



Adopted in House Comm. on Jan 03, 2011

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LRB096 16339 CEL 44557 a

1 AMENDMENT TO SENATE BILL 2814

2 AMENDMENT NO. _____. Amend Senate Bill 2814 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the Fire
5 Equipment Distributor and Employee Regulation Act of 2011.

6 Section 5. Definitions. As used in this Act:

7 (a) "Employee" means a licensee or a person who is
8 currently employed by a distributor licensed under this Act
9 whose full or part-time duties include servicing, recharging,
10 hydro-testing, installing, maintaining, or inspecting all
11 types of fire extinguishing devices or systems, other than
12 water sprinkler systems.

13 (b) "Board" means the Fire Equipment Distributor and
14 Employee Advisory Board.

15 (c) "Person" means a natural person or any company,
16 corporation, or other business entity.

1 (d) "Fire equipment distributor" means any person, company
2 or corporation that services, recharges, hydro-tests,
3 inspects, installs, maintains, alters, repairs, replaces, or
4 services fire extinguishing devices or systems, other than
5 water sprinkler systems, for customers, clients, or other third
6 parties. "Fire equipment distributor" does not include a
7 person, company, or corporation employing 2,000 or more
8 employees within the State of Illinois that engages in these
9 activities incidental to its own business.

10 (e) "Public member" means a person who is not a licensee or
11 a relative of a licensee, or who is not an employer or employee
12 of a licensee. The term "relative" shall be determined by rules
13 of the State Fire Marshal.

14 (f) "Residency" means an actual domicile in Illinois for a
15 period of not less than one year.

16 (g) "Inspection" means a determination that a fire
17 extinguisher is available in its designated place and has not
18 been actuated or tampered with. "Inspection" does not include
19 the inspection that may be performed by the building owner,
20 tenant, or insurance representative.

21 (h) "Maintenance" means a determination that an
22 extinguisher will operate effectively and safely. It includes a
23 thorough examination and any necessary repair or replacement.
24 It also includes checking the date of manufacture or last
25 hydrostatic test to see if internal inspection of the cylinder
26 or hydrostatic testing is necessary, and checking for cuts,

1 bulges, dents, abrasions, corrosion, condition of paint, shell
2 hanger attachment, maintenance of nameplate, weight of
3 contents, pressure gauge, valve, removal of pull pin, discharge
4 nozzle, hose assembly, and operating instructions.

5 Section 10. License requirement; injunction. No person
6 shall act as a fire equipment distributor or employee, or
7 advertise or assume to act as such, or use any title implying
8 that such person is engaged in such practice or occupation
9 unless licensed by the State Fire Marshal.

10 No firm, association, or corporation shall act as an agency
11 licensed under this Act, or advertise or assume to act as such,
12 or use any title implying that the firm, association, or
13 corporation is engaged in such practice, unless licensed by the
14 State Fire Marshal.

15 The State Fire Marshal, in the name of the People and
16 through the Attorney General, the State's Attorney of any
17 county, any resident of the State, or any legal entity within
18 the State may apply for injunctive relief in any court to
19 enjoin any person who has not been issued a license or whose
20 license has been suspended, revoked, or not renewed from
21 practicing a licensed activity, and upon the filing of a
22 verified petition, the court, if satisfied by affidavit or
23 otherwise, that such person is or has been practicing in
24 violation of this Act may enter a temporary restraining order
25 or preliminary injunction, without bond, enjoining the

1 defendant from such further activity. A copy of the verified
2 complaint shall be served upon the defendant and the
3 proceedings shall thereafter be conducted as in other civil
4 cases. If it is established that the defendant has been or is
5 practicing in violation of this Act, the court may enter a
6 judgment perpetually enjoining the defendant from such further
7 activity. In case of violation of any injunctive order or
8 judgment entered under the provisions of this Section, the
9 court may summarily try and punish the offender for contempt of
10 court. Such injunctive proceeding shall be in addition to all
11 penalties and other remedies in this Act.

12 The State Fire Marshal may refuse to issue a license to, or
13 may suspend the license of, any person who fails to file a
14 return, to pay the tax, penalty, or interest shown in a filed
15 return, or to pay any final assessment of tax, penalty, or
16 interest, as required by any tax Act administered by the
17 Illinois Department of Revenue, until such time as the
18 requirements of any such tax Act are satisfied.

