fire departments in the Lower Peninsula.

(b) One shall be a representative of organized fire departments in the Upper Peninsula.

(c) One shall be a representative of hospital administration.

(d) One shall be a registered professional engineer.

(e) One shall be a registered architect.

(f) One shall be a representative of the nursing home industry.

(g) One shall be an individual who meets any of the following criteria:

(*i*) The individual is a member of the governing board of a school district, public school academy, or intermediate school district.

(*ii*) The individual is employed by a school district, a public school academy, or an intermediate school district in an administrative capacity.

(*iii*) The individual is a member of, or is employed by, a statewide association representing school board members or school administrators.

(h) One shall be a representative of the building trades.

(i) One shall be a representative of persons who own a place of public assemblage.

(j) One shall be a representative of the flammable liquids industry.

(k) One shall be a representative of the liquefied petroleum gas industry or the flammable compressed gases industry.

(*l*) One shall be a representative of the chemical manufacturing industry.

(m) One shall be a licensed electrical contractor or master electrician.

(n) One shall be a representative of persons who own adult foster care facilities.

(o) One shall be the state fire marshal or an employee of the bureau designated by the state fire marshal.

(2) Board members, other than the state fire marshal or the state fire marshal's designee, shall be appointed by the governor with the advice and consent of the senate. The members appointed by the governor shall have the qualifications the governor considers essential to enable them to competently decide matters of fire prevention and fire safety for the establishments or facilities specified in section 3c(1).

(3) Each member appointed by the governor before January 1, 2007 shall be appointed for a term of 3 years. Each member appointed by the governor after December 31, 2006 shall be appointed for a term of 4 years. Continued absence of a member appointed by the governor from regular or special meetings of the board makes the member subject to immediate removal by the governor.

(4) A majority of the members appointed to and serving on the board constitutes a quorum. Affirmative votes of at least a majority of the members appointed to and serving on the board is required to decide any question, action, or business of the board, except that a hearing of a contested case may be conducted before 3 board members who, after hearing the facts and considering the evidence and testimony, shall recommend the action the board should take.

(5) The governor shall designate 1 of the members of the board to serve as chairperson of the board at the pleasure of the governor. Annually, the board may elect from its members a vice-chairperson of the board.

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Each year, the board shall hold not fewer than 4 regular meetings. Special meetings may be called by the chairperson or upon written request of 5 board members. Meetings shall be held at a location in this state designated by the chairperson.

(6) The business of the board shall be conducted at a public meeting that complies with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(7) Each appointed member of the board is entitled to actual and necessary expenses incurred in the performance of his or her duties as a member of the board, subject to available appropriations.

(8) The board shall keep minutes of its proceedings, showing the vote of each member on each proposition or question, or indicating if a member is absent or fails to vote. A record of board action and business shall be made and maintained.

(9) Except as provided in subsections (10) and (11), a writing prepared, owned, used, in the possession of, or retained by the board, the department, their agents, or others in the performance of an official function under this act is subject to the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(10) A person regulated under this act may designate a report or other information furnished to or obtained by the department, its agents, or others under this act as being only for confidential use by the department, its agents, or others in the performance of an official function. If the department, its agents, or others receive a request under section 5 of the freedom of information act, 1976 PA 442, MCL 15.235, for a public record that includes information designated as confidential or information obtained under section 4, the department, its agents, or others shall notify the person regulated under this act. The person regulated under this act has 30 days after receipt of the notice to demonstrate to the department, its agents, or others, that the information designated as confidential or information obtained under section 4 constitutes a trade secret or confidential business information that, if disclosed, may cause a competitive disadvantage. The department, its agents, or others shall grant the request for the information unless the person regulated under this act makes a satisfactory demonstration to the department, its agents, or others that disclosure of the information may cause a competitive disadvantage. If a dispute occurs between the person regulated under this act and the person requesting the information, the board shall make a final decision to grant or deny the request.

(11) This act does not prevent the use of a record or information by the department to compile or publish reports, analyses, or summaries of general conditions for the prevention of fire, or the use of a record or information to administer or enforce federal, state, or local fire prevention laws. However, a report, analysis, summary, or use shall not directly or indirectly publicly reveal information otherwise confidential under this section.

History: Add. 1965, Act 200, Imd. Eff. July 16, 1965;—Am. 1968, Act 321, Imd. Eff. July 3, 1968;—Am. 1970, Act 212, Imd. Eff. Sept. 29, 1970;—Am. 1978, Act 3, Imd. Eff. Feb. 7, 1978;—Am. 1980, Act 247, Eff. Oct. 1, 1980;—Am. 1996, Act 152, Imd. Eff. Mar. 25, 1996;—Am. 2006, Act 189, Imd. Eff. June 19, 2006.

Compiler's note: For transfer of certain authority, powers, functions, and responsibilities of the state fire marshal and the fire marshal division of the department of state police to the director of the department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

29.3c Rules; review and consideration; variation of application of rule; board as hearing body; modification of ruling or interpretation; decision; exemption.

Sec. 3c. (1) The bureau shall promulgate rules as provided under section 2a pertaining to fire safety requirements for the construction, operation, or maintenance of all of the following:

(a) Schools and dormitories, including state supported schools, colleges, and universities and school, college, and university dormitories.

(b) Buildings owned or leased by this state.

(c) A health facility or agency as defined in section 20106 of the public health code, 1978 PA 368, MCL 333.20106.

(d) Places of public assemblage.

(e) Penal facilities as described in section 62 of the corrections code of 1953, 1953 PA 232, MCL 791.262.

(f) Mental facilities as described in section 135 of the mental health code, 1974 PA 258, MCL 330.1135.

(2) The bureau shall promulgate other rules as provided in section 2a as necessary to implement this act.

(3) Consistent with Executive Reorganization Order Nos. 1997-2 and 1998-2, MCL 29.451 and 29.461, the department of environmental quality shall promulgate rules pertaining to all of the following:

(a) Fire safety requirements for the construction, operation, and maintenance of dry cleaning establishments that use flammable liquids.

(b) The storage, transportation, and handling of liquefied petroleum gas and for the storage, noncommercial transportation, and handling of other hazardous materials to the extent authorized by federal law.

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(4) Rules promulgated under this act shall be consistent with recognized good practice as evidenced by standards adopted by nationally recognized authorities in the field of fire protection. Experiences identified in the fire incident reports received by this state may be considered by the board and the bureau when reviewing rules promulgated or considering promulgation of new rules under this act.

(5) The bureau shall promulgate rules as provided under section 2a for the certification of a firm that does any of the following:

(a) Installs, modifies, or documents the installation or modification of a fire suppression system.

(b) Documents the installation or modification of a fire alarm system.

(c) Performs testing, servicing, inspections, or maintenance that has not been exempted by the rules promulgated by the bureau on fire alarm systems or fire suppression systems.

(d) Submits a drawing, plan, or specification of a fire alarm system or fire suppression system to the bureau for approval under section 29, except an architect or professional engineer licensed under article 20 of the occupational code, 1980 PA 299, MCL 339.2001 to 339.2014.

(6) A person may request a variation of the application of a rule promulgated under this act by applying to the state fire marshal. The state fire marshal may make a variation upon a finding that the variation does not result in a hazard to life or property. The finding shall be transmitted to the person requesting the variation and entered into the records of the bureau. If the variation requested concerns a building, the finding shall also be transmitted to the governing body of the city, village, or township in which the building is located.

(7) The entire board, except as provided in section 3b(4), shall act as a hearing body in accordance with the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, to review and decide a contested case or a ruling of the state fire marshal interpreting or applying the rules. After a hearing, the board may vary the application of a rule or may modify the ruling or interpretation of the state fire marshal if the enforcement of the ruling or interpretation would do manifest injustice and would be contrary to the spirit and purpose of the rules or the public interest.

(8) A decision of the board to vary the application of a rule, or to modify or change a ruling of the state fire marshal, shall specify the variation, modification, or change made, the conditions upon which it is made, and the reasons for the variation, modification, or change.

(9) If a local school board passed a resolution calling for an election on the question of the issuance of bonds for the construction or remodeling of or an addition to a school, if the election was held not later than September 28, 1989 and approved issuance of the bonds, and if construction was reasonably anticipated to begin not later than June 30, 1990, the construction, remodeling, or addition to that school was exempt from the rules promulgated by the fire safety board entitled "schools, colleges, and universities", former R 29.301 to R 29.321 of the Michigan administrative code, filed with the secretary of state on July 14, 1989 and effective on July 29, 1989. The construction, remodeling, or addition to that school was, however, subject to the standards contained in rules promulgated by the board entitled "school fire safety", former R 29.1 to R 29.298 of the Michigan administrative code.

History: Add. 1965, Act 200, Imd. Eff. July 16, 1965;—Am. 1968, Act 321, Imd. Eff. July 3, 1968;—Am. 1970, Act 212, Imd. Eff. Sept. 29, 1970;—Am. 1978, Act 3, Imd. Eff. Feb. 7, 1978;—Am. 1980, Act 247, Eff. Oct. 1, 1980;—Am. 1982, Act 144, Eff. Oct. 28, 1982;—Am. 1989, Act 282, Imd. Eff. Dec. 26, 1989;—Am. 1990, Act 132, Imd. Eff. June 26, 1990;—Am. 1996, Act 152, Imd. Eff. Mar. 25, 1996;—Am. 2006, Act 189, Imd. Eff. June 19, 2006.

Compiler's note: Section 2 of Act 144 of 1982 provides: “(1) Except as provided in subsection (2), this amendatory act shall take effect 6 months after the date of enactment.

“(2) Section 3c(4) shall take effect upon the date of enactment.”

This amendatory act was enacted on April 28, 1982.

R 29.301 to R 29.321 of the Michigan Administrative Code, filed with the Secretary of State on July 14, 1989, and referred to in subsection (9), took effect August 1, 1989.

Enacting section 1 of Act 189 of 2006 provides:

"Enacting section 1. This amendatory act does not affect the transfer of authority, powers, duties, functions, and responsibilities under this act to the department of environmental quality under Executive Reorganization Order Nos. 1997-2 and 1998-2, MCL 29.451 and 29.461, or to the department of state police and the director of the department of state police under Executive Reorganization Order No. 2003-1, MCL 445.2011."

For transfer of certain authority, powers, functions, and responsibilities of the state fire marshal and the fire marshal division of the department of state police to the director of the department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties of the department of environmental quality under the aboveground storage tank program from department of environmental quality to bureau of fire services, department of licensing and regulatory affairs, see E.R.O. No. 2012-7, compiled at MCL 29.462.

Administrative rules: R 29.501 et seq.; R 29.551 et seq.; R 29.1501 et seq.; R 29.1601 et seq.; R 29.1701 et seq.; R 29.1801 et seq.; R 29.1901 et seq.; R 29.2001 et seq.; R 29.2101 et seq.; R 29.2201 et seq.; R 29.2301 et seq.; R 29.2801 et seq.; R 29.3101 et seq.; R 29.4001 et seq.; and R 29.5101 et seq. of the Michigan Administrative Code.

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29.3d Repealed. 2006, Act 189, Imd. Eff. June 19, 2006.

Compiler's note: The repealed section pertained to rules relating to moving picture theaters.

29.3e Rules pertaining to uniform fire safety requirements.

Sec. 3e. (1) The bureau shall promulgate rules as provided under section 2a pertaining to uniform fire safety requirements for the operation and maintenance, but not the construction, of commercial buildings, industrial buildings, and residential buildings, excluding 1- and 2-family dwellings and mobile homes.

(2) The state fire marshal shall consult with the board with respect to developing rules for the delegation of authority to firefighters and fire chiefs.

History: Add. 1980, Act 247, Eff. Oct. 1, 1980;—Am. 2006, Act 189, Imd. Eff. June 19, 2006.

Administrative rules: R 29.1601 et seq. of the Michigan Administrative Code.

Compiler's note: For transfer of certain authority, powers, functions, and responsibilities of the state fire marshal and the fire marshal division of the department of state police to the director of the department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

29.4 Fire incident report; report of fire by fire insurance company; reporting fires where arson suspected; request for release of information relative to fire loss; notice and information where incendiary means suspected; liability for furnishing information; confidentiality; testimony in civil action or administrative hearing; "insurance company" defined.

Sec. 4. (1) The chief of each organized fire department, or the clerk of each city, village, or township that does not have an organized fire department, immediately after the occurrence of fire within the official's jurisdiction resulting in loss of life or property, shall make and file with the bureau a complete fire incident report of the fire. The report shall be made on and according to forms supplied by the bureau.

(2) Each fire insurance company authorized to do business in this state on request shall promptly furnish to the bureau information in the company's possession concerning a fire occurring in this state. The report shall be in addition to and not in place of any other report required by law to be made by the company to other state agencies.

(3) A fire and casualty insurance company may contact directly the bureau or the chief of an organized fire department to report fires if the company suspects arson.

(4) The state fire marshal, the chief of an organized fire department, a firefighter or an employee of an organized fire department acting under the authority of the chief of the organized fire department, a peace officer, or any other fire prevention or fire department official designated by the state fire marshal may request in writing on a form prescribed and furnished by the state fire marshal that an insurance company or authorized agent of an insurance company investigating a fire loss of real or personal property release all information in possession of the company or an agent of the company relative to that loss. The company or agent shall release the information to and cooperate with each official authorized to request the information under this subsection. The information to be provided shall include all of the following:

(a) Each insurance policy relevant to a fire loss under investigation and each application for the policy.

(b) The policy premium payment records of a policy described in subdivision (a).

(c) A history of previous claims made by the insured for fire loss.

(d) Material relating to the investigation of the loss, including statements of any person, proof of loss, and other relevant evidence.

(5) If an insurance company has reason to suspect that a fire loss to the real or personal property of a policyholder of the company was caused by incendiary means, the company shall notify the bureau and shall furnish the bureau with all relevant material acquired during its investigation of the fire loss.

(6) In the absence of fraud or malice, an insurance company or a person who furnishes information on behalf of an insurance company is not liable for damages in a civil action or subject to criminal prosecution for an oral or written statement made or other action taken that is necessary to supply the information required under this section.

(7) Officials and other persons receiving information furnished pursuant to subsection (4) shall hold the information in confidence until release of the information is required in the course of or pursuant to a criminal or civil proceeding. A person described in subsection (4) may be required to testify as to information in his or her possession regarding a fire loss of real or personal property in any civil action or administrative hearing held under the insurance code of 1956, 1956 PA 218, MCL 500.100 to 500.8302, in which a person seeks recovery under a policy against an insurance company for the fire loss or files a complaint with the commissioner of the office of financial and insurance services relative to the refusal of an insurance company to pay under a policy for a fire loss sustained by the person.

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(8) As used in this section, "insurance company" means an insurer authorized to transact property, fire, or casualty insurance in this state and an agent of the insurer, and includes an insurance association, pool, or facility created and operating under the insurance code of 1956, 1956 PA 218, MCL 500.100 to 500.8302.

History: 1941, Act 207, Imd. Eff. June 16, 1941;—CL 1948, 29.4;—Am. 1973, Act 199, Imd. Eff. Jan. 11, 1974;—Am. 1978, Act 3, Imd. Eff. Feb. 7, 1978;—Am. 1978, Act 160, Imd. Eff. May 22, 1978;—Am. 1980, Act 247, Eff. Oct. 1, 1980;—Am. 1980, Act 516, Imd. Eff. Jan. 26, 1981;—Am. 2006, Act 189, Imd. Eff. June 19, 2006.

Compiler's note: For transfer of certain authority, powers, functions, and responsibilities of the state fire marshal and the fire marshal division of the department of state police to the director of the department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

29.5 Hazardous materials or other substances.

Sec. 5. Hazardous materials or other substances, including alcohol, gunpowder, dynamite, crude petroleum or any of its products, fuel oils, pyroxylin, combustible finishes, and other commodities of a similar nature or quality shall be manufactured, kept or stored, sold, transported, or otherwise handled or disposed of in a manner and by a method as not to constitute a fire hazard or a menace to the public peace, health, or safety, or to endanger or cause loss, injury, or damage to persons or property.

History: 1941, Act 207, Imd. Eff. June 16, 1941;—CL 1948, 29.5;—Am. 1968, Act 321, Imd. Eff. July 3, 1968;—Am. 1973, Act 199, Imd. Eff. Jan. 11, 1974;—Am. 1978, Act 3, Imd. Eff. Feb. 7, 1978.

Compiler's note: For transfer of certain authority, powers, functions, and responsibilities of the state fire marshal and the fire marshal division of the department of state police to the director of the department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

29.5a Inspection of vehicle transporting hazardous material; violation; notice of condemnation; allowing vehicle to proceed to make deliveries; return and repair of vehicle; impounding vehicle; temporary release; notice of correction of conditions; reinspection; release upon compliance and payment of expenses; notice; conduct by official.

Sec. 5a. (1) The motor carrier division of the department of state police, the chief of an organized fire department or police department, a peace officer, or a firefighter in uniform acting under the orders and directions of the local fire chief may inspect a vehicle transporting a hazardous material. Subject to subsection (3), if upon inspection a vehicle is found to be in violation of the rules with respect to safety equipment, the motor carrier division or the inspecting chief, firefighter, or peace officer shall attach to the vehicle a notice identifying the vehicle and stating that it is condemned against further use in the transportation of hazardous material, and listing the violations found. If the vehicle is en route to a destination where its load is to be delivered, the motor carrier division, chief, firefighter, or peace officer, except as otherwise provided in this act, shall allow the vehicle to proceed to make deliveries after which the vehicle shall be returned to its base or customary place of maintenance and repair or taken to a suitable place for repair. If, upon inspection, a vehicle while en route to a delivery destination is found to be in a condition that makes it likely that further operation under normal road and traffic conditions will result in spillage of hazardous material, the motor carrier division, chief, firefighter, or peace officer shall have the vehicle impounded. The vehicle shall be impounded at a suitable place where the hazardous material being transported can be unloaded with reasonable safety, and until the unloading is accomplished and arrangements are made to return the vehicle with reasonable safety to its base or customary place of maintenance and repair, or to move the vehicle to a suitable place of repair. If, upon inspection, the braking, lighting, steering, coupling, sounding, or other devices on a vehicle are found to be in a condition such that the vehicle cannot be operated by a prudent operator without undue risk of accident, the motor carrier division, chief, firefighter, or peace officer shall have the vehicle impounded at a suitable place until the necessary repairs are made.

(2) Except as provided in this act, a vehicle condemned under this act shall not be used in transporting hazardous material until released under this section. Upon being returned to its base or customary place of maintenance and repair, or to a suitable place of repair, the condemned vehicle may be impounded there upon order of the motor carrier division of the department of state police until the conditions for which the condemnation was issued have been corrected. However, the motor carrier division may authorize the temporary release of the condemned vehicle for a reasonable time needed to procure parts or appurtenances necessary to correct the conditions for which the vehicle was condemned. Upon correction of the conditions, the motor carrier division, chief of an organized fire department or police department, a peace officer, or a firefighter in uniform acting under a chief's direction, shall be notified and shall reinspect the vehicle. The motor carrier division, chief, peace officer, or firefighter shall release the vehicle if upon reinspection the vehicle is found to be in compliance with this act and the rules promulgated under this act, and if reasonable

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impounding expenses have been paid by the owner of the vehicle. A person inspecting a vehicle under this act shall notify the motor carrier division under rules promulgated under this act, of the circumstances and conditions of each violation, condemnation, impounding, and release.

(3) Notwithstanding subsections (1) and (2), an official named in subsection (1) inspecting a commercial motor vehicle under the authority of this section shall attach notices, and place vehicles and drivers out of service, only as provided under the motor carrier safety act of 1963, 1963 PA 181, MCL 480.11 to 480.25, and as provided under the out of service criteria issued under the authority of the commercial vehicle safety alliance. As used in this subsection, "commercial motor vehicle" means that term as defined in the motor carrier safety act of 1963, 1963 PA 181, MCL 480.11 to 480.25.

History: Add. 1952, Act 113, Eff. Sept. 18, 1952;—Am. 1965, Act 200, Imd. Eff. July 16, 1965;—Am. 1973, Act 199, Imd. Eff. Jan. 11, 1974;—Am. 1978, Act 3, Imd. Eff. Feb. 7, 1978;—Am. 1980, Act 247, Eff. Oct. 1, 1980;—Am. 1996, Act 152, Imd. Eff. Mar. 25, 1996;—Am. 2006, Act 189, Imd. Eff. June 19, 2006.

Compiler's note: Section 3 of Act 247 of 1980 provides: "The total costs of the hazardous materials transport vehicles and storage facilities program shall be financed from the fees established pursuant to section 5d. If it appears that after the effective date of section 5d(4) that the revenues derived from the fees provided by section 5d will not be adequate to fund the program at the staffing level provided for the fiscal year beginning October 1, 1980, the staffing level shall be reduced to a level that can be supported by the available revenues."

For transfer of certain authority, powers, functions, and responsibilities of the state fire marshal and the fire marshal division of the department of state police to the director of the department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

Administrative rules: R 29.2201 et seq.; R 29.2501 et seq.; and R 29.3801 et seq. of the Michigan Administrative Code.

29.5b Repealed. 1996, Act 152, Imd. Eff. Mar. 25, 1996.

Compiler's note: The repealed section pertained to certification of vehicle designed or used for transportation of hazardous material.

29.5c Filling or storage locations; certificate; approval of department of environmental quality; exception.

Sec. 5c. (1) A person shall not establish or maintain 1 or more of the following without obtaining a certificate from the department of environmental quality:

(a) A flammable compressed gas or liquefied petroleum gas container filling location.

(b) An aboveground flammable compressed gas or liquefied petroleum gas storage location that has a tank with a water capacity of more than 2,000 gallons or has 2 or more tanks with an aggregate water capacity of more than 4,000 gallons.

(c) An aboveground storage location for a flammable liquid or combustible liquid that has an individual tank storage capacity of more than 1,100 gallons. Crude petroleum collection tanks that receive crude petroleum directly from a wellhead and are certified by the department of environmental quality may be maintained without further inspection by the department of environmental quality, except as the department of environmental quality considers necessary to assure compliance with this act.

(2) The department of environmental quality may require that a person obtain approval from the department of environmental quality before the installation of an aboveground storage tank for flammable or combustible liquids that has an individual tank storage capacity of 1,100 gallons or less. However, this requirement does not apply to farm location storage tanks of 1,100 gallons or less capacity used for storing motor fuel for noncommercial purposes or heating oil for consumptive use on the premises where stored.

History: Add. 1952, Act 113, Eff. Sept. 18, 1952;—Am. 1965, Act 200, Imd. Eff. July 16, 1965;—Am. 1973, Act 199, Imd. Eff. Jan. 11, 1974;—Am. 1978, Act 3, Imd. Eff. Feb. 7, 1978;—Am. 1980, Act 247, Eff. Oct. 1, 1980;—Am. 1987, Act 270, Eff. June 29, 1987;—Am. 1996, Act 152, Imd. Eff. Mar. 25, 1996;—Am. 2006, Act 189, Imd. Eff. June 19, 2006.

Compiler's note: Section 3 of Act 247 of 1980 provides: “The total costs of the hazardous materials transport vehicles and storage facilities program shall be financed from the fees established pursuant to section 5d. If it appears that after the effective date of section 5d(4) that the revenues derived from the fees provided by section 5d will not be adequate to fund the program at the staffing level provided for the fiscal year beginning October 1, 1980, the staffing level shall be reduced to a level that can be supported by the available revenues.”

