

CHAPTER 299F**FIRE MARSHAL**

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299F.001 MS 2006 [Renumbered 15.001]

299F.01 FIRE MARSHAL.

Subdivision 1. [Repealed, 2014 c 212 art 3 s 1]

Subd. 2. **Division created; state fire marshal.** A division in the Department of Public Safety to be known as the Division of Fire Marshal is hereby created, under the supervision and control of the state fire marshal, to whom shall be assigned the duties and responsibilities described in this chapter. The commissioner may place the fire marshal's position in the unclassified service if the position meets the criteria of section 43A.08, subdivision 1a.

Subd. 3. [Repealed, 1996 c 310 s 1]

History: 1969 c 1129 art 1 s 2; 1982 c 560 s 55; 1983 c 289 s 114 subd 1; 1984 c 655 art 1 s 92; 2015 c 21 art 1 s 67

299F.011 STATE FIRE CODE; ADMINISTRATION AND ENFORCEMENT.

Subdivision 1. MS 2006 [Renumbered 326B.02, subd 6]

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 [Repealed, 1981 c 106 s 16]

Subd. 3. **Rules for code administration and enforcement.** The commissioner of public safety shall adopt rules as may be necessary to administer and enforce the code, specifically including but not limited to rules for inspection of buildings and other structures covered by the code and conforming the code to the governmental organization of Minnesota state agencies, political subdivisions and local governments.

Subd. 4. **Applicability; local authority.** The State Fire Code shall be applicable throughout the state and in all political subdivisions and municipalities therein. However, nothing in this subdivision shall prohibit a local unit of government otherwise authorized by law from adopting or enforcing any ordinance or regulation which specifies requirements equal to, in addition to, or more stringent than the requirements of the State Fire Code. Any ordinance or regulation adopted by a local unit which differs from the State Fire Code must be directly related to the safeguarding of life and property from the hazards of fire, must be uniform for each class or kind of building covered, and may not exceed the applicable requirements of the State Building Code adopted pursuant to sections 326B.101 to 326B.151.

Subd. 4a. **Day care home regulation.** (a) Notwithstanding any contrary provision of this section, the fire marshal shall not adopt or enforce a rule:

(1) establishing staff ratios, age distribution requirements, and limitations on the number of children in care;

(2) regulating the means of egress from family or group family day care homes in addition to the egress rules that apply to the home as a single family dwelling; or

(3) confining family or group family day care home activities to the floor of exit discharge.

(b) For purposes of this subdivision, "family or group family day care home" means a dwelling unit in which the day care provider provides the services referred to in section 245A.02, subdivision 10, to one or more persons.

(c) Nothing in this subdivision prohibits the Department of Human Services from adopting or enforcing rules regulating day care, including the subjects in paragraph (a), clauses (1) and (3). The department may not, however, adopt or enforce a rule stricter than paragraph (a), clause (2).

(d) The Department of Human Services may by rule adopt procedures for requesting the state fire marshal or a local fire marshal to conduct an inspection of day care homes to ensure compliance with state or local fire codes.

(e) The commissioners of public safety and human services may enter into an agreement for the commissioner of human services to perform follow-up inspections of programs, subject to licensure under chapter 245A, to determine whether certain violations cited by the state fire marshal have been corrected. The agreement shall identify specific items the commissioner of human services is permitted to inspect. The list of items is not subject to rulemaking and may be changed by mutual agreement between the state fire marshal and the commissioner. The agreement shall provide for training of individuals who will conduct follow-up inspections. The agreement shall contain procedures for the commissioner of human services to follow when the commissioner requires assistance from the state fire marshal to carry out the duties of the agreement.

(f) No tort liability is transferred to the commissioner of human services as a result of the commissioner of human services performing activities within the limits of the agreement.

Subd. 4b. **Stairway.** The State Fire Code shall not require stairways of existing multiple dwelling buildings of two stories or less to be enclosed. For the purposes of this subdivision the term "stories" has the meaning given it in the State Building Code.

Subd. 4c. [Repealed, 2005 c 136 art 9 s 15]

Subd. 5. **Appeal policy; variance.** Upon application, the state fire marshal may grant variances from the minimum requirements specified in the code if there is substantial compliance with the provisions of the code, the safety of the public and occupants of such building will not be jeopardized, and undue hardship will result to the applicant unless such variance is granted. No appeal to the state fire marshal for a variance from orders issued by a local fire official from the State Fire Code shall be accepted until the applicant has first made application to the local governing body and the local unit has acted on the application. The state fire marshal shall consider any decisions or recommendations of the local governing body. Any person aggrieved by a decision made by the fire marshal under this subdivision may proceed before the fire marshal as with a contested case in accordance with the Administrative Procedure Act.

Subd. 5a. **Local board of appeal.** Local governing bodies may appoint boards of appeal to hear and rule on appeals from orders issued under the fire code. An appeal from a local board of appeal may be made to the local governing body. If a board of appeal is not appointed, the appeals of orders must be made directly to the governing body. Local boards of appeal and governing bodies are not liable for damages in connection with granting variances, abatements, denials, or modifications of orders from the fire code that are made in good faith.

Subd. 5b. **Variance considerations.** When considering appeals for variances from the fire code, the local appeal board or governing body, the state fire marshal, a state administrative law judge, and a court

shall take into consideration the benefit to be obtained by complying with the fire marshal's orders and the effect on affordable housing, provided that the spirit of the code is complied with and public safety secured.

Subd. 6. **Misdemeanor.** A person who violates a provision of the State Fire Code shall be guilty of a misdemeanor. No person shall be convicted for violating the State Fire Code unless the person shall have been given notice of the violation in writing and reasonable time to comply. The notice must contain a statement explaining the right to appeal the orders.

Subd. 7. **Fees.** The state fire marshal shall charge a fee of \$100 for each plan review involving:

- (1) flammable liquids;
- (2) motor vehicle fuel-dispensing stations; or
- (3) liquefied petroleum gases.

History: 1974 c 550 s 1; 1978 c 777 s 1; 1981 c 106 s 1; 1982 c 424 s 114,130; 1984 c 544 s 89; 1984 c 654 art 5 s 58; 1984 c 658 s 3; 1985 c 248 s 70; 1986 c 444; 1Sp1986 c 3 art 4 s 10; 1987 c 201 s 1-3; 1987 c 333 s 22; 1990 c 388 s 1; 1991 c 149 s 3; 1991 c 235 art 3 s 2; 1992 c 513 art 9 s 33; 1992 c 597 s 16; 1993 c 327 s 16; 2002 c 220 art 7 s 13; 2005 c 136 art 9 s 4,14; 2006 c 260 art 3 s 19; 2007 c 140 art 2 s 1; art 3 s 6; art 4 s 61; art 13 s 4; 2008 c 337 s 4

299F.012 FIRE SAFETY ACCOUNT.

Subdivision 1. **Authorized programs within department.** From the revenues appropriated from the fire safety account, established under section 297I.06, subdivision 3, the commissioner of public safety may expend funds for the activities and programs identified by the advisory committee established under subdivision 2 and recommended to the commissioner of public safety. The commissioner shall not expend funds without the recommendation of the advisory committee established under subdivision 2. These funds are to be used to provide resources needed for identified activities and programs of the Minnesota fire service and to ensure the State Fire Marshal Division responsibilities are fulfilled. Any balance remaining in the account after the first year of the biennium must be appropriated to the commissioner of public safety for the purposes specified in law.

Subd. 2. **Fire Service Advisory Committee.** (a) The Fire Service Advisory Committee shall provide recommendations to the commissioner of public safety on fire service-related issues and shall consist of representatives of each of the following organizations: two appointed by the president of the Minnesota State Fire Chiefs Association, two appointed by the president of the Minnesota State Fire Department Association, two appointed by the president of the Minnesota Professional Fire Fighters, two appointed by the president of the League of Minnesota Cities, one appointed by the president of the Minnesota Association of Townships, one appointed by the president of the Insurance Federation of Minnesota, one appointed jointly by the presidents of the Minnesota Chapter of the International Association of Arson Investigators and the Fire Marshals Association of Minnesota, and the commissioner of public safety or the commissioner's designee. The commissioner of public safety must ensure that at least three of the members of the advisory committee work and reside in counties outside of the seven-county metropolitan area. The committee shall provide funding recommendations to the commissioner of public safety from the fire safety fund for the following purposes:

- (1) for the Minnesota Board of Firefighter Training and Education;
- (2) for programs and staffing for the State Fire Marshal Division; and

(3) for fire-related regional response team programs and any other fire service programs that have the potential for statewide impact.

(b) The committee under paragraph (a) does not expire.

Subd. 3. Report; accounting; carryover. The commissioner of public safety shall, by December 1 of each year, (1) provide an accounting of how the funds in the fire safety account were spent in the preceding fiscal year and (2) report any funds not spent in a fiscal year to the chairs of the committees of the house of representatives and the senate having jurisdiction over public safety finance. Money in the account does not cancel but remains available for expenditures for the programs identified in subdivisions 1 and 2.

Subd. 4. Legislative intent; fire safety account. The legislature intends that all money in the fire safety account be appropriated to the commissioner of public safety to fund the state fire marshal's office and activities and programs under this section.

History: 2006 c 217 s 3,5; 2012 c 289 s 4; 2014 c 286 art 6 s 8; 2014 c 312 art 6 s 4; 2015 c 65 art 4 s 3

299F.013 FUEL DISPENSING.

(a) Any rule of the commissioner of public safety that adopts provisions of the State Fire Code relating to flammable and combustible liquids must permit the dispensing of class I and class II liquids from a fuel-dispensing system supplied by exterior aboveground tanks, for operations not open to the public.

(b) The following dispensing operations are permitted:

(1) dispensing of class I liquids from one tank having a capacity of up to 560 gallons having the dispenser located on or adjacent to the tank;

(2) dispensing of class II liquids from up to two tanks having a capacity of up to 1,000 gallons each and having the dispenser located on or adjacent to the tank.

(c) Dispensing operations authorized under this section are subject to all other applicable requirements of the State Fire Code.

History: 1994 c 536 s 24; 2005 c 136 art 9 s 14

299F.014 PETROLEUM STORAGE TANKS; TANK VEHICLE PARKING.

(a) Any rule of the commissioner of public safety that adopts provisions of the State Fire Code relating to aboveground tanks for petroleum storage that are not used for dispensing to the public is superseded by Minnesota Rules, chapter 7151, in regard to: secondary containment, substance transfer areas, tank and piping standards, overfill protection, corrosion protection, leak detection, labeling, monitoring, maintenance, record keeping, and decommissioning. If Minnesota Rules, chapter 7151, does not address an issue relating to aboveground tanks for petroleum storage that are not used for dispensing to the public, any applicable provision of the State Fire Code applies.

(b) A motorized tank vehicle used to transport petroleum products may be parked within 500 feet of a residence if the vehicle is parked at an aboveground tank facility used for dispensing petroleum into cargo tanks for sale at another location.

History: 1999 c 203 s 8; 2005 c 136 art 9 s 5

299F.015 [Repealed, 2005 c 136 art 9 s 15]

299F.02 [Repealed, 1971 c 25 s 60]

299F.03 SPECIAL ATTORNEY.

The attorney general may appoint a special attorney for the division, whose work shall be under the supervision of the attorney general, who shall fix the compensation, such compensation to be paid out of the fund created under this chapter.

History: (5953) 1913 c 564 s 4; 1969 c 1129 art 10 s 2

299F.035 FIRE DEPARTMENT USE OF CRIMINAL HISTORY DATA.

Subdivision 1. **Definitions.** (a) The definitions in this subdivision apply to this section.

(b) "Minnesota criminal history" means adult convictions and juvenile adjudications.

(c) "Fire department" has the meaning given in section 299N.01, subdivision 2.

(d) "Private data" has the meaning given in section 13.02, subdivision 12.

Subd. 2. **Plan for access to data.** (a) A background check must be conducted on all applicants for employment and may be conducted on current employees at a fire department. The fire chief must conduct a Minnesota criminal history record check. For applicants for employment who have lived in Minnesota for less than five years, or on the request of the fire chief, a national criminal history record check must also be conducted.

(b) For a Minnesota criminal history record check, the fire chief must either (1) submit the signed informed consent of the applicant or employee and the required fee to the superintendent, or (2) submit the signed informed consent to the chief of police. The superintendent or chief must retrieve Minnesota criminal history data and provide the data to the fire chief for review.

(c) For a national criminal history record check, the fire chief must submit the signed informed consent and fingerprints of the applicant or employee, and the required fee, to the superintendent. The superintendent may exchange the fingerprints with the Federal Bureau of Investigation to obtain the individual's national criminal history record information. The superintendent must return the results of the national criminal history record check to the fire chief for the purpose of determining if the applicant is qualified to be employed or if a current employee is able to retain the employee's position.

Subd. 3. **Relation of conviction to fire protection.** Criminal history data may be used in assessing fire department job applicants or employees only if the criminal history data are directly related to the position of employment sought or currently held.

Subd. 4. **Determination of relationship.** In determining if criminal history data are directly related to the position of employment, the hiring or employing authority may consider:

(1) the nature and seriousness of the criminal history data on the job applicant or employee;

(2) the relationship of the criminal history data to the purposes of regulating the position of employment;
and

(3) the relationship of the criminal history data to the ability, capacity, and fitness required to perform the duties and discharge the responsibilities of the position of employment.

Subd. 5. **Uniformity of application; frequency.** A fire department hiring or employing authority that obtains access to criminal history data under this section must use uniform access procedures that apply to all applicants or employees. With respect to current employees, a hiring or employing authority may request private data only if at least one year has elapsed since access to the data was previously requested.

History: 1989 c 290 art 8 s 1; 2010 c 259 s 1; 2013 c 82 s 31,32

299F.036 FIREFIGHTER; PREVIOUS EMPLOYMENT INVESTIGATION.

Subdivision 1. **Previous employment investigations authorized.** The fire chief or administrative head of a fire department as defined under section 299F.092, subdivision 6, may conduct a previous employment investigation on an applicant for a fire protection service position.

Subd. 2. **Disclosure of employment information.** (a) Upon request of a fire chief or an administrative head, an employer shall disclose or otherwise make available for inspection employment information of an employee or former employee who is the subject of an investigation under subdivision 1. The request for disclosure of employment information must be in writing, must be accompanied by an original authorization and release signed by the employee or former employee, and must be signed by the fire chief or administrative head conducting the previous employment investigation.

(b) Upon request, the fire chief or administrative head shall disclose to the applicant the information obtained under this subdivision.

Subd. 3. **Refusal to disclose personnel record.** If an employer refuses to disclose employment information in accordance with this section, upon request the district court may issue an ex parte order directing the disclosure of the employment information. The request must be made by the fire chief or administrative head conducting the investigation and must include a copy of the original request for disclosure made upon the employer or former employer and the authorization and release signed by the employee or former employee. The request must be signed by the fire chief or administrative head requesting the order and an attorney representing the state or the political subdivision on whose behalf the investigation is being conducted. It is not necessary for the request or the order to be filed with the court administrator. Failure to comply with the court order subjects the person who fails to comply to civil or criminal contempt of court.

Subd. 4. **Immunity from liability.** In the absence of fraud or malice, an employer is immune from civil liability for employment information released to a fire department under this section, or for any subsequent publication made by the employee or former employee of information released to a fire department under this section.

Subd. 5. **Confidentiality agreements.** If employment information is subject to a confidentiality agreement between the employee or former employee and the employer, the employer shall disclose the fact that such an agreement exists. If the employee or former employee has authorized the release of employment information without regard to any previous agreement to the contrary, the employer shall also disclose the employment information according to subdivision 2. If employment information is sealed or otherwise subject to a nondisclosure order by a court of competent jurisdiction, the employer shall disclose the fact that this order exists, along with information identifying the court and court's file number.

Subd. 6. **Employment information defined.** For purposes of this section, "employment information" means written information in connection with job applications, performance evaluations, attendance records, disciplinary actions, and eligibility for rehire.

Subd. 7. **Application.** For purposes of this section, "employer" does not include an entity that is subject to chapter 13.

History: 1999 c 197 s 1

299F.037 REPORTING FIREFIGHTER DEATHS.

