

CHAPTER 299F

STATE FIRE MARSHAL

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299F.011 UNIFORM FIRE CODE; ADOPTION.

Subdivision 1. The commissioner of public safety through the division of fire marshal may promulgate a uniform fire code and make amendments thereto in accordance with the administrative procedure act in chapter 15. The code and its amendments shall conform insofar as practicable to model fire codes generally accepted and in use throughout the United States, with consideration given to existing statewide specialty codes presently in use in the state of Minnesota. Statewide specialty codes and model codes with necessary modifications may be adopted by reference in accordance with section 15.0412, subdivision 4a.

Subd. 2. [Repealed, 1981 c 106 s 16]

[For text of subs 3 to 6, see M.S.1980]

History: 1981 c 106 s 1

299F.08 PREMISES, WHEN ENTERED.

Subdivision 1. **Immediate entry.** In the performance of the duties imposed by the provisions of this chapter, the state fire marshal and any of his subordinates, during and within a reasonable time after a fire has been extinguished, may enter any building or premises where a fire has occurred and other buildings and premises adjoining or near thereto to investigate and gather evidence. In determining whether a search is reasonable within the meaning of this subdivision, the need for investigatory search for the cause of the fire shall be balanced against the privacy rights of the occupant or owner of the building or premises.

Subd. 2. **Administrative search warrant.** After the reasonable time prescribed by subdivision 1 for an investigatory search has expired, subsequent entries to the building or premises to investigate and gather evidence may be made only if there is consent from the owner or occupant of the building or premises or pursuant to an administrative search warrant issued by a judge.

In determining whether to issue an administrative search warrant for the purposes of this subdivision, the judge, in conforming his decision to constitutional doctrine governing warrant procedures for administrative searches, shall consider but not be limited to the following factors:

- (a) Scope of the proposed search;
- (b) Number of prior entries by fire officials;
- (c) Time of day when the search is proposed to be made;
- (d) Lapse of time since the fire;
- (e) Continued use of the building; and

(f) The owner's or occupant's efforts to secure the building against intruders.

Subd. 3. **Criminal search warrant.** If during the course of an investigatory search under an administrative search warrant issued in accordance with subdivision 2, the fire marshal or any of his subordinates find probable cause to believe arson has occurred and require further access to the building or premises to gather evidence for possible prosecution, a criminal search warrant must be obtained from a judge.

History: 1981 c 106 s 2

299F.09 BUILDINGS, ENTERED WITHIN REASONABLE HOURS.

The state fire marshal, his chief assistant, deputies, and subordinates, the chief of the fire department of each city where a fire department is established, the mayor of a city where no fire department exists, or the clerk of a town in territory without the limits of a city, at all reasonable hours may enter into all buildings and upon all premises within their jurisdiction for the purpose of examination, after proper consent from the occupant or owner or pursuant to an administrative search warrant. If the examination occurs subsequent to a fire, entry into a building or premise is governed by section 299F.08.

History: 1981 c 106 s 3

299F.19 RULES ON FLAMMABLE LIQUIDS AND EXPLOSIVES.

Subdivision 1. The commissioner of public safety shall adopt rules for the safekeeping, storage, handling, use, transportation, or other disposition of flammable liquids, flammable gases, blasting agents, and explosives except transportation by petroleum carriers as covered in chapter 221; but loads carried in or on vehicles transporting such products upon public highways within this state shall be governed by the uniform vehicle size and weights provisions in sections 169.80 to 169.88. The rules for flammable liquids and flammable gases shall be distinguished from each other and from the rules covering other materials subject to regulation under this subdivision.

Subd. 2. For the purposes of this section, and the rules adopted pursuant thereto, the term blasting agent means any material or mixture, consisting of a fuel and oxidizer, intended for blasting, not otherwise classified as an explosive and in which none of the ingredients is classified as an explosive, providing that the finished product, as mixed and packaged for use or shipment, cannot be detonated by means of a Number 8 test blasting cap when unconfined. The term blasting agent does not include flammable liquids or flammable gases.

For the purposes of this section, and the rules adopted pursuant thereto, explosives are divided into three classes and are defined as follows:

Class A explosives. Possessing detonating or otherwise maximum hazard, such as dynamite, nitroglycerin, picric acid, lead azide, fulminate of mercury, blasting caps, and detonating primers.

Class B explosives. Possessing flammable hazard, such as propellant explosives (including some smokeless powders), black powder, photographic flash powders, and some special fireworks.

Class C explosives. Includes certain types of manufactured articles which contain Class A, or Class B explosives, or both, as components but in restricted quantities.

The term explosive or explosives means any chemical compound, mixture or device, the primary or common purpose of which is to function by explosion; that

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is, with substantially instantaneous release of gas and heat, unless such compound, mixture, or device is otherwise specifically classified by the interstate commerce commission. The term explosives includes all material which is classified as Class A, Class B, and Class C explosives by the interstate commerce commission, and includes, but is not limited to dynamite, black powder, pellet powder, initiating explosives, blasting caps, electric blasting caps, safety fuse, fuse lighters, fuse igniters, squibs, cordeau detonate fuse, instantaneous fuse, igniter cord, igniters, and some special fireworks. Commercial explosives are those explosives which are intended to be used in commercial or industrial operation. The term explosives does not include flammable liquids or flammable gases.