For transfer of powers and duties relating to the above ground storage tank program and the inspection of dry cleaning establishments from the department of state police to the department of environmental quality, see E.R.O. No. 1997-2, compiled at MCL 29.451 of the Michigan Compiled Laws.

For transfer of certain authority, powers, functions, and responsibilities of the state fire marshal and the fire marshal division of the department of state police to the director of the department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties of department of environmental quality to department of natural resources and environment, see E.R.O. No. 2009-31, compiled at MCL 324.99919.

For transfer of powers and duties of the department of environmental quality under the aboveground storage tank program from department of environmental quality to bureau of fire services, department of licensing and regulatory affairs, see E.R.O. No. 2012-7, compiled at MCL 29.462.

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Administrative rules: R 29.2201 et seq.; R 29.2501 et seq.; and R 29.3801 et seq. of the Michigan Administrative Code.

29.5d Issuance of certificates; authorization to conduct inspections; annual fee; revocation of authorization; exemptions; review of procedures; installation application; fee per tank; waiver; payment and amount of fees; certain local ordinance prohibited; collection and disposition of fees; creation of hazardous materials storage tank regulatory enforcement fund.

Sec. 5d. (1) The certificates specified in section 5c shall be issued every 3 years by the department of environmental quality after the department of environmental quality determines by an inspection that the firm location is in satisfactory compliance with this act. The department of environmental quality may authorize a firm specified in section 5c to conduct inspections required in this section after application to the department of environmental quality and payment of an annual fee of $1,000.00. Upon annual determination by the department of environmental quality that the firm is in satisfactory compliance with this act, the department of environmental quality may grant the authorization. This authorization may be revoked by the department of environmental quality for cause. Firms authorized to conduct inspections required in this section are exempt from the fees provided in subsection (2). The department of environmental quality may review procedures utilized by the firm to assure compliance with this act.

(2) Each firm required to be certified under section 5c shall submit an installation application to the department of environmental quality according to rules promulgated under this act. Each firm shall pay a fee of $203.00 per tank. This fee shall be submitted with the installation application to the department of environmental quality. The department of environmental quality shall not approve an installation application unless this fee has been paid as required in this subsection. Payment of this fee shall waive the first annual storage tank fee required in this subsection. The owner of a firm specified in section 5c shall pay an annual fee of $61.50 for each tank located at each storage or filling location specified in section 5c. Fees required by this subsection shall be paid before the issuance of a certificate when storage tanks operated by firms described in section 5c are used and until such tanks are closed or removed, and notification of the closure or removal is received by the department of environmental quality. Owners of firms described in section 5c shall notify the department of environmental quality of the closure or removal of storage tanks within 30 days after closure or removal on a form provided by the department of environmental quality. Storage tanks that receive crude petroleum directly from a wellhead are exempt from fees under this section.

(3) Beginning October 1, 1990, a local unit of government shall not enact or enforce a provision of an ordinance that requires a permit, license, approval, inspection, or the payment of a fee or tax for the installation, use, closure, or removal of an aboveground storage tank system.

(4) The fees specified in subsection (2) shall be collected and deposited into the hazardous materials storage tank regulatory enforcement fund created in subsection (5).

(5) The hazardous materials storage tank regulatory enforcement fund is created in the state treasury. The fund may receive money as provided in this act and as otherwise provided by law. The state treasurer shall direct the investment of the fund. Interest and earnings of the fund shall be credited to the fund. Money in the fund at the close of the fiscal year shall remain in the fund and shall not revert to the general fund. Money in the fund shall be used only by the department of environmental quality to enforce this act and the rules promulgated under this act pertaining to the delivery, dispensing, noncommercial transportation, or storage of hazardous materials. If at the close of any fiscal year the amount of money in the fund exceeds $1,000,000.00, the department of environmental quality shall not collect a fee for the following year for the fund from existing storage tank systems. After the fee has been suspended under this subsection, it shall only be reinstated if at the close of any succeeding fiscal year, the amount of money in the fund is less than $250,000.00. The department of treasury shall, before November 1 of each year, notify the department of environmental quality of the balance in the fund at the close of the preceding fiscal year.

History: Add. 1978, Act 3, Imd. Eff. Feb. 7, 1978;—Am. 1980, Act 247, Eff. Oct. 1, 1980;—Am. 1982, Act 38, Imd. Eff. Mar. 12, 1982;—Am. 1982, Act 205, Imd. Eff. July 1, 1982;—Am. 1987, Act 70, Imd. Eff. June 29, 1987;—Am. 1990, Act 337, Imd. Eff. Dec. 21, 1990;—Am. 1996, Act 152, Imd. Eff. Mar. 25, 1996;—Am. 2006, Act 189, Imd. Eff. June 19, 2006.

Compiler's note: Section 3 of Act 247 of 1980 provides: "The total costs of the hazardous materials transport vehicles and storage facilities program shall be financed from the fees established pursuant to section 5d. If it appears that after the effective date of section 5d(4) that the revenues derived from the fees provided by section 5d will not be adequate to fund the program at the staffing level provided for the fiscal year beginning October 1, 1980, the staffing level shall be reduced to a level that can be supported by the available revenues."

For transfer of certain authority, powers, functions, and responsibilities of the state fire marshal and the fire marshal division of the department of state police to the director of the department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties of department of environmental quality to department of natural resources and environment, see

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E.R.O. No. 2009-31, compiled at MCL 324.99919.

For transfer of powers and duties of the department of environmental quality under the aboveground storage tank program from department of environmental quality to bureau of fire services, department of licensing and regulatory affairs, see E.R.O. No. 2012-7, compiled at MCL 29.462.

Administrative rules: R 29.2201 et seq.; R 29.2301 et seq.; R 29.2501 et seq.; and R 29.3801 et seq. of the Michigan Administrative Code.

29.5e Finding of noncompliance; revoking or denying renewal of certificate; order.

Sec. 5e. Upon a finding of noncompliance with this act, or rules promulgated pursuant to this act, the state fire marshal or the director of the department of environmental quality may revoke or deny the renewal of a certificate obtained under section 5c and order the person or firm required to be certified to cease all or part of its operation until the firm is in compliance.

History: Add. 1978, Act 3, Imd. Eff. Feb. 7, 1978;—Am. 1996, Act 152, Imd. Eff. Mar. 25, 1996;—Am. 2006, Act 189, Imd. Eff. June 19, 2006.

Compiler's note: For transfer of certain authority, powers, functions, and responsibilities of the state fire marshal and the fire marshal division of the department of state police to the director of the department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties of department of environmental quality to department of natural resources and environment, see E.R.O. No. 2009-31, compiled at MCL 324.99919.

For transfer of powers and duties of the department of environmental quality under the aboveground storage tank program from department of environmental quality to bureau of fire services, department of licensing and regulatory affairs, see E.R.O. No. 2012-7, compiled at MCL 29.462.

Administrative rules: R 29.2201 et seq.; R 29.2301 et seq.; R 29.2501 et seq.; and R 29.3801 et seq. of the Michigan Administrative Code.

29.5f Repealed. 1996, Act 152, Imd. Eff. Mar. 25, 1996.

Compiler's note: The repealed section pertained to provisional certificates.

29.5g Fire, explosion, spill, leak, accident, or related occurrence; notice of details.

Sec. 5g. Immediately following a fire, explosion, spill, leak, accident, or related occurrence that involves the transportation, storage, handling, sale, use, or processing of hazardous material by a firm, person, or vehicle, the owner of the firm or vehicle or the person and the chief of the first police department or organized fire department upon the scene of the incident shall notify the bureau and the organized fire department of the area in which the incident occurred of the known details regarding the incident.

History: Add. 1978, Act 3, Imd. Eff. Feb. 7, 1978;—Am. 1980, Act 247, Eff. Oct. 1, 1980;—Am. 1987, Act 70, Imd. Eff. June 29, 1987;—Am. 2006, Act 189, Imd. Eff. June 19, 2006.

Compiler's note: For transfer of certain authority, powers, functions, and responsibilities of the state fire marshal and the fire marshal division of the department of state police to the director of the department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

29.5h Bureau of fire services; duties generally.

Sec. 5h. After notification is made pursuant to section 5g, the bureau shall do the following:

(a) Determine, with the organized fire department of the area in which the incident occurred, the emergency measures to be taken.

(b) Notify responsible federal, state, and local authorities and agencies and, if the bureau is notified by a person other than the owner of the firm or vehicle involved, notify the owner of the firm or vehicle involved.

(c) Cause an investigation to be made to determine the cause of the incident and to determine what related factors contributed to the cause of the incident and to any loss of life or property.

(d) Cause a report to be filed containing its findings related to the incident. A record of those reports shall be maintained by the bureau.

History: Add. 1978, Act 3, Imd. Eff. Feb. 7, 1978;—Am. 2006, Act 189, Imd. Eff. June 19, 2006.

Compiler's note: For transfer of certain authority, powers, functions, and responsibilities of the state fire marshal and the fire marshal division of the department of state police to the director of the department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

29.5i Dry cleaning operation using flammable liquid; certificate required; amount and adjustment of fee; application of section; "class IV installation" defined.

Sec. 5i. (1) A firm that is engaged in a dry cleaning operation that uses a flammable liquid shall not establish or maintain such an operation at a location unless the firm obtains a certificate from the department of environmental quality for that location.

(2) A certificate shall not be issued until payment is made of a fee of $15.00 for the first dry cleaning machine in the firm's location and $6.00 for each additional dry cleaning machine in the firm's location.

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Beginning October 1, 1981, the fees imposed by this section shall be adjusted each year by the annual average percentage increase or decrease in the Detroit consumer price index—all items. The adjustment shall be made by multiplying the annual average percentage increase or decrease in the Detroit consumer price index for the prior calendar year by the current fee as adjusted by this subsection. The resultant product shall be added to the current fee as adjusted by this subsection and then rounded off to the nearest half dollar which shall be the new fee.

(3) This section applies when a class IV installation is operated in the same building or establishment as other classes of dry cleaning installations.

(4) As used in this section, "class IV installation" means that term as defined in section 13301 of the public health code, 1978 PA 368, MCL 333.13301.

History: Add. 1980, Act 247, Eff. Oct. 1, 1981;—Am. 2006, Act 189, Imd. Eff. June 19, 2006.

Compiler's note: For transfer of powers and duties relating to the above ground storage tank program and the inspection of dry cleaning establishments from the department of state police to the department of environmental quality, see E.R.O. No. 1997-2, compiled at MCL 29.451 of the Michigan Compiled Laws.

For transfer of certain authority, powers, functions, and responsibilities of the state fire marshal and the fire marshal division of the department of state police to the director of the department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties of department of environmental quality to department of natural resources and environment, see E.R.O. No. 2009-31, compiled at MCL 324.99919.

29.5j Terminal at which tank filled by pipeline; high level alarm system; testing; plans and specifications; final inspection; fire and emergency plan.

Sec. 5j. (1) Each terminal at which a tank filled by pipeline is located shall comply with the following requirements:

(a) Each terminal shall be equipped with a high level alarm system.

(b) The high level alarm system shall be set to activate at a predetermined level in each tank filled by pipeline at the terminal to allow sufficient time for the flow of the flammable liquid to be shut down before the tank overfills. The level shall be determined by the maximum filling rate expected and the time required for personnel to take appropriate action to stop the flow of the flammable liquid.

(c) The high level alarm system shall be maintained in accordance with its manufacturer's recommendations.

(d) The high level alarm system shall be tested every 3 months by the owner of the terminal and a record of the test shall be maintained.

(2) A device shall not be used in a high level alarm system described in subsection (1) unless the device has been tested for its intended use by a nationally recognized testing laboratory as determined by the director of the department of environmental quality.

(3) Plans and specifications for a high level alarm system described in subsection (1) shall be submitted to the director of the department of environmental quality for approval before the installation of the system.

(4) Upon the completion of the installation of a high level alarm system described in subsection (1), the director of the department of environmental quality shall be notified and a final inspection shall be made to determine if the installation is in compliance with this section.

(5) The owner of a terminal described in subsection (1) shall develop a fire and emergency plan in conjunction with the organized fire department having jurisdiction over the terminal.

History: Add. 1981, Act 186, Imd. Eff. Dec. 23, 1981;—Am. 2006, Act 189, Imd. Eff. June 19, 2006.

Compiler's note: For transfer of certain authority, powers, functions, and responsibilities of the state fire marshal and the fire marshal division of the department of state police to the director of the department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties of the department of environmental quality under the aboveground storage tank program from department of environmental quality to bureau of fire services, department of licensing and regulatory affairs, see E.R.O. No. 2012-7, compiled at MCL 29.462.

29.5k Attended terminal at which tank filled by pipeline; high level alarm system.

Sec. 5k. In addition to the requirements specified in section 5j, each attended terminal at which a tank filled by a pipeline is located shall comply with the following requirements:

(a) The high level alarm system at the terminal shall provide an audible sound of sufficient decibels to alert personnel responsible for taking corrective action.

(b) The high level alarm system at the terminal shall be electrically self-supervised and equipped with an audible trouble alarm which has a distinctive sound that is not used for any other purpose. The audible trouble alarm shall sound upon the occurrence of any of the following:

(*i*) A loss of the main electrical operating power.

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(*ii*) An electrical break or ground fault in the alarm initiating circuit or the signaling device circuit.

(*iii*) The derangement of the high level alarm system control equipment.

(*iv*) The removal of initiating devices.

(*v*) The electrical derangement of the signaling devices.

History: Add. 1981, Act 186, Imd. Eff. Dec. 23, 1981.

Compiler's note: For transfer of certain authority, powers, functions, and responsibilities of the state fire marshal and the fire marshal division of the department of state police to the director of the department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties of the department of environmental quality under the aboveground storage tank program from department of environmental quality to bureau of fire services, department of licensing and regulatory affairs, see E.R.O. No. 2012-7, compiled at MCL 29.462.

29.5*l* Unattended terminal at which tank filled by pipeline; high level alarm system.

Sec. 5*l*. In addition to the requirements specified in section 5j, each unattended terminal at which a tank filled by pipeline is located shall comply with the following requirements:

(a) The high level alarm system shall be capable of systematically shutting off or diverting the flow of the flammable liquid at the point of origin or at the point of receipt.

(b) The high level alarm system shall be capable of systematically shutting off or diverting the flow of the flammable liquid, in the event of a power failure at the point of origin or at the point of receipt.

History: Add. 1981, Act 186, Imd. Eff. Dec. 23, 1981.

Compiler's note: For transfer of certain authority, powers, functions, and responsibilities of the state fire marshal and the fire marshal division of the department of state police to the director of the department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties of the department of environmental quality under the aboveground storage tank program from department of environmental quality to bureau of fire services, department of licensing and regulatory affairs, see E.R.O. No. 2012-7, compiled at MCL 29.462.

29.5m Remote control terminal at which tank filled by pipeline; high level alarm system; equipment; sounding of audible trouble alarm.

Sec. 5m. In addition to the requirements specified in section 5j, each remote control terminal at which a tank filled by pipeline is located shall be equipped with a high level alarm system which is fail-safe and will provide an audible trouble signal at the remote control point. The audible trouble alarm shall sound upon the occurrence of any of the following:

(a) A loss of the main electrical operating power.

(b) An electrical break or ground fault in the alarm initiating circuit or the signaling device circuit.

(c) The derangement of the high level alarm system control equipment.

(d) The removal of initiating devices.

(e) The electrical derangement of the signaling devices.

History: Add. 1981, Act 186, Imd. Eff. Dec. 23, 1981.

Compiler's note: For transfer of certain authority, powers, functions, and responsibilities of the state fire marshal and the fire marshal division of the department of state police to the director of the department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties of the department of environmental quality under the aboveground storage tank program from department of environmental quality to bureau of fire services, department of licensing and regulatory affairs, see E.R.O. No. 2012-7, compiled at MCL 29.462.

29.5n Delivery of flammable liquid into above ground liquid storage tank by pipeline at remote control terminal; conditions.

Sec. 5n. A firm shall not deliver a flammable liquid that has a flash point below 100 degrees Fahrenheit directly into an above ground liquid storage tank by pipeline at a remote control terminal unless the firm does each of the following:

(a) Furnishes to the director of the department of environmental quality, and receives the approval from the director of the department of environmental quality of, a detailed description of the firm's capabilities and procedures to deliver a flammable liquid by remote control to an above ground liquid storage tank.

(b) Furnishes to the director of the department of environmental quality, and receives the approval from the director of the department of environmental quality of, a description of the firm's procedures to be followed if an above ground storage tank is overfilled.

History: Add. 1981, Act 186, Imd. Eff. Dec. 23, 1981;—Am. 2006, Act 189, Imd. Eff. June 19, 2006.

Compiler's note: For transfer of certain authority, powers, functions, and responsibilities of the state fire marshal and the fire marshal division of the department of state police to the director of the department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

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For transfer of powers and duties of department of environmental quality to department of natural resources and environment, see E.R.O. No. 2009-31, compiled at MCL 324.99919.

For transfer of powers and duties of the department of environmental quality under the aboveground storage tank program from department of environmental quality to bureau of fire services, department of licensing and regulatory affairs, see E.R.O. No. 2012-7, compiled at MCL 29.462.

29.5o Additional safety equipment and procedures required by director of department of environmental quality; requesting variation of requirements; local ordinances.

Sec. 5o. (1) The director of the department of environmental quality may, at the request of the organized fire department having jurisdiction over a terminal, require additional safety equipment and procedures when the public safety is endangered.

(2) A person may request a variation of the requirements of section 5j, 5k, 5*l*, 5m, or 5n, or subsection (1), under the procedures provided in section 3c.

(3) A local unit of government shall not enact an ordinance or ordinances more restrictive than the requirements included in sections 5j to 5n.

History: Add. 1981, Act 186, Imd. Eff. Dec. 23, 1981;—Am. 2006, Act 189, Imd. Eff. June 19, 2006.

Compiler's note: For transfer of certain authority, powers, functions, and responsibilities of the state fire marshal and the fire marshal division of the department of state police to the director of the department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties of department of environmental quality to department of natural resources and environment, see E.R.O. No. 2009-31, compiled at MCL 324.99919.

For transfer of powers and duties of the department of environmental quality under the aboveground storage tank program from department of environmental quality to bureau of fire services, department of licensing and regulatory affairs, see E.R.O. No. 2012-7, compiled at MCL 29.462.

29.5p Information regarding hazardous chemicals in workplace; request; list; material safety data sheet; description of quantity and location of hazardous chemical; time extension; availability of information; rules; update of information; limitation.

Sec. 5p. (1) A person who is an employer under the Michigan occupational safety and health act, 1974 PA 154, MCL 408.1001 to 408.1094, shall provide the information described in this section upon written request by the fire chief for the jurisdiction where the person is located.

(2) A person subject to this section shall, subject to subsection (1), provide a copy of a list required to be developed by the standard incorporated by reference in section 14a of the Michigan occupational safety and health act, 1974 PA 154, MCL 408.1014a, and a material safety data sheet for each hazardous chemical identified on the list within 10 working days after receipt of the request.

(3) Except as provided in subsection (4), a person subject to this section shall provide a description of the quantity and location of any hazardous chemical specified by the fire chief for the jurisdiction where the person is located within 10 working days after receipt of a written request made by the fire chief after review of a list provided under subsection (2). Upon request, the fire chief may extend the time to provide the information described in this subsection by 5 working days. The information obtained by a fire chief under this subsection may be made available to a public official, agency, or employee, but is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(4) The department of environmental quality may promulgate rules to exempt from the application of subsection (3) de minimis and portable quantities of hazardous chemicals.

(5) A person subject to this section shall provide to the fire chief for the jurisdiction where the person is located a written update of information required by this section when there is a significant change relating to fire hazards in the quantity, location, or presence of hazardous chemicals in the person's workplace.

(6) An ordinance, law, rule, regulation, policy, or practice of a city, township, village, county, governmental authority created by statute, or other political subdivision of the state shall not require that a person who is an employer under the Michigan occupational safety and health act, 1974 PA 154, MCL 408.1001 to 408.1094, provide to a fire chief information regarding hazardous chemicals in the workplace in any other manner or to any greater extent than is required by this section or rules authorized by this section.

History: Add. 1986, Act 67, Eff. Apr. 7, 1986;—Am. 2006, Act 189, Imd. Eff. June 19, 2006.

Compiler's note: For transfer of certain authority, powers, functions, and responsibilities of the state fire marshal and the fire marshal division of the department of state police to the director of the department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

29.6 Investigation and inquiry into cause or origin of fire; entering and inspecting building or premises; demonstration fire resulting in death or injury; "injury" defined.

Sec. 6. (1) The state fire marshal may investigate and inquire into the cause or origin of a fire occurring in

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this state that results in the loss of life or damage to property and for those purposes may enter, without restraint or liability for trespass, a building or premises and inspect the building or premises and the contents and occupancies of the building or premises.

(2) The state fire marshal shall investigate, and prepare a report of the investigation, if a demonstration fire results in the injury or death of an individual who is not a firefighter. As used in this subsection, "demonstration fire" means a fire intentionally set by a fire department for training or other legitimate purposes.

(3) The chief of a fire department shall immediately report to the state fire marshal any injury to or death of a person who is not a firefighter resulting from a demonstration fire.

(4) If a firefighter dies or suffers a reportable injury as defined under the Michigan occupational safety and health act, 1974 PA 154, MCL 408.1001 to 408.1094, resulting from a demonstration fire, the department shall provide a copy of any report of the death or reportable injury to the state fire marshal.

(5) As used in this section, "injury" means an injury that requires prompt medical attention by trained medical personnel.

History: 1941, Act 207, Imd. Eff. June 16, 1941;—CL 1948, 29.6;—Am. 1973, Act 199, Imd. Eff. Jan. 11, 1974;—Am. 1978, Act 3, Imd. Eff. Feb. 7, 1978;—Am. 2001, Act 32, Imd. Eff. June 29, 2001;—Am. 2006, Act 189, Imd. Eff. June 19, 2006.

Constitutionality: To preserve the constitutionality of this section, a warrant requirement must be read into it. *People v Tyler*, 399 Mich 564; 250 NW2d 467 (1977).

Compiler's note: For transfer of certain authority, powers, functions, and responsibilities of the state fire marshal and the fire marshal division of the department of state police to the director of the department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

29.7 Crime or other offense committed in connection with fire; inquiry; subpoenas; oaths or affirmations; perjury; aid of circuit court; court order; contempt; self-incrimination; exception.

Sec. 7. (1) If the state fire marshal has reason to believe that a crime or other offense has been committed in connection with a fire, the state fire marshal may conduct an inquiry with relation to the fire. The inquiry shall be held at the time and place the state fire marshal directs and may be continued from time to time and to the place the state fire marshal directs.

(2) The state fire marshal may issue subpoenas to compel the attendance of witnesses to testify at the inquiry and for the production of books, records, papers, documents, or other writings or things considered material to the inquiry, may administer oaths or affirmations to witnesses, and may cause testimony to be taken stenographically and transcribed and preserved. Willful false swearing by a witness is perjury.