Whenever an active firefighter dies, whether or not the death is presumed to be in the line of duty, the fire chief of the deceased firefighter must report, without undue delay, the death to the state fire marshal. The notification shall identify the cause of death and contain information concerning the circumstances of the death.

History: 2015 c 75 art 2 s 44

ARSON INVESTIGATION

299F.04 ORIGIN OF FIRE INVESTIGATED; COMPUTERIZED ARSON DATA.

Subdivision 1. **Duty.** The chief of the fire department of each city in which a fire department is established, and the mayor of each city in which no fire department exists, and 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 or statutory city, shall investigate, or cause to be investigated, the cause, origin, and circumstances of each fire occurring in the city, statutory city or town by which property has been destroyed or damaged when the damage exceeds \$100, except that all fires of unknown origin shall be reported, and shall especially make investigation as to whether the fire was the result of carelessness, accident, or design.

Subd. 2. **Coordination by state fire marshal.** The investigation shall be begun within two days of the occurrence of the fire and the state fire marshal shall have the right to coordinate the investigation on deeming it necessary.

Subd. 3. **Reporting and records requirements.** The officer making investigation of fires occurring in cities, statutory cities and towns shall forthwith notify the state fire marshal and shall, within one week of the occurrence of the fire, furnish to the state fire marshal a written statement of all the facts relating to the cause and origin of the fire and such further information as may be called for by the blanks furnished by the state fire marshal. The state fire marshal shall keep a record of all fires occurring in the state, together with all facts, statistics, and circumstances, including the origin of the fires, which may be determined by the investigation provided by this chapter. These statistics shall be at all times open to public inspection.

Subd. 3a. [Repealed, 2014 c 212 art 3 s 1]

Subd. 4. **Investigation by state fire marshal.** The state fire marshal may conduct further investigation necessary to establish reasonable grounds to believe that a violation of Minnesota Statutes 1976, sections 609.561 to 609.576, has occurred.

Subd. 5. **Notification.** (a) As used in this subdivision, "chief officer" means the city fire marshal or chief officer of a law enforcement agency's arson investigation unit in a city of the first class.

(b) The officer making investigation of a fire resulting in a human death shall immediately notify either the state fire marshal or a chief officer. The state fire marshal or chief officer may conduct an investigation to establish the origin and cause regarding the circumstance of the death. If the chief officer undertakes the investigation, the officer shall promptly notify the state fire marshal of the investigation and, after the investigation is completed, shall forward a copy of the investigative report to the state fire marshal. Unless

the investigating officer does so, the state fire marshal or chief officer shall immediately notify the appropriate coroner or medical examiner of a human death occurring as a result of a fire. The coroner or medical examiner shall perform an autopsy in the case of a human death as provided in section 390.11, subdivision 2a, or 390.32, subdivision 2a, as appropriate.

History: (5955) 1913 c 564 s 6; 1967 c 543 s 1; 1973 c 123 art 5 s 7; 1978 c 777 s 2,3; 1986 c 444; 1993 c 326 art 5 s 1; 1998 c 367 art 11 s 9; 1999 c 139 art 4 s 2

299F.05 LAW ENFORCEMENT POWERS; INFORMATION SYSTEM.

Subdivision 1. **Investigation, arrest, and prosecution.** On determining that reasonable grounds exist to believe that a violation of sections 609.561 to 609.576 has occurred or that some other crime has occurred in connection with a fire investigated pursuant to section 299F.04, the state fire marshal shall so inform the law enforcement authority having jurisdiction, who shall cooperate with the fire marshal and local fire officials in further investigating the reported incident in a manner that may include supervising and directing the subsequent criminal investigation and taking the testimony on oath of all persons supposed to be cognizant of any facts relating to the matter under investigation. On determining that there is evidence sufficient to charge any person with a violation of sections 609.561 to 609.576, or of any other crime in connection with an investigated fire, the authority having jurisdiction shall have the person arrested and charged with the offense and furnish to the proper prosecuting attorney all relevant evidence, together with the copy of all names of witnesses and all the information obtained by the authority or the state fire marshal, including a copy of all pertinent and material testimony taken in the case.

Subd. 2. **Information system.** The state fire marshal shall maintain a record of arrests, charges filed, and final disposition of all fires reported and investigated under sections 299F.04 and 299F.05. For this purpose, the Department of Public Safety shall implement a single reporting system utilizing the systems operated by the fire marshal. The system must be operated in such a way as to minimize duplication and discrepancies in reported figures.

History: (5956) 1913 c 564 s 7; 1978 c 777 s 4; 1986 c 444; 2005 c 136 art 9 s 6

299F.051 ARSON TRAINING.

Subdivision 1. **Training unit.** An arson training unit is established within the Division of Fire Marshal to develop and administer arson training courses throughout the state for law enforcement and fire service personnel and for prosecutors.

Subd. 1a. **Curriculum.** The arson training unit, in consultation with the Bureau of Criminal Apprehension, the state fire marshal, the Minnesota Peace Officer Standards and Training Board, the County Attorneys Association, the attorney general, and the State Advisory Council on Fire Service Education and Research, shall establish a standardized curriculum to be included in the training programs. The standardized curriculum shall include fire scene investigation and preservation of evidence, interviewing of witnesses and suspects, constitutional limits on interrogation by sworn and nonsworn officers, and other topics deemed necessary to successful criminal investigation and prosecution. The training program offered to peace officers shall meet the applicable preservice training requirements established by the Peace Officer Standards and Training Board under section 626.8456.

Subd. 2. **Training location, instructor.** (a) The arson training unit, in cooperation with the superintendent of the Bureau of Criminal Apprehension, the Board of Peace Officer Standards and Training, the County Attorneys Association, and the attorney general, shall provide courses at convenient locations in the state for training firefighters, peace officers, and prosecutors in:

- (1) the conduct of investigations following the occurrence of a fire; and
- (2) the prosecution of arson cases.

(b) For this purpose, the arson training unit may use the services and employees of the bureau, the state fire marshal, and the attorney general. In addition, the arson training unit is authorized to establish minimum qualifications for training course instructors, and engage part-time instructors necessary and proper to furnish the best possible instruction, subject to the limitation of funds appropriated and available for expenditure. Laws 1981, chapter 210, sections 1 to 48, shall not apply to the part-time instructors.

Subd. 3. In-service training. The arson training unit, in cooperation with the Bureau of Criminal Apprehension, shall offer in-service and refresher training for firefighters and peace officers through schools administered by the state, county, school district, municipality, or joint or contractual combinations thereof. The in-service training courses offered for peace officers shall be eligible for continuing education credit from the Minnesota Board of Peace Officer Standards and Training.

Subd. 4. Cooperative investigation. The state fire marshal and the superintendent of the Bureau of Criminal Apprehension shall encourage the cooperation of local firefighters and peace officers in the investigation of violations of sections 609.561 to 609.576 or other crimes associated with reported fires in all appropriate ways.

History: 1978 c 777 s 5; 1981 c 210 s 54; 1997 c 7 art 2 s 50; 1997 c 239 art 8 s 19; 2005 c 10 art 1 s 63; 2005 c 136 art 9 s 7

299F.052 ARSON REPORTING IMMUNITY LAW, CITATION.

Sections 299F.052 to 299F.057 shall be known as the Arson Reporting Immunity Law.

History: 1979 c 226 s 1

299F.053 DEFINITIONS.

Subdivision 1. **Scope.** For the purposes of sections 299F.052 to 299F.057 the terms defined in this section have the meanings given to them.

Subd. 2. **Authorized person.** "Authorized person" means:

- (1) the state fire marshal when authorized or charged with the investigation of fires at the place where the fire actually took place;
- (2) superintendent of the Bureau of Criminal Apprehension;
- (3) the prosecuting attorney responsible for prosecutions in the county where the fire occurred;
- (4) the sheriff or chief of police responsible for investigation in the county where the fire occurred;
- (5) the county attorney responsible for the prosecution in the county where the fire occurred;
- (6) the Federal Bureau of Investigation or any other federal agency;
- (7) the United States Attorney's Office when authorized or charged with investigation or prosecution of a case involving a fire loss;
- (8) the chief administrative officer of the municipal arson squad or the chief of the fire department responsible for the investigation of the fire under section 299F.04, subdivision 1; or

(9) the commissioner of commerce.

Subd. 3. **Relevant.** "Relevant" information or evidence means information having any tendency to make the existence of any fact that is of consequence to the investigation or determination of the issue more probable or less probable than it would be without the evidence.

History: 1979 c 226 s 2; 1995 c 258 s 63; 1997 c 77 s 5

299F.054 DISCLOSURE OF INFORMATION.

Subdivision 1. **Insurance information.** An authorized person may, in writing, require an insurance company to release to the requesting person any or all relevant information or evidence the authorized person deems important, which the company may have in its possession, relating to a fire loss or potential fire loss. Relevant information may include, and is limited to:

(1) pertinent insurance policy information relevant to a fire loss or potential fire loss under investigation including the application for a policy;

(2) policy premium payment records which are available;

(3) a history of previous claims made by the insured, including, where the insured is a corporation or partnership, a history of previous claims by a subsidiary or any affiliates, and a history of claims of any other business association in which individual officers or partners or their spouses were known to be involved; and

(4) material relating to the investigation of the loss or potential loss, including statements of any person, proof of loss or potential loss, and any other evidence relevant to the investigation.

Subd. 2. **Information released to authorized person.** (a) If an insurance company has reason to believe that a fire loss or potential fire loss in which it has an interest may be of other than accidental cause, the company shall, in writing, notify an authorized person and provide the person with all relevant material specified in this section developed from the company's inquiry into the fire loss or potential fire loss.

(b) If an insurance company provides any one of the authorized persons with notice of a fire loss or potential fire loss, it is sufficient notice for the purpose of this subdivision.

Subd. 3. **Information released for official purpose.** The authorized person provided with information pursuant to subdivision 1 or 2, may in furtherance of official purposes release or provide the information to any of the other authorized persons.

Subd. 3a. **Conditions for release of information.** An insurance company providing information to an authorized person may request in writing from the authorized person relevant information and receive the information requested within a reasonable time not to exceed 30 days. The relevant information may not include nonconviction criminal history record information or any other information detrimental to another ongoing criminal investigation or that would reveal the identity of a confidential source of information. Any authorized person not furnishing the information requested shall notify the insurance company of the reasons why the information cannot be furnished within 30 days of the request.

Subd. 4. **Good-faith immunity.** (a) An insurance company or its agent acting in its behalf, or an authorized person who releases information, whether oral or written, acting in good faith, pursuant to subdivisions 1 to 3a is immune from any liability, civil or criminal, that might otherwise be incurred or imposed.

(b) A person who, acting in good faith, reports to an authorized person information, whether oral or written, that is or may be relevant to the investigation of a fire is immune from any civil liability that might otherwise be incurred or imposed.

History: 1979 c 226 s 3; 1983 c 208 s 4-7; 1986 c 444; 1997 c 77 s 6

299F.055 CONFIDENTIAL DATA; EVIDENCE.

Any data received pursuant to sections 299F.052 to 299F.057 by an authorized person or insurance company shall be confidential data pursuant to section 13.02, subdivision 3 until its release is required pursuant to a criminal or civil proceeding.

History: 1979 c 226 s 4; 1981 c 311 s 39; 1982 c 545 s 24

299F.056 ENFORCEMENT.

Subdivision 1. **Refusal to release information.** No insurance company or employee or officer thereof shall intentionally refuse to release any information requested pursuant to section 299F.054, subdivision 1.

Subd. 2. **Refusal to notify authorized person.** No insurance company or employee or officer thereof shall intentionally refuse to provide authorized persons notice or relevant information pursuant to section 299F.054, subdivision 2.

Subd. 3. **Confidentiality of information.** No person shall fail to maintain the confidentiality of the data required to be held as confidential.

Subd. 4. **Penalty.** Whoever violates the provisions of subdivision 1, 2 or 3 is guilty of a misdemeanor.

History: 1979 c 226 s 5

299F.057 APPLICABILITY OF ORDINANCES; CONCURRENT JURISDICTION.

The provisions of sections 299F.052 to 299F.057 shall not be construed to affect or repeal any ordinance of any municipality relating to fire prevention or the control of arson, but the jurisdiction of the state fire marshal and the superintendent of the Bureau of Criminal Apprehension in the municipality is to be concurrent with that of the municipal and county authorities.

History: 1979 c 226 s 6

299F.058 MS 2002 [Expired, 1Sp2001 c 8 art 5 s 9]

299F.059 JUVENILE FIRE SETTER INTERVENTION.

Subdivision 1. **Intervention network.** The state fire marshal shall establish a statewide juvenile fire setter intervention network. The network shall include a clearinghouse of resources and materials to assist fire service personnel, schools, law enforcement agencies, and mental health professionals in understanding juvenile fire-setting behavior and symptoms and intervening with juveniles who engage in the behavior or display the symptoms. The state fire marshal shall include in the network the comprehensive injury prevention education curriculum provided for in subdivision 2.

Subd. 2. **Educational curriculum.** The state fire marshal shall ensure implementation of a comprehensive injury prevention education curriculum that focuses on juvenile fire play intervention and injury prevention. The curriculum shall be made available to schools and other interested organizations statewide.

Subd. 3. **Annual training forum.** The state fire marshal shall develop strategies and plans designed to reduce the number of juvenile fire-setting incidents. The state fire marshal shall offer an annual training forum for fire service and law enforcement personnel and for juvenile justice, medical, educational, mental health, and other interested professionals to discuss these strategies and other issues relating to juvenile fire setter behavior and symptoms.

Subd. 4. **Media campaign; keeping fire materials away from children.** The state fire marshal shall develop an ongoing media awareness campaign to instruct parents, retailers, and the community on the importance of keeping fire materials away from children and on methods for accomplishing that objective.

History: 1997 c 239 art 8 s 21

INVESTIGATORY POWERS

299F.06 TESTIMONIAL POWERS.

Subdivision 1. **Summon witnesses; produce documentary evidence.** (a) In order to establish if reasonable grounds exist to believe that a violation of sections 609.561 to 609.576 has occurred, or to determine compliance with the State Fire Code or corrective orders issued under that code, the state fire marshal and the staff designated by the state fire marshal, in any county of the state, may summon and compel the attendance of witnesses to testify before the state fire marshal, chief assistant fire marshal, or deputy state fire marshals and may require the production of any book, paper, or document deemed pertinent.

(b) A summons issued under this subdivision must be served in the same manner and has the same effect as a subpoena issued from a district court. All witnesses must receive the same compensation as is paid to witnesses in district courts, which must be paid out of the fire marshal fund upon a voucher certificate signed by the state fire marshal, chief assistant fire marshal, or deputy fire marshal before whom any witnesses have attended and this officer shall, at the close of the investigation in which the witness was subpoenaed, certify to the attendance and mileage of the witness. This certificate must be filed in the Office of the State Fire Marshal. All investigations held by or under the direction of the state fire marshal or any subordinate may, in the state fire marshal's discretion, be private and persons other than those required to be present by the provisions of this chapter may be excluded from the place where the investigation is held, and witnesses may be kept separate and apart from each other and not allowed to communicate with each other until they have been examined.

Subd. 2. **Oath administered.** The state fire marshal, chief assistant state fire marshal, and deputy state fire marshals are each hereby authorized and empowered to administer oaths and affirmations to any persons appearing as witnesses before them; and false swearing in any matter or proceeding aforesaid shall be deemed perjury and punished as such.

Subd. 3. **Penalty for refusal to testify or produce evidence.** Any witness who refuses to be sworn, or who refuses to testify, or who disobeys any lawful order of the state fire marshal, chief assistant fire marshal, or deputy state fire marshal in relation to the investigation, or who fails or refuses to produce any paper, book, or document touching any matter under examination, or who is guilty of any contemptuous conduct, after being summoned to appear before them to give testimony in relation to any matter or subject under examination or investigation may be punished by any district court in the same manner as if the proceedings were pending in that court, subject to the provisions of section 588.01.