Subd. 3. No local government shall enact any regulation or ordinance which is inconsistent with the rules adopted by the commissioner of public safety pursuant to this section. Nothing in this section shall be construed to affect the power of any local government, when so authorized by law, to regulate the use of land by zoning. Any city in which there is no comprehensive zoning ordinance in effect may prohibit the installation or erection of flammable liquid bulk plants within areas which are predominantly residential or in areas used predominantly for retail mercantile purposes. Any city may prescribe routes for the transportation of flammable liquids through such city by motor vehicle transport.

Subd. 4. The fire marshal of each city of the first class, the chief of the fire department of each other city in which a fire department is established, the mayor of each city in which no fire department exists, the president of the statutory city board of each statutory city in which no fire department exists, and the town clerk of each town without the limits of any city shall enforce within their respective jurisdictions all rules adopted pursuant to this section and shall render such other assistance as may be requested.

Subd. 5. Any violation of a rule shall constitute a misdemeanor.

Subd. 6. The code and all amendments thereto shall be adopted in accordance with the procedures of the administrative procedure act.

History: 1981 c 106 s 4; 1981 c 253 s 31; 1Sp1981 c 4 art 1 s 156

299F.20 FAILURE TO COMPLY, PUNISHMENT.

Any officer referred to in section 299F.04 who neglects to comply with any of the requirements of this chapter is guilty of a misdemeanor.

History: 1981 c 106 s 5

299F.21 FIRE INSURANCE COMPANIES TO PAY COST OF MAINTENANCE.

Every insurance company, including reciprocals, interinsurance exchanges or Lloyds, doing business in the state, excepting farmers' mutual fire insurance companies and township mutual fire insurance companies, shall hereafter pay to the state treasurer on or before March 1 annually, a tax upon its fire premiums or assessments or both, as follows:

A sum equal to one-half of one percent of the gross premiums and assessments, less return premiums, on all direct business received by it in this state, or by its agents for it, in cash or otherwise, during the preceding calendar year, including premiums on policies covering fire risks only on automobiles, whether written under floater form or otherwise. In the case of a mutual company or reciprocal exchange the dividends or savings paid or credited to members in this state shall be construed to be return premiums. The money so received into the state treasury shall be credited to the general fund.

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If the tax prescribed by this section is not paid by March 1, annually, a penalty of ten percent shall accrue on the tax, and thereafter the tax and penalty shall draw interest at the rate of one percent per month until paid.

History: 1981 c 106 s 6

299F.22 EXAMINATION OF RETURNS; ASSESSMENT; RETURNS.

The commissioner of insurance shall, as soon as practicable after a return required by section 299F.21 is filed, examine the same and make any investigation or examination of the company's records and accounts that he deems necessary for determining the correctness of the return. The tax computed by him on the basis of the examination and investigation is the tax to be paid by the company. If the tax found due is greater than the amount reported as due on the company's return, the commissioner shall assess a tax in the amount of the excess and the whole amount of the excess shall be paid to the state treasurer within 30 days after notice of the amount and demand for its payment is mailed to the company by the commissioner. If the understatement of the tax on the return was false and fraudulent with intent to evade the tax, the installments of the tax shown by the company on its return which are not paid shall be paid to the state treasurer within 30 days after notice of the amount thereof and demand for payment is mailed to the company by the commissioner. If the amount of the tax found due the commissioner is less than that reported as due on the company's return, the excess shall be refunded to the company in the manner provided by section 299F.26, except that no demand therefor is necessary, if they have already paid the whole of the tax, or credited against any unpaid installment thereof; provided, that no refundment shall be made except as provided in section 299F.26, after the expiration of three and one-half years after the filing of the return.

If the commissioner examines returns of a company for more than one year, he may issue one order covering the several years under consideration reflecting the aggregate refund or additional tax due.

The notices and demands provided for by sections 299F.22 to 299F.24 shall be in the form the commissioner determines, including a statement, and shall contain a brief explanation of the computation of the tax and shall be sent by mail to the company at the address given in its return, if any, and if no such address is given, then to the last known address.

History: 1981 c 106 s 7

299F.23 ASSESSMENT, FAILURE TO FILE RETURN; FALSE OR FRAUDULENT RETURN FILED.

If any company required by section 299F.21 to file any return fails to do so within the time prescribed or makes, wilfully or otherwise, an incorrect, false, or fraudulent return, it shall, on the written demand of the commissioner of insurance, file the return, or corrected return, within 30 days after the mailing of the written demand and at the same time pay the whole tax, or additional tax, due on the basis thereof. If the company fails within that time to file the return, or corrected return, the commissioner shall make for it a return or corrected return, from his own knowledge and from the information he can obtain through testimony, or otherwise, and assess a tax on the basis thereof, which tax, less any payments theretofore made on account of the tax for the taxable year covered by the return, shall be paid within ten days after the commissioner has mailed to the company a written notice of the amount thereof and demand for its payment. Any return or assessment made by the commissioner on account of the failure of

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the company to make a return, or a corrected return, is prima facie correct and valid, and the company has the burden of establishing its incorrectness or invalidity in any action or proceeding in respect thereto.