(3) If a subpoena is disobeyed, the state fire marshal may invoke the aid of the circuit court in requiring the attendance and testimony of witnesses and the production of books, records, papers, documents, or other writings or things considered material to the inquiry. A judge of the circuit court having jurisdiction in the county in which the inquiry is conducted may issue an order requiring the person to appear before the state fire marshal and to produce books, records, papers, documents, or other writings or things considered material to the inquiry and give evidence concerning the matter in question. Failure to obey the court's order may be punished as contempt of the court.

(4) A person shall not be excused from testifying or from producing books, records, papers, documents, or other writings or things considered material to the inquiry in an investigation or at a hearing when ordered to do so by the state fire marshal on the ground that the testimony or evidence may tend to incriminate the person or subject the person to a criminal penalty. Truthful testimony, evidence, or other truthful information compelled under this section and any information derived directly or indirectly from that truthful testimony, evidence, or other truthful information shall not be used against the witness in a criminal case, except for impeachment purposes or in a prosecution for perjury, making a false statement, or otherwise failing to testify or produce evidence as required.

History: 1941, Act 207, Imd. Eff. June 16, 1941;—CL 1948, 29.7;—Am. 1973, Act 199, Imd. Eff. Jan. 11, 1974;—Am. 1978, Act 3, Imd. Eff. Feb. 7, 1978;—Am. 1999, Act 252, Imd. Eff. Dec. 28, 1999.

Compiler's note: For transfer of certain authority, powers, functions, and responsibilities of the state fire marshal and the fire marshal division of the department of state police to the director of the department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

29.7a Conditions dangerous to persons or property; restrictions and requirements; investigation of causes and effects.

Sec. 7a. (1) If the state fire marshal or the commanding officer of the fire department of a city, village, township, or county, or a fire fighter in uniform acting under the orders and directions of the commanding

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officer determines a dangerous condition exists, the state fire marshal, the commanding officer of the fire department of a city, village, township, or county, or the fire fighter in uniform acting under the orders and direction of the commanding officer upon finding an emergency condition dangerous to persons or property, may take all necessary steps and prescribe all necessary restrictions and requirements to protect persons and property until the dangerous condition is abated.

(2) The state fire marshal, the commanding officer of the fire department of a city, village, township, or county, or a fire fighter in uniform acting under the orders and directions of the commanding officer, responding to a fire or emergency call, who, upon arriving at the scene of a fire or emergency, finds a condition dangerous to persons or property, may take all necessary steps and requirements to protect persons and property until the dangerous condition is abated.

(3) The state fire marshal or the commanding officer of the fire department of a city, village, township, or county, or a fire fighter in uniform acting under the orders and direction of the commanding officer may investigate causes and effects related to dangerous conditions.

History: Add. 1952, Act 26, Eff. Sept. 18, 1952;—Am. 1965, Act 200, Imd. Eff. July 16, 1965;—Am. 1968, Act 321, Imd. Eff. July 3, 1968;—Am. 1973, Act 199, Imd. Eff. Jan. 11, 1974;—Am. 1978, Act 3, Imd. Eff. Feb. 7, 1978.

Compiler's note: For transfer of certain authority, powers, functions, and responsibilities of the state fire marshal and the fire marshal division of the department of state police to the director of the department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

29.7b Tents; requirements for resistance to fire; exceptions; camping tentage of new manufacture.

Sec. 7b. (1) The following items shall meet the appropriate requirements for resistance to fire prescribed in the standard methods of fire tests for flame-resistant textiles, films, national fire protection association No. 701-1969:

(a) A tent which may be occupied or furnished for public assembly by 50 or more people.

(b) A tent in which animals are stabled for public exhibition or sale.

(c) A tent located within a building used by the public.

(d) All tarpaulins and decorative material used in connection with any of the above.

(2) A safety net or tent used for recreational camping is exempt from this section.

(3) After October 1, 1975, all camping tentage of new manufacture sold in this state shall comply with the provisions for resistance to fire as prescribed in the specification for flame-resistant materials used in camping tentage, canvas products association international-84, 1974, or another nationally recognized standard that is acceptable to the director.

History: Add. 1972, Act 131, Imd. Eff. May 11, 1972;—Am. 1972, Act 269, Imd. Eff. Oct. 11, 1972;—Am. 1973, Act 4, Imd. Eff. Mar. 29, 1973;—Am. 1975, Act 172, Imd. Eff. July 20, 1975.

Compiler's note: For transfer of certain authority, powers, functions, and responsibilities of the state fire marshal and the fire marshal division of the department of state police to the director of the department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

29.7c Liability of persons providing assistance upon request of state fire marshal; issuance of identification.

Sec. 7c. (1) A person who provides assistance upon request of the state fire marshal following an accident or during an emergency which accident or emergency involves the handling, transportation, or storage of a hazardous material shall not be liable in a civil action for damages as a result of an act or omission by the person arising out of and in the course of the person's good faith rendering of that assistance unless the person's act or omission was the result of that person's gross negligence or wilful misconduct.

(2) Subsection (1) shall not apply to a person rendering assistance for remuneration beyond reimbursement for out of pocket expenses in connection with the assistance.

(3) This section does not grant immunity to a person who causes an accident or emergency as described in subsection (1).

(4) The state fire marshal may issue identification to persons called upon to provide assistance pursuant to subsection (1).

History: Add. 1984, Act 314, Imd. Eff. Dec. 21, 1984.

Compiler's note: For transfer of certain authority, powers, functions, and responsibilities of the state fire marshal and the fire marshal division of the department of state police to the director of the department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

29.8 Fire hazard; inspection and examination of building or premises; findings, report, and recommendations.

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Sec. 8. The state fire marshal, or the chief of an organized fire department, regular or voluntary, or a fire fighter in uniform acting under the orders and directions of the local fire chief; or the clerk of a city, village, township, or county not having an organized fire department, or the managing head of an organized fire district in this state, upon complaint of a person having an interest in a building or premises or property adjacent to a building or premises, or at the official's own instance without a complaint and without restraint or liability for trespass, may at an hour reasonable under the circumstances involved, enter into and upon a building or premises within the official's jurisdictions for the purpose of inspection and examination of the building or premises, together with their occupancies and contents, for the discovery of the existence of a fire hazard. When an official finds a building or premises, either public or private, which for want of repairs, lack of or insufficient fire escapes, automatic or other fire alarm apparatus or fire extinguishing equipment, or by reason of age or dilapidated condition, defective electrical wiring or electrical equipment, defective chimneys, defective gas connections, defective heating apparatus, accumulation of rubbish, waste materials, or flammable substances or decorations, or from any other condition, or for any other reason, may cause an otherwise preventable fire or explosion or endanger other property or premises or be dangerous to the public peace, security, or safety, the official may reduce to writing the official's findings on the inspection and examination and file the same with the department, with a report stating the ownership, location, and description of the building or buildings or premises inspected, and with other data and information as the state fire marshal prescribes in those cases, together with recommendations relative to the abatement of the fire hazard.

History: 1941, Act 207, Imd. Eff. June 16, 1941;—CL 1948, 29.8;—Am. 1965, Act 200, Imd. Eff. July 16, 1965;—Am. 1973, Act 199, Imd. Eff. Jan. 11, 1974;—Am. 1978, Act 3, Imd. Eff. Feb. 7, 1978.

Compiler's note: For transfer of certain authority, powers, functions, and responsibilities of the state fire marshal and the fire marshal division of the department of state police to the director of the department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

29.9 Fire hazard; determination; order; compliance; refusal to obey order; service on unknown owner; enforcement of ordinances or charter provisions.

Sec. 9. Upon the filing of the findings and report provided in section 8, the state fire marshal, from the findings and report or from an additional report or investigation the state fire marshal considers necessary, may make a determination as to whether, and to what extent the building should be repaired or whether the building should be razed and completely removed; whether the use or occupancy of the building, or buildings, should be changed or terminated; and, in the case of premises other than buildings, to what extent the building should be cleared or improved or the hazardous condition remedied. The state fire marshal may make any other or further determination which, in the opinion of the state fire marshal, should be made to effectively protect the peace, security, and safety of persons and property. Following the determination of the state fire marshal, the state fire marshal may make and execute an order directed to the owner of the building or premises, based upon the determination, and cause the same to be served upon the owner and other parties as the state fire marshal considers to be interested in the subject matter of the order. If the order requires a building to be repaired, the owner shall be given not less than 10 days after the date of service of the order to signify in writing an intention to comply with the order. If the order requires the building to be torn down, removed, or repaired, the owner of the building shall be given not less than 30 days after the date of service of the order to comply with the order. Failure on the part of an owner served with an order to repair to signify an intention within the time limits prescribed in this section shall be considered a refusal to obey the order. If the owner of the building or premises is unknown, service may be made as provided in section 10(c). This section shall not be construed to prevent a local unit of government from enforcing local ordinances or charter provisions relating to the occupancy, repair, demolition, clearing, or otherwise rendering safe a building which is in a hazardous or dangerous condition.

History: 1941, Act 207, Imd. Eff. June 16, 1941;—CL 1948, 29.9;—Am. 1965, Act 200, Imd. Eff. July 16, 1965;—Am. 1973, Act 199, Imd. Eff. Jan. 11, 1974;—Am. 1978, Act 3, Imd. Eff. Feb. 7, 1978;—Am. 1980, Act 247, Eff. Oct. 1, 1980.

Compiler's note: For transfer of certain authority, powers, functions, and responsibilities of the state fire marshal and the fire marshal division of the department of state police to the director of the department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

29.10 Service of orders.

Sec. 10. Service of an order of the state fire marshal under section 9, or of any other order made by the state fire marshal under this act, may be made in 1 or more of the following ways:

(a) By personally delivering a copy of the order to the person or persons to whom it is directed within this state.

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(b) By delivering a copy of the order by registered mail, addressed to the last known post-office address of the addressee, and deliverable to the addressee only, with return receipt requested. Service under this subdivision is personal and not substituted service.

(c) If a person to whom the order is directed cannot be found, does not have a known post-office address, or is not a resident of this state, by publication in a newspaper published or circulating in the county in which the property or premises described in the order is situated, once in each week for 3 successive weeks, the last publication to be made at least 10 days before the date of performance specified in the order.

History: 1941, Act 207, Imd. Eff. June 16, 1941;—CL 1948, 29.10;—Am. 1973, Act 199, Imd. Eff. Jan. 11, 1974;—Am. 1978, Act 3, Imd. Eff. Feb. 7, 1978;—Am. 2006, Act 189, Imd. Eff. June 19, 2006.

Compiler's note: For transfer of certain authority, powers, functions, and responsibilities of the state fire marshal and the fire marshal division of the department of state police to the director of the department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

29.11 Substantial compliance with MCL 29.8 and 29.9.

Sec. 11. A substantial compliance with the requirements of sections 8 and 9 shall be sufficient to give full force and effect to a order of the state fire marshal and the order shall not be declared invalid, inoperative, or void for an omission or for a reason not affecting the merit and substance of the subject matter of the order.

History: 1941, Act 207, Imd. Eff. June 16, 1941;—CL 1948, 29.11;—Am. 1973, Act 199, Imd. Eff. Jan. 11, 1974;—Am. 1978, Act 3, Imd. Eff. Feb. 7, 1978.

Compiler's note: For transfer of certain authority, powers, functions, and responsibilities of the state fire marshal and the fire marshal division of the department of state police to the director of the department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

29.12 Orders presumed valid and reasonable; prima facie evidence.

Sec. 12. Each order issued by the state fire marshal under section 9 shall be presumed to be valid and reasonable and shall be prima facie evidence of the truth of the matters and things set forth in the order.

History: 1941, Act 207, Imd. Eff. June 16, 1941;—CL 1948, 29.12;—Am. 1973, Act 199, Imd. Eff. Jan. 11, 1974;—Am. 1978, Act 3, Imd. Eff. Feb. 7, 1978.

Compiler's note: For transfer of certain authority, powers, functions, and responsibilities of the state fire marshal and the fire marshal division of the department of state police to the director of the department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

29.13 Noncompliance with order; filing petition in circuit court; contents of petition; order to show cause; service of order; hearing; determination; modifying, changing, or affirming order; failure to appear or make return; securing specific performance; injunction prohibited.

Sec. 13. If at the expiration of the time specified in an order to repair a building, the owner has failed to signify in writing an intention to make the repairs, or if at expiration of the time prescribed in an order to raze or remove a building, or to clear and improve premises, the owner has failed to comply with the order, the state fire marshal may file in the circuit court of the county in which the building or premises is situated a petition signed and verified by the state fire marshal, setting forth the facts relating to the making and service of the order, and praying for the issuance of an order to show cause under the rules and practices of the court. Upon the filing of the petition, and the presentation of the petition to the court either in chambers or otherwise, the court shall immediately issue an order requiring the defendant or defendants named in the petition to show cause at a time specified in the order why the order of the state fire marshal should not be complied with. Service of the order shall be made in a manner and within a time as the court directs. Upon the return day fixed in the order the cause shall stand to be heard upon the petition and the return of the respondent, without further pleadings, and proofs taken in open court, and the court shall make a determination as considered just and proper. The court may modify or change the order of the state fire marshal according to the facts and circumstances as shown by the proofs, or may affirm the order and direct compliance with the order upon terms and conditions as the court imposes. If a respondent named in the order to show cause fails to appear or make return, that failure shall be taken as an admission of the facts alleged in the petition, and the court may take the proofs as considered required and make determination of the cause as provided in this section. The court may retain jurisdiction of the cause during a time as it determines to secure specific performance of the order or direction of the court in the premises. An injunction shall not issue to stay any of the proceedings in the cause.

History: 1941, Act 207, Imd. Eff. June 16, 1941;—CL 1948, 29.13;—Am. 1973, Act 199, Imd. Eff. Jan. 11, 1974;—Am. 1978, Act 3, Imd. Eff. Feb. 7, 1978.

Compiler's note: For transfer of certain authority, powers, functions, and responsibilities of the state fire marshal and the fire

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marshal division of the department of state police to the director of the department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

29.14 Notice of pendency of proceedings under order; filing for record; constructive notice; order and proceedings not affected by subsequent transfer.

Sec. 14. The state fire marshal, upon the issuance of the order provided for in section 9, may make and file for record in the office of the register of deeds of the county in which the land, building, or premises described in the order is situated a notice of pendency of proceedings under the order, which filing shall be constructive notice to subsequent grantees, mortgagees, tenants, or other occupants of the lands of the pendency of abatement proceedings as well as of court proceedings which shall later be instituted as provided in this act, and the order and court proceedings shall not be affected by a subsequent transfer of ownership, possession, or encumbrance of the lands, buildings, or premises.

History: 1941, Act 207, Imd. Eff. June 16, 1941;—CL 1948, 29.14;—Am. 1973, Act 199, Imd. Eff. Jan. 11, 1974;—Am. 1978, Act 3, Imd. Eff. Feb. 7, 1978.

Compiler's note: For transfer of certain authority, powers, functions, and responsibilities of the state fire marshal and the fire marshal division of the department of state police to the director of the department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

29.15 Other persons as parties defendant; service of order to show cause.

Sec. 15. A mortgagee of record shall be, and any other lien holder, person in possession, other than the owner, and all other persons interested in the lands or premises described in the petition described in section 13, may be brought in as a party defendant to the cause by the service on the lien holder or other person at least 10 days before the return day of the order, or in any other manner as the court directs, of a copy of the order to show cause. It shall not be necessary to serve upon the lien holder or other person the order of the state fire marshal described in section 9.

History: 1941, Act 207, Imd. Eff. June 16, 1941;—CL 1948, 29.15;—Am. 1973, Act 199, Imd. Eff. Jan. 11, 1974;—Am. 1978, Act 3, Imd. Eff. Feb. 7, 1978.

Compiler's note: For transfer of certain authority, powers, functions, and responsibilities of the state fire marshal and the fire marshal division of the department of state police to the director of the department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

29.16 Noncompliance with order or direction of court as contempt; citation; execution of order and directions; cost and expense of executing order; use of salvaged materials; disposition of surplus.

Sec. 16. (1) The refusal or failure of a defendant to comply with an order or direction of the court issued under section 13, within the time limited for compliance, is contempt of court for which the respondent may be ordered to appear and answer in the same manner as in other cases of contempt of court. Upon the refusal or failure, the court may order the state fire marshal to execute the order and directions and abate the fire hazard and, for the purpose of executing the order and directions, to enter upon the premises and employ or contract for labor, tools, implements, or other assistance as is necessary for the performance of the work. The amount of the cost and expense of executing the order is a lien upon the land and premises enforceable and collectible in the same manner as a construction lien under the construction lien act, 1980 PA 497, MCL 570.1101 to 570.1305.

(2) Salvage of materials made in the abatement of the fire hazard may be used by the bureau to defray the cost and expense of executing the order or directions of the court to the extent of the cost and expense and the discharge of the lien. A surplus over and above the cost and expense belongs to the owner of the premises.

History: 1941, Act 207, Imd. Eff. June 16, 1941;—CL 1948, 29.16;—Am. 1973, Act 199, Imd. Eff. Jan. 11, 1974;—Am. 1978, Act 3, Imd. Eff. Feb. 7, 1978;—Am. 2006, Act 189, Imd. Eff. June 19, 2006.

Compiler's note: For transfer of certain authority, powers, functions, and responsibilities of the state fire marshal and the fire marshal division of the department of state police to the director of the department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

29.17 Acquisition of title by state not to exempt property from act.

Sec. 17. In case the title to any lands upon which a building constituting a fire hazard is situated should become vested in the state or any political subdivision of this state, or any department, board or other agency thereof, either before or after the issuance of the order described in section 9 hereof, such building or fire hazard shall be subject in all cases to the provisions of this act.

History: 1941, Act 207, Imd. Eff. June 16, 1941;—CL 1948, 29.17.

Compiler's note: For transfer of certain authority, powers, functions, and responsibilities of the state fire marshal and the fire marshal division of the department of state police to the director of the department of labor and economic growth, bureau of construction

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codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

29.18 Service of order or process; return of service.

Sec. 18. An officer of the department may serve an order or process of court issued under the authority of this act, and the officer may make return of service under his certificate in the same manner as is provided by law for return of service of process by the sheriff of a county.

History: 1941, Act 207, Imd. Eff. June 16, 1941;—CL 1948, 29.18;—Am. 1973, Act 199, Imd. Eff. Jan. 11, 1974.

Compiler's note: For transfer of certain authority, powers, functions, and responsibilities of the state fire marshal and the fire marshal division of the department of state police to the director of the department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

29.19 Fire drills in schools and school dormitories; unrestricted emergency egress; compliance; record; minimum drills; weather conditions; tornado safety drills; location of drills; security measures; drills during lunch or recess periods; documentation of completed school safety drill; posting on website; list of scheduled drill days; limitation; protective apparatus or equipment; development of model; cardiac emergency response plan; definitions.

Sec. 19. (1) The chief administrative officer and the teachers of all schools, including state supported schools, and the owner, or owner's representative, of all school dormitories shall have a fire drill each month and ensure unrestricted emergency egress during school hours and when the school is open to the public. Each teacher in a school, including a state supported school, and the owner or owner's representative of a school dormitory shall comply with these requirements and keep a record of the drills.

(2) Except as provided in subsection (3), a minimum of 8 fire drills is required for each school year. If weather conditions do not permit fire drills to be held at least once a month, then at least 5 fire drills shall be held in the fall of each year and 3 fire drills shall be held during the remaining part of the school year.

(3) A minimum of 5 fire drills is required for each school year for a school that operates any of grades kindergarten to 12. Three of the fire drills shall be held by December 1 of the school year, and 2 shall be held during the remaining part of the school year, with a reasonable spacing interval between each drill.

(4) A minimum of 2 tornado safety drills is required for each school year at the schools and facilities described in subsection (1). At least 1 of the tornado safety drills shall be conducted during March of the school year. These drills shall be conducted for the purpose of preventing injuries caused by severe weather.

(5) A minimum of 3 drills in which the occupants are restricted to the interior of the building and the building secured is required for each school year at a school that operates any of grades kindergarten to 12. At least 1 of these drills shall be conducted by December 1 of the school year, and at least 1 shall be conducted after January 1 of the school year, with a reasonable spacing interval between each drill. A drill conducted under this subsection shall include security measures that are appropriate to an emergency such as the release of a hazardous material or the presence of a potentially dangerous individual on or near the premises. The governing body of a school shall seek input from the administration of the school and local public safety officials on the nature of the drills to be conducted under this subsection.

(6) A school that operates any of grades kindergarten to 12 shall conduct at least 1 of the drills required by this section during a lunch or recess period, or at another time when a significant number of the students are gathered but not in the classroom.

(7) For a school that operates any of grades kindergarten to 12, the governing body of the school shall ensure that documentation of a completed school safety drill is posted on its website within 30 school days after the drill is completed and is maintained on the website for at least 3 years. For a school operated by a school district or intermediate school district, the documentation may be posted on the district website. The documentation posted on the website shall include at least all of the following:

(a) The name of the school.

(b) The school year of the drill.

(c) The date and time of the drill.

(d) The type of drill completed.

(e) The number of completed drills for that school year for each type of drill required under subsections (3) to (5).

(f) The signature of the school principal or his or her designee acknowledging the completion of the drill.

(g) The name of the individual in charge of conducting the drill, if other than the school principal.

(8) Not later than September 15 of each school year, the chief administrator of a school that operates any of grades kindergarten to 12, or his or her designee, shall provide a list of the scheduled drill days for the school buildings operated by the school, school district, intermediate school district, or public school academy to the

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county emergency management coordinator appointed under section 9 of the emergency management act, 1976 PA 390, MCL 30.409. A scheduled drill that is not conducted on a scheduled drill day due to conditions not within the control of school authorities, such as severe storms, fires, epidemics, utility power unavailability, water or sewer failure, or health conditions as defined by the city, county, or state health authorities, will not result in a violation of this section as long as the school conducts the minimum number of drills required under subsections (3), (4), and (5), the school reschedules the drill to occur within 10 school days after the scheduled date of the canceled drill, and the chief administrator notifies the county emergency management coordinator of the rescheduled date for the drill. The county emergency management coordinator shall provide this information to the appropriate local emergency management coordinator appointed under that section, if any, and, consistent with applicable federal, state, and local emergency operations plans, to the department of state police district coordinator and the county sheriff for the county or the chief of police or fire chief for the municipality where the school is located, or the designee of the sheriff, chief of police, or fire chief. The information provided under this subsection is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(9) A public school that operates any of grades kindergarten to 12 shall not conduct a drill required under this section at a time that would interfere with the conduct of a state-mandated assessment.

(10) The state fire marshal, a fire chief, or a firefighter in uniform acting under orders and directions of the fire chief may cause fire drills to be held in school houses, school dormitories, and other public buildings as the state fire marshal considers advisable. The state fire marshal may order the installation of other protective apparatus or equipment that conforms to recognized and approved modern practices.

(11) The department of state police emergency management and homeland security division shall develop a model to be used by a school in conducting a drill under subsection (5).

(12) The governing body of a school that operates any of grades kindergarten to 12 shall adopt and implement a cardiac emergency response plan for the school. The cardiac emergency response plan shall address and provide for at least all of the following:

(a) Use and regular maintenance of automated external defibrillators, if available.

(b) Activation of a cardiac emergency response team during an identified cardiac emergency.