History: (5957) 1913 c 564 s 8; 1978 c 777 s 6; 1986 c 444; 1997 c 239 art 8 s 22,23; 2005 c 136 art 9 s 8

299F.07 [Repealed, 1997 c 239 art 8 s 36]

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 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.** (a) 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.

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

- (1) scope of the proposed search;
- (2) number of prior entries by fire officials;
- (3) time of day when the search is proposed to be made;
- (4) lapse of time since the fire;
- (5) continued use of the building; and
- (6) 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 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.

Subd. 4. **Securing the scene.** In order to prevent the loss, destruction, or alteration of evidence at a fire scene, fire officials may secure fire scenes for up to 48 hours after having extinguished the fire while warrants are obtained or while the investigation authorized in this section is conducted. Fire scene security may be accomplished by preventing any person from entering the fire scene or from removing property from the fire scene. An individual may enter the fire scene if accompanied by the fire official conducting the investigation, or if the individual obtains the fire official's written permission. Persons not complying with the fire security measures under this subdivision are guilty of obstructing legal process as defined in section 609.50. Nothing in this subdivision shall be construed to increase the civil liability of fire officials or to decrease municipal or state immunities as set forth in section 3.736 or 466.03.

History: (5959) 1913 c 564 s 10; 1981 c 106 s 2; 1985 c 141 s 1; 1986 c 444

299F.09 BUILDING ENTERED WITHIN REASONABLE HOURS.

The state fire marshal, 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: (5960) 1913 c 564 s 11; 1973 c 123 art 5 s 7; 1981 c 106 s 3; 1986 c 444

HAZARDOUS SUBSTANCE EMERGENCIES

299F.091 CITATION.

Sections 299F.091 to 299F.099 may be cited as the "Community Emergency Response Hazardous Substances Protection Act."

History: 1Sp1986 c 1 art 10 s 10

299F.092 DEFINITIONS.

Subdivision 1. **Scope.** The terms used in sections 299F.091 to 299F.099 have the meanings given them in this section.

Subd. 2. **Classified information.** "Classified information" means information, data, or both that, for security reasons, has been given a special security classification such as "secret," "confidential," "private," or "nonpublic," by federal statute or rule and that, when so classified, is subject to handling, use, and storage in accordance with established standards to prevent unauthorized use or disclosure.

Subd. 3. **Commissioner.** "Commissioner" means the commissioner of public safety.

Subd. 4. **Emergency response personnel.** "Emergency response personnel" means personnel employed or authorized by the federal government, the state, or a political subdivision to provide fire suppression, police protection, emergency medical services, or emergency activities relating to health and safety.

Subd. 5. **Employer.** "Employer" means an employer as defined in section 182.651, subdivision 7. For the purposes of sections 299F.091 to 299F.099, "employer" also means a partnership or a self-employed person, whether or not the partnership or person has other employees. "Employer" does not mean a farm that is a "small business."

Subd. 6. **Fire department.** "Fire department" means a regularly organized fire department, fire protection district, or fire company as defined in the State Fire Code adopted under section 326B.02, subdivision 6, regularly charged with the responsibility of providing fire protection to the state or a political subdivision.

Subd. 7. **Hazard category.** "Hazard category" means a list or description of hazardous substances, as developed by rule by the commissioner of public safety, including human reproductive hazards, flammable substances, human carcinogens, explosives, corrosives, and reactive agents, that present similar hazards in an emergency, or individual hazardous substances of special concern to emergency response personnel.

Subd. 8. **Hazardous substance.** "Hazardous substance" means a substance or mixture as defined in section 182.651, subdivisions 14, 17, and 18, except that sections 299F.091 to 299F.099 do not apply to any hazardous substance while it is being transported in interstate or intrastate commerce.

Subd. 9. [Repealed, 1993 c 337 s 20]

Subd. 10. **Hazardous substance notification report.** "Hazardous substance notification report" means a written record submitted to a fire department, for each workplace, that contains the information required in section 299F.094.

Subd. 11. **Local fire department.** "Local fire department" means the fire department that would normally respond to a fire at a given workplace.

Subd. 12. **Material safety data sheet.** "Material safety data sheet" means a completed form recognized by the occupational safety and health administration, equivalent manufacturer's literature, or another form containing substantially the same information pertaining to a specific hazardous substance or a mixture containing one or more hazardous substances.

Subd. 13. **Nonpublic data.** "Nonpublic data" has the meaning given it in section 13.02, subdivision 9.

Subd. 14. **Significant change.** "Significant change" means a change in the reportable quantity of a hazardous substance that places the substance in a different quantity range as specified on the hazardous substance notification report form.

Subd. 15. **Small business.** "Small business" means a business entity organized for profit, including any individual, partnership, corporation, joint venture, association, or cooperative that has 20 or fewer full-time employees, or equivalent full-time employees during the preceding fiscal year or not more than \$1,000,000 in annual gross revenue in the preceding fiscal year, and that is not an affiliate or subsidiary of a business having more than 20 full-time or equivalent full-time employees and more than \$1,000,000 in annual gross revenues. For the purposes of this subdivision, "equivalent full-time employees" means part-time employees' work time combined to total 2,000 hours or the equivalent of one full-time employee.

Subd. 16. **Work area.** "Work area" means a defined space in a workplace where hazardous chemicals are stored, produced, or used and where employees are present.

Subd. 17. **Workplace.** "Workplace" means an establishment at one geographical location containing one or more work areas.

History: *1Sp1986 c 1 art 10 s 11; 2005 c 136 art 9 s 14; 2007 c 140 art 3 s 6; art 13 s 4*

299F.093 POWERS AND DUTIES OF COMMISSIONER.

Subdivision 1. **Duties; rules.** The commissioner shall:

(1) adopt rules no later than July 1, 1987, with the advice of the Hazardous Substance Notification Advisory Committee, establishing the form and content of the hazardous substance notification report form, as required by section 299F.094, and describing one or more hazard categories with specified ranges of quantities in each hazard category, representing increments of substantially increased risk;

(2) print and provide to individual fire departments the requested number of hazardous substance notification reports, which must be made available to a fire department no more than 90 days following its request, for the fire department to mail or otherwise make available to employers in the jurisdiction;

(3) report to the legislature, as needed, on the effectiveness of sections 299F.091 to 299F.099 and recommend amendments to sections 299F.091 to 299F.099 that are considered necessary;

(4) adopt rules to implement sections 299F.091 to 299F.099, compatible with the State Fire Code so as to not limit the authority of local fire officials under that code; and

(5) adopt rules that are based on the most recent standard 704, adopted by the National Fire Protection Association, and that allow a fire department to require employers within its jurisdiction to post signs conforming to standard 704, and indicating the presence of hazardous substances. If the signs are required, a fire department shall supply the signs or provide information to assist an employer to obtain them.

Subd. 2. Investigation powers. The commissioner shall, at the request of a local fire department, investigate suspected violations of sections 299F.091 to 299F.099.

History: *1Sp1986 c 1 art 10 s 12; 1993 c 337 s 18; 1997 c 187 art 1 s 22; 2005 c 10 art 1 s 64; 2005 c 136 art 9 s 14*

299F.094 REPORT REQUIRED; CONTENTS.

Subdivision 1. **Employer's duty.** Except as provided in section 299F.096, subdivision 2, an employer who receives a hazardous substance notification report shall submit to the local fire department a completed hazardous substance notification report form containing the information and in the manner required by this section and the rules of the commissioner, within two months after receiving a hazardous substance notification report. As an alternative, an employer may, at the discretion of the local fire department, arrange with the local fire department for a date certain upon which that department may conduct an inspection of that employer's workplace in order for the employer to provide the information, or essentially the same information, as contained in the report form to the local fire department.

Subd. 2. Contents of form. The hazardous substance notification report must be completed on a form developed by the commissioner of public safety and contain the following information:

(1) the range of maximum combined quantities of all hazardous substances contained in each designated hazard category that may reasonably be expected to be present in the workplace during normal operations;

(2) the street address and any other special identifier of the workplace; and

(3) the employer's name and street address with the telephone numbers of responsible persons in charge of the workplace who can be reached at all times.

Subd. 3. Updated information. If, after review of the hazardous substance notification report of an employer, a local fire department requires additional information, then the employer:

(1) shall provide, at the request of that fire department, a material safety data sheet, or any requested portion of it, for any hazardous substance contained in any designated hazard category covered by the hazardous substance notification report; and

(2) shall respond as soon as possible, but in no case later than 30 days, to a request by a local fire department for clarification of any information previously submitted or to a request for additional information under sections 299F.091 to 299F.099.

Subd. 4. Prompt notification of change. An employer shall promptly notify the local fire department of significant changes in the information provided under this section, but not later than 30 days after each significant change.

Subd. 5. Inspection; emergency plans. At the request of the local fire department, an employer shall permit the local fire department inspection and cooperate in the preparation of fire and emergency plans.

History: *1Sp1986 c 1 art 10 s 13*

299F.095 POWERS AND DUTIES OF FIRE DEPARTMENT.

(a) To the extent feasible, given the amount of funds and training available, the local fire department shall:

(1) mail or otherwise distribute hazardous substance notification report forms to employers within the jurisdiction of the fire department except for those employers for whom an inspection has been arranged or employers from whom a hazardous substance notification is considered not necessary by the fire department;

(2) retain and evaluate each hazardous substance notification report and notification of significant change submitted by each employer until the employer's workplace ceases to exist or the fire department determines retention of the hazardous substance notification report is no longer necessary;

(3) develop for fire department use appropriate fire and emergency procedures for the hazardous substance risks of each workplace based on the information received;

(4) investigate suspected violations of sections 299F.091 to 299F.099, and issue appropriate orders for compliance; and

(5) provide available material safety data sheets and hazardous substance notification reports at the request of other emergency response personnel.

(b) Data collected under sections 299F.091 to 299F.099 is nonpublic data within the meaning of section 13.02, subdivision 9.

History: *1Sp1986 c 1 art 10 s 14*

299F.096 DUTY TO SAFEGUARD PRIVATE INFORMATION.

Subdivision 1. **Nonpublic data.** Before a fire department and emergency response personnel may have access to information received under section 299F.094, the department shall establish security procedures to prevent unauthorized use or disclosure of nonpublic data. Nonpublic data must be made available in an emergency to emergency response personnel. No liability results under sections 299F.091 to 299F.099 with respect to disclosure of nonpublic data if emergency response personnel, in response to an emergency, reasonably determine that the use or disclosure of the data is necessary to expedite medical services or to protect persons from imminent danger. As soon as practicable after disclosure of nonpublic data is made by emergency response personnel, the circumstances necessitating the disclosure and the actual or estimated extent of the disclosure must be described in writing by the personnel and provided to the employer.

Subd. 2. **Classified information.** When the notification required in section 299F.094 involves classified information, the employer shall, without revealing the classified information, attempt to provide the local fire department with that information necessary to protect the department, emergency response personnel, and the public in an emergency. The employer is also responsible for requesting changes in the classification of classified information or declassification of that material when it is considered necessary by a local fire department in advance of an emergency to protect emergency response personnel or the public. An employer is not required to reveal classified information, except in an emergency, without prior governmental approval, and in an emergency, an employer shall disclose to emergency response personnel appropriate elements of classified information that are reasonably necessary to protect human life. An employer may choose to make classified information available to the local fire department or emergency response personnel if necessary for emergency preplanning purposes. In those cases, classified information (1) may be made available to a local fire department or emergency response personnel only after it has been demonstrated that the personnel intended to have access to the classified information meet access requirements applicable to the facilities

and to personnel having access to classified information, and (2) must be protected from disclosure by the local fire department and emergency response personnel in accordance with applicable rules and statutes.

History: *1Sp1986 c 1 art 10 s 15*

299F.097 [Repealed, 1993 c 337 s 20]

299F.098 PENALTIES.

(a) An employer who violates a provision of sections 299F.091 to 299F.099 or a rule or order adopted or made under the authority of those sections, that is determined by rule not to be a violation of a serious nature, may be assessed a fine not to exceed \$1,000.

(b) An employer who violates a provision of sections 299F.091 to 299F.099 or a rule or order adopted or made under the authority of those sections, that is determined by rule to be of a serious nature, must be assessed a fine not to exceed \$1,000 for each violation.

(c) An employer who is convicted of knowingly making a false statement, representation, or certification in an application, record, report, plan, or other document filed or required to be maintained under sections 299F.091 to 299F.099 is guilty of a gross misdemeanor.

(d) An employer who is convicted of willfully or repeatedly violating the requirements of sections 299F.091 to 299F.099 or a rule or order adopted or made under those sections is guilty of a gross misdemeanor.

(e) The penalties provided by this section may be imposed in a criminal action in the name of the state brought in the district court of the county in which the violation is alleged to have occurred or the district court where the commissioner has an office. Fines imposed under sections 299F.091 to 299F.099 must be paid to the commissioner of public safety and deposited in the general fund.

(f) No employer may be convicted for violating sections 299F.091 to 299F.099 or a rule or order made or issued under those sections unless the employer was notified of the violation in writing and given a reasonable time to comply.

History: *1Sp1986 c 1 art 10 s 17*

299F.099 LOCAL ORDINANCE PREEMPTED.

Sections 299F.091 to 299F.099 preempt and supersede any local ordinance or rule concerning the subject matter of those sections.

History: *1Sp1986 c 1 art 10 s 18*

299F.10 [Repealed, 2005 c 136 art 9 s 15]

299F.11 [Repealed, 2005 c 136 art 9 s 15]

299F.12 [Repealed, 2005 c 136 art 9 s 15]

299F.13 [Repealed, 2005 c 136 art 9 s 15]

299F.14 [Repealed, 2005 c 136 art 9 s 15]

299F.15 [Repealed, 2005 c 136 art 9 s 15]

299F.16 [Repealed, 2005 c 136 art 9 s 15]

299F.17 [Repealed, 2005 c 136 art 9 s 15]

COMBUSTIBLE, FLAMMABLE, AND EXPLOSIVE MATERIALS

299F.18 COMBUSTIBLE MATERIAL REMOVED.

The state fire marshal, the chief assistant fire marshal, or any deputy fire marshal, who finds in any building or upon any premises any combustible or explosive material, rubbish, rags, waste, or inflammable matter of any kind, except liquids covered by section 299F.19, endangering the safety of the building or property or the occupants thereof or the occupants of adjoining buildings shall order these materials removed or the dangerous condition corrected forthwith. This order shall be in writing and directed generally to the owner, lessee, agent, or occupant of the building or premises and any owner, lessee, agent, or occupant upon whom such notice shall be served who fails to comply therewith within 24 hours thereafter, unless the order prescribes a longer period within which it may be complied with, shall be guilty of a misdemeanor, and the material may be removed or dangerous condition corrected at the expense of the owner of the building and premises or the person upon whom the service is so made, or both, and the state fire marshal may maintain all necessary actions for the recovery thereof.

History: (5968) 1913 c 564 s 18; 1917 c 469 s 1; 1949 c 292 s 1

299F.19 FLAMMABLE LIQUIDS AND EXPLOSIVES.

Subdivision 1. **Rules.** The commissioner of public safety shall adopt rules for the safekeeping, storage, handling, use, or other disposition of blasting agents and explosives. Loads carried in or on vehicles transporting these products upon public highways within this state are governed by the uniform vehicle size and weights provisions in sections 169.80 to 169.88 and the transportation of hazardous materials provisions of section 221.033.

Subd. 2. **Blasting agent defined; explosives classified.** For the purposes of this section and the rules adopted pursuant to this section:

(a) "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. "Blasting agent" does not include flammable liquids or flammable gases.

(b) "Explosive" means any chemical compound, mixture, or device, the primary or common purpose of which is to function by explosion. The term includes, but is not limited to, dynamite, black powder, pellet powder, initiating explosives, detonators, safety fuses, squibs, detonating cord, igniter cord, igniters, display fireworks, and class 1.3G fireworks (formerly classified as Class B special fireworks). "Explosive" includes any material determined to be within the scope of United States Code, title 18, chapter 40, and also includes any material classified as an explosive other than consumer fireworks, 1.4G (Class C, Common), by the hazardous materials regulations of the United States Department of Transportation (DOTn) in Code of Federal Regulations, title 49.