19 Section 15. Exemptions.

20 (a) This Act shall not apply to an officer or employee of
21 this State or the fire department or fire protection district
22 of any political subdivision of this State while such officer
23 or employee is engaged in the performance of his or her
24 official duties within the course and scope of his or her
25 employment with this State, or any political subdivision.

1 However, any such person who offers his or her services as a
2 private fire equipment distributor or employee, or any title
3 where similar services are performed for compensation, fee, or
4 other valuable consideration, whether received directly or
5 indirectly, shall be subject to this Act and its licensing
6 requirements.

7 (b) Any person who engages in hydrostatic testing of fire
8 equipment but does not service, recharge, install, maintain, or
9 inspect such equipment shall not be required to be licensed
10 under this Act.

11 Section 20. Deposit of fees. All fees collected under this
12 Act shall be deposited into the Fire Prevention Fund.

13 Section 25. Fire Equipment Distributor and Employee
14 Advisory Board. There is created the Fire Equipment Distributor
15 and Employee Advisory Board consisting of 9 members to be
16 appointed by the State Fire Marshal as soon as practicable
17 after the effective date of this Act. Two of the members shall
18 possess at least a Class A Fire Distributor License, 2 shall
19 possess at least a Class B Fire Distributor License, 2 shall
20 possess at least a Class C Fire Distributor License, 2 shall be
21 representatives of the active fire prevention services who are
22 not licensed under this Act, and one shall be a public member
23 who is not licensed under this Act or a similar Act of another
24 jurisdiction and who has no connection with any business

1 licensed under this Act. The State Fire Marshal shall be an ex
2 officio member of the Board. Each member shall be a resident of
3 Illinois. Each appointment to the Board shall have a minimum of
4 5 years' experience as a licensee in the field in which the
5 person is licensed, be an officer in a licensed fire equipment
6 distributor company, and be actively engaged in the fire
7 equipment business. In making Board appointments, the State
8 Fire Marshal shall give consideration to the recommendations by
9 members of the profession and by organizations therein. The
10 membership shall reasonably reflect representation from
11 geographic areas in this State.

12 Each Board member shall serve for a term of 4 years and
13 until his or her successor is appointed and qualified. However,
14 in making initial appointments, one member shall be appointed
15 to serve for one year, 2 shall be appointed to serve for 2
16 years, 2 shall be appointed to serve for 3 years, and the
17 remaining members, one of whom shall be the public member,
18 shall be appointed to serve for 4 years. Appointments to fill
19 vacancies shall be made in the same manner as original
20 appointments for the unexpired portion of the vacated term.
21 Initial terms shall begin upon the effective date of this Act.

22 A member of the Board may be removed from office for just
23 cause. A member subject to formal disciplinary proceedings
24 shall disqualify himself or herself from Board business until
25 the charge is resolved. A member also shall disqualify himself
26 or herself from any matter on which the member may not

1 objectively make a decision.

2 Board members shall receive no compensation, but shall be
3 reimbursed for expenses incurred in connection with their
4 duties as board members.

5 Five members shall constitute a quorum. A majority vote of
6 the Board is required for a Board decision.

7 The Board shall elect from its membership a chairman and
8 other officers as it may deem necessary.

9 Board members shall not be liable for any of their acts,
10 omissions, decisions, or any other conduct in connection with
11 their duties on the Board, except those involving willful,
12 wanton, or intentional misconduct.

13 The Board may have such powers as may be granted by the
14 State Fire Marshal to carry out the provisions of this Act.

15 Section 30. Rules; report.

16 (a) The State Fire Marshal shall adopt rules consistent
17 with the provisions of this Act for the administration and
18 enforcement thereof, and may prescribe forms that shall be
19 issued in connection therewith. The rules shall include
20 standards and criteria for registration, professional conduct,
21 and discipline. The State Fire Marshal shall consult with the
22 Board in adopting all rules under this Act.

23 (b) The Board shall propose to the State Fire Marshal
24 additions or modifications to administrative rules whenever a
25 majority of the members believes the rules are deficient for

1 the proper administration of this Act.

2 (c) The State Fire Marshal may solicit the advice and
3 expert knowledge of the Board on any matter relating to the
4 administration and enforcement of this Act.