(c) A plan for effective and efficient communication throughout the school campus.

(d) If the school includes grades 9 to 12, a training plan for the use of an automated external defibrillator and in cardiopulmonary resuscitation techniques.

(e) Incorporation and integration of the local emergency response system and emergency response agencies with the school's plan.

(f) An annual review and evaluation of the cardiac emergency response plan.

(13) As used in this section:

(a) "School" does not include a postsecondary educational institution as defined in section 19a.

(b) "School dormitory" does not include a postsecondary educational institution dormitory as defined in section 19a.

History: 1941, Act 207, Imd. Eff. June 16, 1941;—CL 1948, 29.19;—Am. 1965, Act 200, Imd. Eff. July 16, 1965;—Am. 1973, Act 199, Imd. Eff. Jan. 11, 1974;—Am. 1978, Act 3, Imd. Eff. Feb. 7, 1978;—Am. 1998, Act 45, Imd. Eff. Mar. 30, 1998;—Am. 2006, Act 187, Imd. Eff. June 19, 2006;—Am. 2006, Act 337, Imd. Eff. Aug. 15, 2006;—Am. 2014, Act 12, Eff. July 1, 2014;—Am. 2014, Act 481, Eff. Mar. 31, 2015.

Compiler's note: For transfer of powers and duties of the state fire marshal division programs relating to fire drills in schools, colleges, universities, and school dormitories from the department of state police to the department of consumer and industry services, see E.R.O. No. 1997-2, compiled at MCL 29.451 of the Michigan Compiled Laws.

For transfer of certain authority, powers, functions, and responsibilities of the state fire marshal and the fire marshal division of the department of state police to the director of the department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

29.19a Fire drill procedures; training of instructional staff of postsecondary educational institution; unrestricted emergency egress; fire drills; record; statement certifying compliance; violation; penalty; report; definitions.

Sec. 19a. (1) A postsecondary educational institution shall ensure that all instructional staff are trained in fire drill procedures before the beginning of each academic year.

(2) A postsecondary educational institution shall ensure unrestricted emergency egress from each postsecondary educational institution dormitory while students occupy the building and shall ensure that each postsecondary educational institution dormitory holds all of the following fire drills each year and keeps a record of those drills:

(a) One fire drill in the fall semester, held within 21 days after the start of classes in that semester.

(b) One fire drill in the spring semester.

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(c) One fire drill in the summer semester, if the dormitory is occupied by students during that semester.

(3) A postsecondary educational institution shall hold at least 1 of the fire drills described in subsection (2)(a) or (b) while school is in session and between sunset and sunrise.

(4) A postsecondary educational institution shall prepare a record of each drill described in this section, on a form prescribed by the bureau. The institution shall retain these records and a record of all emergency procedures training completed by its staff and make those records available to the bureau on request.

(5) Beginning in 2016, on or before January 10 of each year, a postsecondary educational institution shall submit to the bureau, on a form prescribed by the bureau, a statement certifying that the institution complied with all of the requirements of this section and this act in the preceding calendar year.

(6) In addition to any other applicable penalties or remedies under this act, all of the following apply if a postsecondary educational institution violates this section:

(a) The institution is responsible for a civil fine of $500.00 for a first violation of this section and a civil fine of $1,000.00 for a second or subsequent violation. A civil fine collected under this subsection shall be paid to the general fund and credited to the bureau for the enforcement of this act.

(b) For a second or subsequent violation of this section, the bureau may require a mandatory inspection of the institution's facilities and the preparation of a plan of action report by the bureau or its designee. The institution is responsible for payment of the bureau's costs associated with an inspection and plan of action report, or $1,000.00, whichever is less.

(7) Beginning in 2016, on or before February 15 of each year, the bureau shall submit a report to the speaker of the house of representatives, the senate majority leader, the house and senate appropriations committees, the house and senate appropriations subcommittees on higher education and joint capital outlay, and the department of licensing and regulatory affairs that describes each violation of this section by a postsecondary educational institution in the preceding state fiscal year.

(8) As used in this section:

(a) "Fall semester" means the semester in which the majority of scheduled classes are between September 1 and December 31.

(b) "Postsecondary educational institution" means a degree- or certificate-granting public or private college or university, junior college, or community college that is located in this state. The term includes the governing body of the postsecondary educational institution.

(c) "Postsecondary educational institution dormitory" means a building that is located on the campus of a postsecondary educational institution; is owned, leased, or managed by, or under the direct control of, the postsecondary educational institution; is used to provide housing for more than 16 individuals who are not members of the same family; and does not provide individual cooking facilities for its residents, whether or not meals are provided to any of those residents.

(d) "Spring semester" means the semester in which the majority of scheduled classes are between January 1 and May 31.

(e) "Summer semester" means the semester in which the majority of scheduled classes are between June 1 and August 31.

History: Add. 2014, Act 481, Eff. Mar. 31, 2015.

29.20, 29.21 Repealed. 1978, Act 3, Imd. Eff. Feb. 7, 1978.

Compiler's note: The repealed sections pertained to fire escapes, exits, and aisle clearances.

29.21a Fire extinguishers or fire extinguishing devices.

Sec. 21a. (1) Except as provided in subsection (2), a person shall not sell, give, offer for sale, install for use, or allow to remain installed for use a fire extinguisher or fire extinguishing device containing an active agent having a level of vapor toxicity equal to or greater than any of the following listed materials, or a fire extinguisher or fire extinguishing device containing an active agent or propellant whose thermal decomposition product or products have a level of vapor toxicity equal to or greater than any of the following listed materials:

(a) Carbon tetrachloride, CCl_4

(b) Chlorobromomethane, CH_2 BrC *l*

(c) Azeotropic chlormethane, CM-$_7$

(d) Dibromodifluoromethane, CBr_2 F_2

(e) 1,2-dibromo-2-chloro-1,1,2-trifluoroethane, CBr-F_2 CBrC*l*F

(f) 1,2-dibromo-2,2-difluoroethane, $CH_2BrCBrF_2$

(g) Methyl bromide, CH_3 Br

(h) Ethylene dibromide, CH_2 $BrCH_2$ Br

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(i) Hydrogen bromide, HBr

(j) Methylene bromide, CH_2Br_2

(k) Bromodifluoromethane, $CHBrF_2$

(2) A person may sell, give, offer for sale, install for use or allow to remain installed for use, a fire extinguisher or fire extinguisher device which contains, in addition to an inert propellant, bromotrifluoromethane or bromochlorodifluoromethane, or a combination of bromotrifluoromethane and bromochlorodifluoromethane.

History: Add. 1961, Act 102, Eff. Sept. 8, 1961;—Am. 1967, Act 106, Eff. Aug. 1, 1967;—Am. 1968, Act 321, Imd. Eff. July 3, 1968;—Am. 1983, Act 93, Imd. Eff. June 17, 1983.

Compiler's note: For transfer of certain authority, powers, functions, and responsibilities of the state fire marshal and the fire marshal division of the department of state police to the director of the department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

29.21b Fire extinguishers; liquefied compressed gas, toxicity.

Sec. 21b. Notwithstanding section 21a, a liquefied compressed gas extinguishing agent that meets both of the following conditions of toxicity and use may be used in properly engineered fire extinguishing or fire control systems:

(a) The agent in its normal state is not a prohibited agent or propellant under section 21a(1).

(b) The agent is used only under conditions approved by the national fire protection association and a nationally recognized independent testing laboratory that has considered the hazard of the thermal decomposition products and use approved by the bureau.

History: Add. 1970, Act 163, Imd. Eff. Aug. 2, 1970;—Am. 2006, Act 189, Imd. Eff. June 19, 2006.

Compiler's note: For transfer of powers and duties of the state fire marshal division programs relative to fire extinguishing compound use approval from the department of state police to the department of consumer and industry services, see E.R.O. No. 1997-2, compiled at MCL 29.451 of the Michigan Compiled Laws.

For transfer of certain authority, powers, functions, and responsibilities of the state fire marshal and the fire marshal division of the department of state police to the director of the department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

29.21c Place of public assemblage; inspection; certificate required.

Sec. 21c. (1) The bureau or, upon written request of the governing body of a city, village, township, or county and the approval of the bureau, a fire chief, or a firefighter in uniform acting under the orders and directions of a fire chief shall at least annually inspect each place of public assemblage to determine whether it is being maintained in compliance with this act.

(2) A place of public assemblage shall not be established or operated without obtaining a certificate from the bureau indicating its maximum capacity and that it is in compliance with this act.

History: Add. 1978, Act 3, Imd. Eff. Feb. 7, 1978;—Am. 1980, Act 247, Eff. Oct. 1, 1980;—Am. 2006, Act 189, Imd. Eff. June 19, 2006.

Compiler's note: For transfer of powers and duties of the fire marshal division programs relating to inspection and certification of places of public assemblage from the department of state police to the department of consumer and industry services, see E.R.O. No. 1997-2, compiled at MCL 29.451 of the Michigan Compiled Laws.

For transfer of certain authority, powers, functions, and responsibilities of the state fire marshal and the fire marshal division of the department of state police to the director of the department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

29.21d Place of public assemblage; issuance; display; revocation or denial; order to cease operation.

Sec. 21d. (1) The certificate required in section 21c(2) shall be issued annually by the bureau and shall be displayed in a conspicuous location in the place of public assemblage.

(2) If a place of public assemblage is not being maintained in compliance with this act, the bureau may revoke or deny the certificate required by section 21c(2) and may order the place of public assemblage to cease operation until it is in compliance.

History: Add. 1978, Act 3, Imd. Eff. Feb. 7, 1978;—Am. 2006, Act 189, Imd. Eff. June 19, 2006.

Compiler's note: For transfer of powers and duties of the fire marshal division programs relating to inspection and certification of places of public assemblage from the department of state police to the department of consumer and industry services, see E.R.O. No. 1997-2, compiled at MCL 29.451 of the Michigan Compiled Laws.

For transfer of certain authority, powers, functions, and responsibilities of the state fire marshal and the fire marshal division of the department of state police to the director of the department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

29.21e Repealed. 1980, Act 247, Eff. Oct. 1, 1980.

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Compiler's note: The repealed section pertained to maximum capacity of place of public assemblage.

29.22 Violations; penalties.

Sec. 22. (1) Except as otherwise provided for in this act, a person who violates this act, or who maintains a fire hazard in violation of this act, or rule promulgated pursuant to this act, is guilty of a misdemeanor. In addition, the owner of a firm or vehicle operated in this state which is operated in violation of this act or the rules promulgated under this act shall pay a civil fine of $200.00, if the violation creates a fire hazard or a likelihood that hazardous material will be released. Each civil fine collected shall be deposited in the general fund of this state.

(2) A member of the board who intentionally violates section 3b(6) shall be subject to the penalties prescribed in Act No. 267 of the Public Acts of 1976, as amended, being sections 15.261 to 15.275 of the Michigan Compiled Laws.

(3) If the board arbitrarily and capriciously violates section 3b(9) the board shall be subject to the penalties prescribed in Act No. 442 of the Public Acts of 1976, as amended, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

History: 1941, Act 207, Imd. Eff. June 16, 1941;—Am. 1945, Act 86, Imd. Eff. Apr. 11, 1945;—CL 1948, 29.22;—Am. 1970, Act 212, Imd. Eff. Sept. 29, 1970;—Am. 1973, Act 199, Imd. Eff. Jan. 11, 1974;—Am. 1978, Act 3, Imd. Eff. Feb. 7, 1978;—Am. 1980, Act 247, Eff. Oct. 1, 1980.

Compiler's note: For transfer of certain authority, powers, functions, and responsibilities of the state fire marshal and the fire marshal division of the department of state police to the director of the department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

Administrative rules: R 28.101 et seq.; R 29.1 et seq.; R 29.551 et seq.; R 29.601 et seq.; R 29.1101 et seq.; R 29.2201 et seq.; R 29.2301 et seq.; R 29.2501 et seq.; R 29.2801 et seq.; and R 29.3801 et seq. of the Michigan Administrative Code.

29.23 Fire hazard as nuisance; abatement; action; procedure; order or decree; condition; injunction; jurisdiction; cost and expense of abatement; continuance of hearing.

Sec. 23. The existence of a fire hazard, of any nature, origin, or cause, is a nuisance and the nuisance may be abated, removed, corrected, and its continuance enjoined in the manner provided by law for the abatement of nuisances. If the state fire marshal determines that a fire hazard is imminently dangerous or menacing to human life and the public safety requires its immediate abatement, removal, correction, or discontinuance, the state fire marshal may bring, or cause to be brought, in the circuit court of the county in which the fire hazard is located, an action to abate, remove, correct, or discontinue the fire hazard. Sections 3801 to 3840 of the revised judicature act of 1961, 1961 PA 236, MCL 600.3801 to 600.3840, apply to the action. The court, in addition to the powers conferred by that act, may make any order it determines is necessary or expedient to ensure the safety and security of human life, and may direct that a building described in the complaint be razed and removed and all rubbish and debris removed, or that the building be repaired and in what manner and to what extent. The court may order the removal of occupancies of a building and the discontinuance of any use of the building that constitute a fire hazard or menace to human life, and may order the clearing and improvement of premises described in the complaint. The court may issue an injunction restraining the defendant from continuing the existence of a fire hazard, may include specific directions to the defendant, and may retain jurisdiction to compel complete performance of the order, writ, or other determination of the court. The court may direct that the abatement of the fire hazard be done by the department under the court's instructions, and with provision for defraying the cost and expense of the abatement as the court determines equitable and authorized by this act. A continuance of a hearing under this act shall not be granted except upon a clear showing of unavoidable circumstances. Jurisdiction of the court under this act does not depend upon the amount of money, or value of property, involved.

History: 1941, Act 207, Imd. Eff. June 16, 1941;—CL 1948, 29.23;—Am. 1973, Act 199, Imd. Eff. Jan. 11, 1974;—Am. 1978, Act 3, Imd. Eff. Feb. 7, 1978;—Am. 2006, Act 189, Imd. Eff. June 19, 2006.

Compiler's note: For transfer of certain authority, powers, functions, and responsibilities of the state fire marshal and the fire marshal division of the department of state police to the director of the department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

29.24 Annual report to governor; contents.

Sec. 24. The state fire marshal shall include in the bureau's annual report to the governor as required by law, a detailed account of the bureau's administration of this act and of the receipts and disbursements made under this act, together with recommendations for changes in this act as the state fire marshal considers expedient.

History: 1941, Act 207, Imd. Eff. June 16, 1941;—CL 1948, 29.24;—Am. 1973, Act 199, Imd. Eff. Jan. 11, 1974;—Am. 1978, Act 3, Imd. Eff. Feb. 7, 1978;—Am. 2006, Act 189, Imd. Eff. June 19, 2006.

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Compiler's note: For transfer of certain authority, powers, functions, and responsibilities of the state fire marshal and the fire marshal division of the department of state police to the director of the department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

29.25 Repeal; saving clause.

Sec. 25. Act No. 178 of the Public Acts of 1915, as amended, being sections 603 to 620, inclusive, of the Compiled Laws of 1929, is hereby repealed, and all other acts or parts of acts in anywise conflicting with or contravening the provisions of this act are hereby repealed: Provided, That no pending suit or proceedings, or order of the commissioner as ex officio state fire marshal heretofore issued, shall abate or be in any way affected by such repeal, but the same shall continue in full force and effect.

History: 1941, Act 207, Imd. Eff. June 16, 1941;—CL 1948, 29.25.

Compiler's note: For transfer of certain authority, powers, functions, and responsibilities of the state fire marshal and the fire marshal division of the department of state police to the director of the department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

29.26 Firm; prohibited acts; certification requirements; subsections (1)(d) and (2) inapplicable to licensed architect or professional engineer.

Sec. 26. (1) Except as provided in subsection (3), a firm located or operating in this state, unless certified under this section, shall not do any of the following:

(a) Install, modify, or document the installation or modification of a fire suppression system.

(b) Document the installation or modification of a fire alarm system.

(c) Perform a test, service, inspection, or item of maintenance that has not been exempted by the rules promulgated by the bureau on a fire alarm system or fire suppression system.

(d) Submit a drawing, plan, or specification of a fire alarm system or fire suppression system to the bureau for approval under section 29.

(2) The bureau shall certify a firm that submits a drawing, plan, or specification of a fire alarm system or a fire suppression system or that installs, modifies, tests, services, inspects, maintains, or documents the installation or modification of a fire alarm system or a fire suppression system if the firm does both of the following:

(a) Meets the requirements established by rules promulgated under section 3c.

(b) Pays a fee of $150.00 to the bureau.

(3) Subsections (1)(d) and (2) do not apply to an architect or professional engineer licensed under article 20 of the occupational code, 1980 PA 299, MCL 339.2001 to 339.2014.

History: Add. 1982, Act 144, Eff. Oct. 28, 1982;—Am. 2006, Act 189, Imd. Eff. June 19, 2006.

Compiler's note: For transfer of powers and duties of the fire marshal division programs relating to fire alarm and fire suppression system installation, documentation and certification, from the department of state police to the department of consumer and industry services, see E.R.O. No. 1997-2, compiled at MCL 29.451 of the Michigan Compiled Laws.

For transfer of certain authority, powers, functions, and responsibilities of the state fire marshal and the fire marshal division of the department of state police to the director of the department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

Administrative rules: R 29.2801 et seq. of the Michigan Administrative Code.

29.27 Repealed. 2006, Act 189, Imd. Eff. June 19, 2006.

Compiler's note: The repealed section pertained to certification of firms installing fire alarm or fire suppression systems.

29.28 Display of certificate; maintenance and inspection of records; recertification; fees.

Sec. 28. (1) A firm certified under section 26 shall display the certificate issued by the bureau or a duplicate of that certificate at each location where the firm conducts business.

(2) A firm certified under section 26 shall maintain a record of the installation, testing, service, inspection, maintenance, modification, and documentation of each fire alarm system or fire suppression system the firm installed, tested, modified, inspected, serviced, maintained, or documented, pursuant to rules promulgated by the bureau. A copy of the record shall be kept in the building or other location acceptable to the bureau in which the system has been installed. The owner, operator, or a designated representative of the owner or operator of the building shall make the record available for inspection by the bureau during normal business hours.

(3) A firm required to be certified under section 26 shall secure recertification every 3 years and pay a fee of $150.00 for the recertification.

(4) The fees specified in this section and sections 26 and 29 shall be paid to the bureau for implementation of sections 26 to 33.

History: Add. 1982, Act 144, Eff. Oct. 28, 1982;—Am. 2006, Act 189, Imd. Eff. June 19, 2006.

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Compiler's note: For transfer of powers and duties of the fire marshal division programs relating to fire alarm and fire suppression system installation, documentation and certification, from the department of state police to the department of consumer and industry services, see E.R.O. No. 1997-2, compiled at MCL 29.451 of the Michigan Compiled Laws.

For transfer of certain authority, powers, functions, and responsibilities of the state fire marshal and the fire marshal division of the department of state police to the director of the department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

Administrative rules: R 29.2801 et seq. of the Michigan Administrative Code.

29.29 Installation or modification of required fire alarm system or fire suppression system; plans and specifications; approval; documentation; fee; form; testing, servicing, inspection, or maintenance of system; drawing; certification of firm.

Sec. 29. (1) Except as provided in subsection (7), a firm shall not install or modify a fire alarm system or fire suppression system, before the firm submits detailed plans and specifications of the system to the bureau for approval.

(2) A firm that installs or modifies a fire suppression system shall submit written documentation of the installation or modification of the system and a fee of $40.00 to the bureau.

(3) A firm that documents the installation or modification of a fire alarm system shall submit written documentation of installation or modification of the system and a fee of $40.00 to the bureau.

(4) The documentation required by this section shall be on a form provided by the bureau and shall state both of the following:

(a) That the system has been installed or modified pursuant to the specifications of the manufacturer for each of the components of the fire alarm system or fire suppression system and in compliance with all applicable state law.

(b) That the system has been tested and placed in proper operating condition under the supervision of an architect or professional engineer licensed under article 20 of the occupational code, 1980 PA 299, MCL 339.2001 to 339.2014, or by an employee of a firm certified under section 26.

(5) Fire alarm system or fire suppression system testing, servicing, inspection, or maintenance that is not exempt under rules promulgated by the bureau shall be performed by a firm certified under section 26. The testing, servicing, inspection, or maintenance of the fire alarm system or fire suppression system shall be noted and displayed at the location of the main control or other location acceptable to the bureau and filed with the owner, operator, or a designated representative of the owner or operator of the building in which the fire alarm system or fire suppression system is installed.

(6) A drawing that depicts the completed installation of the fire alarm system or fire suppression system shall be available to the bureau or the fire safety inspector of the city, village, or township in which the building is located for use during an inspection of a fire alarm system or fire suppression system.

(7) A firm that installs, modifies, tests, services, inspects, or maintains a fire suppression system or a fire alarm system on its own premises shall be certified under section 26, but shall only be required to provide detailed plans and specifications or documentation of the system if requested by the state fire marshal under rules promulgated by the bureau.

History: Add. 1982, Act 144, Eff. Oct. 28, 1982;—Am. 2006, Act 189, Imd. Eff. June 19, 2006.

Compiler's note: For transfer of powers and duties of the fire marshal division programs relating to fire alarm and fire suppression system installation, documentation and certification, from the department of state police to the department of consumer and industry services, see E.R.O. No. 1997-2, compiled at MCL 29.451 of the Michigan Compiled Laws.

For transfer of certain authority, powers, functions, and responsibilities of the state fire marshal and the fire marshal division of the department of state police to the director of the department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

Administrative rules: R 29.2801 et seq. of the Michigan Administrative Code.

29.30 Discovery of system believed in violation of state law; report; acknowledgment of notice.

Sec. 30. (1) If a firm certified under section 26 discovers a fire alarm system or fire suppression system that the firm believes was installed, serviced, modified, tested, or maintained in violation of state law, the firm immediately shall report the alleged violation to the bureau on a form provided by the bureau and to the owner, operator, or a designated representative of the owner or operator of the building in which the fire alarm system or fire suppression system is installed.

(2) Upon notification under subsection (1) that a fire alarm system or fire suppression system is installed, serviced, modified, tested, or maintained in a manner that a firm believes to be in violation of state law, the owner, operator, or a designated representative of the owner or operator of the building in which the fire alarm system or fire suppression system is installed shall provide the bureau with a written acknowledgment of the notice of the alleged violations and the action taken by the owner, operator, or designated representative

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of the owner or operator on a form provided by the bureau.

History: Add. 1982, Act 144, Eff. Oct. 28, 1982;—Am. 2006, Act 189, Imd. Eff. June 19, 2006.

Compiler's note: For transfer of powers and duties of the fire marshal division programs relating to fire alarm and fire suppression system installation, documentation and certification, from the department of state police to the department of consumer and industry services, see E.R.O. No. 1997-2, compiled at MCL 29.451 of the Michigan Compiled Laws.

For transfer of certain authority, powers, functions, and responsibilities of the state fire marshal and the fire marshal division of the department of state police to the director of the department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

Administrative rules: R 29.2801 et seq. of the Michigan Administrative Code.

29.31 Township, city, village, or county ordinance or resolution; rules; “inconsistent” defined; fee.

Sec. 31. (1) A township, city, village, or county shall not adopt or enforce an ordinance or resolution that is inconsistent with this act or any rule promulgated under this act.