(c) Explosives are divided into four categories and are defined as follows:

(1) High explosive: explosive material, such as dynamite, that can be caused to detonate by means of a number eight test blasting cap when unconfined.

(2) Low explosive: explosive material that will burn or deflagrate when ignited, characterized by a rate of reaction that is less than the speed of sound, including, but not limited to, black powder, safety fuse, igniters, igniter cord, fuse lighters, class 1.3G fireworks (formerly classified as Class B special fireworks), and class 1.3C propellants.

(3) Mass-detonating explosives: division 1.1, 1.2, and 1.5 explosives alone or in combination, or loaded into various types of ammunition or containers, most of which can be expected to explode virtually instantaneously when a small portion is subjected to fire, severe concussion, impact, the impulse of an initiating agent, or the effect of a considerable discharge of energy from without. Materials that react in this manner represent a mass explosion hazard. Such an explosive will normally cause severe structural damage to adjacent objects. Explosive propagation could occur immediately to other items of ammunition and explosives stored sufficiently close to and not adequately protected from the initially exploding pile with a time interval short enough so that two or more quantities must be considered as one for quantity-distance purposes.

(4) United Nations/United States Department of Transportation (UN/DOtn) Class 1 explosives: the hazard class of explosives that further defines and categorizes explosives under the current system applied by DOtn for all explosive materials into further divisions as follows, with the letter G identifying the material as a pyrotechnic substance or article containing a pyrotechnic substance and similar materials:

(i) Division 1.1 explosives have a mass explosion hazard. A mass explosion is one that affects almost the entire load instantaneously.

(ii) Division 1.2 explosives have a projection hazard but not a mass explosion hazard.

(iii) Division 1.3 explosives have a fire hazard and either a minor blast hazard or a minor projection hazard or both, but not a mass explosion hazard.

(iv) Division 1.4 explosives pose a minor explosion hazard. The explosive effects are largely confined to the package and no projection of fragments of appreciable size or range is to be expected. An external fire must not cause virtually instantaneous explosion of almost the entire contents of the package.

(v) Division 1.5 explosives are very insensitive and are comprised of substances that have a mass explosion hazard, but are so insensitive that there is very little probability of initiation or of transition from burning to detonation under normal conditions of transport.

(vi) Division 1.6 explosives are extremely insensitive and do not have a mass explosion hazard, comprised of articles that contain only extremely insensitive detonating substances and that demonstrate a negligible probability of accidental initiation or propagation.

Subd. 3. Applicability to ordinances. 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. Local authority. 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. **Misdemeanor.** Any violation of a rule shall constitute a misdemeanor.

Subd. 6. **Procedure for adopting rules.** The code and all amendments thereto shall be adopted in accordance with the procedures of the Administrative Procedure Act.

History: 1949 c 292 s 2; 1957 c 424 s 1-3; 1963 c 437 s 1-4; 1973 c 123 art 5 s 7; 1981 c 106 s 4; 1981 c 253 s 31; 1Sp1981 c 4 art 1 s 156; 1984 c 520 s 24,25; 2005 c 136 art 9 s 9,10

FAILURE TO PERFORM DUTY; PENALTY

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: (5970) 1913 c 564 s 20; 1981 c 106 s 5

299F.21 [Repealed, 2000 c 394 art 2 s 28]

299F.22 [Repealed, 2000 c 394 art 2 s 28]

299F.23 [Repealed, 2000 c 394 art 2 s 28]

299F.24 [Repealed, 2000 c 394 art 2 s 28]

299F.25 [Repealed, 2000 c 394 art 2 s 28]

299F.26 [Repealed, 2000 c 394 art 2 s 28]

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

OTHER PROVISIONS

299F.28 RECORDS ARE PUBLIC, EXCEPTIONS.

(a) All records on file in the state fire marshal's office shall be public, except:

(1) any testimony, correspondence, or other matter taken in an investigation under the provisions of this chapter, which the state fire marshal may withhold from the public; and

(2) any data collected on the locations of storage and use of explosives or blasting agents by individuals authorized under sections 299F.72 to 299F.831, which shall be classified as nonpublic data pursuant to section 13.02, subdivision 9.

(b) The state fire marshal may share nonpublic data related to the storage or use of explosives or blasting agents with law enforcement, and with employees of a government entity or utility, as defined in section 609.594, subdivision 1, whose job duties require access to a facility containing explosives or blasting agents. Any recipient of nonpublic data under this paragraph is prohibited from disclosing the data to anyone not

directly involved in the work to be completed at the site where the explosives or blasting agents are stored or to be used.

History: (5976) 1913 c 564 s 26; 1986 c 444; 2008 c 315 s 17

299F.29 COUNTY AND CITY ATTORNEYS TO ASSIST.

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

History: (5977) 1913 c 564 s 27; 1981 c 106 s 11; 1986 c 444

299F.30 FIRE DRILL IN SCHOOL; DOORS AND EXITS.

Subdivision 1. **Duties of fire marshal.** Consistent with sections 121A.035, 121A.037, and this section, it shall be the duty of the state fire marshal, deputies and assistants, to require public and private schools and educational institutions to have at least five fire drills each school year and to keep all doors and exits unlocked from the inside of the building during school hours.

Subd. 2. **Fire drill.** Each superintendent, principal, or other person in charge of a public or private school, educational institution, children's home or orphanage housing 20 or more students or other persons, shall instruct and train such students or other persons to quickly and expeditiously quit the premises in case of fire or other emergency by means of drills or rapid dismissals while such school, institution, home, or orphanage is in operation. Records of such drills shall be posted so that such records are available for review by the state fire marshal at all times and shall include the drill date and the time required to evacuate the building.

Subd. 3. **School doors and exits.** Consistent with section 121A.035 and this section, each superintendent, principal, or other person in charge of a public or private school, educational institution, children's home, or orphanage shall keep all doors and exits of such school, institution, home, or orphanage unlocked so that persons can leave by such doors or exits at any time during the hours of normal operation.

History: (5978) 1913 c 564 s 28; 1971 c 516 s 1; 1973 c 11 s 1; 1986 c 444; 2006 c 263 art 2 s 19

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: (5979) 1913 c 564 s 29; 1981 c 106 s 12

299F.32 STATUTORY CONSTRUCTION.

It is hereby declared that this chapter is necessary for the public safety, health, peace, and welfare, is remedial in nature, and shall be construed liberally and this chapter shall not be declared unconstitutional and void for the reason that any section or provision thereof may be in contravention of the constitution.

History: (5980) 1913 c 564 s 30

299F.33 [Repealed, 1978 c 777 s 20]

299F.34 [Repealed, 1990 c 388 s 3]

299F.35 STATEMENT OF INSURED, USE IN CIVIL ACTION.

No statement or admission of assured in any fire insurance policy given to the fire marshal's office in any investigation or proceeding had by that office shall be used in any civil action based upon such policy of insurance.

History: (5983) 1913 c 564 s 33

299F.36 [Repealed, 1990 c 388 s 3]

FIRE PROTECTION

299F.361 [Repealed, 2005 c 136 art 9 s 15]

299F.362 SMOKE DETECTOR; INSTALLATION; RULES; PENALTY.

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

(a) "Apartment house" is any building, or portion thereof, which is designed, built, rented, leased, let, or hired out to be occupied, or which is occupied as the home or residence of three or more families living independently of each other and doing their own cooking in the building, and shall include buildings containing three or more flats or apartments.

(b) "Dwelling" is any building, or any portion thereof, which is not an apartment house, lodging house, or a hotel and which contains one or two "dwelling units" which are, or are intended or designed to be, occupied for living purposes.

(c) "Dwelling unit" is a single unit providing complete, independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking, and sanitation, or a single unit used by one or more persons for sleeping and sanitation pursuant to a work practice or labor agreement.

(d) "Hotel" is any building, or portion thereof, containing six or more guest rooms intended or designed to be used, or which are used, rented, or hired out to be occupied, or which are occupied for sleeping purposes by guests.

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

Subd. 2. **Rules, smoke detector location.** The commissioner of public safety shall promulgate rules concerning the placement of smoke detectors in dwellings, apartment houses, hotels, and lodging houses. The rules shall take into account designs of the guest rooms or dwelling units.

Subd. 3. **Smoke detector for any dwelling.** Every dwelling unit within a dwelling must be provided with a smoke detector meeting the requirements of the State Fire Code. The detector must be mounted in accordance with the rules regarding smoke detector location adopted under subdivision 2. When actuated, the detector must provide an alarm in the dwelling unit.

Subd. 3a. **Smoke detector for new dwelling.** In construction of a new dwelling, each smoke detector must be attached to a centralized power source.

Subd. 4. **Smoke detector for apartment, lodging house, or hotel.** Every dwelling unit within an apartment house and every guest room in a lodging house or hotel used for sleeping purposes must be

provided with a smoke detector conforming to the requirements of the State Fire Code. In dwelling units, detectors must be mounted in accordance with the rules regarding smoke detector location adopted under subdivision 2. When actuated, the detector must provide an alarm in the dwelling unit or guest room.

Subd. 5. **Maintenance responsibilities.** For all occupancies covered by this section where the occupant is not the owner of the dwelling unit or the guest room, the owner is responsible for maintenance of the smoke detectors. An owner may file inspection and maintenance reports with the local fire marshal for establishing evidence of inspection and maintenance of smoke detectors.

Subd. 5a. **Inform owner; no added liability.** The occupant of a dwelling unit must inform the owner of the dwelling unit of a nonfunctioning smoke detector within 24 hours of discovering that the smoke detector in the dwelling unit is not functioning. If the occupant fails to inform the owner under this subdivision, the occupant's liability for damages is not greater than it otherwise would be.

Subd. 6. **Penalties.** (a) Any person who violates any provision of this section shall be subject to the same penalty and the enforcement mechanism that is provided for violation of the State Fire Code, as specified in section 299F.011, subdivision 6.

(b) An occupant who willfully disables a smoke detector or causes it to be nonfunctioning, resulting in damage or injury to persons or property, is guilty of a misdemeanor.

Subd. 7. **Local government preempted.** This section prohibits a local unit of government from adopting standards different from those provided in this section.

Subd. 8. [Repealed, 1991 c 199 art 1 s 67]

Subd. 9. **Local government ordinance; installation in single-family residence.** Notwithstanding subdivision 7, or other law, a local governing body may adopt, by ordinance, rules for the installation of a smoke detector in single-family homes in the city that are more restrictive than the standards provided by this section. Rules adopted pursuant to this subdivision may be enforced through a truth-in-housing inspection.

Subd. 10. MS 1988 [Repealed, 1989 c 322 s 5]

Subd. 10. **Public fire safety educator.** The position of Minnesota public fire safety educator is established in the Department of Public Safety.

Subd. 11. **Insurance claim.** No insurer shall deny a claim for loss or damage by fire for failure of a person to comply with this section.

History: 1977 c 333 s 2; 1978 c 777 s 7; 1987 c 122 s 1; 1987 c 201 s 4-6; 1989 c 322 s 1-5,7; 1991 c 233 s 110; 1993 c 329 s 1,2; 2005 c 136 art 9 s 11,12,14

299F.37 [Repealed, 2014 c 212 art 3 s 1]

299F.38 [Repealed, 1990 c 388 s 3]

299F.39 Subdivision 1. [Repealed, 1978 c 777 s 20]

Subd. 2. MS 1969 [Repealed, Ex1971 c 3 s 78 subd 2]

Subd. 2. MS 1976 [Repealed, 1978 c 777 s 20]

Subd. 3. [Repealed, 1978 c 777 s 20]

Subd. 4. [Repealed, 1978 c 777 s 20]

299F.391 HEALTH CARE, EDUCATION, OR LODGING FACILITY.

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.

Subd. 2. **Requirements.** All hospitals, nursing homes, schools, lodging houses and hotels shall be operated and maintained in compliance with the State Fire Code as promulgated pursuant to section 326B.02, subdivision 6.

Subd. 3. **Local ordinance.** Nothing in this section shall be construed to prohibit a local unit of government otherwise authorized by law, from enforcing or adopting ordinances or regulations with standards equal to, in addition to, or more stringent than the requirements of the State Fire Code. Any ordinance or regulation adopted by a local unit which differs from the State Fire Code must be directly related to the safeguarding of life and property from the hazards of fire, uniform for each class or kind of building covered, and may not exceed the applicable requirements of the Uniform Building Code adopted pursuant to sections 326B.101 to 326B.151.

Subd. 4. **Penalty.** A person who violates a provision of this section shall be penalized as set forth in section 299F.011, subdivision 6.

History: 1978 c 777 s 8; 1981 c 106 s 14; 1984 c 544 s 89; 2005 c 136 art 9 s 14; 2007 c 140 art 3 s 6; art 4 s 61; art 13 s 4

299F.40 LIQUEFIED PETROLEUM OR INDUSTRIAL GAS CONTAINER.

Subdivision 1. **Public policy.** It is the intent of the Minnesota legislature to protect the public welfare and promote safety in the filling and use of pressure vessels containing liquefied petroleum or industrial gases through implementing the regulations of the Interstate Commerce Commission or successor agency, within the state of Minnesota, the rules of the Minnesota state fire marshal, and the national standards of safety on the filling of these containers. It is deemed necessary to insure that containers properly constructed and tested be used and that only liquefied petroleum or industrial gases of suitable and safe vapor pressure be placed in these containers. To attain this end the filling or refilling of liquefied petroleum and industrial gas containers by other than the owner or authorized person must be controlled and specific authority to prevent violation and encourage enforcement be established.

Subd. 2. **Definitions.** (a) The term "person" shall mean and include any person, persons, firm, firms, corporation, or corporations.

(b) The term "owner" shall mean and include (1) any person who holds a written bill of sale or other instrument under which title to the container was transferred to such person, (2) any person who holds a

paid or receipted invoice showing purchase and payment of the container, (3) any person whose name, initials, mark, or other identifying device has been plainly and legibly stamped or otherwise shown upon the surface of the container for a period of not less than one year prior to the final enactment and approval of this section, or (4) any manufacturer of a container who has not sold or transferred ownership thereof by written bill of sale or otherwise.

(c) The term "liquefied petroleum gas" as used in this section shall mean and include any material which is composed predominantly of any of the following hydrocarbons or mixtures of the same: propane, propylene, butanes (normal butane and iso-butane), and butylenes.

(d) The term "industrial gas" as used in this section shall mean and include any material which is composed exclusively of any of the following gases or mixtures of them: oxygen, acetylene, nitrogen, argon, and carbon dioxide.

Subd. 3. Container identification; unlawful acts. If a liquefied petroleum or industrial gas container shall bear upon the surface thereof in plainly legible characters the name, mark, initials, or other identifying device of the owner thereof, it shall be unlawful for any person except the owner or a person authorized in writing by the owner:

(1) to fill or refill such container with liquefied petroleum or industrial gas or any other gas or compound;

(2) to buy, sell, offer for sale, give, take, loan, deliver or permit to be delivered, or otherwise use, dispose of, or traffic in any such container; or

(3) to deface, erase, obliterate, cover up, or otherwise remove or conceal or change any name, mark, initials, or other identifying device of the owner or to place the name, mark, initials, or other identifying device of any person other than the owner on the container.

Subd. 4. Presumptive evidence of unlawful use of container. The use of a liquefied petroleum or industrial gas container or containers by any person other than the person whose name, mark, initial, or device shall be or shall have been upon the liquefied petroleum or industrial gas container or containers, without written consent or purchase of the marked and distinguished liquefied petroleum or industrial gas container, for the sale of liquefied petroleum or industrial gas or filling or refilling with liquefied petroleum or industrial gas, or the possession of liquefied petroleum or industrial gas containers by any person other than the person whose name, mark, initial, or other device is thereon, without the written consent of the owner, shall and is hereby declared to be presumptive evidence of the unlawful use, filling or refilling, transition of, or trafficking in liquefied petroleum or industrial gas containers.