5 (d) In the adopting of rules relating to fire equipment
6 distributors and employees, the State Fire Marshal shall be
7 guided by the national fire safety standards and codes and fire
8 equipment and facility standards and code, including, but not
9 limited to, those adopted by the National Fire Protection
10 Association and the National Association of Fire Equipment
11 Distributors.

12 (e) In the adopting of rules relating to the maintenance
13 and operation of hydrostatic testing equipment and tools for
14 all fire equipment distributors and employees, the State Fire
15 Marshal shall be guided by the requirements of the United
16 States Department of Transportation as set forth in Section
17 173.34(e)(1) of Title 49 of Code of Federal Regulations.

18 (f) The State Fire Marshal shall by rule establish
19 procedures for an applicant for any class fire equipment
20 employee license to work for a licensed fire equipment
21 distributor for training.

22 (g) The rules adopted by the Office of the State Fire
23 Marshal under the Fire Equipment Distributor and Employee
24 Regulation Act of 2000 shall remain in effect until such time
25 as the Office of the State Fire Marshal adopts rules under this
26 Act.

1 (h) The State Fire Marshal shall issue to the Board prior
2 to each Board meeting, but not less than quarterly, a report of
3 the status of all convictions related to the profession
4 received by the State Fire Marshal.

5 Section 35. Personnel. The State Fire Marshal may employ,
6 in conformity with the Personnel Code, such professional,
7 technical, investigative, or clerical help, on either a full or
8 part-time basis, as may be necessary for the enforcement of
9 this Act. Each investigator shall have a minimum of 2 years'
10 investigative experience out of the preceding 5 years.

11 An investigator may not hold an active license issued under
12 this Act or have any fiduciary interest in any business
13 licensed under this Act. This prohibition does not, however,
14 prohibit an investigator from holding stock in a
15 publicly-traded business licensed or regulated under this Act,
16 provided that the investigator does not hold more than 5% of
17 the stock in the business.

18 Section 40. Qualifications for licensure; fees.

19 (a) No person shall engage in practice as a fire equipment
20 distributor or fire equipment employee without first applying
21 for and obtaining a license for that purpose from the Office of
22 the State Fire Marshal.

23 (b) To qualify for a Class A Fire Equipment Distributor
24 License to service, recharge, hydro-test, install, maintain,

1 or inspect all types of fire extinguishers, an applicant must
2 provide all of the following:

3 (1) An annual license fee of \$100.

4 (2) Evidence of registration as an Illinois
5 corporation or evidence of compliance with the Assumed
6 Business Name Act.

7 (3) Evidence of financial responsibility in a minimum
8 amount of \$300,000 through liability insurance,
9 self-insurance, group insurance, group self-insurance, or
10 risk retention groups.

11 (c) To qualify for a Class B Fire Equipment Distributor
12 License to service, recharge, hydro-test, install, maintain,
13 or inspect all types of pre-engineered fire extinguishing
14 systems, an applicant must provide all of the following:

15 (1) An annual license fee of \$200.

16 (2) Evidence of registration as an Illinois
17 corporation or evidence of compliance with the Assumed
18 Business Name Act.

19 (3) Evidence of financial responsibility in a minimum
20 amount of \$300,000 through liability insurance,
21 self-insurance, group insurance, group self-insurance, or
22 risk retention groups.

23 (4) Evidence of owning, leasing, renting, or having
24 access to proper testing equipment that is in compliance
25 with the national standards adopted by the State Fire
26 Marshal for the maintenance and operation of testing tools

1 for use with all Class B fire equipment.

2 (d) To qualify for a Class C Fire Equipment Distributor
3 License to service, repair, hydro-test, inspect, and engineer
4 all types of engineered fire suppression systems, an applicant
5 must provide all of the following:

6 (1) An annual license fee of \$300.

7 (2) Evidence of registration as an Illinois
8 corporation or evidence of compliance with the Assumed
9 Business Name Act.

10 (3) Evidence of financial responsibility in a minimum
11 amount of \$300,000 through liability insurance,
12 self-insurance, group insurance, group self-insurance, or
13 risk retention groups.