History: 1981 c 106 s 8

299F.24 COLLECTION OF TAX.

The tax required to be paid by section 299F.21, may be collected in any ordinary action at law by the commissioner of insurance against the company. In any action commenced pursuant to this section, upon the filing of an affidavit of default, the clerk of the district court wherein the action was commenced shall enter judgment for the state for the amount demanded in the complaint together with costs and disbursements.

History: 1981 c 106 s 9

299F.26 OVERPAYMENTS, CLAIMS FOR REFUND.

Subdivision 1. **Procedure, time limit, appropriation.** A company which has paid, voluntarily or otherwise, or from which there was collected an amount of tax for any year in excess of the amount legally due for that year, may file with the commissioner of insurance a claim for a refund of the excess. Except as provided in subdivision 4, no claim shall be entertained unless filed within two years after the tax was paid or collected, or within three and one-half years from the filing of the return, whichever period is the longer.

Upon the filing of a claim the commissioner shall examine the same and shall make and file written findings thereon denying or allowing the claim in whole or in part and shall mail a notice thereof to the company at the address stated upon the return. If such claim is allowed in whole or in part, the commissioner shall issue his certificate for the refundment of the excess paid by the company, with interest at the rate of two percent per annum computed from the date of the payment or collection of the tax until the date the refund is paid to the company, and the commissioner of finance shall cause the refund to be paid as other state moneys are expended. So much of the proceeds of the taxes as is necessary are appropriated for that purpose.

[For text of subds 2 to 5, see M.S.1980]

History: 1981 c 106 s 10

299F.27 [Repealed, 1981 c 106 s 16]

299F.29 COUNTY AND CITY ATTORNEYS TO ASSIST.

The county and city attorneys of any political subdivision, upon request of the state fire marshal, his deputies or assistants, shall assist such officers upon an investigation of any fire, which in their opinion is of suspicious origin.

History: 1981 c 106 s 11

299F.31 PENALTIES PAID INTO STATE TREASURY.

All penalties, fees, or forfeitures collected under the provisions of this chapter shall be paid into the state treasury.

History: 1981 c 106 s 12

299F.36 FIRE EXTINGUISHERS.

[For text of subd 1, see M.S.1980]

Subd. 2. It is unlawful for any person, firm or corporation directly or through an agent, to sell or offer for sale or, after the period allowed by the order provided for in subdivision 3, to have in possession any make, type or model of extinguisher, either new or used, for use as a fire extinguisher, unless the make, type or model of extinguisher has first been tested and is approved and labeled by the Factory Mutual Laboratories or Underwriters' Laboratories, Inc.; and it shall be unlawful for any person to deliver or make available for use in the state of Minnesota any make, type or model of extinguisher which is not tested or serviced as required in the standards of the National Fire Protection Association adopted by the state fire marshal in accordance with the administrative procedure act.

[For text of subds 3 to 5, see M.S.1980]

History: 1981 c 106 s 13

299F.391 FIRE PROTECTION OF HOSPITALS, NURSING HOMES, LODGING HOUSES, HOTELS AND SCHOOLS.

Subdivision 1. **Definitions.** For purposes of this section the following definitions shall apply:

(a) "Lodging house" means any building or portion thereof containing not more than five guest rooms which are used or intended to be used for sleeping purposes by guests and where rent is paid in money, goods, labor or otherwise;

(b) "Hospital" has the meaning given it in section 144.50;

(c) "Hotel" means any building or portion thereof containing six or more guest rooms intended or designed to be used, or which are used, rented, hired out to be occupied, or which are occupied for sleeping purposes by guests, and which is required to be licensed pursuant to chapter 157;

(d) "Nursing home" has the meaning given it in section 144A.01;

(e) "School" means any public or private school or educational institution.

[For text of subds 2 to 4, see M.S.1980]

History: 1981 c 106 s 14

299F.46 ENFORCEMENT.

Subdivision 1. (1) It shall be the duty of the commissioner of public safety to inspect, or cause to be inspected, at least once every three years, every hotel in this state; and, for that purpose, he, or any of his deputies, or designated alternates or agents shall have the right to enter or have access thereto at any reasonable hour; and, when, upon such inspection, it shall be found that the hotel so inspected does not conform to or is not being operated in accordance with the provisions of sections 157.01 to 157.14, in so far as the same relate to fire prevention or fire protection of hotels, or the rules promulgated thereunder, or is being maintained or operated in such manner as to violate the uniform fire code promulgated pursuant to section 299F.011 or any other law of this state relating to fire prevention and fire protection of hotels, the commissioner and his deputies or designated alternates or agents shall report such a situation to the hotel inspector who shall proceed as provided for in sections 157.01 to 157.14.

(2) The word "hotel", as used in this subdivision, has the meaning given in section 299F.391.

[For text of subd 2, see M.S.1980]

History: 1981 c 106 s 15