Subd. 5. Violation, search warrant. Whenever any person or officer of any corporation mentioned in this section, or the person's or officer's duly authorized agent who has personal knowledge of the facts, makes an oath in writing before any judge, that the party making affidavit has reason to and does believe that any of the person's or the corporation's liquefied petroleum or industrial gas containers marked with the name, initials, mark, or other device of the owner, are in the possession of or being used, filled, refilled, or transferred by any person whose name, initials, mark, or other device does not appear on the containers, and who is in the possession of, filling or refilling, or using the containers without the written consent of the owner of the name, initials, or trade mark, the judge may, when satisfied that there is reasonable cause, issue a search warrant and cause the premises designated to be searched for the purpose of discovering and obtaining the containers. The judge may also order the person in whose possession the containers are found to appear, and inquire into the circumstances of the possession. If the judge finds that the person has been guilty of a violation of this section, the judge shall impose the punishment prescribed, and award the property taken upon the search warrant to its owner.

Subd. 6. **Misdemeanor.** Any person who shall fail to comply with any of the foregoing provisions of this section shall be deemed guilty of a misdemeanor for each separate offense.

History: 1957 c 768 s 1-6; 1977 c 152 s 1; 1983 c 359 s 25; 1986 c 444; 2003 c 2 art 4 s 17

299F.41 [Repealed, 1978 c 751 s 4]

299F.42 [Repealed, 1978 c 751 s 4]

299F.43 [Repealed, 1978 c 751 s 4]

299F.44 [Repealed, 1978 c 751 s 4]

299F.45 [Repealed, 1978 c 751 s 4]

299F.451 [Repealed, 2005 c 136 art 9 s 15]

299F.452 [Repealed, 2005 c 136 art 9 s 15]

299F.453 [Repealed, 1990 c 388 s 3]

299F.454 [Repealed, 1990 c 388 s 3]

299F.46 HOTEL INSPECTIONS.

Subdivision 1. **Hotel inspection.** (a) 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, the commissioner, or the commissioner's 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 157.011 and 157.15 to 157.22, 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 Minnesota State Fire Code promulgated pursuant to section 326B.02, subdivision 6, or any other law of this state relating to fire prevention and fire protection of hotels, the commissioner and the deputies or designated alternates or agents shall report such a situation to the hotel inspector who shall proceed as provided for in chapter 157.

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

Subd. 2. **Inspection agreement with local government.** (a) The commissioner of public safety may enter into an agreement with any county, two or more contiguous counties, or city or other municipality, hereafter called the designated agent, under which agreement the designated agent may agree to perform all or part of the inspection duties authorized in subdivision 1. The agreement shall also set forth criteria by which the commissioner will determine that performance by the designated agent complies with state standards and is sufficient to replace inspection by the commissioner. The agreement may specify minimum staff requirements and qualifications and provide for termination procedures if the commissioner finds that the designated agent fails to comply with the terms and requirements of the agreement.

(b) No designated agent may perform any inspection duties pursuant to the agreement in any territory outside its jurisdiction.

(c) The scope of the agreement shall be limited to duties and responsibilities agreed upon by the parties and may provide a basis for automatic renewal and provisions for notice of intent to terminate by either party.

(d) During the life of the agreement the commissioner shall not perform any inspection which the designated agent is required to perform under the agreement, except for inspection necessary to determine compliance with the agreement and this section. The commissioner shall consult with, advise and assist a designated agent in the performance of its duties under the agreement.

(e) No agreement shall be effective to transfer any tort liability attributable to any inspection or lack of inspection from the state of Minnesota to the local unit contracting to perform the inspection.

Subd. 3. Inspection fees. (a) For each hotel required to have a fire inspection according to subdivision 1, the commissioner of public safety may charge each hotel a triennial inspection fee of \$435 and a per-room charge of \$5 for one to 18 units, \$6 for 19 to 35 units, \$7 for 36 to 100 units, and \$8 for 100 or more units. The fee includes one follow-up inspection. The commissioner shall charge each resort a triennial inspection fee of \$435 and a per room charge of \$5 for one to ten units, \$6 for 11 to 25 units, and \$7 for 26 or more units.

(b) The commissioner shall charge a fee of \$225 for each additional follow-up inspection for hotels and resorts, conducted in each three-year cycle that is necessary to bring the hotel or resort into compliance with the State Fire Code.

(c) Nothing in this subdivision prevents the designated agent from continuing to charge an inspection fee or from establishing a new inspection fee.

(d) Hotels and motels with fewer than 35 rooms and resorts classified as 1c under section 273.13 are exempt from the fee requirements of this subdivision.

Subd. 4. Special account; appropriation. Money received by the State Fire Marshal Division for this program must be deposited in the state treasury and credited to a state fire marshal hotel inspection dedicated account in the special revenue fund. All money in the state fire marshal hotel inspection dedicated account is annually appropriated to the commissioner of public safety to operate and administer this program.

History: (3288, 5950) 1911 c 386 s 2; 1913 c 564 s 2; 1949 c 469 s 1; 1969 c 1129 art 10 s 2; 1978 c 777 s 9; 1981 c 106 s 15; 1986 c 444; 1995 c 207 art 9 s 60; 1996 c 451 art 4 s 70; 1997 c 7 art 1 s 123; 1Sp2003 c 2 art 4 s 10-12; 2007 c 140 art 3 s 6; art 13 s 4

299F.47 SCHOOL INSPECTIONS.

Subdivision 1. Public school inspections; fees. The state fire marshal shall develop a plan to inspect once every three years every public school facility used for educational purposes. The state fire marshal shall charge school districts \$0.014 per square foot for each school building inspected. These rates shall include two follow-up inspections or on-site consultations. If additional follow-up inspections or consultations are needed, the state fire marshal shall charge \$0.005 per square foot for each additional follow-up inspection to each applicable building in which a follow-up inspection is needed.

Subd. 2. Charter school inspections; fees. The state fire marshal shall charge charter schools \$100 for each school building inspected. This rate shall include two follow-up inspections or on-site consultations. If additional follow-up inspections or consultations are needed, the state fire marshal shall charge \$50 for each additional follow-up inspection to each applicable building in which a follow-up inspection is needed.

Subd. 3. Special account; appropriation. Money received by the State Fire Marshal Division for this program must be deposited in the state treasury and credited to a state fire marshal school inspection dedicated account in the special revenue fund. All money in the state fire marshal school inspection account is annually appropriated to the commissioner of public safety for purposes of operating and administering this program.

Subd. 4. **Local inspections.** If inspections of public school buildings and charter schools were conducted by local units of government between January 1, 1987, and January 1, 1990, then inspections may continue to be provided by the local unit of government.

Subd. 5. **Variance.** Notwithstanding section 299F.011, subdivisions 5a and 5b, a variance from the code must be approved by the state fire marshal before taking effect.

History: *1Sp2003 c 2 art 4 s 13*

CARBON MONOXIDE ALARMS

299F.50 DEFINITIONS.

Subdivision 1. **Scope.** As used in sections 299F.50 and 299F.51, the terms defined in this section have the meanings given them.

Subd. 2. MS 2006 [Renumbered subdivision 8]

Subd. 3. MS 2006 [Renumbered subdivision 10]

Subd. 4. MS 2006 [Renumbered subdivision 7]

Subd. 5. **Approved carbon monoxide alarm.** "Approved carbon monoxide alarm" means a device meant for the purpose of detecting carbon monoxide that is certified by a nationally recognized testing laboratory to conform to the latest Underwriters Laboratories Standards (known as UL2034 standards).

Subd. 6. MS 2006 [Renumbered subdivision 9]

Subd. 7. **Dwelling unit.** "Dwelling unit" means an area meant for living or sleeping by human occupants.

Subd. 8. **Installed.** "Installed" means that an approved carbon monoxide alarm is hardwired into the electrical wiring, directly plugged into an electrical outlet without a switch, or, if the alarm is battery-powered, attached to the wall of the dwelling.

Subd. 9. **Operational.** "Operational" means working and in service.

Subd. 10. **Single and multifamily dwelling.** "Single and multifamily dwelling" means any building or structure which is wholly or partly used or intended to be used for living or sleeping by human occupants.

History: *2006 c 260 art 3 s 20*

299F.51 REQUIREMENTS FOR CARBON MONOXIDE ALARMS.

Subdivision 1. **Generally.** Every single family dwelling and every dwelling unit in a multifamily dwelling must have an approved and operational carbon monoxide alarm installed within ten feet of each room lawfully used for sleeping purposes.

Subd. 2. **Owner's duties.** The owner of a multifamily dwelling unit which is required to be equipped with one or more approved carbon monoxide alarms must:

(1) provide and install one approved and operational carbon monoxide alarm within ten feet of each room lawfully used for sleeping; and

(2) replace any required carbon monoxide alarm that has been stolen, removed, found missing, or rendered inoperable during a prior occupancy of the dwelling unit and which has not been replaced by the prior occupant prior to the commencement of a new occupancy of a dwelling unit.

Subd. 3. **Occupant's duties.** The occupant of each dwelling unit in a multifamily dwelling in which an approved and operational carbon monoxide alarm has been provided and installed by the owner must:

(1) keep and maintain the device in good repair; and

(2) replace any device that is stolen, removed, missing, or rendered inoperable during the occupancy of the dwelling unit.

Subd. 4. **Battery removal prohibited.** No person shall remove batteries from, or in any way render inoperable, a required carbon monoxide alarm.

Subd. 5. **Exceptions; certain multifamily dwellings and state-operated facilities.** (a) In lieu of requirements of subdivision 1, multifamily dwellings may have approved and operational carbon monoxide alarms installed between 15 and 25 feet of carbon monoxide-producing central fixtures and equipment, provided there is a centralized alarm system or other mechanism for responsible parties to hear the alarm at all times.

(b) An owner of a multifamily dwelling that contains minimal or no sources of carbon monoxide may be exempted from the requirements of subdivision 1, provided that such owner certifies to the commissioner of public safety that such multifamily dwelling poses no foreseeable carbon monoxide risk to the health and safety of the dwelling units.

(c) The requirements of this section do not apply to facilities owned or operated by the state of Minnesota.

History: 2006 c 260 art 3 s 21

299F.55 [Repealed, 1976 c 331 s 44]

INTRASTATE PIPELINE SAFETY

299F.56 DEFINITIONS; NATURAL GAS PIPELINE SAFETY.

Subdivision 1. **Scope.** As used in sections 299F.56 to 299F.641, the terms defined in this section shall have the meanings given them.

Subd. 2. [Renumbered subd 9]

Subd. 2a. [Renumbered subd 8]

Subd. 3. [Renumbered subd 15]

Subd. 4. [Renumbered subd 10]

Subd. 4a. [Renumbered subd 12]

Subd. 4b. [Renumbered subd 14]

Subd. 5. [Renumbered subd 16]

Subd. 6. [Renumbered subd 11]

Subd. 6a. [Renumbered subd 13]

Subd. 7. **Commissioner.** "Commissioner" means the commissioner of public safety, acting through the director of pipeline safety.

Subd. 8. **Federal Hazardous Liquid Pipeline Safety Act.** The federal "Hazardous Liquid Pipeline Safety Act" means United States Code, title 49, sections 2001 to 2014.

Subd. 9. **Federal Natural Gas Pipeline Safety Act.** The federal "Natural Gas Pipeline Safety Act" means United States Code, title 49, sections 1671 to 1686.

Subd. 10. **Gas.** "Gas" means natural gas, liquefied natural gas, flammable gas, or gas which is toxic or corrosive. "Gas" also includes liquefied petroleum gas in distribution systems.

Subd. 11. **Gas pipeline facilities.** "Gas pipeline facilities" includes, without limitation, new and existing pipe, rights-of-way, and any equipment, facility, or building used in the transportation of gas or the treatment of gas during the course of transportation. "Pipeline facilities" shall not include any facilities subject to the jurisdiction of the Federal Energy Regulatory Commission under the Natural Gas Act of the United States, Statutes at Large, volume 52, chapter 556.

Subd. 12. **Hazardous liquid.** "Hazardous liquid" means "hazardous liquid" and "highly volatile liquid" as defined in Code of Federal Regulations, title 49, section 195.2.

Subd. 13. **Hazardous liquid pipeline facilities.** "Hazardous liquid pipeline facilities" includes, without limitation, new and existing pipe, rights-of-way, and any equipment, facility, or building used or intended for use in the transportation of hazardous liquids including transportation by gravity or at a stress level of 20 percent or less of the specified minimum yield strength of the pipe.

Subd. 14. **Liquefied natural gas.** "Liquefied natural gas" means natural gas or synthetic gas having methane (CH₄) as its major constituent that has been changed to a liquid or semisolid.

Subd. 15. **Person.** "Person" means any individual, firm, joint venture, partnership, corporation, association, municipality, cooperative association or joint stock association, and includes any trustee, receiver, assignee, or personal representative thereof.

Subd. 16. **Transportation.** "Transportation" means the gathering, transmission, or distribution of gas or hazardous liquid by pipeline or its storage; except that it shall not include any such transportation of gas or hazardous liquid which is subject to the jurisdiction of the Federal Energy Regulatory Commission under the Natural Gas Act of the United States, Statutes at Large, volume 52, chapter 556, and the federal Hazardous Liquid Pipeline Safety Act of 1979, United States Code, title 49, section 60101 et seq., or the gathering of gas or hazardous liquid in those rural locations which lie outside the limits of any incorporated or unincorporated city, town, or any other designated residential or commercial area such as a subdivision, a business or shopping center, a community development, or any similar populated area which the Office of Pipeline Safety may define as a nonrural area.

History: 1969 c 988 s 1; 1973 c 123 art 5 s 7; 1975 c 31 s 1; 1987 c 353 s 14; 1988 c 624 s 3-10; 1989 c 244 s 8,9; 2011 c 76 art 1 s 46,47

299F.57 SAFETY STANDARDS; GAS PIPELINE.

Subdivision 1. **Rules.** (a) The commissioner may by rule establish additional or more stringent safety standards for the transportation of gas and gas pipeline facilities. Such standards may apply to the design, installation, inspection, testing, construction, extension, operation, replacement, and maintenance of gas

pipeline facilities. These standards may include a requirement that individuals responsible for the operation and maintenance of gas pipeline facilities be tested for qualifications and certified to perform these functions. The standards may not prescribe the location or routing of a pipeline facility. Standards affecting the design, installation, construction, initial inspection, and initial testing shall not be applicable to pipeline facilities in existence on the date such standards are adopted. Such safety standards shall be practicable and designed to meet the need for pipeline safety.

(b) In prescribing such standards, the commissioner shall consider:

- (1) relevant available pipeline safety data;
- (2) whether such standards are appropriate for the particular type of pipeline transportation;
- (3) the reasonableness of any proposed standards;
- (4) the extent to which any such standards will contribute to public safety; and

(5) the existing standards established by the Secretary of Transportation of the United States pursuant to the federal Natural Gas Pipeline Safety Act.

Provided, however, that the commissioner shall not be empowered to adopt any such standards as to the transportation of gas or to pipeline facilities which are subject to the jurisdiction of the Federal Energy Regulatory Commission under the Natural Gas Act of the United States, Statutes at Large, volume 52, chapter 556, except as provided in sections 299J.01 to 299J.17.

Subd. 1a. **Adoption of federal standards.** The federal safety standards adopted as Code of Federal Regulations, title 49, parts 191, 192, 193, and 199, and standards that may be adopted that amend parts 191, 192, 193, and 199, are adopted as minimum safety standards.

Subd. 2. [Repealed by amendment, 1989 c 244 s 10]

Subd. 3. **Application of Administrative Procedure Act.** The rulemaking, contested case, and judicial review provisions of chapter 14 shall apply to all rules and orders establishing, amending, revoking, or waiving compliance with any standard established under sections 299F.56 to 299F.641 or any penalty imposed under sections 299F.56 to 299F.641. The commissioner shall afford interested persons an opportunity to participate fully in the establishment of such safety standards through submission of written data, views, or arguments, with opportunity to present oral testimony and argument.

Subd. 4. **Remedial power of commissioner.** The commissioner, on finding a particular facility to be hazardous to life or property, shall be empowered to require the person operating such facility to take such steps necessary to remove such hazards.

Subd. 5. **Waiver.** Upon application by any person engaged in the transportation of gas or the operation of pipeline facilities, the commissioner may, after notice and opportunity for hearing and under such terms and conditions and to such extent as the commissioner deems appropriate, waive in whole or in part compliance with any standards established under sections 299F.56 to 299F.64, on determining that a waiver of compliance with such standard is not inconsistent with gas pipeline safety. The commissioner shall state the reasons for any such waiver.