14 (4) Evidence of owning, leasing, renting, or having
15 access to proper testing equipment that is in compliance
16 with the national standards adopted by the State Fire
17 Marshal for the maintenance and operation of testing tools
18 for use with all Class C fire equipment.

19 (e) To qualify for a Class 1 Fire Equipment Employee
20 License to service, recharge, hydro-test, install, maintain,
21 or inspect all types of fire extinguishers, an applicant must
22 complete all of the following:

23 (1) Pass the examination.

24 (2) Pay an annual license fee of \$20.

25 (3) Provide a current photograph at least 1" x 1" in
26 size.

1 (f) To qualify for a Class 2 Fire Equipment Employee
2 License to service, recharge, hydro-test, install, maintain,
3 or inspect all types of pre-engineered fire extinguishing
4 systems, an applicant must complete all of the following:

5 (1) Pass the examination.

6 (2) Pay an annual license fee of \$20.

7 (3) Provide a current photograph at least 1" x 1" in
8 size.

9 (g) To qualify for a Class 3 Fire Equipment Employee
10 License to service, recharge, hydro-test, maintain, inspect,
11 or engineer all types of engineered fire extinguishing systems,
12 an applicant must complete all of the following:

13 (1) Pass the examination.

14 (2) Pay an annual license fee of \$20.

15 (3) Provide a current photograph at least 1" x 1" in
16 size.

17 Section 45. Applications. Each application for a license to
18 practice under this Act shall be in writing and signed by the
19 applicant on forms provided by the State Fire Marshal.

20 Section 50. Examinations.

21 (a) Applicants for licensure shall be examined as provided
22 in this Section if they are qualified to be examined under this
23 Act. All applicants who are admitted to the examination shall
24 be evaluated upon the same standards as others being examined

1 for the respective license.

2 (b) Examination for licensure shall be at such times and
3 places as the State Fire Marshal may determine, but shall be
4 given at least quarterly.

5 (c) Examinations shall test the minimum amount of knowledge
6 and skill needed to perform the duties set forth in the
7 definition of the license and be in the interest of protection
8 of the public. The State Fire Marshal may contract with a
9 testing service for the preparation and conduct of such
10 examination.

11 (d) If an applicant neglects, fails, or refuses to take an
12 examination under this Act within one year after filing his or
13 her application, the fee paid by the applicant shall be
14 forfeited. However, the applicant may thereafter make a new
15 application for examination, accompanied by the required fee.

16 Section 55. Licensure without examination. The State Fire
17 Marshal shall adopt rules for licensure without examination and
18 may license under this Act without examination, on payment of
19 the required fee, an applicant who is registered under the laws
20 of another state or territory or of another country, if the
21 requirements for registration in the jurisdiction in which the
22 applicant was licensed were, at the date of his registration,
23 substantially equal to the requirements then in force in this
24 State and that State, territory, or country has similar rules
25 for licensure.

1 Section 60. Issuance of license; renewal.

2 (a) The State Fire Marshal shall, upon the applicant's
3 satisfactory completion of the requirements authorized under
4 this Act and upon receipt of the requisite fees, issue the
5 appropriate license and wallet card showing the name and
6 business location of the licensee, the dates of issuance and
7 expiration, and shall contain a photograph of the licensee
8 provided to the State Fire Marshal.

9 (b) Any license valid on December 31, 2010 under the Fire
10 Equipment Distributor and Employee Regulation Act of 2000 shall
11 be a valid license under this Act and expires when the valid
12 license issued under the Fire Equipment Distributor and
13 Employee Regulation Act of 2000 was scheduled to expire.

14 (c) Each licensee may apply for renewal of his license upon
15 payment of fees, as set forth in this Act. The expiration date
16 and renewal period for each license issued under this Act shall
17 be set by rule. Failure to renew within 60 days of the
18 expiration date shall lapse the license. A lapsed license may
19 not be reinstated until a written application is filed, the
20 renewal fee is paid, and a \$50 reinstatement fee is paid.
21 Renewal and reinstatement fees shall be waived for persons who
22 did not renew while on active duty in the military and who file
23 for renewal or restoration within one year after discharge from
24 such service. A lapsed license may not be reinstated after 5
25 years have elapsed, except upon passing an examination to

1 determine fitness to have the license restored and by paying
2 the required fees.