(2) A state agency shall not promulgate rules inconsistent with this act. This subsection does not apply to the motor carrier safety act of 1963, 1963 PA 181, MCL 480.11 to 480.21, or rules promulgated under that act by the motor carrier division of the department of state police.

(3) An organized fire department shall not charge a fee for conducting an inspection of a farm operation under title III of the superfund amendments and reauthorization act of 1986, Public Law 99-499, unless the fee is specifically provided by law.

(4) As used in this section, "inconsistent" means a rule or ordinance that is more permissive than the provisions of this act, or is more restrictive, or requires more action, equipment, or permits, or prevents or obstructs compliance with the provisions of this act.

History: Add. 1982, Act 144, Eff. Oct. 28, 1982;—Am. 1996, Act 152, Imd. Eff. Mar. 25, 1996;—Am. 2006, Act 189, Imd. Eff. June 19, 2006.

Compiler's note: For transfer of powers and duties of the fire marshal division programs relating to fire alarm and fire suppression system installation, documentation and certification, from the department of state police to the department of consumer and industry services, see E.R.O. No. 1997-2, compiled at MCL 29.451 of the Michigan Compiled Laws.

For transfer of certain authority, powers, functions, and responsibilities of the state fire marshal and the fire marshal division of the department of state police to the director of the department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

29.32 Suspension of certification; hearing; affirming, reversing, or modifying decision to suspend certification; revocation of certification; recertification; accepting plans and specifications for approval.

Sec. 32. (1) The certification of a firm under section 26 may be suspended by the bureau pending a hearing by the board as specified in section 3c, if the firm documents the installation or modification of a fire alarm system or fire suppression system and the system does not comply with applicable state law or if the firm installs, tests, services, inspects, or maintains a fire alarm system or a fire suppression system in a manner not in compliance with applicable state law. After the hearing, the board may affirm, reverse, or modify the decision of the bureau to suspend a firm's certification or may revoke the firm's certification. A firm whose certification is revoked under this section may be recertified only after an additional hearing before the board.

(2) The bureau shall not accept for approval under section 29(1) plans or specifications submitted by an architect or professional engineer who has failed to provide corrected plans and specifications before the installation of a fire alarm system or fire suppression system for which previous plans and specifications have been disapproved. The bureau may accept for approval under section 29(1) plans and specifications submitted by that architect or engineer only after a hearing before the board.

History: Add. 1982, Act 144, Eff. Oct. 28, 1982;—Am. 2006, Act 189, Imd. Eff. June 19, 2006.

Compiler's note: For transfer of powers and duties of the fire marshal division programs relating to fire alarm and fire suppression system installation, documentation and certification, from the department of state police to the department of consumer and industry services, see E.R.O. No. 1997-2, compiled at MCL 29.451 of the Michigan Compiled Laws.

For transfer of certain authority, powers, functions, and responsibilities of the state fire marshal and the fire marshal division of the department of state police to the director of the department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

Administrative rules: R 29.2801 et seq. of the Michigan Administrative Code.

29.33 Performance of certain acts by noncertified firm; principal executive officer guilty of misdemeanor; penalty.

Sec. 33. The principal executive officer of a noncertified firm which tests, services, maintains, modifies, or documents the installation and modification of a required fire alarm system or designs, installs, tests,

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maintains, or services a required fire suppression system is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days, or a fine of not more than $3,000.00, or both.

History: Add. 1982, Act 144, Eff. Oct. 28, 1982.

Administrative rules: R 29.2801 et seq. of the Michigan Administrative Code.

Compiler's note: For transfer of certain authority, powers, functions, and responsibilities of the state fire marshal and the fire marshal division of the department of state police to the director of the department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

29.34 Repealed. 2006, Act 189, Imd. Eff. June 19, 2006.

Compiler's note: The repealed section pertained to certification of bulk transportation of flammable liquids, combustible liquids, or liquefied petroleum gas.

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EXPLOSIVES ACT OF 1970
Act 202 of 1970

AN ACT to regulate the possession, handling, storage, control, use, sale, purchase, transfer, transportation or other disposition of explosives; to provide for permits in connection therewith; and to provide penalties.

History: 1970, Act 202, Eff. Apr. 1, 1971.

The People of the State of Michigan enact:

29.41 Explosives; short title.

Sec. 1. This act shall be known and may be cited as the "explosives act of 1970".

History: 1970, Act 202, Eff. Apr. 1, 1971.

29.42 Definitions.

Sec. 2. As used in this act:

(a) "Explosive" means blasting powder, nitroglycerine, dynamite, TNT and any other form of high explosive, blasting material, fuse other than an electric circuit breaker, detonator and other detonating agent, a chemical compound or mechanical mixture containing oxidizing or combustible units, or other ingredients, in such proportions, quantities or packing that ignition by fire, friction, concussion or other means of detonation of the compound or mixture or any part thereof may result in the sudden generation and release of highly heated gases or gaseous pressures capable of producing effects damaging or detrimental to or destructive of life, limb or property. An explosive does not include gasoline, kerosene, naphtha, turpentine, butane, propane, wet nitrocellulose or wet nitrostarch containing moisture in excess of 20%, or wet picric acid containing moisture in excess of 10%; or manufactured article such as fixed ammunition for small arms, fire crackers, safety flares or matches containing an explosive in such limited quantity that the collective and simultaneous detonation thereof is incapable of resulting in the sudden generation and release of highly heated gases or gaseous pressures capable of producing effects damaging or detrimental to or destructive of life, limb or property.

(b) "Dealer" means a person, not a manufacturer, engaged in the business of buying and selling explosives.

(c) "Person" means an individual, firm, partnership, corporation, association or other legal entity but does not include an officer of a law enforcement agency or of a fire department, while acting in his official capacity.

(d) "Director" means the director of the department of state police.

(e) "Issuing officer" means an officer of a local police or sheriff's department, or a designated officer of the state police.

History: 1970, Act 202, Eff. Apr. 1, 1971.

29.43 Disposition of explosives; permit required, exceptions.

Sec. 3. A person shall not handle, store, control, use, sell, purchase, transfer, transport or otherwise dispose of an explosive unless he has applied for, obtained and has on his person a valid permit as prescribed by this act, except that:

(a) This section does not apply to an employee, or agent other than an independent contractor, acting in the scope and course of his employment or agency and under the supervision of his employer or principal, where the employer or principal has applied for and obtained a valid permit.

(b) A person need not have the permit on his person where he is only storing explosives.

History: 1970, Act 202, Eff. Apr. 1, 1971.

29.44 Permit; application, contents, fee.

Sec. 4. A permit may be issued by an issuing officer upon the completion in writing by the applicant on forms prescribed and provided by the director, of an application, the content of which shall at least include the (a) name, (b) address, (c) date of birth, (d) social security number, and (e) signature of the applicant. The applicant shall also indicate in writing the intended use of the explosive for which the permit is to be issued, and whether he has been convicted of a felony within 5 years. A fee of $1.00 shall accompany each application. All fees shall be retained by the local law enforcement office as full compensation for processing the permit.

History: 1970, Act 202, Eff. Apr. 1, 1971.

29.45 Permit; age of applicant, mental competence.

Sec. 5. A permit shall not be issued to an applicant who has not, on or before the date of application,

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attained the age of 18 years or who has been duly adjudged insane, unless subsequently restored by court order to full mental competency and capacity.

History: 1970, Act 202, Eff. Apr. 1, 1971.

29.46 Permit; copies, disposition; duration.

Sec. 6. A permit shall be issued in triplicate; the original shall be forwarded to the director, a copy shall be furnished to the applicant on the same day as the application is filed and approved and a copy shall remain on file with the issuing officer. Unless subsequently revoked, a permit is valid for 1 year after the date of issuance.

History: 1970, Act 202, Eff. Apr. 1, 1971.

29.47 Permit; refusal, grounds; notice.

Sec. 7. A permit may be refused to an applicant where the issuing officer has reasonable cause to believe that granting the permit would constitute a substantial and immediate danger to the public health, safety and welfare. Notice of refusal to issue a permit shall be given the applicant on the same day his application is made. Within 3 days thereafter, the issuing officer shall send to the applicant, by certified mail, a copy of the notice of refusal together with a statement in writing of the reason for the refusal.

History: 1970, Act 202, Eff. Apr. 1, 1971.

29.48 Permit; refusal, application for review; hearing, order of determination; judicial review.

Sec. 8. Within 15 days after the notice of refusal, the applicant may request, in writing on a form prescribed and provided by the director, a review by the director of the refusal. Within 30 days after receipt by the director of the application for review, he, or his duly authorized representative, shall conduct a hearing on the refusal and shall issue an order of determination on the review. The director shall send, by certified mail, to the applicant and to the issuing officer, a copy of his order of determination. The director's order of determination shall be reviewable, upon timely appeal, by the circuit court for the county of the applicant's residence or by the circuit court for the county of Ingham.

History: 1970, Act 202, Eff. Apr. 1, 1971.

29.49 Permit; revocation, grounds; procedures.

Sec. 9. An issuing officer may revoke a permit when he has reasonable cause to believe that its possession by the holder constitutes a substantial and immediate danger to the public health, safety and welfare. The procedures set forth in this act applicable to the refusal of issuance of a permit shall apply to revocation.

History: 1970, Act 202, Eff. Apr. 1, 1971.

29.50 Permanent permit; issuance.

Sec. 10. The director may in his discretion issue a permanent permit to persons of known moral character, who have constant legitimate use of explosives.

History: 1970, Act 202, Eff. Apr. 1, 1971.

29.51 Dealer; records, contents, disposition; duty as to permit.

Sec. 11. (1) A dealer shall keep and maintain such records on such forms as are prescribed and provided by the director, which records shall include (a) an amount of each sale, transfer or other disposition of explosives by him, (b) the date thereof, the name, age, address and permit number of the purchaser or transferee, and (c) the amount and type of explosive sold or transferred. The records shall be forwarded to the director on the last day of each month.

(2) A dealer or person shall not sell or otherwise transfer an explosive without first ascertaining that the purchaser or transferee has on his person and displays a valid permit.

History: 1970, Act 202, Eff. Apr. 1, 1971.

29.52 Permit; nonassignability.

Sec. 12. A person holding a valid permit shall not assign or transfer it to any other person.

History: 1970, Act 202, Eff. Apr. 1, 1971.

29.53 Explosives; storage.

Sec. 13. All explosives, other than those in use or transit as permitted by this act, shall be stored in a locked building or out building which shall be rigidly fixed to its base or foundation. Nothing in this section shall be construed to abrogate R 28.131 through R 28.200 of the Michigan administrative code.

History: 1970, Act 202, Eff. Apr. 1, 1971.

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29.54 Explosives; handling while intoxicated prohibited.

Sec. 14. A person shall not handle an explosive while under the influence of intoxicating liquor or narcotic.

History: 1970, Act 202, Eff. Apr. 1, 1971.

29.55 Violation of act; penalty.

Sec. 15. A person who violates any provision of this act is guilty of a misdemeanor and shall be fined not more than $500.00 or imprisoned for not more than 1 year, or both.

History: 1970, Act 202, Eff. Apr. 1, 1971.

SAFETY OF PUBLIC ASSEMBLIES
Act 226 of 1879

29.71-29.77 Repealed. 1980, Act 247, Eff. Oct. 1, 1980.

MOVING PICTURE THEATERS
Act 257 of 1913

29.81-29.108 Repealed. 1978, Act 3, Imd. Eff. Feb. 7, 1978.

DRY CLEANING AND DYEING
Act 327 of 1947

29.201-29.330 Repealed. 1978, Act 368, Eff. Sept. 30, 1978;—1980, Act 247, Eff. Oct. 1, 1981.

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FIREFIGHTER TRAINING PROGRAMS
Act 153 of 2011

AN ACT to provide firefighter training programs to certain individuals; and to provide for certain firefighter examinations.

History: 2011, Act 153, Imd. Eff. Sept. 27, 2011.

The People of the State of Michigan enact:

29.331 Definitions.

Sec. 1. As used in this act:

(a) "Firefighter" means that term as defined in section 2 of the firefighters training council act, 1966 PA 291, MCL 29.362.

(b) "Firefighter training" means that term as defined in section 2 of the firefighters training council act, 1966 PA 291, MCL 29.362.

(c) "Organized fire department" means that term as defined in section 2 of the firefighters training council act, 1966 PA 291, MCL 29.362.

History: 2011, Act 153, Imd. Eff. Sept. 27, 2011.

29.332 Establishment of boy scouts of America explorer post; affiliation of school district; participation in firefighter training.

Sec. 2. (1) An organized fire department administering a firefighter I or II course and an examination under the firefighters training council act, 1966 PA 291, MCL 29.361 to 29.377, may establish a boy scouts of America explorer post within its department for the purpose of firefighter training for individuals who are 16 years of age or older.

(2) A school district may affiliate with an organized fire department for the purpose of allowing individuals 16 years of age or older to participate in the firefighter I or II course and the examination.

History: 2011, Act 153, Imd. Eff. Sept. 27, 2011.

29.333 Teaching firefighter I or II courses; permit or annual authorization.

Sec. 3. The board of a local or intermediate school district may apply to the state board of education under section 1233b of the revised school code, 1976 PA 451, MCL 380.1233b, for a permit or annual authorization to engage a full-time or part-time noncertificated, nonendorsed teacher to teach firefighter I or II courses. An individual engaged as a teacher under this section shall be certified as provided in section 9 of the firefighters training council act, 1966 PA 291, MCL 29.369. The examination for a course taught by a teacher engaged under this section shall be administered as provided in section 9 of the firefighters training council act, 1966 PA 291, MCL 29.369.

History: 2011, Act 153, Imd. Eff. Sept. 27, 2011.

29.334 Additional costs.

Sec. 4. This act does not require the state fire marshal or the office of firefighter training to pay or contribute any funds for the administration of the course or its examinations described in this act that are in addition to any examinations or costs already imposed under the firefighters training council act, 1966 PA 291, MCL 29.361 to 29.377. Any additional costs are to be borne by the organized fire department or the individual firefighter taking the course and examination.

History: 2011, Act 153, Imd. Eff. Sept. 27, 2011.

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FIRE EXTINGUISHERS IN POLICE OR PEACE OFFICERS' VEHICLES
Act 211 of 1964

AN ACT to provide for the carrying of fire extinguishers in police and peace officers' vehicles.

History: 1964, Act 211, Imd. Eff. May 22, 1964.

The People of the State of Michigan enact:

29.351 Police or peace officers' vehicles; fire extinguishers.

Sec. 1. A state or county owned police or peace officers' vehicle shall carry a dry chemical type fire extinguisher listed by and bearing the label of a nationally recognized testing laboratory and containing not less than 4 pounds of extinguishing agent, which shall be inspected at least annually by the local fire department.

History: 1964, Act 211, Imd. Eff. May 22, 1964.

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FIREFIGHTERS TRAINING COUNCIL ACT
Act 291 of 1966

AN ACT to create the firefighters training council; to prescribe the powers and duties of the council, the state fire marshal, and certain fire departments and other organizations; to create the firefighters training council fund and to provide for allocations from the fund to local agencies of government participating in a firefighters training program; and to make an appropriation.

History: 1966, Act 291, Eff. Jan. 1, 1968;—Am. 1987, Act 196, Eff. Oct. 1, 1988;—Am. 2006, Act 213, Imd. Eff. June 19, 2006.

The People of the State of Michigan enact:

29.361 Short title; firefighters training council act.

Sec. 1. This act shall be known and may be cited as the "firefighters training council act".

History: 1966, Act 291, Eff. Jan. 1, 1968;—Am. 2006, Act 213, Imd. Eff. June 19, 2006.

Compiler's note: For transfer of powers and duties of fire fighters training council from department of state police to department of labor and economic growth by Type I transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties of department of state police, and its director, from the department of state police to department of labor and economic growth by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

29.362 Definitions.

Sec. 2. As used in this act:

(a) "Council" means the firefighters training council.

(b) "Executive secretary" means the executive secretary of the council.

(c) "Firefighter" means a member, including volunteer members and members paid on call, of an organized fire department who is responsible for, or is in a capacity that includes responsibility for, the extinguishment of fires, the directing of the extinguishment of fires, the prevention and detection of fires, and the enforcement of the general fire laws of this state. Firefighter does not include a person whose job description, duties, or responsibilities do not include direct involvement in fire suppression.

(d) "Organized fire department" means that term as defined in section 1 of the fire prevention code, 1941 PA 207, MCL 29.1.

(e) "Firefighter training" means education or training designed and intended to enhance the ability of an organized fire department or the personnel of an organized fire department to safeguard life and property from damage from explosion, fire, or disaster, and to deliver fire suppression and other related fire services.

History: 1966, Act 291, Eff. Jan. 1, 1968;—Am. 1987, Act 196, Eff. Oct. 1, 1988;—Am. 2006, Act 213, Imd. Eff. June 19, 2006.

Compiler's note: For transfer of powers and duties of fire fighters training council from department of state police to department of labor and economic growth by Type I transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties of department of state police, and its director, from the department of state police to department of labor and economic growth by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

29.363 Firefighters training council; creation; appointment of members; advice and consent of senate.

Sec. 3. (1) The firefighters training council is created in the bureau of fire services in the department of labor and economic growth and shall consist of 7 members selected as follows:

(a) The state fire marshal, or his or her designated representative, shall be ex-officio a member.

(b) Two members appointed to the council by the governor from a list of 5 or more members submitted by the Michigan association of fire chiefs.

(c) One member appointed to the council by the governor from a list of 3 or more members submitted by the Michigan professional fire fighters union.

(d) One member appointed to the council by the governor from a list of 3 or more names submitted by the Michigan state firemen's association.

(e) One member appointed to the council by the governor from a list of 3 or more names submitted by the Michigan fire service instructors association.

(f) One member appointed to the council by the governor from a list of 2 or more names submitted by the Michigan townships association and 2 or more names submitted by the Michigan municipal league.

(2) All appointments made by the governor shall be with the advice and consent of the senate.

History: 1966, Act 291, Eff. Jan. 1, 1968;—Am. 1987, Act 196, Eff. Oct. 1, 1988;—Am. 2006, Act 213, Imd. Eff. June 19, 2006.

Compiler's note: For transfer of powers and duties of fire fighters training council from department of state police to department of labor and economic growth by Type I transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties of department of state police, and its director, from the department of state police to department of

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labor and economic growth by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of position as member of fire fighters training council to the director of the department of labor and economic growth, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

29.364 Training council; terms; vacancy; reappointment.

Sec. 4. A member of the council appointed before January 1, 2007 shall be appointed for a term of 3 years. A member of the council appointed after December 31, 2006 shall be appointed for a term of 4 years. A vacancy created other than by expiration of a term shall be appointed for the unexpired term of the member who is to succeed in the same manner as the original appointment. Any member may be reappointed for additional terms.

History: 1966, Act 291, Eff. Jan. 1, 1968;—Am. 2006, Act 213, Imd. Eff. June 19, 2006.

Compiler's note: For transfer of powers and duties of fire fighters training council from department of state police to department of labor and economic growth by Type I transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties of department of state police, and its director, from the department of state police to department of labor and economic growth by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

29.365 Firefighters training council; chairperson; vice-chairperson; effect of membership.

Sec. 5. The governor may designate a member of the council to serve as chairperson of the council at the pleasure of the governor. The council may designate a member as vice-chairperson to serve for 1 year. The vice-chairperson may be reelected. Membership on the council does not constitute holding a public office. Members of the council are not required to take and file oaths of office before serving on the council. The council shall not exercise any portion of the sovereign power of this state. A member of the council is not disqualified from holding any public office or employment by reason of his or her appointment to membership on the council, nor shall he or she forfeit any such office or employment by reason of his or her appointment, notwithstanding the provisions of any general, special, or local laws or ordinances or city charters.

History: 1966, Act 291, Eff. Jan. 1, 1968;—Am. 1987, Act 196, Eff. Oct. 1, 1988;—Am. 2006, Act 213, Imd. Eff. June 19, 2006.

Compiler's note: For transfer of powers and duties of fire fighters training council from department of state police to department of labor and economic growth by Type I transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties of department of state police, and its director, from the department of state police to department of labor and economic growth by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of position as member of fire fighters training council to the director of the department of labor and economic growth, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

29.366 Training council; meetings; conducting business at public meeting; notice of meeting; quorum, place, and conduct of meetings.

Sec. 6. The council shall meet at least 4 times each year and shall hold special meetings when called by the chairperson or, in the absence of the chairperson, by the vice-chairperson or when called by the chairperson upon the written request of 4 members of the council. The business which the council may perform shall be conducted at a public meeting of the council held in compliance with Act No. 267 of the Public Acts of 1976, as amended, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Public notice of the time, date, and place of the meeting shall be given in the manner required by Act No. 267 of the Public Acts of 1976, as amended. The council shall establish its own procedures and requirements with respect to quorum, place, and conduct of its meetings and other matters.

History: 1966, Act 291, Eff. Jan. 1, 1968;—Am. 1980, Act 10, Imd. Eff. Feb. 14, 1980.

Compiler's note: For transfer of powers and duties of fire fighters training council from department of state police to department of labor and economic growth by Type I transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties of department of state police, and its director, from the department of state police to department of labor and economic growth by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

29.367 Training council; annual report to governor, contents.

Sec. 7. The council shall make an annual report to the governor and each house of the legislature which will include pertinent data regarding the standards established and the degree of participation of municipalities in the training program.

History: 1966, Act 291, Eff. Jan. 1, 1968.

Compiler's note: For transfer of powers and duties of fire fighters training council from department of state police to department of labor and economic growth by Type I transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties of department of state police, and its director, from the department of state police to department of labor and economic growth by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

29.368 Training council; members; compensation and expenses.

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Sec. 8. The members of the council shall serve without compensation, but shall be entitled to their actual expenses in attending meetings and in the performance of their duties, subject to available appropriations.

History: 1966, Act 291, Eff. Jan. 1, 1968;—Am. 2006, Act 213, Imd. Eff. June 19, 2006.

Compiler's note: For transfer of powers and duties of fire fighters training council from department of state police to department of labor and economic growth by Type I transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties of department of state police, and its director, from the department of state police to department of labor and economic growth by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

29.369 Preparation and publication of standards; statement designating training officer or training coordinator; training material in electronic format; examination; waiver; "armed forces" defined; review and monitoring of state and federal standards; recommendations; reciprocity; automatic certification under subsection (9).

Sec. 9. (1) The state fire marshal, with the approval of the council, shall prepare and publish standards with due consideration to varying factors and special requirements of organized fire departments in the following areas:

(a) Advisory standards of physical, educational, mental and moral fitness, which shall govern the recruitment, selection, and appointment of firefighters.

(b) The approval by the council of firefighter training schools. The standards shall address, at least, the following issues:

(*i*) The qualification and certification of instructors.

(*ii*) The courses of study, attendance, record-keeping requirements, equipment, and facilities.

(*iii*) The visitation and evaluation of instructors and schools.

(c) The establishment of subordinate regional training centers in strategic geographic locations in order to serve the greatest number of organized fire departments that are unable to support their own training programs.

(2) Each organized fire department shall file a statement with the council designating at least 1 training officer or training coordinator for the fire department. If a training officer or training coordinator is changed, the organized fire department, within 7 days of the change, shall file a statement notifying the council of the change.