History: 1969 c 988 s 2; 1971 c 24 s 32; 1982 c 424 s 130; 1986 c 444; 1987 c 353 s 15; 1988 c 624 s 11,12; 1989 c 244 s 10; 1991 c 233 s 95; 2011 c 76 art 1 s 48

299F.58 CERTIFICATION AND REPORT TO FEDERAL GOVERNMENT.

The commissioner is authorized to make certifications and reports to the United States Secretary of Transportation as may be required from time to time under the federal Natural Gas Pipeline Safety Act.

History: 1969 c 988 s 3; 1987 c 353 s 16; 1988 c 624 s 13

299F.59 COMPLIANCE WITH STANDARDS.

Subdivision 1. **Duty to comply.** Each person who engages in the transportation of gas or hazardous liquids or who owns or operates gas or hazardous liquid pipeline facilities shall:

(1) at all times after the date any applicable safety standard established under sections 299F.56 to 299F.641 takes effect comply with the requirements of such standard;

(2) file and comply with a plan for operation and maintenance required by sections 299F.56 to 299F.641;

(3) permit access to or copying of records, and make reports or provide information, and permit entry or inspection, as required by sections 299F.56 to 299F.641 and the standards adopted or orders issued under sections 299F.56 to 299F.641; and

(4) comply with sections 216D.01 to 216D.07, the one call excavation notice system.

Subd. 2. **Application to other law; liability.** Nothing in sections 299F.56 to 299F.641 shall affect the common law or statutory tort liability of any person.

History: 1969 c 988 s 4; 1988 c 624 s 14; 1989 c 244 s 11

299F.60 PIPELINE VIOLATION; RULES, CIVIL PENALTIES.

Subdivision 1. **Money penalty.** Any person who violates any provision of sections 299F.56 to 299F.641, or any rule issued thereunder, is subject to a civil penalty to be imposed by the commissioner not to exceed \$100,000 for each violation for each day that the violation persists, except that the maximum civil penalty must not exceed \$1,000,000 for any related series of violations.

Subd. 2. **Compromise settlement.** The commissioner may negotiate a compromise settlement of a civil penalty. In determining the amount of such penalty, or the amount of the compromise settlement, the commissioner shall consider the appropriateness of such penalty to the size of the business of the person charged, the gravity of the violation, and the good faith of the person charged in attempting to achieve compliance, after notification of a violation. The contested case and judicial review provisions of chapter 14 shall apply to all orders of the commissioner imposing any penalty for violations of sections 299F.56 to 299F.641 or any rule promulgated thereunder. The amount of such penalty, when finally determined, may be deducted from any sums owing by the state of Minnesota to the person charged.

Subd. 3. **Multiple liability for same violation.** No person shall be subjected to civil penalties under both sections 299F.56 to 299F.641 and under the federal Natural Gas Pipeline Safety Act or the federal Hazardous Liquid Pipeline Safety Act, for conduct which may give rise to a violation of both acts.

Subd. 4. **Penalties paid into account.** All penalties collected under sections 299F.56 to 299F.641 shall be paid over to the commissioner of management and budget for deposit in the state treasury to the credit of the pipeline safety account.

Subd. 5. **Rules.** The commissioner shall adopt rules establishing reasonable guidelines for imposing penalties. The rules must treat separately and distinguish between violations that relate to hazardous liquid

pipelines, gas pipelines, and other pipelines; must provide for notice that a penalty is assessed; and may exempt activities from penalties unless the person has evidenced a course of action in disregard of this chapter.

History: 1969 c 399 s 1; 1969 c 988 s 5; 1975 c 31 s 2,3; 1982 c 424 s 130; 1985 c 248 s 70; 1987 c 353 s 17; 1989 c 244 s 12; 2003 c 112 art 2 s 50; 2008 c 287 art 1 s 91; 2009 c 101 art 2 s 109

299F.61 PIPELINE VIOLATION; INJUNCTIVE RELIEF, JUDICIAL PROCEDURE.

Subdivision 1. **Authority.** The district courts of the state of Minnesota shall have jurisdiction, subject to the provisions of the statutes and the rules of practice and procedure of the state of Minnesota relative to civil actions in the district courts, to restrain violations of sections 299F.56 to 299F.641, including the restraint of transportation of gas or hazardous liquid or the operation of a pipeline facility, or to enforce standards established under sections 299F.56 to 299F.641 upon petition by the attorney general on behalf of the state of Minnesota. Whenever practicable, the commissioner shall give notice to any person against whom an action for injunctive relief is contemplated and afford the person an opportunity to present views, and, except in the case of a knowing and willful violation, shall afford the person reasonable opportunity to achieve compliance. However, the failure to give such notice and afford such opportunity shall not preclude the granting of appropriate relief.

Subd. 2. **Venue; service of process.** Actions under sections 299F.56 to 299F.641 shall be brought in the district in the state of Minnesota wherein the defendant's principal place of business is located, and process in such cases may be served in any other district in the state of Minnesota where the defendant may be found or of which the defendant is an inhabitant or transacts business.

History: 1969 c 988 s 6; 1986 c 444; 1987 c 353 s 18; 1989 c 244 s 13

299F.62 PLAN TO OPERATE AND MAINTAIN GAS PIPELINE.

(a) Each person who engages in the transportation of gas or who owns or operates gas pipeline facilities subject to sections 299F.56 to 299F.641 shall prepare, maintain, carry out, and file with the commissioner a plan for operation and maintenance of each such pipeline facility owned or operated by such person, and any changes in such plan, in accordance with the rules prescribed by the commissioner. On finding that such plan is inadequate to achieve safe operation, the commissioner shall, after notice and opportunity for a hearing, require such plan to be revised. The plan required by the commissioner shall be practicable and designed to meet the need for pipeline safety.

(b) In determining the adequacy of any such plan, the commissioner shall consider the following:

- (1) relevant available pipeline safety data;
- (2) whether the plan is appropriate for the particular type of pipeline transportation;
- (3) the reasonableness of the plan; and
- (4) the extent to which such plan will contribute to public safety.

History: 1969 c 988 s 7; 1985 c 248 s 70; 1986 c 444; 1987 c 353 s 19; 1988 c 624 s 15; 1989 c 244 s 14

299F.63 RECORDS, REPORTS, INSPECTIONS.

Subdivision 1. **Commissioner's duties and powers.** (a) The commissioner may, to the extent necessary to carry out the enforcement responsibilities of sections 299F.56 to 299F.641, conduct investigations, make reports, issue subpoenas, require the production of relevant documents and records, take depositions, and conduct research, testing, development, demonstration, and training activities.

(b) The commissioner may require each person who engages in the transportation of gas or hazardous liquid or who owns or operates pipeline facilities to establish and maintain records, and to make reports and provide information to the commissioner. The records and other information must be made available as the commissioner orders to enable the commissioner to determine whether the person has acted or is acting in compliance with sections 299F.56 to 299F.641 and the standards adopted or orders issued under sections 299F.56 to 299F.641.

(c) Officers, employees, and agents authorized by the commissioner, on presenting appropriate credentials to the person in charge, may enter upon, inspect, and examine, at reasonable times and in a reasonable manner, the records and properties of a person subject to regulation under sections 299F.56 to 299F.641 to the extent the records and properties are relevant to determine whether the person has acted or is acting in compliance with those sections and the standards adopted under those sections.

(d) An accident report made by an officer, employee, or agent of the Office of Pipeline Safety is available for use in a civil, criminal, or other judicial proceeding arising out of the accident. The officer, employee, or agent may be required to testify in the proceedings as to the facts developed in the investigation. A report made available to the public need not identify individuals. Reports on research projects, demonstration projects, and other related activities are public information.

(e) All information reported to or otherwise obtained by the commissioner under sections 299F.56 to 299F.641 that contains or relates to a trade secret referred to in United States Code, title 18, section 1905, is confidential for the purpose of that section, and is private or nonpublic data as defined in section 13.02. However, the information may be disclosed to other officers or employees authorized to enforce sections 299F.56 to 299F.641. Nothing in this section authorizes the withholding of information by the commissioner from a duly authorized committee of the legislature or the United States Congress.

Subd. 2. **Inspection program.** The commissioner must establish and implement an inspection program to enforce the standards adopted under section 299F.57. The program must be established and implemented in a manner that complies with requirements for state certification under United States Code, title 49, section 1674. In the course of the exercise of duties and responsibilities under sections 299F.56 to 299F.641, the commissioner shall wherever practicable employ a practice of spot checking, with respect to persons subject to sections 299F.56 to 299F.641.

Subd. 3. [Repealed by amendment, 1989 c 244 s 15]

Subd. 4. [Repealed, 1988 c 624 s 23]

History: 1969 c 988 s 8; 1984 c 654 art 3 s 84; 1986 c 444; 1987 c 353 s 20; 1988 c 624 s 16; 1989 c 244 s 15

299F.631 INSPECTION FEE; ASSESSMENT, RULES.

Subdivision 1. **Assessment and deposit of fee.** From each pipeline operator subject to the intrastate pipeline inspection authority under sections 299F.56 to 299F.641, the commissioner shall assess and collect an inspection fee in an amount calculated under subdivisions 2 and 4. The assessment of the inspection fee

must be made no fewer than 30 days after the end of the quarter. If an operator does not pay the fee within 60 days after the assessment was mailed, the commissioner may impose a delinquency fee of ten percent of the quarterly inspection fee and interest at the rate of 15 percent per year on the portion of the fee not paid. Fees collected under this section must be credited to the pipeline safety account.

Subd. 2. Calculation of fee. (a) For each quarter that an inspection fee is to be assessed, the commissioner shall calculate the total actual expenses and obligations incurred by the Office of Pipeline Safety in implementing sections 299F.56 to 299F.641. The calculation must not include:

- (1) expenses that will be reimbursed by the federal government;
- (2) expenses attributable to follow-up inspections necessitated by the failure of a pipeline facility to comply with safety standards;
- (3) expenses attributable to investigations of specific pipeline facilities;
- (4) expenses attributable to inspections of newly constructed pipelines over 2,000 feet in length;
- (5) expenses attributable to the inspection of facilities carrying liquefied natural gas, and hazardous liquids;
- (6) expenses attributable to the inspection of facilities carrying liquefied petroleum gas, until the commissioner adopts a rule providing for metered billing of these facilities; and
- (7) expenses attributable to seeking and maintaining federal interstate agent status.

(b) The commissioner shall assess each pipeline operator for a pro rata share of the expenses and obligations calculated under paragraph (a), based on the number of meters in service on the preceding December 31.

(c) The expenses and obligations described in paragraph (a), clauses (2), (3), (4), and (5), must be directly charged to the appropriate pipeline operators on a quarterly basis. The expenses and obligations described in paragraph (a), clause (6), must be directly charged to the appropriate pipeline operators on a quarterly basis until the commissioner adopts a rule providing for metered billing of facilities carrying liquefied petroleum gas.

Subd. 3. Rules. The commissioner shall adopt rules to implement this section.

Subd. 4. Support costs. The commissioner shall calculate the general support costs of the Office of Pipeline Safety for the preceding quarter, and add to the inspection fee calculated under subdivision 2 the share of those costs that is proportionate to the amount of time spent by the office in implementing sections 299F.56 to 299F.641 with respect to that type of pipeline facility.

History: 1988 c 624 s 17; 1989 c 244 s 16

299F.64 FEDERAL MONEY.

The commissioner may accept any and all money provided for or made available to this state by the United States of America or any department or agency thereof with respect to prescribing, setting, and enforcing rules and safety standards for the transportation of natural and other gas, and hazardous liquids, by pipelines in accordance with the provisions of federal law and any rules or regulations promulgated thereunder and the commissioner is further authorized to do any and all things, not contrary to the laws of

this state, required of this state by such federal law and the rules and regulations promulgated thereunder in order to obtain such federal money.

History: 1969 c 988 s 9; 1985 c 248 s 70; 1987 c 353 s 21; 1988 c 624 s 18

299F.641 INTRASTATE HAZARDOUS LIQUID PIPELINE.

Subdivision 1. **Jurisdiction.** The commissioner has regulatory jurisdiction over the safety standards and practices of intrastate hazardous liquid pipeline facilities and the transportation of hazardous liquids associated with those facilities.

Subd. 2. **Federal standards adopted.** The federal safety standards adopted as Code of Federal Regulations, title 49, parts 195 and 199, and standards that may be adopted that amend parts 195 and 199, are adopted as minimum safety standards. The commissioner may by rule adopt additional or more stringent safety standards for intrastate hazardous liquid pipeline facilities and the transportation of hazardous liquids associated with those facilities, if the state standards are compatible with the federal standards. The standards may not prescribe the location or routing of a pipeline facility.

Subd. 3. **Enforcement through inspection program.** The commissioner must establish and implement an inspection program to enforce the standards adopted under subdivision 2. The program must be established and implemented in a manner that complies with requirements for state certification under United States Code, title 49, section 2004.

Subd. 4. [Repealed by amendment, 1989 c 244 s 17]

Subd. 5. [Repealed by amendment, 1989 c 244 s 17]

Subd. 5a. **Waiver.** On application of a person engaged in the transportation of hazardous liquid or the operation of hazardous liquid pipeline facilities, the commissioner may, after notice and opportunity for hearing and under terms and conditions and to the extent the commissioner considers appropriate, waive in whole or in part compliance with standards established under this section, on determining that a waiver of compliance with a standard is consistent with hazardous liquid pipeline safety. The commissioner shall state the reason for a waiver.

Subd. 6. **Operation and maintenance plan.** (a) Each person who engages in the transportation of hazardous liquids or who owns or operates hazardous liquid pipeline facilities must prepare, maintain, and carry out a current written plan for operation and maintenance of each facility used in that transportation and owned or operated by that person as prescribed by the commissioner. The commissioner may, by regulation, also require persons who engage in the transportation of hazardous liquids or who own or operate pipeline facilities subject to this section to file the plans for approval. A plan required by this subdivision must be practicable, designed to meet the need for pipeline safety, and available to the commissioner on request. The plan must enhance the commissioner's ability to discover a condition that causes a significant change or restriction in the operation of the pipeline facilities or constitutes a hazard to life or property.

(b) If the commissioner finds that a plan required under this subdivision is inadequate to achieve safe operation of pipeline facilities, the commissioner may, after notice and opportunity for a hearing, require the plan to be revised. In determining the adequacy of a plan filed under this section, the commissioner shall consider:

- (1) relevant available pipeline safety data;
- (2) whether the plan is appropriate for the particular type of pipeline transportation or facility;

(3) the reasonableness of the plan; and

(4) the extent to which the plan will contribute to public safety.

Subd. 7. **Annual certification report.** The commissioner is authorized to make certifications and reports to the United States Secretary of Transportation as may be required from time to time under the federal Hazardous Liquid Pipeline Safety Act.

Subd. 8. **Civil relief.** The safety standards adopted under this section may be enforced as is provided for gas pipeline facilities under sections 299F.60 and 299F.61, and penalties collected must be paid to the commissioner for deposit in the state treasury and credit to the pipeline safety account.

History: 1988 c 624 s 19; 1989 c 244 s 17; 1991 c 233 s 96

CONTROLS OF EXPLOSIVES

299F.71 [Repealed, 1994 c 636 art 5 s 18]

299F.72 DEFINITIONS.

Subdivision 1. **Scope.** For the purposes of sections 299F.72 to 299F.831; 609.48, subdivision 4; 609.52, subdivision 3; 609.561; 609.562; 609.563; and 609.713, the terms defined in this section have the meanings given them.

Subd. 1a. **Blasting agent.** "Blasting agent" means any material or mixture (1) that consists of a fuel and oxidizer, (2) that is intended for blasting, (3) that is not otherwise classified as an explosive, (4) in which none of the ingredients is classified as an explosive, and (5) when a finished product, as mixed and packaged for use or shipment, that cannot be detonated by means of a number eight test blasting cap when unconfined. The term does not include flammable liquids or flammable gases.