3 (d) As a condition of renewal of a license, the State Fire
4 Marshal may require the licensee to report information
5 pertaining to his practice which the State Fire Marshal
6 determines to be in the interest of public safety.

7 (e) All fees paid under this Act are non-refundable.

8 Section 65. Returned checks. Any person who on 2 occasions
9 issues or delivers a check or other order to the State Fire
10 Marshal that is not honored by the financial institution upon
11 which it is drawn because of insufficient funds on account
12 shall pay to the State Fire Marshal, in addition to the amount
13 owing upon the check or other order, a fee of \$50. The State
14 Fire Marshal shall notify the licensee whose license has
15 lapsed, within 30 days after the discovery by the State Fire
16 Marshal that the licensee is practicing without a current
17 license, that the individual, person, or distributor is acting
18 as a fire equipment distributor or employee, as the case may
19 be, without a license, and the amount due to the State Fire
20 Marshal, which shall include the lapsed renewal fee and all
21 other fees required by this Section. If after the expiration of
22 30 days from the date of such notification, the licensee whose
23 license has lapsed seeks a current license, he shall thereafter
24 apply to the State Fire Marshal for reinstatement of the
25 license and pay all fees due to the State Fire Marshal. The

1 State Fire Marshal may establish a fee for the processing of an
2 application for reinstatement of a license that allows the
3 State Fire Marshal to pay all costs and expenses incident to
4 the processing of this application. The State Fire Marshal may
5 waive the fees due under this Section in individual cases where
6 he finds that the fees would be unreasonable or unnecessarily
7 burdensome.

8 Section 70. Change of address; display of license;
9 duplicate license or certificate.

10 (a) A licensee shall report a change in home or office
11 address within 10 days of when it occurs.

12 (b) Each licensee shall prominently display his or her
13 license to practice at each place from which the practice is
14 being performed. If more than one location is used, branch
15 office certificates shall be issued upon payment of the fees to
16 be established by the State Fire Marshal. Each fire equipment
17 employee shall carry on his or her person a wallet card issued
18 by the State Fire Marshal.

19 (c) If a license or certificate is lost, a duplicate shall
20 be issued upon payment of the required fee to be established by
21 the State Fire Marshal. If a licensee wishes to change his or
22 her name, the State Fire Marshal shall issue a license in the
23 new name upon satisfactory proof that such change was done in
24 accordance with law and upon payment of the required fee.

25 (d) Each licensee shall permit his or her facilities to be

1 inspected by representatives of the State Fire Marshal.

2 Section 75. Grounds for disciplinary sanctions.

3 Licensees subject to this Act shall conduct their practice in
4 accordance with this Act and with any rules adopted under this
5 Act. Licensees shall be subject to the exercise of the
6 disciplinary sanctions enumerated in Section 90 if the State
7 Fire Marshal finds that a licensee is guilty of any of the
8 following:

9 (1) fraud or material deception in obtaining or renewing of
10 a license;

11 (2) professional incompetence as manifested by poor
12 standards of service;

13 (3) engaging in dishonorable, unethical, or unprofessional
14 conduct of a character likely to deceive, defraud, or harm the
15 public in the course of professional services or activities;

16 (4) conviction of any crime by a licensee that has a
17 substantial relationship to his or her practice or an essential
18 element of which is misstatement, fraud, or dishonesty, or
19 conviction in this or another state of any crime that is a
20 felony under the laws of Illinois or conviction of a felony in
21 a federal court, unless the person demonstrates that he or she
22 has been sufficiently rehabilitated to warrant the public
23 trust;

24 (5) performing any services in a grossly negligent manner
25 or permitting any of his or her licensed employees to perform

1 services in a grossly negligent manner, regardless of whether
2 actual damage or damages to the public is established;

3 (6) habitual drunkenness or habitual addiction to the use
4 of morphine, cocaine, controlled substances, or other
5 habit-forming drugs;

6 (7) directly or indirectly willfully receiving
7 compensation for any professional services not actually
8 rendered;

9 (8) having disciplinary action taken against his or her
10 license in another state;

11 (9) making differential treatment against any person to his
12 or her detriment because of race, color, creed, sex, religion,
13 or national origin;

14 (10) engaging in unprofessional conduct;

15 (11) engaging in false or misleading advertising;

16 (12) contracting or assisting unlicensed persons to
17 perform services for which a license is required under this
18 Act;

19 (13) permitting the use of his or her license to enable any
20 unlicensed person or agency to operate as a licensee;

21 (14) performing and charging for services without having
22 authorization to do so from the member of the public being
23 served;

24 (15) failure to comply with any provision of this Act or
25 the rules adopted under this Act;

26 (16) conducting business regulated by this Act without a

1 currently valid license.