(3) The council shall develop and provide to each organized fire department, upon request of the organized fire department and at no charge, as proposed by the state fire marshal, training material in an electronic format to be used in training firefighters. The electronic training material shall be based on the standards for fire fighter I and fire fighter II set forth in "Standard for Fire Fighter Professional Qualifications", National Fire Protection Association standard no. 1001.

(4) The state fire marshal, with the approval of the council, shall develop and administer an examination, which shall include a practical demonstration, a written or oral test, or a combination thereof, to determine a person's competency in regard to the knowledge and skill requirements set forth in standards for fire fighter I and fire fighter II set forth in "Standard for Fire Fighter Professional Qualifications", National Fire Protection Association standard no. 1001. The council, upon the request of an organized fire department, shall administer the examination in each county at least once every year. The examination shall be administered in 2 parts. Part 1 shall test the knowledge and skill requirements set forth in fire fighter I, and part 2 shall test the knowledge and skill requirements set forth in fire fighter II. The examination may be retaken, as necessary, upon request from an organized fire department.

(5) Except as provided in subsections (7) and (9), by 12 months after a person's hiring date as a full-time firefighter, the person must pass both part 1 and part 2 of the examination to be eligible for continued or permanent full-time employment as a firefighter.

(6) Except as provided in subsections (7) and (9), by 24 months after a person's appointment date as a volunteer or paid on-call firefighter, a person must pass part 1 of the examination to be eligible for continued volunteer or paid on-call service as a firefighter.

(7) The examination requirements under this section do not apply to a person who is employed or under appointment as a firefighter on October 1, 1988, unless the person subsequently changes his or her status from a volunteer or paid on-call firefighter to a full-time firefighter. The state fire marshal may waive the examination requirements under this section for a veteran who served in and is separated from the armed forces and provides a form DD214 or DD215 or any other form that is satisfactory to the department that demonstrates that he or she was separated from service with an honorable character of service or under honorable conditions (general) character of service, upon verification that the veteran completed firefighter training that meets the standards for fire fighter I and fire fighter II set forth in "Standard for Fire Fighter Professional Qualifications", National Fire Protection Association standard no. 1001, while serving in the

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armed forces of the United States. As used in this subsection, "armed forces" means that term as defined in section 2 of the veteran right to employment services act, 1994 PA 39, MCL 35.1092.

(8) The state fire marshal, with the approval of the council, shall review and monitor the state and federal standards relating to live fire training exercises in structures and make recommendations to the general industry safety standards commission for any new or modified standards necessary for the protection of firefighter trainees.

(9) The state fire marshal shall waive the examination requirements under this section and extend reciprocity certification to a firefighter from another state who seeks to work as a firefighter in this state if the firefighter was certified in the other state after successfully completing a program that meets or exceeds the standards for fire fighter I and fire fighter II set forth in "Standard for Fire Fighter Professional Qualifications", National Fire Protection Association standard no. 1001 by an international accreditation fire service organization.

(10) The presentation of records evidencing certification under subsection (9) shall automatically result in certification by this state.

History: 1966, Act 291, Eff. Jan. 1, 1968;—Am. 1987, Act 196, Eff. Oct. 1, 1988;—Am. 1988, Act 458, Eff. Mar. 30, 1989;—Am. 2006, Act 213, Imd. Eff. June 19, 2006;—Am. 2013, Act 166, Eff. Feb. 11, 2014;—Am. 2015, Act 203, Imd. Eff. Nov. 30, 2015.

Compiler's note: For transfer of powers and duties of fire fighters training council from department of state police to department of labor and economic growth by Type I transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties of department of state police, and its director, from the department of state police to department of labor and economic growth by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

29.369a Training council; availability of writings to public.

Sec. 9a. A writing prepared, owned, used, in the possession of, or retained by the council in the performance of an official function shall be made available to the public in compliance with Act No. 442 of the Public Acts of 1976, as amended, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

History: Add. 1980, Act 10, Imd. Eff. Feb. 14, 1980.

Compiler's note: For transfer of powers and duties of fire fighters training council from department of state police to department of labor and economic growth by Type I transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties of department of state police, and its director, from the department of state police to department of labor and economic growth by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

29.370 Training council; cooperation with other agencies, colleges and universities.

Sec. 10. The council may enter into agreement with other agencies, colleges and universities to carry out the intent of this act.

History: 1966, Act 291, Eff. Jan. 1, 1968.

Compiler's note: For transfer of powers and duties of fire fighters training council from department of state police to department of labor and economic growth by Type I transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties of department of state police, and its director, from the department of state police to department of labor and economic growth by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

29.371 State fire marshal or training council; powers.

Sec. 11. The state fire marshal or the council may:

(a) Visit and inspect any firefighter training school, or examine the curriculum or training procedures, for which application for approval has been made.

(b) Issue certificates to firefighter training schools qualifying under the regulations promulgated under this act.

(c) Authorize the issuance of certificates of graduation or diplomas by approved firefighter training schools to firefighters who have satisfactorily completed minimum courses of study.

(d) Cooperate with state, federal, and local fire agencies in establishing and conducting local or area schools or regional training centers for instruction and training of firefighters of this state and its cities, counties, townships, and villages.

(e) Make recommendations to the state fire marshal, the governor, and the legislature on matters pertaining to qualification and training of firefighters.

History: 1966, Act 291, Eff. Jan. 1, 1968;—Am. 2006, Act 213, Imd. Eff. June 19, 2006.

Compiler's note: For transfer of powers and duties of fire fighters training council from department of state police to department of labor and economic growth by Type I transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties of department of state police, and its director, from the department of state police to department of labor and economic growth by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

29.372 Training council; executive secretary, appointment, term, duties, compensation.

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Sec. 12. There shall be an executive secretary of the council who shall be appointed by the council, and who shall hold office during the pleasure of the council. He shall perform such functions and duties as may be assigned to him by the council. He shall receive compensation and reimbursement for expenses within the amounts available by appropriation.

History: 1966, Act 291, Eff. Jan. 1, 1968.

Compiler's note: For transfer of powers and duties of fire fighters training council from department of state police to department of labor and economic growth by Type I transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties of department of state police, and its director, from the department of state police to department of labor and economic growth by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

29.373 Firefighters training fund; appropriations; limitations.

Sec. 13. There is created in the state treasury the firefighters training fund from which the legislature shall appropriate an amount of money deemed necessary for the purposes of this act but appropriations from the firefighters training fund shall not exceed 75% of money paid into the fund.

History: 1966, Act 291, Eff. Jan. 1, 1968;—Am. 2006, Act 213, Imd. Eff. June 19, 2006.

Compiler's note: For transfer of powers and duties of fire fighters training council from department of state police to department of labor and economic growth by Type I transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties of department of state police, and its director, from the department of state police to department of labor and economic growth by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

29.374 Training expenditures; reimbursement to counties; distribution.

Sec. 14.

(1) From the amount annually appropriated by law for the council, the council may request and the state fire marshal may approve annual training expenditures for the purposes of payments to counties to reimburse organized fire departments for firefighter training and other activities required under this act.

(2) The money approved under subsection (1) shall be disbursed to counties using a formula composed 70% of county population and 30% of square miles within the county. A minimum disbursement to each county may be requested by the council and approved by the state fire marshal.

(3) The chairperson of a firefighter training committee established in each county shall survey the training needs of organized fire departments in the county and shall distribute the money received by the county under this section as prioritized by the organized fire departments in the county. If money distributed to a county under this section for a fiscal year is not designated by the chairperson for distribution to organized fire departments in the county by January 1 of the fiscal year, the undesignated money shall be returned to the council for redistribution using the formula under subsection (2).

(4) Money shall be distributed under this section only to an organized fire department that has adhered to the standards established under this act for personnel recruited or trained by the organized fire department during the current and prior fiscal years.

History: 1966, Act 291, Eff. Jan. 1, 1968;—Am. 2006, Act 213, Imd. Eff. June 19, 2006.

Compiler's note: For transfer of powers and duties of fire fighters training council from department of state police to department of labor and economic growth by Type I transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties of department of state police, and its director, from the department of state police to department of labor and economic growth by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

29.375 Application by local units for aid under act.

Sec. 15. Any city, county, township or village which desires to receive aid pursuant to this act shall make application to the council for such aid.

History: 1966, Act 291, Eff. Jan. 1, 1968.

Compiler's note: For transfer of powers and duties of fire fighters training council from department of state police to department of labor and economic growth by Type I transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties of department of state police, and its director, from the department of state police to department of labor and economic growth by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

29.376 Training council; rules and regulations.

Sec. 16. The council shall adopt rules and regulations in accordance with the provisions of Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.82 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948.

History: 1966, Act 291, Eff. Jan. 1, 1968.

Compiler's note: For transfer of powers and duties of fire fighters training council from department of state police to department of labor and economic growth by Type I transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

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For transfer of powers and duties of department of state police, and its director, from the department of state police to department of labor and economic growth by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

Administrative rules: R 29.401 et seq. of the Michigan Administrative Code.

29.377 Effective date.

Sec. 17. This act shall take effect January 1, 1968.

History: 1966, Act 291, Eff. Jan. 1, 1968.

Compiler's note: For transfer of powers and duties of fire fighters training council from department of state police to department of labor and economic growth by Type I transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties of department of state police, and its director, from the department of state police to department of labor and economic growth by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

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FIRE FIGHTING AND RESCUE TRAINING FACILITIES
Act 307 of 1972

AN ACT to authorize local units of government to expend money for individual or cooperative fire and rescue training facilities.

History: 1972, Act 307, Imd. Eff. Dec. 22, 1972.

The People of the State of Michigan enact:

29.381 Fire fighting and rescue training facilities.

Sec. 1. A county, city, village or township may expend money from its general fund for the establishment, support, maintenance and conducting of local or area schools or regional training facilities for instruction and training of fire fighters of this state in fire fighting and rescue techniques. A school or training facility may be operated on a cooperative basis with any other county, city, village or township.

History: 1972, Act 307, Imd. Eff. Dec. 22, 1972.

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EXEMPTION OF FIREMEN FROM CARRYING CERTAIN PAPERS
Act 69 of 1968

AN ACT to exempt firemen from carrying certain papers on their person while responding to or returning from a fire alarm or while actually engaged in fighting a fire.

History: 1968, Act 69, Imd. Eff. May 28, 1968.

The People of the State of Michigan enact:

29.391 Exemption of firemen from carrying certain papers.

Sec. 1. Notwithstanding any provision of law to the contrary, any fireman while responding to or returning from a fire alarm or while actually engaged in fighting a fire shall be exempt from carrying on his person any certificate, license or any paper or writing required by law to be on his person or presented upon demand of a peace officer.

History: 1968, Act 69, Imd. Eff. May 28, 1968.

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IMMUNITY OF INSTRUCTORS
Act 456 of 1988

AN ACT to provide certain immunity from civil action to certain instructors.

History: 1988, Act 456, Eff. Mar. 30, 1989.

The People of the State of Michigan enact:

29.401 Liability for tort damages caused by instructional services.

Sec. 1. An instructor certified, assigned, approved, or contracted under the fire fighters training council act of 1966, 1966 PA 291, MCL 29.361 to 29.377, to provide instructional services is not liable for tort damages caused by those instructional services if the tort damages are caused by the ordinary negligence of the instructor.

History: 1988, Act 456, Eff. Mar. 30, 1989;—Am. 2006, Act 210, Imd. Eff. June 19, 2006.

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IMMUNITY OF INSTITUTIONS OF HIGHER EDUCATION AND HEALTH FACILITIES
Act 457 of 1988

AN ACT to provide certain immunity from civil liability to certain institutions of higher education and health facilities and employees of institutions of higher education and health facilities.

History: 1988, Act 457, Eff. Mar. 30, 1989.

The People of the State of Michigan enact:

29.411 Definitions.

Sec. 1. As used in this act:

(a) "Health facility or agency" means that term as defined in article 17 of the public health code, Act No. 368 of the Public Acts of 1978, being sections 333.20101 to 333.22181 of the Michigan Compiled Laws.

(b) "Institution of higher education" means a college or university described in section 4, 5, or 6 of article VIII of the state constitution of 1963 or a junior college or community college established pursuant to section 7 of article VIII of the state constitution of 1963.

History: 1988, Act 457, Eff. Mar. 30, 1989.

29.412 Liability for tort damages caused by training or educational practices.

Sec. 2. An institution of higher education or a health facility or agency, or an employee of an institution of higher education or health facility or agency, that participates in a training or educational program approved under the fire fighters training council act of 1966, 1966 PA 291, MCL 29.361 to 29.377, is not liable for tort damages caused by any primary or continuing training or educational practices by a person who participated in such program if the tort damages are caused by the ordinary negligence of the institution of higher education, health facility or agency, or employee.

History: 1988, Act 457, Eff. Mar. 30, 1989;—Am. 2006, Act 211, Imd. Eff. June 19, 2006.

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EXECUTIVE REORGANIZATION ORDER
E.R.O. No. 1997-2

29.451 Transfer of certain inspection and administrative functions of the fire marshal division of the department of state police to department of consumer and industry services by type II transfer; transfer of state fire safety board from department of state police to department of consumer and industry services by type I transfer; transfer of certain functions related to the above ground storage tank program and the inspection of dry cleaning establishments from the department of state police to the department of environmental quality by type II transfer.

WHEREAS, Article V, Section 1, of the Constitution of the State of Michigan of 1963 vests the executive power in the Governor; and

WHEREAS, Article V, Section 2 of the Constitution of the State of Michigan of 1963 empowers the Governor to make changes in the organization of the Executive Branch or in the assignment of functions among its units which he considers necessary for efficient administration; and

WHEREAS, the Fire Marshal Division of the Michigan Department of State Police performs certain inspection functions which are duplicative of or similar to those performed by the Department of Consumer and Industry Services and the Department of Environmental Quality; and

WHEREAS, the Department of Consumer and Industry Services is the primary state department with inspection and licensing responsibilities; and

WHEREAS, in Executive Orders 1995-18 and 1996-1 the Michigan Department of Environmental Quality assumed certain responsibilities for dry cleaning programs and underground storage tanks; and

WHEREAS, certain functions, duties and responsibilities assigned to the Fire Marshal Division of the Michigan Department of State Police can be more effectively organized and carried out under the supervision and direction of the Michigan Department of Consumer & Industry Services and Michigan Department of Environmental Quality; and

WHEREAS, it is in the best interest of Michigan citizens to have the Department of State Police concentrate its efforts and functions on its primary role of criminal investigations, arson investigations, and arson-related training activities; and

WHEREAS, by relieving the Fire Marshal Division of certain inspection and administrative functions, state police resources will be made available to perform core functions of the Department of State Police; and

WHEREAS, it is necessary in the interests of efficient administration and effectiveness of government to effect changes in the organization of the Executive Branch of government.

NOW, THEREFORE, I, John Engler, Governor of the State of Michigan, pursuant to the powers vested in me by the Constitution of the State of Michigan of 1963 and the laws of the State of Michigan, do hereby order the following:

A. Department of Consumer and Industry Services.

1. All of the authority, powers, duties, functions and responsibilities, including but not limited to the functions of budgeting, procurement and management related functions of the following Fire Marshal Division programs:

a) Fire safety inspections of adult foster care (MCL §400.711), correctional (MCL §791.762), and health care facilities (MCL §§330.1138 and 333.20156); and

b) Plan review and construction inspections of schools, colleges, universities, school dormitories (MCL §388.853), as well as adult foster care (MCL §400.711), correctional (MCL §791.762), and health care facilities (MCL §§330.1138 and 333.21056); and

c) Coordination of fire inspector training programs, including State Certified Fire Inspector School (SCFIS) and the biennial recertification of fire inspectors (MCL §29.2b); and

d) Fire alarm and fire suppression system installation, documentation and certification (MCL 29.26 - 33); and

e) Federally required fire inspections of certain health and mental care facilities, and

f) Inspection and certification of places of public assemblage (MCL 29.21c and 29.21d); and

g) Federal inspection requirements pursuant to the Hotel/Motel Fire Safety Act of 1990 (PL 101-391 of 1990); and

h) Fire drills in schools, colleges, universities and school dormitories (MCL §29.19); and

i) Fire extinguishing compound use approval (MCL §29.21b(b); and

j) Hazardous chemicals in the workplace (MCL §29.29p),

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are hereby transferred from the Department of State Police to the Department of Consumer & Industry Services by a Type II transfer as defined by Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws.

2. All the statutory authority, powers, duties, functions and responsibilities granted to the Director of the State Police in Section 2 of Act No. 207 of the Public Acts of 1941, as amended, being Sections 29.2 of the Michigan Compiled Laws, which are related to the functions transferred by this Order, are hereby transferred from the Director of the Michigan Department of State Police to the Director of the Department of Consumer and Industry Services by a Type II transfer as defined by Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws.

3. All of the statutory authority, powers, duties, functions and responsibilities of the State Fire Safety Board, including but not limited to those set forth in Act No. 207 of the Public Acts of 1941, as amended, being Section 29.1 et. seq. of the Michigan Compiled Laws, are hereby transferred from the Department of State Police to the Department of Consumer and Industry Services by a Type I transfer as defined by Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws.

4. The Director of the Department of Consumer & Industry Services shall provide executive direction and supervision for the implementation of the transfers. The assigned functions shall be administered under the direction and supervision of the Director of the Department of Consumer & Industry Services and all prescribed functions of rule making, licensing and registration, including the prescription of rules, regulations, standards and adjudications, shall be transferred to the Director of the Department of Consumer & Industry Services.

5. All records, personnel, property and unexpended balances of appropriations, allocations and other funds used, held, employed, available or to be made available to the Fire Marshal Division and State Fire Safety Board for the activities transferred to the Department of Consumer & Industry Services by this Order are hereby transferred to the Department of Consumer & Industry Services.

6. The Director of the Department of Consumer & Industry Services shall make internal organizational changes as may be administratively necessary to complete the realignment of responsibilities prescribed by this Order.

7. The Director of the Department of State Police and the Director of the Department of Consumer & Industry Services shall immediately initiate coordination to facilitate the transfer and develop a memorandum of record identifying any pending settlements, issues of compliance with applicable federal and State laws and regulations, or other obligations to be resolved by the Fire Marshal Division.

8. The Department of Management and Budget shall determine and authorize the most efficient manner possible for handling financial transactions and records in the states financial management system for the remainder of the fiscal year.

9. All rules, orders, contracts and agreements relating to the assigned functions lawfully adopted prior to the effective date of this Order shall continue to be effective until revised, amended or repealed.

10. Any suit, action or other proceeding lawfully commenced by, against or before any entity affected by this Order shall not abate by reason of the taking effect of this Order. Any suit, action or other proceeding may be maintained by, against or before the appropriate successor of any entity affected by this Order.

B. Department of Environmental Quality.

1. All of the statutory authority, powers, duties, functions and responsibilities, including but not limited to the functions of budgeting, procurement and related management functions of the following Fire Marshal Division programs:

a. The Above Ground Storage Tank Program (MCL §29.5c); and

b. The inspection of dry cleaning establishments (MCL §29.5i),

are hereby transferred from the Department of State Police to the Department of Environmental Quality by a Type II transfer as defined by Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws.

2. The Director of the Michigan Department of Environmental Quality shall provide executive direction and supervision for the implementation of the transfers. The assigned functions shall be administered under the direction and supervision of the Director of the Michigan Department of Environmental Quality, and all related prescribed functions of rule-making, licensing and registration, including the prescription of rules, regulations, standards and adjudications, are transferred to the Director of the Michigan Department of Environmental Quality.

3. The Director of the Department of Environmental Quality shall make internal organizational changes as may be administratively necessary to complete the realignment of responsibilities prescribed by this Order.

4. All records, personnel, property and unexpended balances of appropriations, allocations and other funds

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used, held, employed, available to or to be made available to the activities, powers, duties, functions and responsibilities transferred to the Michigan Department of Environmental Quality by this Order are transferred to the Michigan Department of Environmental Quality.

5. The Director of the Michigan Department of Environmental Quality shall make internal organizational changes as may be administratively necessary to complete the realignment of responsibilities prescribed by this Order.

6. The Director of the Michigan Department of State Police and the Director of the Michigan Department of Environmental Quality shall immediately initiate coordination to facilitate the transfers and develop a memorandum of record identifying any pending settlements, issues of compliance with applicable federal and state laws and regulations, or other obligations to be resolved by the Michigan Department of Environmental Quality.

7. The Department of Management and Budget shall determine and authorize the most efficient manner possible for handling financial transactions and records in the states financial management system for the remainder of the fiscal year

8. All rules, orders, contracts and agreements relating to the assigned functions lawfully adopted prior to the effective date of this Order shall continue to be effective until revised, amended or repealed.

9. Any suit, action or other proceeding lawfully commenced by, against or before any entity affected by this Order shall not abate by reason of the taking effect of this Order. Any suit, action or other proceeding may be maintained by, against or before the appropriate successor of any entity affected by this Order.

In fulfillment of the requirement of Article V, Section 2, of the Constitution of the State of Michigan of 1963, the provisions of this Order shall become effective September 30, 1997.

History: 1997, E.R.O. No. 1997-2, Eff. Sept. 30, 1997.

Compiler's note: For transfer of certain authority, powers, functions, and responsibilities of the state fire marshal and the fire marshal division of the department of state police to the director of the department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of authority of fire safety board to designate 1 of its members as chairperson to the governor, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties of department of environmental quality to department of natural resources and environment, and abolishment of the department of environmental quality, see E.R.O. No. 2009-31, compiled at MCL 324.99919.

Administrative rules: R 29.2801 et seq. of the Michigan Administrative Code.

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EXECUTIVE REORGANIZATION ORDER
E.R.O. No. 1998-2

29.461 Transfer of powers, duties, and administrative functions pertaining to storage and handling of certain hazardous liquids and gases from the department of state police to the department of environmental quality by type II transfer; transfer of the aboveground storage tank program from the department of state police to the department of environmental quality by type II transfer; transfer of certain powers, duties, and functions from the department of state police and state fire safety board to the department of environmental quality by type II transfer; renaming underground storage tank division as storage tank division.

WHEREAS, Article V, Section 1, of the Constitution of the State of Michigan of 1963 vests the executive power in the Governor; and

WHEREAS, Article V, Section 2 of the Constitution of the State of Michigan of 1963 empowers the Governor to make changes in the organization of the Executive Branch or in the assignment of functions among its units which he considers necessary for efficient administration; and

WHEREAS, Executive Order No. 1997-2 transferred the Aboveground Storage Tank Program (MCL 29.5c) from the Fire Marshal Division of the Michigan Department of State Police to the Michigan Department of Environmental Quality; and

WHEREAS, other regulatory statutes and administrative rules govern the storage and handling of hazardous materials not regulated under MCL 29.5c; and

WHEREAS, it is in the best interest of Michigan citizens to ensure that the storage and handling of these other hazardous materials are conducted in a safe and environmentally responsible manner; and

WHEREAS, it is necessary in the interests of efficient administration and effectiveness of government to regulate the storage and handling of these hazardous materials within one department of the Executive Branch of government.