Subd. 1b. **Crime of violence.** "Crime of violence" has the meaning given in section 624.712, subdivision 5, and also includes a domestic assault conviction when committed within the last three years or while an order for protection is active against the person, whichever period is longer.

Subd. 2. **Explosive.** "Explosive" means any chemical compound, mixture, or device, the primary or common purpose of which is to function by explosion; that is, with substantially instantaneous release of gas and heat, unless the compound, mixture, or device is otherwise specifically classified by the United States Department of Transportation. The term does not mean or include black powder, smokeless powder, primers, and fuses when used for antique or replica muzzle-loading rifles, pistols, muskets, shotguns, and cannons or when possessed or used for rifle, pistol, and shotgun ammunition, nor does it include fireworks as defined in section 624.20.

Subd. 3. [Repealed, 1994 c 636 art 5 s 18]

Subd. 4. [Repealed, 1994 c 636 art 5 s 18]

History: 1971 c 845 s 2; 1991 c 199 art 1 s 69; 1994 c 636 art 5 s 1-3; 1995 c 186 s 61

299F.73 LICENSE REQUIRED.

Subdivision 1. **Manufacture, assembly, or storage.** No person shall manufacture, assemble, warehouse or store explosives or blasting agents for purposes of wholesale or retail sale, or for any other purpose other than for ultimate consumption without being licensed to do so by the commissioner of public safety.

Subd. 2. **Application.** In order to obtain the license herein required such person shall make application to the commissioner of public safety. The application shall be on forms provided by the commissioner of public safety and shall require such information as the commissioner deems necessary including but not limited to the name, address, age, experience, and knowledge of the applicant in the use, handling, and storage of explosives or blasting agents, and whether the applicant is a person to whom no such license may be issued pursuant to section 299F.77. The commissioner of public safety may refuse to issue a license to any person who does not have sufficient knowledge of the use, handling, or storage of explosives or blasting agents to protect the public safety. Any person aggrieved by the denial of a license may request a hearing before the commissioner of public safety. The provisions of sections 14.57 to 14.69 shall apply to such hearing and subsequent proceedings, if any.

History: 1971 c 845 s 3; 1975 c 77 s 1; 1982 c 424 s 130; 1986 c 444; 1987 c 384 art 2 s 1; 1994 c 636 art 5 s 4

299F.74 PERMIT REQUIRED FOR POSSESSION OR USE.

No person shall possess explosives or blasting agents, unless said person shall have obtained a valid license as provided in section 299F.73, or unless said person shall have obtained a valid permit for the use of explosives or blasting agents as hereinafter provided. The transportation of an explosive or blasting agent by a common carrier for hire shall not be deemed to be possession of an explosive or blasting agent for purposes of this section.

History: 1971 c 845 s 4; 1986 c 444; 1994 c 636 art 5 s 5

299F.75 PERMIT APPLICATION.

Subdivision 1. **Requirement.** Any person desiring to possess explosives or blasting agents, other than a person licensed as provided in section 299F.73, shall make application for a permit for the use of explosives or blasting agents to the appropriate local sheriff or chief of police of a statutory or home rule charter city of the first, second, or third class, or such other person as is designated by the commissioner of public safety, on a standardized form provided by the commissioner of public safety.

Subd. 2. **Contents.** The application shall require the applicant's name, address, purpose for acquiring explosives or blasting agents, place of intended acquisition, quantity required, place and time of intended use, place and means of storage until such use, and whether the applicant is a person to whom no such permit may be issued pursuant to section 299F.77. Issuing authorities may request a certificate from the applicant regarding the applicant's knowledge in the use, handling, and storage of explosives and blasting agents, and may refuse to issue a permit to any person who does not have sufficient knowledge to protect the public safety. Any person aggrieved by the denial of a permit may request a hearing before the commissioner of public safety. The provisions of sections 14.57 to 14.69 shall apply to such hearings and subsequent proceedings, if any.

Subd. 3. **Notice.** Prior to the storage or use of explosives or blasting agents, the applicant shall notify the appropriate local fire official and law enforcement agency.

Subd. 4. **Data classification and use.** (a) The portions of an application submitted under this section and any other data held by an issuing authority, local fire official, or law enforcement agency that indicate the applicant's place and time of intended use of explosives or blasting agents and place and means of storage of the explosives or blasting agents until such use shall be classified as nonpublic data pursuant to section 13.02, subdivision 9.

(b) Nonpublic data held pursuant to this section may be shared with other law enforcement, and with employees of a government entity or utility, as defined in section 609.594, subdivision 1, whose job duties require access to a facility containing explosives or blasting agents. Any recipient of nonpublic data under this paragraph is prohibited from disclosing the data to anyone not directly involved in the work to be completed at the site where the explosives or blasting agents are stored or to be used.

History: 1971 c 845 s 5; 1973 c 169 s 1; 1975 c 77 s 2; 1982 c 424 s 130; 1987 c 384 art 2 s 1; 1994 c 636 art 5 s 6; 2008 c 315 s 18

299F.76 AFFIRMATION AND IDENTIFICATION; EFFECTIVE PERIOD.

Subdivision 1. **Affirmation that information is true.** A license or an explosives use permit shall have printed thereon a statement underlined that the applicant affirms under penalty of perjury that the information provided thereon is true to the best of the applicant's knowledge and belief. No license or permit shall be issued unless the applicant signs the application.

Subd. 2. **Permit designation and identification; effective period.** Each license or permit issued pursuant to Laws 1971, chapter 845 shall be designated by number and shall otherwise be sufficient to identify a licensee or permittee. A duplicate of the license or permit shall be retained by the issuing authority. A license or permit shall not be issued for a period of time greater than one year, but may be issued for shorter periods.

History: 1971 c 845 s 6; 1986 c 444

299F.77 ISSUANCE TO CERTAIN PERSONS PROHIBITED.

Subdivision 1. **Disqualifiers.** The following persons shall not be entitled to receive an explosives license or permit:

(1) a person under the age of 18 years;

(2) a person who has been convicted in this state or elsewhere of a crime of violence, as defined in section 299F.72, subdivision 1b, unless ten years have elapsed since the person's civil rights have been restored or the sentence has expired, whichever occurs first, and during that time the person has not been convicted of any other crime of violence. For purposes of this section, crime of violence includes crimes in other states or jurisdictions that would have been crimes of violence if they had been committed in this state;

(3) a person who is or has ever been confined or committed in Minnesota or elsewhere as a person who is mentally ill, developmentally disabled, or mentally ill and dangerous to the public, as defined in section 253B.02, to a treatment facility, unless the person possesses a certificate of a medical doctor or psychiatrist licensed in Minnesota, or other satisfactory proof, that the person is no longer suffering from this disability;

(4) a person who has been convicted in Minnesota or elsewhere for the unlawful use, possession, or sale of a controlled substance other than conviction for possession of a small amount of marijuana, as defined in section 152.01, subdivision 16, or who is or has ever been hospitalized or committed for treatment for the habitual use of a controlled substance or marijuana, as defined in sections 152.01 and 152.02, unless the person possesses a certificate of a medical doctor or psychiatrist licensed in Minnesota, or other satisfactory proof, that the person has not abused a controlled substance or marijuana during the previous two years; and

(5) a person who has been confined or committed to a treatment facility in Minnesota or elsewhere as chemically dependent, as defined in section 253B.02, unless the person has completed treatment.

Subd. 2. **Background check.** (a) For licenses issued by the commissioner under section 299F.73, the applicant for licensure must provide the commissioner with all of the information required by Code of

Federal Regulations, title 28, section 25.7. The commissioner shall forward the information to the superintendent of the Bureau of Criminal Apprehension so that criminal records, histories, and warrant information on the applicant can be retrieved from the Minnesota Crime Information System and the National Instant Criminal Background Check System, as well as the civil commitment records maintained by the Department of Human Services. The results must be returned to the commissioner to determine if the individual applicant is qualified to receive a license.

(b) For permits issued by a county sheriff or chief of police under section 299F.75, the applicant for a permit must provide the county sheriff or chief of police with all of the information required by Code of Federal Regulations, title 28, section 25.7. The county sheriff or chief of police must check, by means of electronic data transfer, criminal records, histories, and warrant information on each applicant through the Minnesota Crime Information System and the National Instant Criminal Background Check System, as well as the civil commitment records maintained by the Department of Human Services. The county sheriff or chief of police shall use the results of the query to determine if the individual applicant is qualified to receive a permit.

History: 1971 c 845 s 7; 1973 c 725 s 55; 1976 c 2 s 120; 1985 c 21 s 63; 1986 c 444; 1991 c 199 art 2 s 1; 1994 c 636 art 5 s 7; 2002 c 221 s 41; 2005 c 56 s 1; 2013 c 82 s 33

299F.78 TRANSFER.

Subdivision 1. **Transferring explosive or blasting agent.** No person shall transfer explosives or blasting agents to another unless the transferee shall display to the transferor a copy of a valid license or use permit and proper identification, and unless said transferee shall present to the transferor a signed form acknowledging receipt of the quantity of explosives or blasting agents transferred, the identifying numbers of the same explosives or, if none, the identifying numbers of the primary container from which the explosives or blasting agents were distributed, and the serial number of the use permit displayed.

Subd. 2. [Repealed, 1994 c 636 art 5 s 18]

History: 1971 c 845 s 8; 1986 c 444; 1994 c 636 art 5 s 8

299F.785 BLACK POWDER.

No person shall manufacture, assemble, warehouse, or store black powder for purposes of wholesale or retail sale without being licensed to do so by the commissioner of public safety. The license shall be as prescribed by section 299F.73, subdivision 2. Persons who purchase more than five pounds of black powder shall provide suitable identification to the licensee and the licensee shall record the person's name and date of birth, date of purchase, and amount purchased. Additional information may be required by the commissioner. The records maintained by the licensee must be open to the inspection of any peace officer acting in the normal course of duties. Persons shall notify the appropriate local fire official before storing more than five pounds of black powder.

History: 1994 c 636 art 5 s 9

299F.79 UNLAWFUL POSSESSION OF COMPONENT; PENALTY.

Whoever possesses one or more of the components necessary to manufacture or assemble explosives or blasting agents, with the intent to manufacture or assemble explosives or blasting agents, unless said

person shall have a valid license or permit as provided by sections 299F.73 and 299F.75, may be sentenced to imprisonment for not more than five years or payment of a fine of not more than \$10,000, or both.

History: 1971 c 845 s 9; 1986 c 444; 1994 c 636 art 5 s 10

299F.80 UNLAWFUL POSSESSION OF EXPLOSIVE; PENALTIES.

Subdivision 1. **Possession without license or permit.** Except as provided in subdivision 2, whoever possesses explosives or blasting agents without a valid license or permit may be sentenced to imprisonment for not more than five years or payment of a fine of not more than \$10,000, or both.

Subd. 2. **Illegal possession for legitimate purpose; penalty.** Whoever possesses explosives or blasting agents commonly used for agricultural, forestry, conservation, industry or mining purposes, without a valid license or permit, with intent to use the same for legitimate agricultural, forestry, conservation, industry, or mining purposes, and in only such quantities as are reasonably necessary for such intended use, may be sentenced to imprisonment for not more than 90 days or to a payment of a fine of not more than \$1,000, or both.

History: 1971 c 845 s 10; 1986 c 444; 1989 c 290 art 6 s 3; 1994 c 636 art 5 s 11; 2004 c 228 art 1 s 72

299F.81 [Repealed, 1976 c 124 s 10]

299F.811 [Repealed, 1994 c 636 art 5 s 18]

299F.815 [Repealed, 1994 c 636 art 5 s 18]

299F.82 ILLEGAL TRANSFER; PENALTY.

Subdivision 1. **Illegal transfer.** Except as provided in subdivision 2, whoever illegally transfers an explosive or blasting agent to another may be sentenced to imprisonment for not more than five years or payment of a fine of not more than \$10,000, or both.

Subd. 2. **Illegal transfer for legitimate purposes.** Whoever illegally transfers explosives or blasting agents commonly used for agricultural, forestry, conservation, industry, or mining purposes to another, personally known to the transferor, in the belief that the same shall be used for legitimate agricultural, forestry, conservation, industry, or mining purposes, and in only such quantities as are reasonably necessary for such believed use, may be sentenced to imprisonment for not more than 90 days or to payment of a fine of not more than \$1,000, or both.

History: 1971 c 845 s 12; 1994 c 636 art 5 s 12; 2004 c 228 art 1 s 72

299F.83 NEGLIGENT DISCHARGE.

Whoever, acting with gross disregard for human life or property, negligently causes an explosive or blasting agent to be discharged may be sentenced to imprisonment for not more than ten years or payment of a fine of not more than \$20,000, or both.

History: 1971 c 845 s 13; 1994 c 636 art 5 s 13

299F.831 HANDLING WHILE INFLUENCED BY ALCOHOL OR DRUG.

Subdivision 1. **Prohibition.** A person shall not handle or use explosives or blasting agents while under the influence of alcohol or controlled substances as defined by section 169A.20.

Subd. 2. **Misdemeanor.** Whoever handles or uses an explosive or blasting agent while under the influence of alcohol or a controlled substance is guilty of a misdemeanor and may be sentenced to imprisonment for not more than 90 days or payment of a fine of not more than \$1,000, or both.

History: 1994 c 636 art 5 s 14; 2000 c 478 art 2 s 7; 2004 c 228 art 1 s 72

299F.840 [Repealed, 2008 c 343 s 1]

299F.841 Subdivision 1. [Repealed, 2008 c 343 s 1]

Subd. 2. [Renumbered subd 8]

Subd. 3. [Renumbered subd 7]

Subd. 4. [Repealed, 2008 c 343 s 1]

Subd. 5. [Repealed, 2008 c 343 s 1]

Subd. 6. [Repealed, 2008 c 343 s 1]

Subd. 7. [Repealed, 2008 c 343 s 1]

Subd. 8. [Repealed, 2008 c 343 s 1]

299F.842 [Repealed, 2008 c 343 s 1]

299F.843 [Repealed, 2008 c 343 s 1]

299F.844 [Repealed, 2008 c 343 s 1]

299F.845 [Repealed, 2008 c 343 s 1]

299F.846 [Repealed, 2008 c 343 s 1]

299F.847 [Repealed, 2008 c 343 s 1]

299F.848 [Repealed, 2008 c 343 s 1]

CIGARETTE FIRE SAFETY

299F.850 CIGARETTE FIRE SAFETY DEFINITIONS.

Subdivision 1. **Scope.** The terms used in sections 299F.850 to 299F.859 have the meanings given them in this section.

Subd. 2. **Agent.** "Agent" means any person licensed by the commissioner of revenue to purchase and affix adhesive or meter stamps on packages of cigarettes.

Subd. 3. **Cigarette.** "Cigarette" means any roll for smoking made wholly or in part of tobacco, the wrapper or cover of which is made of paper or any other substance or material except tobacco.

Subd. 4. **Manufacturer.** "Manufacturer" means:

(1) any entity that manufactures or otherwise produces cigarettes or causes cigarettes to be manufactured or produced anywhere that the manufacturer intends to be sold in the state, including cigarettes intended to be sold in the United States through an importer;

(2) the first purchaser anywhere that intends to resell in the United States cigarettes manufactured anywhere that the original manufacturer or maker does not intend to be sold in the United States; or

(3) any entity that becomes a successor of an entity described in clause (1) or (2).

Subd. 5. **Quality control and quality assurance program.** "Quality control and quality assurance program" means the 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. This program ensures that the testing repeatability remains within the required repeatability values stated in section 299F.851, subdivision 1, paragraph (g), for all test trials used to certify cigarettes in accordance with sections 299F.850 to 299F.859.

Subd. 6. **Repeatability.** "Repeatability" means the range of values within which the repeat results of cigarette test trials from a single laboratory will fall 95 percent of the time.

Subd. 7. **Retail dealer.** "Retail dealer" means any person, other than a wholesale dealer, engaged in selling cigarettes or tobacco products.

Subd. 8. **Sale.** "Sale" means any transfer of title or possession or both, exchange or barter, conditional or otherwise, in any manner or by any means whatever or any agreement therefore. In addition to cash and credit sales, the giving of cigarettes as samples, prizes, or gifts and the exchanging of cigarettes for any consideration other than money, are considered sales.