2 Section 80. Complaints. All complaints concerning
3 violations regarding licensees or unlicensed activity shall be
4 received and logged by the State Fire Marshal and reported to
5 the Board.

6 Section 85. Formal charges.

7 (a) Following the investigative process, the State Fire
8 Marshal may file formal charges against the licensee. The
9 formal charges shall, at a minimum, inform the licensee of the
10 facts that make up the basis of the charge and that are
11 specific enough to enable the licensee to defend himself.

12 (b) Each licensee whose conduct is the subject of a formal
13 charge that seeks to impose disciplinary action against the
14 licensee shall be served notice of said formal charge at least
15 30 days before the date of the hearing, which shall be presided
16 over by a hearing officer authorized by the State Fire Marshal.
17 Service shall be considered to have been given if the notice
18 was personally received by the licensee or if the notice was
19 sent by certified mail, return receipt requested to the
20 licensee at the licensee's last known address, as listed with
21 the State Fire Marshal.

22 (c) The notice of formal charges shall consist at a minimum
23 of the following information:

24 (1) the time, place, and date of the hearing;

1 (2) that the licensee shall appear personally at the
2 hearing and may be represented by counsel;

3 (3) that the licensee shall have the right to produce
4 witnesses and evidence in his behalf and shall have the
5 right to cross-examine witnesses and refute evidence
6 produced against him or her;

7 (4) that the hearing could result in disciplinary
8 action being taken against his or her license;

9 (5) that rules for the conduct of these hearings exist
10 and it may be in the licensee's best interest to obtain a
11 copy;

12 (6) that a hearing officer authorized by the State Fire
13 Marshal shall preside at the hearing and following the
14 conclusion of said hearing shall make findings of fact,
15 conclusions of law, and recommendations, separately
16 stated, to the State Fire Marshal as to what disciplinary
17 action, if any, should be imposed on the licensee; and

18 (7) that the State Fire Marshal may continue such
19 hearing.

20 (d) The hearing officer authorized by the State Fire
21 Marshal shall hear evidence produced in support of the formal
22 charges and contrary evidence produced by the licensee, if any.
23 At the conclusion of the hearing, the hearing officer shall
24 make findings of fact, conclusions of law, and recommendations,
25 separately stated, and submit them to the State Fire Marshal
26 and to all parties to the proceeding. Submission to the

1 licensee shall be considered as having been made if done in a
2 similar fashion as service of the notice of formal charges.
3 Within 20 days after such service, any party to the proceeding
4 may present to the State Fire Marshal a motion, in writing, for
5 a rehearing which written motion shall specify the particular
6 grounds therefor.

7 (e) The State Fire Marshal, following the time allowed for
8 filing a motion for rehearing, shall review the hearing
9 officer's findings of fact, conclusions of law, and
10 recommendations, and any motions filed subsequent thereto.
11 After review of such information the State Fire Marshal may
12 hear oral arguments and thereafter shall issue an order. The
13 report of findings of fact, conclusions of law, and
14 recommendations of the hearing officer shall be the basis for
15 the State Fire Marshal's order. If the State Fire Marshal finds
16 that substantial justice was not done, he or she may issue an
17 order in contravention of the findings of fact, conclusions of
18 law, and recommendations of the hearing officer. The State Fire
19 Marshal shall provide the Board with written explanation of any
20 such deviation, and shall specify with particularity the
21 reasons for said action. The finding is not admissible in
22 evidence against the person in criminal prosecution brought for
23 the violation of this Act.

24 (f) All proceedings under this Section are matters of
25 public record and shall be preserved.