NOW, THEREFORE, I, John Engler, Governor of the State of Michigan, pursuant to the powers vested in me by the Constitution of the State of Michigan of 1963 and the laws of the State of Michigan, do hereby order the following:

1. All the statutory authority, powers, duties, functions and responsibilities, including but not limited to the functions of rulemaking, budgeting, procurement and related management functions of the following programs:

a. Promulgation and enforcement of administrative rules pertaining to the storage and handling of flammable and combustible liquids; liquefied petroleum gases; compressed natural gas vehicular fuel systems; and the production, storage and handling of liquefied natural gas (Section 3c(2) of Act No. 207 of Public Acts of 1941, as amended, being Section 29.3c(2) of the Michigan Compiled Laws); and

b. The Aboveground Storage Tank Program, Sections 5d, 5e, 5j, 5k, 5l, 5m, 5n and 5o of Act No. 207 of the Public Acts of 1941, as amended, being Sections 29.5d, 5e, 5j, 5k, 5l, 5m, 5n and 5o of the Michigan Compiled Laws;

are hereby transferred from the Department of State Police to the Department of Environmental Quality by a Type II transfer as defined by Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws.

2. All the statutory authority, powers, duties, functions and responsibilities granted to the Director of the Department of State Police, the Department of State Police and the State Fire Safety Board in Section 2 and Section 3c of Act No. 207 of the Public Acts of 1941, as amended, being Sections 29.2 and 29.3c of the Michigan Compiled Laws, which are related to the functions transferred by this Order and paragraph B.1. of Executive Order 1997-2, are hereby transferred to the Director of the Department of Environmental Quality by a Type II transfer, as defined in Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws.

3. The Underground Storage Tank Division created by Executive Order 1994-7 and placed within the Department of Environmental Quality by Executive order 1995-18, is hereby renamed the "Storage Tank Division."

4. The Director of the Michigan Department of Environmental Quality shall provide executive direction and supervision for the implementation of the transfers. The assigned functions shall be administered under the direction and supervision of the Director of the Michigan Department of Environmental Quality, and all related prescribed functions of rule-making, licensing and registration, including the prescription of rules,

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regulations, standards and adjudications, are transferred to the Director of the Michigan Department of Environmental Quality.

5. The Director of the Department of Environmental Quality shall make internal organizational changes as may be administratively necessary to complete the realignment of responsibilities prescribed by this Order.

6. All records, personnel, property and unexpended balances of appropriations, allocations and other funds used, held, employed, available to or to be made available to the activities, powers, duties, functions and responsibilities transferred to the Michigan Department of Environmental Quality by this Order are transferred to the Michigan Department of Environmental Quality.

7. The Director of the Michigan Department of State Police and the Director of the Michigan Department of Environmental Quality shall immediately initiate coordination to facilitate the transfers and develop a memorandum of record identifying any pending settlements, issues of compliance with applicable federal and state laws and regulations, or other obligations to be resolved by the Michigan Department of Environmental Quality.

8. The Department of Management and Budget shall determine and authorize the most efficient manner possible for handling financial transactions and records in the state's financial management system for the remainder of the fiscal year

9. All rules, orders, contracts and agreements relating to the assigned functions lawfully adopted prior to the effective date of this Order shall continue to be effective until revised, amended or repealed.

10. Any suit, action or other proceeding lawfully commenced by, against or before any entity affected by this Order shall not abate by reason of the taking effect of this Order. Any suit, action or other proceeding may be maintained by, against or before the appropriate successor of any entity affected by this Order.

In fulfillment of the requirement of Article V, Section 2, of the Constitution of the State of Michigan of 1963, the provisions of this Order shall become effective sixty (60) days after filing.

History: 1998, E.R.O. No. 1998-2, Eff. May 16, 1998.

Compiler's note: For transfer of powers and duties of department of environmental quality to department of natural resources and environment, and abolishment of the department of environmental quality, see E.R.O. No. 2009-31, compiled at MCL 324.99919.

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EXECUTIVE REORGANIZATION ORDER
E.R.O. No. 2012-7

29.462 Transfer of powers and duties relating to the aboveground storage tank program and the underground storage tank program from department of environmental quality to the bureau of fire services, department of licensing and regulatory affairs.

WHEREAS, Section 1 of Article V of the Michigan Constitution of 1963 vests the executive power in the Governor; and

WHEREAS, Section 2 of Article V of the Michigan Constitution of 1963 empowers the Governor to make changes in the organization of the Executive Branch or in the assignment of functions among its units that the Governor considers necessary for efficient administration; and

WHEREAS, Section 8 of Article V of the Michigan Constitution of 1963 provides that each principal department shall be under the supervision of the Governor, unless otherwise provided by the Constitution; and

WHEREAS, there is a continued need to reorganize functions among state departments to ensure efficient administration; and

WHEREAS, it is most efficient to house similar regulatory and license permitting agencies in a single department; and

NOW, THEREFORE, I, Richard D. Snyder, Governor of the state of Michigan, by virtue of the powers and authority vested in the Governor by the Michigan Constitution of 1963 and Michigan law, order the following:

I. DEPARTMENT OF ENVIRONMENTAL QUALITY

A. Any authority, powers, duties, functions, records, personnel, property, unexpended balances of appropriations, allocations or other funds, including the functions of budgeting and procurement, of the Department of Environmental Quality under the Aboveground Storage Tank (AST) Program, Sections 2, 2a, 3c (2 and 6), 5c, 5d, 5e, 5j, 5k, 5l, 5m, 5n and 5o of the Fire Prevention Code, 1941 PA 207, as amended, being Sections 29.2, 2a, 3c (2 and 6), 5c, 5d, 5e, 5j, 5k, 5l, 5m, 5n, and 5o of the Michigan Compiled Laws, MCL 29.451 to MCL 29.461, are transferred from the Department of Environmental Quality to the Bureau of Fire Services, Department of Licensing and Regulatory Affairs.

B. Any authority, powers, duties, functions, records, personnel, property, unexpended balances of appropriations, allocations or other funds, including the functions of budgeting and procurement, of the Department of Environmental Quality under the Underground Storage Tank Program, created by Executive Reorganization Order 1994-4, Executive Order 1994-7, and 1994 PA 451, MCL 324.21101 through 324.21 113, are transferred from the Department of Environmental Quality to the Bureau of Fire Services, Department of Licensing and Regulatory Affairs.

C. The administration of Rule 336.1627, delivery vessels, vapor collection systems, of the Natural Resources and Environmental Protection Act NREPA, Act 451 of 1994, Part 55, specifically the acceptance and verification of documentation requirements described in the U.S. Environmental Protection Agency Method 27, is transferred from the Department of Environmental Quality to the Bureau of Fire Services, Department of Licensing and Regulatory Affairs. As part of this transfer, the Department of Environmental Quality will transfer to the Bureau of Fire Services, Department of Licensing and Regulatory Affairs, the Rule 627 database for tracking purposes. No administration of any other rules identified or referred to in Rule 336.1627 shall be transferred.

D. Any authority, powers, duties, functions, records, personnel, property, unexpended balances of appropriations, allocations or other funds, including the functions of budgeting and procurement, used, held, employed, available, or to be made available to the Department of Environmental Quality for the activities, powers, duties, functions, and responsibilities transferred by this Order are transferred to the Department of Licensing and Regulatory Affairs.

E. The director of the Department of Licensing and Regulatory Affairs, after consultation with the Director of the Environmental Quality, shall provide executive direction and supervision for the implementation of the transfers. The assigned functions shall be administered under the direction and supervision of the Director of the Department of Licensing and Regulatory Affairs.

F. Any authority, powers, duties and functions relative to the final agency decisions for cases arising under the authorities transferred under Section I., A.B. and C. of this Order are transferred from the Director of the Department of Environmental Quality to the Director of the Department of Licensing and Regulatory Affairs.

II. IMPLEMENTATION OF TRANSFERS

A. The directors of the departments impacted by this Order shall immediately initiate coordination to facilitate the transfers and shall develop a memorandum of record identifying any pending settlements, issues

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of compliance with applicable federal and state laws and regulations, or other obligations to be resolved.

B. The directors of the departments impacted by this Order shall administer the functions transferred in such ways as to promote efficient administration and shall make internal organizational changes as may be administratively necessary to complete the realignment of responsibilities under this Order.

C. The State Budget Director shall determine the most efficient manner possible for handling financial transactions and records in the state's financial management system necessary for the implementation of this Order.

III. MISCELLANEOUS

A. All rules, orders, contracts, plans, and agreements relating to the functions transferred to the Department of Licensing and Regulatory Affairs by this Order lawfully adopted prior to the effective date of this Order by the responsible state agency shall continue to be effective until revised, amended, or rescinded.

B. Any suit, action, or other proceeding lawfully commenced by, against, or before any entity transferred to the Department of Licensing and Regulatory Affairs by this Order shall not abate by reason of the taking effect of this Order. Any lawfully commenced suit, action, or other proceeding may be maintained by, against, or before the appropriate successor of any entity affected by this Order.

C. The invalidity of any portion of this Order shall not affect the validity of the remainder of the Order, which may be given effect without any invalid portion. Any portion of this Order found invalid by a court or other entity with proper jurisdiction shall be severable from the remaining portions of this Order.

In fulfillment of the requirements of Section 2 of Article V of the Michigan Constitution of 1963, the provisions of this Order shall be effective 60 days after the filing of this Order.

History: 2012, E.R.O. No. 2012-7, Eff. Dec. 3, 2012.

Compiler's note: Executive Reorganization Order No. 2012-7 was promulgated October 3, 2012 as Executive Order No. 2012-14, Eff. Dec. 3, 2012.

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HAZARDOUS MATERIALS TRANSPORTATION ACT
Act 138 of 1998

AN ACT to regulate the transportation of certain hazardous materials; to prescribe the powers and duties of certain state agencies and officials; and to prescribe penalties and provide remedies.

History: 1998, Act 138, Eff. Sept. 1, 1998.

The People of the State of Michigan enact:

29.471 Short title.

Sec. 1. This act shall be known and may be cited as the “hazardous materials transportation act”.

History: 1998, Act 138, Eff. Sept. 1, 1998.

29.472 Definitions.

Sec. 2. As used in this act:

(a) "Base state" means the state selected by a motor carrier according to the procedures established by the uniform program.

(b) "Base state agreement" means the agreement between participating states electing to register or permit motor carriers.

(c) "Department" means the department of environmental quality.

(d) "Fund" means the environmental pollution prevention fund created in section 11130 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.11130.

(e) "Hazardous materials" means any of the following:

(*i*) "Hazardous waste" as that term is defined in section 11103 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.11103.

(*ii*) "Liquid industrial by-product" as that term is defined in section 12101 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.12101.

(f) "Motor carrier" means a person engaged in the transportation of hazardous materials by highway. Motor carrier includes a motor carrier's agents, officers, and representatives. Motor carrier does not include an individual operating under an exclusive lease to a motor carrier that is in compliance with this act.

(g) "Participating state" means a state electing to participate in the uniform program by entering a base state agreement.

(h) "Power unit" means a motor vehicle that provides motor power to the entire combination, or to the vehicle if a single unit.

(i) "Uniform application" means the uniform registration and permit application form established under the uniform program.

(j) "Uniform program" means the uniform state hazardous materials transportation registration and permit program established in the report submitted and amended pursuant to 49 USC 5119(b).

History: 1998, Act 138, Eff. Sept. 1, 1998;—Am. 2013, Act 74, Eff. Oct. 1, 2013;—Am. 2015, Act 225, Eff. Mar. 16, 2016.

Compiler's note: For transfer of powers and duties of department of environmental quality to department of natural resources and environment, see E.R.O. No. 2009-31, compiled at MCL 324.99919.

29.473 Motor carrier; determination of base state designation; manner; registration; permit; filing application and fee; fleet liability coverage; notice of registration form and permit; temporary permit; expiration; exemption.

Sec. 3. (1) A motor carrier shall determine its base state designation in the following manner:

(a) A motor carrier that has its principal place of business in this state shall designate this state as its base state.

(b) A motor carrier that has its principal place of business outside of this state shall determine its base state designation by the highest number of hazardous materials miles traveled among the states participating in the uniform program.

(2) Subject to section 10, a motor carrier that designates this state as its base state pursuant to subsection (1) shall register with and obtain a permit from the department prior to transporting hazardous materials within this state. A motor carrier that designates another participating state as its base state shall register with and obtain a permit from that state, with the appropriate fees paid for this state, prior to transporting hazardous materials in this state.

(3) A motor carrier required to register in this state shall file part I of the uniform application with the department and pay an administrative fee of $50.00 and the apportioned vehicle registration fee. The amount

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of the registration fee shall be calculated by the formula in section 4.

(4) A motor carrier required to obtain a permit in this state shall file part II of the uniform application with the department and pay a permit review fee of $500.00.

(5) A motor carrier shall have and maintain financial responsibility for bodily injury, property damage, or environmental damage to third parties caused by accidental occurrences arising from hazardous materials transportation activities of the motor carrier. The motor carrier shall have and maintain fleet liability coverage for accidental occurrences in an amount not less than $1,000,000.00 per occurrence for hazardous materials that are hazardous wastes and $750,000.00 per occurrence for hazardous materials that are liquid industrial by-product. However, a motor carrier with fleets including only vehicles under 10,000 pounds gross vehicle weight shall have and maintain fleet liability coverage for accidental occurrences in an amount not less than $300,000.00. Proof of the required domiciled fleet liability coverage shall be provided to and maintained by the Michigan public service commission in the department of licensing and regulatory affairs, with certification of proper coverage provided to the department. Demonstration of proof of the required nondomiciled fleet liability coverage shall be provided to and maintained with the Surface Transportation Board in the United States Department of Transportation. Fleet liability coverage not included under the authority of the Michigan public service commission or the Surface Transportation Board shall be demonstrated to the department by submittal of the document entitled "endorsement for motor carrier policies of insurance for public liability under section 29 or 30 of the motor carrier act of 1980" (OMB no. 2126-0008, form MCS-90).

(6) Upon a motor carrier's compliance with subsections (3), (4), and (5), the department shall issue a notice of registration form and a permit to the motor carrier. A notice of registration form and a permit shall include a unique number for each motor carrier assigned by the department.

(7) A motor carrier shall maintain a copy of the notice of registration form and the permit in each power unit used to transport hazardous materials in all participating states. The notice of registration form and the permit are not transferable between motor carriers or owners. The original notice of registration form or permit shall be maintained at the motor carrier's principal place of business as noted on the registration form or permit, and shall be available for inspection during normal business hours.

(8) Prior to entering the state, a motor carrier may obtain a temporary permit in lieu of a notice of registration form and a permit. The temporary permit expires 10 days after issuance, and the fee for a temporary permit is $100.00.

(9) A motor carrier transporting liquid industrial by-product generated on or from property or equipment in which he or she owns an interest is exempt from registration and permitting as required in this act, but remains subject to all other provisions of part 121 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.12101 to 324.12118, or any other applicable act or part.

History: 1998, Act 138, Eff. Sept. 1, 1998;—Am. 2015, Act 225, Eff. Mar. 16, 2016.

29.474 Vehicle registration fee; calculation.

Sec. 4. The apportioned vehicle registration fee required under section 3 shall be equal to the percentage of transportation in this state multiplied by the percentage of all hazardous materials transportation, multiplied by the total number of power units operated, multiplied by a per-vehicle fee of $50.00, and shall be calculated as follows:

(a) A motor carrier shall determine its percentage of transportation in this state by dividing the number of miles traveled in this state under the international registration plan during the previous year by the number of miles it traveled nationwide under the international registration plan. If a motor carrier operated only in this state, its percentage is 100%. If a motor carrier is not registered in the international registration plan, the motor carrier shall calculate the number of miles traveled using the method in the international registration plan. If a motor carrier operates more than 1 fleet under the international registration plan, the motor carrier may calculate each fleet's contribution to the motor carrier's total fee separately. A motor carrier who operated in another state under a reciprocal agreement with that state shall include the miles operated under the agreement as miles traveled in this state in calculating mileage under this section.

(b) A motor carrier shall determine its percentage of hazardous materials transportation using either of the following:

(*i*) For less than truckload shipments, it must divide the weight of all of the motor carrier's hazardous materials shipments transported during the previous year by the total weight of all shipments transported during the same year.

(*ii*) For truckload shipments, it must divide the total number of hazardous materials shipments during the previous year by the total number of all shipments transported during the same year.

(c) A motor carrier shall select the midpoint of the 10% range that most closely approximates the motor

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carrier's calculation of its hazardous materials transportation business, under either option in subdivision (b).

(d) A motor carrier may use data from its most recent complete fiscal year or the most recent calendar year in calculating the percentage required under this section.

History: 1998, Act 138, Eff. Sept. 1, 1998.

29.475 Collection and disposition of registration and permit fees; transfer of fund balance.

Sec. 5. The registration and permit fees collected under this act shall be deposited into the fund. Any balance in the hazardous materials transportation permit fund on October 1, 2013 shall not lapse to the general fund but shall be transferred to the fund and the hazardous materials transportation permit fund shall be closed.

History: 1998, Act 138, Eff. Sept. 1, 1998;—Am. 2013, Act 74, Eff. Oct. 1, 2013.

29.476 Agreements with federal agencies, national repository, or other states; reciprocal registration and permitting coordination; payments; development of forms, applications, and software.

Sec. 6. (1) The department may enter into agreements with federal agencies, a national repository, or other participating states as needed to allow for the reciprocal registration and permitting of motor carriers. The agreements may include procedures for determining base states, the collection and distribution of fees, dispute resolution, the exchange of information for reporting and enforcement, and other provisions necessary to administer this act and the uniform program.

(2) The department shall confer with the department of state with the intent of coordinating the registration and permitting required under this act with other permitting and registration programs.

(3) The department, and, if appropriate under subsection (2), the department of state, may make payments to agencies of other participating states in the uniform program, for the purposes of reimbursement of apportioned registration permit fees.

(4) The department may develop the necessary forms, applications, and software required to implement this act.

History: 1998, Act 138, Eff. Sept. 1, 1998.

29.477 Inspection or examination of motor vehicle or facility; reproduction of evidentiary material; enforcement; compliance; violation; penalty; deposit of collected fines.

Sec. 7. (1) The department or the department of state police may inspect or examine any motor vehicle or facility operated by a motor carrier, or conduct investigations, audits, or compliance reviews as necessary to determine compliance with this act and the uniform program, or to determine eligibility for registration or permitting under this act and the uniform program.

(2) The department or the department of state police may inspect and electronically reproduce any papers, books, records, documents, or other evidentiary material necessary to determine if a motor carrier is complying with this act and the uniform program, or to determine eligibility for registration or permitting under this act and the uniform program.

(3) The department, the department of state police, a local law enforcement agency, or the department of natural resources may enforce this act.

(4) Motor carriers under the jurisdiction of this act shall comply with all applicable provisions of the motor carrier safety act of 1963, 1963 PA 181, MCL 480.11 to 480.22, and all applicable provisions of the natural resources and environmental protection act, 1994 PA 451, MCL 324.101 to 324.90106, as well as any other applicable requirements of law.

(5) A person who violates this act is responsible for a state civil infraction and shall be fined not more than $2,500.00. Fines collected pursuant to this act shall be deposited into the fund.

History: 1998, Act 138, Eff. Sept. 1, 1998.

Compiler's note: For transfer of powers and duties of department of natural resources to department of natural resources and environment, and abolishment of department of natural resources, see E.R.O. No. 2009-31, compiled at MCL 324.99919.

29.478 Validity of registration; application for renewal; fee; annual certification of compliance; notice of change in name, principal place of business, or business telephone number.

Sec. 8. (1) A registration issued under this act is valid for 1 year from the date a notice of registration form is issued and a permit issued under this act is valid for 3 years from the date issued or until a motor carrier fails to renew its registration, whichever occurs first. Application for renewal of a registration or permit shall be made at least 90 days prior to expiration. The fee for renewal shall be the same for an original registration

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or permit.

(2) A motor carrier with a valid permit shall annually certify that its current operations are not substantially different from its operations on the date the motor carrier obtained its permit and shall annually certify its compliance with all applicable laws and regulations in its application for renewal. Failure to comply with the certifications in part II of the uniform program is prohibited.

(3) A motor carrier whose name, principal place of business, or business telephone number has changed during the time a notice of registration or permit is effective shall notify the department of the change by submitting an amended registration or permit statement no later than 30 days after the change. Upon receipt, the department shall issue an amended notice of registration form or permit. The department shall not charge a fee for a change made under this subsection.

History: 1998, Act 138, Eff. Sept. 1, 1998.

29.479 Suspension or revocation of registration or permit; denial of application for registration or permit; conditions; actions of department; notice to motor carrier; written request for contested case hearing; reinstatement; issuance.

Sec. 9. (1) The department shall immediately suspend or revoke a registration or permit, or deny an application for a registration or permit, upon determination of any of the following conditions:

(a) The motor carrier made a materially false or misleading statement in an application.

(b) The motor carrier's operation consists of 1 or more serious or repeated violations of the laws of this state.

(c) The motor carrier has been issued an unsatisfactory rating under the motor carrier rating system developed by the United States department of transportation.

(d) The motor carrier is under a current out of service order issued pursuant to the motor carrier safety act of 1963, 1963 PA 181, MCL 480.11 to 480.22, or an out of service order issued by the United States department of transportation.

(e) The motor carrier does not maintain the appropriate level of financial liability coverage mandated by the laws of this state.

(2) If the department determines that any of the conditions of subsection (1)(a) through (e) exist, the department shall do 1 of the following, as appropriate:

(a) Suspend or revoke a notice of registration or permit previously issued under this act.

(b) Suspend or revoke the hazardous materials transportation operations in this state by a motor carrier operating under a registration or permit issued by another participating state.

(c) Deny an application for registration or permit by a motor carrier.

(3) Upon revocation, suspension, or application denial, the department shall notify the motor carrier, in writing, by certified mail, of the reasons for suspension, revocation, or application denial, and indicate the steps necessary for reinstatement. In the case of a suspension, the department shall also indicate the date by which compliance is required prior to a revocation being issued. The department shall also indicate the steps provided for appeal of the suspension, revocation, or application denial.

(4) Upon notification of suspension, revocation, or application denial, a motor carrier may submit a written request for a contested case hearing pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, with the department, by certified mail, within 10 days of receipt of the notice of suspension, revocation, or application denial. A contested case hearing shall be scheduled within 30 days of the receipt of the request for a contested case hearing, and shall be held in the city of Lansing.

(5) The department may reinstate a notice of registration form or permit that was suspended pursuant to this section if the department is satisfied that the violations causing the suspension have been corrected and the motor carrier's operations have changed sufficiently to prevent further occurrences of the violations.

(6) The department may issue a notice of registration form or permit that was previously denied to a motor carrier if the department is satisfied that the violations causing the denial have been corrected and the motor carrier's operations have changed sufficiently to prevent further occurrences of the violations.

History: 1998, Act 138, Eff. Sept. 1, 1998.

29.480 Preemption of local programs; motor vehicles not subject to act; completion of uniform application; information as private data; release of information.

Sec. 10. (1) This act preempts and supersedes hazardous materials transportation registration or permitting programs administered by any city, village, township, county, or other political subdivision of this state.

(2) Motor vehicles owned and operated by a local, state, or federal government, or any other political subdivision, are not subject to this act.