Subd. 9. **Sell.** "Sell" means to make a sale or to offer or agree to make a sale.

Subd. 10. **Wholesale dealer.** "Wholesale dealer" means any person who (1) sells cigarettes or tobacco products to retail dealers or other persons for purposes of resale or (2) owns, operates, or maintains one or more cigarette or tobacco product vending machines in, at, or upon premises owned or occupied by any other person.

History: 2007 c 54 art 7 s 10,22

NOTE: This section is repealed if a federal reduced cigarette ignition propensity standard that preempts this section is adopted and becomes effective. Laws 2007, chapter 54, article 7, section 22.

299F.851 TEST METHOD AND PERFORMANCE STANDARD.

Subdivision 1. **Requirements.** (a) Except as provided in this subdivision, no cigarettes may be sold or offered for sale in this state or offered for sale or sold to persons located in this state unless (1) the cigarettes have been tested in accordance with the test method and have met the performance standard specified in this section, (2) a written certification has been filed by the manufacturer with the state fire marshal in accordance with section 299F.852, and (3) the cigarettes have been marked in accordance with section 299F.853.

(b) Testing of cigarettes must be conducted in accordance with the American Society of Testing and Materials (ASTM) Standard E2187-04, "Standard Test Method for Measuring the Ignition Strength of Cigarettes."

(c) Testing must be conducted on ten layers of filter paper.

(d) No more than 25 percent of the cigarettes tested in a test trial in accordance with this section may exhibit full-length burns. Forty replicate tests comprise a complete test trial for each cigarette tested.

(e) The performance standard required by this subdivision must only be applied to a complete test trial.

(f) Written certifications must be based upon testing conducted by a laboratory that has been accredited pursuant to standard ISO/IEC 17025 of the International Organization for Standardization (ISO), or other comparable accreditation standard required by the state fire marshal.

(g) Laboratories conducting testing in accordance with this section shall implement a quality control and quality assurance program that includes a procedure that will determine the repeatability of the testing results. The repeatability value must be no greater than 0.19.

(h) This subdivision does not require additional testing if cigarettes are tested consistent with sections 299F.850 to 299F.859 for any other purpose.

(i) Testing performed or sponsored by the state fire marshal to determine a cigarette's compliance with the performance standard required must be conducted in accordance with this section.

Subd. 2. Permeability bands. Each cigarette listed in a certification submitted pursuant to section 299F.852 that uses lowered permeability bands in the cigarette paper to achieve compliance with the performance standard set forth in this section must have at least two nominally identical bands on the paper surrounding the tobacco column. At least one complete band must be located at least 15 millimeters from the lighting end of the cigarette. For cigarettes on which the bands are positioned by design, there must be at least two bands fully located at least 15 millimeters from the lighting end and ten millimeters from the filter end of the tobacco column, or ten millimeters from the labeled end of the tobacco column for nonfiltered cigarettes.

Subd. 3. Equivalent test methods. A manufacturer of a cigarette that the state fire marshal determines cannot be tested in accordance with the test method prescribed in subdivision 1, paragraph (b), shall propose a test method and performance standard for the cigarette to the state fire marshal. Upon approval of the proposed test method and a determination by the state fire marshal that the performance standard proposed by the manufacturer is equivalent to the performance standard prescribed in subdivision 1, paragraph (d), the manufacturer may employ such test method and performance standard to certify the cigarette pursuant to section 299F.852. If the state fire marshal 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 subdivision, and the state fire marshal 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 subdivision, then the state fire marshal shall authorize that manufacturer to employ the alternative test method and performance standard to certify that cigarette for sale in this state, unless the state fire marshal demonstrates a reasonable basis why the alternative test should not be accepted under sections 299F.850 to 299F.859. All other applicable requirements of this section apply to the manufacturer.

Subd. 4. Civil penalty. Each manufacturer shall maintain copies of the reports of all tests conducted on all cigarettes offered for sale for a period of three years, and shall make copies of these reports available to the state fire marshal and the attorney general upon written request. Any manufacturer who fails to make copies of these reports available within 60 days of receiving a written request is subject to a civil penalty not to exceed \$10,000 for each day after the 60th day that the manufacturer does not make such copies available.

Subd. 5. Future ASTM Standards. The state fire marshal may, by written order published in the State Register, adopt a subsequent ASTM Standard Test Method for Measuring the Ignition Strength of Cigarettes

upon a finding 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 ASTM Standard E2187-04 and the performance standard in subdivision 1, paragraph (d). A determination by the state fire marshal under this subdivision is exempt from the rulemaking provisions of chapter 14, and section 14.386 does not apply.

Subd. 6. Report to legislature. The state fire marshal shall review the effectiveness of this section and report findings every three years to the legislature and, if appropriate, make recommendations for legislation to improve the effectiveness of this section. The report and legislative recommendations must be submitted no later than January 2 of each three-year period.

Subd. 7. Inventory before state standards. The requirements of subdivision 1 do not prohibit wholesale or retail dealers from selling their existing inventory of cigarettes on or after December 1, 2008, if the wholesale or retail dealer can establish that state tax stamps were affixed to the cigarettes before December 1, 2008, and if the wholesale or retail dealer can establish that the inventory was purchased before December 1, 2008, in comparable quantity to the inventory purchased during the same period of the previous year.

Subd. 8. Implementation. This section must be implemented in accordance with the implementation and substance of the New York "Fire Safety Standards for Cigarettes."

History: 2007 c 54 art 7 s 11,22

NOTE: This section is repealed if a federal reduced cigarette ignition propensity standard that preempts this section is adopted and becomes effective. Laws 2007, chapter 54, article 7, section 22.

299F.852 CERTIFICATION AND PRODUCT CHANGE.

Subdivision 1. **Attestation.** Each manufacturer shall submit to the state fire marshal a written certification attesting that each cigarette listed in the certification:

- (1) has been tested in accordance with section 299F.851; and
- (2) meets the performance standard set forth in section 299F.851, subdivision 1, paragraph (d).

Subd. 2. **Description.** Each cigarette listed in the certification must be described with the following information:

- (1) brand or trade name on the package;
- (2) style, such as light or ultra light;
- (3) length in millimeters;
- (4) circumference in millimeters;
- (5) flavor, such as menthol or chocolate, if applicable;
- (6) filter or nonfilter;
- (7) package description, such as soft pack or box;
- (8) marking approved in accordance with section 299F.853;
- (9) the name, address, and telephone number of the laboratory, if different than the manufacturer that conducted the test; and

(10) the date that the testing occurred.

Subd. 3. **Information availability.** The certifications must be made available to the attorney general for purposes consistent with this section and the commissioner of revenue for the purposes of ensuring compliance with this subdivision.

Subd. 4. **Recertification.** Each cigarette certified under this subdivision must be recertified every three years.

Subd. 5. **Fee.** For each cigarette listed in a certification, a manufacturer shall pay to the state fire marshal a \$250 fee, to be deposited in the reduced cigarette ignition propensity account described in section 299F.857.

Subd. 6. **Retesting.** If a manufacturer has certified a cigarette pursuant to this section, and thereafter makes any change to the cigarette that is likely to alter its compliance with the reduced cigarette ignition propensity standards required by sections 299F.850 to 299F.859, that cigarette must not be sold or offered for sale in this state until the manufacturer retests the cigarette in accordance with the testing standards set forth in section 299F.851 and maintains records of that retesting as required by section 299F.851. Any altered cigarette that does not meet the performance standard set forth in section 299F.851 may not be sold in this state.

History: 2007 c 54 art 7 s 12,22

NOTE: This section is repealed if a federal reduced cigarette ignition propensity standard that preempts this section is adopted and becomes effective. Laws 2007, chapter 54, article 7, section 22.

299F.853 MARKING AND CIGARETTE PACKAGING.

(a) Cigarettes that are certified by a manufacturer in accordance with section 299F.852 must be marked to indicate compliance with the requirements of section 299F.851. The marking must be in eight-point type or larger and consist of:

(1) modification of the product UPC code to include a visible mark printed at or around the area of the UPC code, which may consist of alphanumeric or symbolic characters permanently stamped, engraved, embossed, or printed in conjunction with the UPC;

(2) any visible combination of alphanumeric or symbolic characters permanently stamped, engraved, or embossed upon the cigarette package or cellophane wrap; or

(3) printed, stamped, engraved, or embossed text that indicates that the cigarettes meet the standards of sections 299F.850 to 299F.859.

(b) A manufacturer shall use only one marking and shall apply this marking uniformly for all brands marketed by that manufacturer and all packages, including but not limited to packs, cartons, and cases.

(c) The state fire marshal must be notified as to the marking that is selected.

(d) Prior to the certification of any cigarette, a manufacturer shall present its proposed marking to the state fire marshal for approval. Upon receipt of the request, the state fire marshal shall approve or disapprove the marking offered, except that the state fire marshal shall approve any marking in use and approved for sale in New York pursuant to the New York "Fire Safety Standards for Cigarettes." Proposed markings are deemed approved if the state fire marshal fails to act within ten business days of receiving a request for approval.

(e) No manufacturer shall modify its approved marking unless the modification has been approved by the state fire marshal in accordance with this section.

(f) Manufacturers certifying cigarettes in accordance with section 299F.852 shall provide a copy of the certifications to all wholesale dealers and agents to which they sell cigarettes, and shall also provide sufficient copies of an illustration of the package marking utilized by the manufacturer pursuant to this section for each retail dealer to which the wholesale dealers or agents sell cigarettes. Wholesale dealers and agents shall provide a copy of these package markings received from manufacturers to all retail dealers to whom they sell cigarettes. Wholesale dealers, agents, and retail dealers shall permit the state fire marshal, the commissioner of revenue, the attorney general, and their employees to inspect markings of cigarette packaging marked in accordance with this section.

History: 2007 c 54 art 7 s 13,22

NOTE: This section is repealed if a federal reduced cigarette ignition propensity standard that preempts this section is adopted and becomes effective. Laws 2007, chapter 54, article 7, section 22.

299F.854 PENALTIES AND REMEDIES.

Subdivision 1. **Wholesale.** (a) A manufacturer, wholesale dealer, agent, or any other person or entity who knowingly sells or offers to sell cigarettes, other than through retail sale, in violation of section 299F.851 is liable to a civil penalty:

- (1) for a first offense, not to exceed \$10,000 per each sale of such cigarettes; and
- (2) for a subsequent offense, not to exceed \$25,000 per each sale of such cigarettes.

(b) However, the penalty against any such person or entity for a violation under paragraph (a) must not exceed \$100,000 during any 30-day period.

Subd. 2. **Retail.** (a) A retail dealer who knowingly sells cigarettes in violation of section 299F.851 is liable to a civil penalty for a first offense, not to exceed:

- (1) \$500, and for a subsequent offense, not to exceed \$2,000, per each sale or offer for sale of such cigarettes, if the total number sold or offered for sale does not exceed 1,000 cigarettes; or
- (2) \$1,000, and for a subsequent offense, not to exceed \$5,000, per each sale or offer for sale of such cigarettes, if the total number sold or offered for sale exceeds 1,000 cigarettes.

(b) However, the penalty against any retail dealer must not exceed \$25,000 during any 30-day period.

Subd. 3. **False certification.** In addition to any penalty prescribed by law, any corporation, partnership, sole proprietor, limited partnership, or association engaged in the manufacture of cigarettes that knowingly makes a false certification pursuant to this subdivision is, for a first offense, liable to a civil penalty of at least \$75,000, and for a subsequent offense a civil penalty not to exceed \$250,000 for each false certification.

Subd. 4. **Violation of other provision.** Any person violating any other provision in sections 299F.850 to 299F.859 is liable to a civil penalty for a first offense not to exceed \$1,000, and for a subsequent offense a civil penalty not to exceed \$5,000, for each violation.

Subd. 5. **Forfeiture.** Cigarettes that have been sold or offered for sale that do not comply with the performance standard required by section 299F.851 are subject to forfeiture under section 297F.21 and, upon judgment of forfeiture, shall be destroyed; provided, however, that before destroying any cigarettes

seized in accordance with section 297F.21, which seizure is hereby authorized, the true holder of the trademark rights in the cigarette brand must be permitted to inspect the cigarette.

Subd. 6. **Remedies.** In addition to any other remedy provided by law, the state fire marshal or attorney general may institute a civil action in district court for a violation of this section, including petitioning for injunctive relief or to recover any costs or damages suffered by the state because of a violation under this section, including enforcement costs relating to the specific violation and attorney fees. Each violation of sections 299F.850 to 299F.859 or of rules adopted under sections 299F.850 to 299F.859 constitutes a separate civil violation for which the state fire marshal or attorney general may obtain relief.

History: 2007 c 54 art 7 s 14,22

NOTE: This section is repealed if a federal reduced cigarette ignition propensity standard that preempts this section is adopted and becomes effective. Laws 2007, chapter 54, article 7, section 22.

299F.855 IMPLEMENTATION.

Subdivision 1. **Rules.** The commissioner of public safety, in consultation with the state fire marshal, may adopt rules, pursuant to chapter 14, necessary to effectuate the purposes of sections 299F.850 to 299F.859.

Subd. 2. **Commissioner of revenue.** The commissioner of revenue in the regular course of conducting inspections of wholesale dealers, agents, and retail dealers, as authorized under chapter 297F, may inspect cigarettes to determine if the cigarettes are marked as required by section 299F.853. If the cigarettes are not marked as required, the commissioner of revenue shall notify the state fire marshal.

History: 2007 c 54 art 7 s 15,22

NOTE: This section is repealed if a federal reduced cigarette ignition propensity standard that preempts this section is adopted and becomes effective. Laws 2007, chapter 54, article 7, section 22.

299F.856 INSPECTION.

To enforce sections 299F.850 to 299F.859, the attorney general and the state fire marshal 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, as well as 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 is hereby directed and required to give the attorney general and the state fire marshal the means, facilities, and opportunity for the examinations authorized by this section.

History: 2007 c 54 art 7 s 16,22

NOTE: This section is repealed if a federal reduced cigarette ignition propensity standard that preempts this section is adopted and becomes effective. Laws 2007, chapter 54, article 7, section 22.

299F.857 REDUCED CIGARETTE IGNITION PROPENSITY ACCOUNT.

The reduced cigarette ignition propensity account is established in the state treasury. The account consists of all money recovered as penalties under section 299F.854 and fees collected under section 299F.852, subdivision 5. The money must be deposited to the credit of the account and, in addition to any other money made available for such purpose, is appropriated to the state fire marshal for costs associated with the

development and presentation of fire and life safety education programs throughout Minnesota, and all costs associated with sections 299F.850 to 299F.859.

History: *2007 c 54 art 7 s 17,22; 1Sp2019 c 5 art 2 s 6*

NOTE: This section is repealed if a federal reduced cigarette ignition propensity standard that preempts this section is adopted and becomes effective. Laws 2007, chapter 54, article 7, section 22.

299F.858 SALE OUTSIDE OF MINNESOTA.

Sections 299F.850 to 299F.859 do not prohibit any person or entity from manufacturing or selling cigarettes that do not meet the requirements of section 299F.851 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 or entity has taken reasonable steps to ensure that such cigarettes will not be sold or offered for sale to persons located in Minnesota.

History: *2007 c 54 art 7 s 18,22*

NOTE: This section is repealed if a federal reduced cigarette ignition propensity standard that preempts this section is adopted and becomes effective. Laws 2007, chapter 54, article 7, section 22.

299F.859 LOCAL REGULATION.

Notwithstanding any other provision of law, the local governmental units of this state may neither enact nor enforce any ordinance or other local law or regulation conflicting with, or preempted by, any provision of sections 299F.850 to 299F.858 or with any policy of this state expressed by sections 299F.850 to 299F.858, whether that policy be expressed by inclusion of a provision in sections 299F.850 to 299F.858 or by exclusion of that subject from sections 299F.850 to 299F.858.

History: *2007 c 54 art 7 s 19,22*

NOTE: This section is repealed if a federal reduced cigarette ignition propensity standard that preempts this section is adopted and becomes effective. Laws 2007, chapter 54, article 7, section 22.