1 Section 90. Disciplinary sanctions; hearings.

2 (a) The State Fire Marshal shall impose any of the
3 following sanctions, singly or in combination, when he or she
4 finds that a licensee is guilty of any offense described in
5 Section 75:

6 (1) revocation;

7 (2) suspension for any period of time;

8 (3) reprimand or censure;

9 (4) placement on probationary status and the
10 requirement of the submission of any of the following:

11 (i) report regularly to the Board or State Fire
12 Marshal upon matters that are the basis of the
13 probation;

14 (ii) continuation or renewal of professional
15 education until a satisfactory degree of skill has been
16 attained in those areas that are the basis of the
17 probation; or

18 (iii) such other reasonable requirements or
19 restrictions as are proper;

20 (5) refusal to issue, renew, or restore;

21 (6) revocation of probation that has been granted and
22 imposition of any other discipline in this subsection (a)
23 when the requirements of probation have not been fulfilled
24 or have been violated.

25 (b) The State Fire Marshal may summarily suspend a license
26 under this Act, without a hearing, simultaneously with the

1 filing of a formal complaint and notice for a hearing provided
2 under this Section if the State Fire Marshal finds that the
3 continued operations of the individual would constitute an
4 immediate danger to the public. In the event the State Fire
5 Marshal suspends a license under this subsection, a hearing by
6 the hearing officer designated by the State Fire Marshal shall
7 begin within 20 days after such suspension begins, unless
8 continued at the request of the licensee.

9 (c) Disposition may be made of any formal complaint by
10 consent order between the State Fire Marshal and the licensee,
11 but the Board must be apprised of the full consent order in a
12 timely way.

13 (d) The State Fire Marshal shall reinstate any license to
14 good standing under this Act, upon recommendation to the State
15 Fire Marshal, after a hearing before the hearing officer
16 authorized by the State Fire Marshal. The State Fire Marshal
17 shall be satisfied that the applicant's renewed practice is not
18 contrary to the public interest.

19 (e) The State Fire Marshal may order a licensee to submit
20 to a reasonable physical examination if his or her physical
21 capacity to practice safely is at issue in a disciplinary
22 proceeding. Failure to comply with a State Fire Marshal order
23 to submit to a physical examination shall render a licensee
24 liable to the summary suspension procedures described in this
25 Section.

26 (f) The State Fire Marshal may conduct hearings and issue

1 cease and desist orders to persons who engage in activities
2 prohibited by this Act without having a valid license,
3 certificate, or registration. Any person in violation of a
4 cease and desist order entered by the State Fire Marshal shall
5 be subject to all of the remedies provided by law, and in
6 addition, shall be subject to a civil penalty payable to the
7 party injured by the violation.

8 (g) The State Fire Marshal shall seek to achieve
9 consistency in the application of the foregoing sanctions and
10 consent orders and significant departure from prior decisions
11 involving similar conduct shall be explained in the State Fire
12 Marshal's orders.

13 Section 95. Witnesses; record of proceedings.

14 (a) The State Fire Marshal has the power to subpoena and
15 bring before it any person in this State and to take testimony
16 either orally or by deposition, or both, with the same fees and
17 mileage and in the same manner as is prescribed by law for
18 judicial proceedings in civil cases. The State Fire Marshal and
19 the hearing officer approved by the State Fire Marshal have the
20 power to administer oaths at any hearing that the State Fire
21 Marshal is authorized to conduct.

22 (b) Any circuit court, upon the application of the licensee
23 or the State Fire Marshal, may order the attendance of
24 witnesses and the production of relevant books and papers in
25 any hearing under this Act. The court may compel obedience to

1 its order by proceedings for contempt.

2 (c) The State Fire Marshal, at its expense, shall provide a
3 stenographer or a mechanical recording device to record the
4 testimony and preserve a record of all proceedings at the
5 hearing of any case wherein a license may be revoked,
6 suspended, or placed on probationary status or other
7 disciplinary action taken with regard to the license. The
8 notice of hearing, complaint, and all other documents in the
9 nature of pleadings and written motions filed in the
10 proceedings, the transcript of testimony, the report of the
11 hearing officer, and the orders of the State Fire Marshal
12 constitute the record of such proceedings. The State Fire
13 Marshal shall furnish a transcript of the record to any
14 interested person upon payment of the costs of copying and
15 transmitting the record.