(3) A motor carrier that holds a valid permit in compliance with part 111 of the natural resources and

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environmental protection act, 1994 PA 451, MCL 324.11101 to 324.11152, on the effective date of this act, shall, upon expiration of that permit, submit a completed uniform application to the department.

(4) The following data submitted on a uniform application pursuant to this act are private data and not subject to the provisions of the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246:

(a) Information related to a motor carrier's customers and service provided to specific customers.

(b) Financial balance sheet and income statement data.

(c) Ownership and debt liability data.

(d) Information related to a motor carrier's parent companies, affiliates, and subsidiaries.

(5) Notwithstanding subsection (4), for the purposes of administering the uniform program, the department may release any information on individuals or motor carriers to the United States department of transportation, any other participating state or state agency, or to the national repository established under the uniform program.

History: 1998, Act 138, Eff. Sept. 1, 1998.

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****** Act 56 of 2009 THIS ACT IS REPEALED BY ACT 56 OF 2009 ON THE DATE THAT THE DIRECTOR NOTIFIES THE SECRETARY OF STATE IN WRITING THAT A FEDERAL REDUCED CIGARETTE IGNITION PROPENSITY STANDARD THAT PREEMPTS THIS ACT HAS BEEN ADOPTED AND IS IN EFFECT: See 29.511 ******

FIRE SAFETY STANDARD AND FIREFIGHTER PROTECTION ACT
Act 56 of 2009

AN ACT to prohibit the sale of certain uncertified cigarettes; to provide standards for testing and fire safety certification of cigarettes; to provide remedies and civil sanctions; to provide for the powers and duties of certain state governmental officers and entities; and to repeal acts and parts of acts.

History: 2009, Act 56, Eff. Jan. 1, 2010.

The People of the State of Michigan enact:

****** 29.491 THIS SECTION IS REPEALED BY ACT 56 OF 2009 ON THE DATE THAT THE DIRECTOR NOTIFIES THE SECRETARY OF STATE IN WRITING THAT A FEDERAL REDUCED CIGARETTE IGNITION PROPENSITY STANDARD THAT PREEMPTS THIS ACT HAS BEEN ADOPTED AND IS IN EFFECT: See 29.511 ******

29.491 Short title.

Sec. 1. This act shall be known and may be cited as the "fire safety standard and firefighter protection act".

History: 2009, Act 56, Eff. Jan. 1, 2010.

****** 29.493 THIS SECTION IS REPEALED BY ACT 56 OF 2009 ON THE DATE THAT THE DIRECTOR NOTIFIES THE SECRETARY OF STATE IN WRITING THAT A FEDERAL REDUCED CIGARETTE IGNITION PROPENSITY STANDARD THAT PREEMPTS THIS ACT HAS BEEN ADOPTED AND IS IN EFFECT: See 29.511 ******

29.493 Definitions.

Sec. 3. As used in this act:

(a) "Agent" means a stamping agent, as defined in section 2 of the tobacco products tax act, MCL 205.422.

(b) "ASTM" means ASTM international, formerly the American society for testing and materials.

(c) "Cigarette" means that term as defined in section 2 of the tobacco products tax act, MCL 205.422.

(d) "Department" means the department of energy, labor, and economic growth.

(e) "Director" means the director of the department.

(f) "Manufacturer" means any of the following:

(*i*) A manufacturer as defined in section 2 of the tobacco products tax act, MCL 205.422.

(*ii*) The first purchaser of gray market cigarettes, as that term is defined in section 2 of the tobacco products tax act, MCL 205.422, if that purchaser intends to resell the cigarettes in the United States.

(*iii*) A successor to a person described in subparagraph (*i*) or (*ii*).

(g) "New York fire safety standards for cigarettes" means the New York executive law, section 156-c, and the New York fire safety standards for cigarettes, New York compilation of codes, rules, and regulations, title 19, sections 429.1 to 429.10.

(h) "Quality control and quality assurance program" means laboratory procedures implemented to ensure that operator bias, systematic and nonsystematic methodological errors, and equipment-related problems do not affect the results of the testing of cigarettes and ensure that testing repeatability remains within the required repeatability values stated in section 5(2)(g) for all test trials used to certify cigarettes under this act.

(i) "Repeatability" means the range of values within which the repeat results of cigarette test trials from a single laboratory will fall 95% of the time.

(j) "Retail dealer" means a retailer, as that term is defined in section 2 of the tobacco products tax act, MCL 205.422.

(k) "Sale" means that term as defined in section 2 of the tobacco products tax act, MCL 205.422.

(*l*) "Secondary wholesaler" means that term as defined in section 2 of the tobacco products tax act, MCL 205.422.

(m) "Sell" means to sell or to offer or agree to sell.

(n) "Tobacco products tax act" means the tobacco products tax act, 1993 PA 327, MCL 205.421 to 205.436.

(o) "Unclassified acquirer" means that term as defined in section 2 of the tobacco products tax act, MCL

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205.422.

(p) "Wholesale dealer" means a wholesaler, as that term is defined in section 2 of the tobacco products tax act, MCL 205.422.

History: 2009, Act 56, Eff. Jan. 1, 2010.

****** 29.495 THIS SECTION IS REPEALED BY ACT 56 OF 2009 ON THE DATE THAT THE DIRECTOR NOTIFIES THE SECRETARY OF STATE IN WRITING THAT A FEDERAL REDUCED CIGARETTE IGNITION PROPENSITY STANDARD THAT PREEMPTS THIS ACT HAS BEEN ADOPTED AND IS IN EFFECT: See 29.511 ******

29.495 Cigarettes; testing requirements.

Sec. 5. (1) Except as provided in subsection (12), a person shall not sell cigarettes in this state or sell cigarettes to a person located in this state unless the cigarettes are tested in accordance with the test method described in subsection (2), the cigarettes meet the performance standard described in subsection (3), the manufacturer has filed a written certification with the department under section 7, and the cigarettes are marked in compliance with section 11.

(2) All of the following apply to the testing of cigarettes for the purposes of this section:

(a) Except as provided in subsection (7), testing of cigarettes is conducted in accordance with ASTM standard E2187-04, "Standard Test Method for Measuring the Ignition Strength of Cigarettes".

(b) Testing is conducted on 10 layers of filter paper.

(c) Forty replicate tests compose a complete test trial for each cigarette tested.

(d) The performance standard described in subsection (3) is only applied to a complete test trial.

(e) Testing is conducted by a laboratory that is accredited pursuant to standard ISO/IEC 17025:2005 of the international organization for standardization or other comparable accreditation standard required by the department.

(f) A laboratory conducting testing has implemented a quality control and quality assurance program that includes a procedure that will determine the repeatability of the testing results.

(g) The repeatability value of the testing results is 0.19 or less.

(3) When a cigarette is tested under subsection (2), no more than 25% of the cigarettes tested in a test trial shall exhibit full-length burns.

(4) This section does not require additional testing if cigarettes are tested consistently with this act for any other purpose.

(5) Any testing performed or sponsored by the department to determine a cigarette's compliance with the performance standard described in subsection (3) must comply with this section.

(6) A cigarette listed in a certification submitted under section 7 that uses lowered permeability bands in the cigarette paper to achieve compliance with the performance standard described in subsection (3) must have at least 2 nominally identical bands on the paper surrounding the tobacco column, with at least 1 complete band located at least 15 millimeters from the lighting end of the cigarette. For cigarettes on which the bands are positioned by design, the cigarette must have at least 2 bands fully located at least 15 millimeters from the lighting end and 10 millimeters from the filter end of the tobacco column or, for nonfiltered cigarettes, 10 millimeters from the labeled end of the tobacco column.

(7) A manufacturer of a cigarette that the department determines cannot be tested in compliance with subsection (2)(a) shall propose a test method and performance standard for the cigarette to the department. If the department approves of the proposed test method and determines that the performance standard proposed by the manufacturer is equivalent to the performance standard prescribed in subsection (3), the manufacturer may employ that test method and performance standard to certify the cigarette under section 7. If the department determines that another state has enacted reduced cigarette ignition propensity standards that include a test method and performance standard that are the same as those contained in this act and the department finds that the officials responsible for implementing those requirements have approved the proposed alternative test method and performance standard for a particular cigarette proposed by a manufacturer as meeting the fire safety standards of that state's law or regulation under a legal provision comparable to this section, the department shall authorize that manufacturer to employ the alternative test method and performance standard to certify that cigarette for sale in this state, unless the department demonstrates a reasonable basis why the alternative test should not be accepted. All other applicable requirements of this section apply to the manufacturer.

(8) A manufacturer shall maintain copies of the reports of all tests conducted under this act on all cigarettes offered for sale in this state for a period of 3 years and make copies of these reports available to the department or the attorney general upon written request. Any manufacturer who fails to make copies of these

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reports available within 60 days of receiving a written request from the department or the attorney general is subject to a civil fine of not more than $10,000.00 for each day after the sixtieth day that the manufacturer does not make the copies available to the department or the attorney general.

(9) The department may adopt a subsequent ASTM standard test method for measuring the ignition strength of cigarettes if it finds that the subsequent method does not result in a change in the percentage of full-length burns exhibited by any tested cigarette when compared to the percentage of full-length burns the same cigarette would exhibit when tested in accordance with the ASTM standard described in subsection (2)(a) and the performance standard described in subsection (3).

(10) The department shall implement this section in accordance with the implementation and substance of the New York fire safety standards for cigarettes.

(11) The department shall review the effectiveness of this section and report every 3 years to the legislature the department's findings and, if appropriate, recommendations for legislation to improve the effectiveness of this act. The department shall submit the report and legislative recommendations no later than the first June 30 following the conclusion of each 3-year period.

(12) This section does not prohibit any of the following:

(a) A wholesale or retail dealer from selling its existing inventory of cigarettes if the wholesale or retail dealer can establish that state tax stamps were affixed to the cigarettes before the effective date of this act and the wholesale or retail dealer can establish that the inventory was purchased before the effective date of this act in comparable quantity to the inventory purchased during the same period of the preceding year.

(b) The sale of cigarettes solely for the purpose of consumer testing. For purposes of this subdivision, "consumer testing" means an assessment of cigarettes that is conducted by a manufacturer, or under the control and direction of a manufacturer, for the purpose of evaluating consumer acceptance of those cigarettes, utilizing only the quantity of cigarettes that is reasonably necessary for that assessment.

History: 2009, Act 56, Eff. Jan. 1, 2010.

****** 29.497 THIS SECTION IS REPEALED BY ACT 56 OF 2009 ON THE DATE THAT THE DIRECTOR NOTIFIES THE SECRETARY OF STATE IN WRITING THAT A FEDERAL REDUCED CIGARETTE IGNITION PROPENSITY STANDARD THAT PREEMPTS THIS ACT HAS BEEN ADOPTED AND IS IN EFFECT: See 29.511 ******

29.497 Certification or recertification.

Sec. 7. (1) A manufacturer shall certify cigarettes for the purposes of this act by submitting a written certification to the department attesting that each cigarette listed in the certification has been tested in compliance with section 5 and that each cigarette listed in the certification meets the performance standard described in section 5(3).

(2) A manufacturer shall include in the certification described in subsection (1) all of the following information for each cigarette listed in the certification:

(a) Its brand or the trade name on the package.

(b) Its style, such as light or ultra light.

(c) Its length in millimeters.

(d) Its circumference in millimeters.

(e) Its flavor, such as menthol or chocolate, if applicable.

(f) Whether it is a filter or nonfilter cigarette.

(g) A package description, such as soft pack or box.

(h) The package markings under section 11.

(i) If it is a person other than the manufacturer, the name, address, and telephone number of the laboratory that conducted the test of the cigarette.

(j) The date that the testing of the cigarette occurred.

(3) The department shall make the certifications submitted to it under subsection (1) available to the attorney general and the department of treasury for the purpose of ensuring compliance with this act or any other purpose consistent with this act.

(4) A manufacturer must recertify any cigarette certified under this section every 3 years.

(5) If a manufacturer makes a change to a cigarette certified pursuant to this section that is likely to alter its compliance with the reduced cigarette ignition propensity standards required by this act, a person shall not sell that cigarette in this state until the manufacturer retests the cigarette under section 5 and maintains records of that retesting as required under section 5(8). A person shall not sell in this state an altered cigarette that does not meet the performance standard described in section 5(3).

History: 2009, Act 56, Eff. Jan. 1, 2010.

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****** 29.499 THIS SECTION IS REPEALED BY ACT 56 OF 2009 ON THE DATE THAT THE DIRECTOR NOTIFIES THE SECRETARY OF STATE IN WRITING THAT A FEDERAL REDUCED CIGARETTE IGNITION PROPENSITY STANDARD THAT PREEMPTS THIS ACT HAS BEEN ADOPTED AND IS IN EFFECT: See 29.511 ******

29.499 Fees; fire safety standard and firefighter protection act enforcement fund.

Sec. 9. (1) At the time it submits a written certification or recertification under section 7, a manufacturer shall pay to the department a fee of $1,250.00 for each brand family of cigarette listed in the certification. A fee paid for a brand family under this subsection applies to all cigarettes within the brand family listed in the certification and to any new cigarette in that brand family certified during the 3-year certification period for which the fee is paid.

(2) The fire safety standard and firefighter protection act enforcement fund is created within the state treasury. The department shall deposit fees paid under this section into the fund. The state treasurer may receive money or other assets from any other source for deposit into the fund. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments. Money in the fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund. The department shall be the administrator of the fund for auditing purposes. The department shall expend money from the fund, upon appropriation, only for processing, testing, enforcement, and oversight activities under this act.

History: 2009, Act 56, Eff. Jan. 1, 2010.

****** 29.501 THIS SECTION IS REPEALED BY ACT 56 OF 2009 ON THE DATE THAT THE DIRECTOR NOTIFIES THE SECRETARY OF STATE IN WRITING THAT A FEDERAL REDUCED CIGARETTE IGNITION PROPENSITY STANDARD THAT PREEMPTS THIS ACT HAS BEEN ADOPTED AND IS IN EFFECT: See 29.511 ******

29.501 Marking.

Sec. 11. (1) A manufacturer shall mark any cigarettes certified by the manufacturer under section 7 to indicate compliance with the requirements of section 5. The marking shall be in 8-point type or larger and consist of 1 of the following:

(a) Modification of the product UPC to include a visible mark printed at or around the area of the UPC. The mark may consist of alphanumeric or symbolic characters permanently stamped, engraved, embossed, debossed, or printed in conjunction with the UPC.

(b) A visible combination of alphanumeric or symbolic characters permanently stamped, engraved, or embossed upon the cigarette package or cellophane wrap.

(c) Printed, stamped, engraved, or embossed text that indicates that the cigarettes meet the standards of this act.

(2) A manufacturer shall use the same marking on all brands marketed by that manufacturer and apply that marking uniformly on all packs, cartons, cases, and other packages of its cigarettes.

(3) A manufacturer shall notify the department which marking the manufacturer has selected under subsection (1) for its cigarettes.

(4) Before certification of any cigarette under section 7, a manufacturer must submit a request to the department for approval of its proposed marking. Subject to subsection (5), when it receives a request under this subsection, the department shall approve or disapprove the marking submitted. A proposed marking is considered approved by the department if the department fails to approve or disapprove of the proposed marking within 10 business days after receiving a request for approval of that proposed marking under this subsection.

(5) The department shall approve of any marking submitted to it under subsection (4) if the marking meets either of the following:

(a) The marking includes the acronym "FSC", signifying that the cigarettes are fire standards compliant under the New York fire safety standards for cigarettes.

(b) The marking is in use and approved for sale in New York pursuant to the New York fire safety standards for cigarettes.

(6) A manufacturer shall not modify a marking approved by the department under subsection (4) unless the manufacturer submits a request to the department for approval of the modification. When it receives a request under this subsection, the department shall approve or disapprove the modification to the marking submitted. A modification to a marking is considered approved by the department if the department fails to approve or disapprove the modification within 10 business days after receiving a request for approval of that

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modification under this subsection.

(7) A manufacturer certifying cigarettes under section 7 shall provide a copy of the certification to each wholesale dealer, unclassified acquirer, and agent to which the manufacturer sells cigarettes and shall provide sufficient copies of an illustration of the package marking utilized by the manufacturer under this section for each secondary wholesaler and retail dealer to which the wholesale dealer, unclassified acquirer, or agent sells cigarettes. A wholesale dealer or agent shall provide a copy of package markings received from a manufacturer under this subsection to each secondary wholesaler and retail dealer to which it sells cigarettes. A wholesale dealer, unclassified acquirer, agent, secondary wholesaler, or retail dealer shall permit the department, the department of treasury, the attorney general, and their employees to inspect markings of cigarette packaging marked under this section.

History: 2009, Act 56, Eff. Jan. 1, 2010.

****** 29.503 THIS SECTION IS REPEALED BY ACT 56 OF 2009 ON THE DATE THAT THE DIRECTOR NOTIFIES THE SECRETARY OF STATE IN WRITING THAT A FEDERAL REDUCED CIGARETTE IGNITION PROPENSITY STANDARD THAT PREEMPTS THIS ACT HAS BEEN ADOPTED AND IS IN EFFECT: See 29.511 ******

29.503 Violation; civil fines; limitation; additional remedies; cigarette fire safety standard and firefighter protection act fund.

Sec. 13. (1) A manufacturer, wholesale dealer, agent, or any other person other than a retail dealer that knowingly sells or offers to sell cigarettes, other than through retail sale, in violation of section 5 of this act is subject to a civil fine of not more than $100.00 for each pack of those cigarettes sold or offered for sale. However, the aggregate liability of a person for civil fines under this subsection for multiple violations that arise during any 30-day period shall not exceed $100,000.00.

(2) A retail dealer that knowingly sells or offers to sell cigarettes in violation of section 5 of this act is subject to a civil fine of not more than $100.00 for each pack of those cigarettes sold or offered for sale. However, the aggregate liability of a retail dealer for civil fines under this subsection for multiple violations that arise during any 30-day period shall not exceed $25,000.00.

(3) In addition to any penalty prescribed by law, a person engaged in the manufacture of cigarettes that knowingly makes a false certification under section 7 is subject to a civil fine of not less than $75,000.00 and not more than $100,000.00.

(4) Except as provided in subsection (1), (2), or (3), a person that violates this act is subject to a civil fine of not more than $1,000.00 for the first violation and a civil fine of not more than $5,000.00 for each subsequent violation.

(5) In addition to any other remedy provided by law, the department or attorney general may commence an action against a person who violates this act or rules promulgated under this act. The court in an action brought under this subsection may order 1 or more of the following forms of relief for each violation:

(a) Injunctive or other equitable relief, as appropriate.

(b) Enforcement costs relating to the violation or any other actual damages sustained by this state that are caused by the violation.

(c) Reasonable attorney fees and costs.

(6) The cigarette fire safety standard and firefighter protection act fund is created within the state treasury. All civil fines recovered under this section shall be deposited in the fund. The state treasurer may receive money or other assets from any other source for deposit into the fund. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments. Money in the fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund. The department shall be the administrator of the fund for auditing purposes. The department shall expend money from the fund, upon appropriation, only for fire safety and prevention programs.

History: 2009, Act 56, Eff. Jan. 1, 2010.

****** 29.505 THIS SECTION IS REPEALED BY ACT 56 OF 2009 ON THE DATE THAT THE DIRECTOR NOTIFIES THE SECRETARY OF STATE IN WRITING THAT A FEDERAL REDUCED CIGARETTE IGNITION PROPENSITY STANDARD THAT PREEMPTS THIS ACT HAS BEEN ADOPTED AND IS IN EFFECT: See 29.511 ******

29.505 Rules.

Sec. 15. The department may promulgate rules under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, necessary to implement and enforce this act.

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History: 2009, Act 56, Eff. Jan. 1, 2010.

****** 29.507 THIS SECTION IS REPEALED BY ACT 56 OF 2009 ON THE DATE THAT THE DIRECTOR NOTIFIES THE SECRETARY OF STATE IN WRITING THAT A FEDERAL REDUCED CIGARETTE IGNITION PROPENSITY STANDARD THAT PREEMPTS THIS ACT HAS BEEN ADOPTED AND IS IN EFFECT: See 29.511 ******

29.507 Examination of books, papers, invoices, and other records.

Sec. 17. To enforce the provisions of this act, the attorney general, the department of treasury, the department, or their duly authorized representatives; the state fire marshal; the commanding officer, or a uniformed firefighter acting under the orders and direction of the commanding officer, of the fire department of a city, village, township, or county; or any law enforcement personnel may examine the books, papers, invoices, and other records of any person in possession, control, or occupancy of any premises where cigarettes are placed, stored, sold, or offered for sale and the stock of cigarettes on the premises. Every person in the possession, control, or occupancy of any premises where cigarettes are placed, sold, or offered for sale must give the attorney general, the department of treasury, the department, or their duly authorized representatives; the state fire marshal; the commanding officer, or a uniformed firefighter acting under the orders and direction of the commanding officer, of the fire department of a city, village, township, or county; or any law enforcement personnel the means, facilities, and opportunity to conduct the examinations authorized under this section.

History: 2009, Act 56, Eff. Jan. 1, 2010.

****** 29.509 THIS SECTION IS REPEALED BY ACT 56 OF 2009 ON THE DATE THAT THE DIRECTOR NOTIFIES THE SECRETARY OF STATE IN WRITING THAT A FEDERAL REDUCED CIGARETTE IGNITION PROPENSITY STANDARD THAT PREEMPTS THIS ACT HAS BEEN ADOPTED AND IS IN EFFECT: See 29.511 ******

29.509 Exception.

Sec. 19. This act does not prohibit any person from manufacturing or selling cigarettes that do not meet the requirements of section 5 if the cigarettes are or will be stamped for sale in another state or are packaged for sale outside the United States and that person has taken reasonable steps to ensure that those cigarettes will not be sold or offered for sale to persons located in this state.

History: 2009, Act 56, Eff. Jan. 1, 2010.

****** 29.511 THIS SECTION IS REPEALED BY ACT 56 OF 2009 ON THE DATE THAT THE DIRECTOR NOTIFIES THE SECRETARY OF STATE IN WRITING THAT A FEDERAL REDUCED CIGARETTE IGNITION PROPENSITY STANDARD THAT PREEMPTS THIS ACT HAS BEEN ADOPTED AND IS IN EFFECT: See 29.511 ******

29.511 Repeal of act; conditions.

Sec. 21. This act is repealed on the date that the director notifies the secretary of state in writing that a federal reduced cigarette ignition propensity standard that preempts this act has been adopted and is in effect.

History: 2009, Act 56, Eff. Jan. 1, 2010.

****** 29.513 THIS SECTION IS REPEALED BY ACT 56 OF 2009 ON THE DATE THAT THE DIRECTOR NOTIFIES THE SECRETARY OF STATE IN WRITING THAT A FEDERAL REDUCED CIGARETTE IGNITION PROPENSITY STANDARD THAT PREEMPTS THIS ACT HAS BEEN ADOPTED AND IS IN EFFECT: See 29.511 ******

29.513 Adoption or enforcement of local law, ordinance, resolution, or rule; conflict.

Sec. 23. A city, county, township, or village may not adopt or enforce a local law, ordinance, resolution, or rule that duplicates, extends, revises, or conflicts with any provision of this act or purports to regulate the subject matter of this act.

History: 2009, Act 56, Eff. Jan. 1, 2010.

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