16 Section 100. Judicial review. All final administrative
17 decisions of the State Fire Marshal are subject to judicial
18 review under the provisions of the Administrative Review Law
19 and the rules adopted under this Act. Such proceedings for
20 judicial review shall be commenced in the circuit court of the
21 county in which the party applying for review resides. If the
22 party applying for review is not a resident of Illinois, the
23 venue shall be in Sangamon County. The State Fire Marshal shall
24 not be required to certify any record to the court or file any
25 answer in court or otherwise appear in any court in a judicial

1 review proceeding, unless there is filed in the court with the
2 complaint a receipt from the State Fire Marshal acknowledging
3 payment of the costs of furnishing and certifying the record
4 which costs shall be computed at the cost of preparing such
5 record. Exhibits shall be certified without cost. Failure on
6 the part of the licensee to file the receipt in court shall be
7 grounds for dismissal of the action. During all judicial
8 proceedings incident to the disciplinary action, the sanctions
9 imposed upon the accused by the State Fire Marshal shall remain
10 in effect, unless the court feels justice requires a stay of
11 the Order.

12 Section 105. Order; prima facie proof. An order of
13 revocation, suspension, placing the license on probationary
14 status or other formal disciplinary action as the State Fire
15 Marshal may deem proper, or a certified copy thereof, over the
16 seal of the State Fire Marshal and purporting to be signed by
17 the State Fire Marshal, is prima facie proof that:

- 18 (1) the signature is that of the State Fire Marshal;
19 (2) the State Fire Marshal is qualified to act; and
20 (3) the hearing officer is qualified to act on behalf of
21 the State Fire Marshal.

22 Such proof may be rebutted.

23 Section 110. Surrender of license. Upon the suspension or
24 revocation of a license issued under this Act, a licensee shall

1 surrender the license to the State Fire Marshal and, upon
2 failure to do so, the State Fire Marshal shall seize the same.

3 Section 115. Publication of records. The State Fire Marshal
4 shall, upon request, publish a list of the names and addresses
5 of all licensees under the provisions of this Act. The State
6 Fire Marshal shall publish a list of all persons whose licenses
7 have been disciplined within one year, and a quarterly list of
8 each individual who was denied employment status because of a
9 criminal history, together with such other information as it
10 may deem of interest to the public.

11 Section 120. Criminal penalties.

12 (a) Any person who violates any of the following provisions
13 shall be guilty of a Class A misdemeanor for the first offense:

14 (1) the practice of or attempted practice as a fire
15 equipment distributor or employee without a license;

16 (2) the obtaining of or the attempting to obtain a
17 license, practice, or business or any other thing of value
18 by fraudulent representation;

19 (3) permitting, directing, or authorizing any person
20 in one's employ or under one's direction or supervision to
21 work or serve as a licensee if that individual does not
22 possess an appropriate valid license.

23 (b) Whenever any person is punished as a repeat offender
24 under this Section, the State Fire Marshal may proceed to

1 obtain a permanent injunction against the person under Section
2 10.

3 (c) If any person in making an oath or affidavit required
4 by this Act swears falsely, that person is guilty of perjury
5 and upon conviction thereof, may be punished accordingly.

6 (d) A person who violates any Section of this Act other
7 than this Section shall be guilty of a Class A misdemeanor for
8 the first offense.

9 A second or subsequent offense in violation of any Section
10 of this Act, including this Section, is a Class 4 felony.

11 Section 900. The Regulatory Sunset Act is amended by
12 changing Section 4.23 as follows:

13 (5 ILCS 80/4.23)

14 Sec. 4.23. Acts and Sections repealed on January 1, 2013.
15 The following Acts and Sections of Acts are repealed on January
16 1, 2013:

17 The Dietetic and Nutrition Services Practice Act.

18 The Elevator Safety and Regulation Act.

19 The Fire Equipment Distributor and Employee Regulation Act
20 of 2011.

21 The Funeral Directors and Embalmers Licensing Code.

22 The Naprapathic Practice Act.

23 The Professional Counselor and Clinical Professional
24 Counselor Licensing Act.

1 The Wholesale Drug Distribution Licensing Act.

2 Section 2.5 of the Illinois Plumbing License Law.

3 (Source: P.A. 95-331, eff. 8-21-07.)

4 Section 999. Effective date. This Act takes effect upon
5 becoming law."