

1 AN ACT concerning professional regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

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.

17 (d) "Fire equipment distributor" means any person, company
18 or corporation that services, recharges, hydro-tests,
19 inspects, installs, maintains, alters, repairs, replaces, or
20 services fire extinguishing devices or systems, other than
21 water sprinkler systems, for customers, clients, or other third
22 parties. "Fire equipment distributor" does not include a
23 person, company, or corporation employing 2,000 or more

1 employees within the State of Illinois that engages in these
2 activities incidental to its own business.

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

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

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

14 (h) "Maintenance" means a determination that an
15 extinguisher will operate effectively and safely. It includes a
16 thorough examination and any necessary repair or replacement.
17 It also includes checking the date of manufacture or last
18 hydrostatic test to see if internal inspection of the cylinder
19 or hydrostatic testing is necessary, and checking for cuts,
20 bulges, dents, abrasions, corrosion, condition of paint, shell
21 hanger attachment, maintenance of nameplate, weight of
22 contents, pressure gauge, valve, removal of pull pin, discharge
23 nozzle, hose assembly, and operating instructions.

24 Section 10. License requirement; injunction. No person
25 shall act as a fire equipment distributor or employee, or

1 advertise or assume to act as such, or use any title implying
2 that such person is engaged in such practice or occupation
3 unless licensed by the State Fire Marshal.

4 No firm, association, or corporation shall act as an agency
5 licensed under this Act, or advertise or assume to act as such,
6 or use any title implying that the firm, association, or
7 corporation is engaged in such practice, unless licensed by the
8 State Fire Marshal.

9 The State Fire Marshal, in the name of the People and
10 through the Attorney General, the State's Attorney of any
11 county, any resident of the State, or any legal entity within
12 the State may apply for injunctive relief in any court to
13 enjoin any person who has not been issued a license or whose
14 license has been suspended, revoked, or not renewed from
15 practicing a licensed activity, and upon the filing of a
16 verified petition, the court, if satisfied by affidavit or
17 otherwise, that such person is or has been practicing in
18 violation of this Act may enter a temporary restraining order
19 or preliminary injunction, without bond, enjoining the
20 defendant from such further activity. A copy of the verified
21 complaint shall be served upon the defendant and the
22 proceedings shall thereafter be conducted as in other civil
23 cases. If it is established that the defendant has been or is
24 practicing in violation of this Act, the court may enter a
25 judgment perpetually enjoining the defendant from such further
26 activity. In case of violation of any injunctive order or

1 judgment entered under the provisions of this Section, the
2 court may summarily try and punish the offender for contempt of
3 court. Such injunctive proceeding shall be in addition to all
4 penalties and other remedies in this Act.

5 The State Fire Marshal may refuse to issue a license to, or
6 may suspend the license of, any person who fails to file a
7 return, to pay the tax, penalty, or interest shown in a filed
8 return, or to pay any final assessment of tax, penalty, or
9 interest, as required by any tax Act administered by the
10 Illinois Department of Revenue, until such time as the
11 requirements of any such tax Act are satisfied.

12 Section 15. Exemptions.

13 (a) This Act shall not apply to an officer or employee of
14 this State or the fire department or fire protection district
15 of any political subdivision of this State while such officer
16 or employee is engaged in the performance of his or her
17 official duties within the course and scope of his or her
18 employment with this State, or any political subdivision.
19 However, any such person who offers his or her services as a
20 private fire equipment distributor or employee, or any title
21 where similar services are performed for compensation, fee, or
22 other valuable consideration, whether received directly or
23 indirectly, shall be subject to this Act and its licensing
24 requirements.

25 (b) Any person who engages in hydrostatic testing of fire

1 equipment but does not service, recharge, install, maintain, or
2 inspect such equipment shall not be required to be licensed
3 under this Act.

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

6 Section 25. Fire Equipment Distributor and Employee
7 Advisory Board. There is created the Fire Equipment Distributor
8 and Employee Advisory Board consisting of 9 members to be
9 appointed by the State Fire Marshal as soon as practicable
10 after the effective date of this Act. Two of the members shall
11 possess at least a Class A Fire Distributor License, 2 shall
12 possess at least a Class B Fire Distributor License, 2 shall
13 possess at least a Class C Fire Distributor License, 2 shall be
14 representatives of the active fire prevention services who are
15 not licensed under this Act, and one shall be a public member
16 who is not licensed under this Act or a similar Act of another
17 jurisdiction and who has no connection with any business
18 licensed under this Act. The State Fire Marshal shall be an ex
19 officio member of the Board. Each member shall be a resident of
20 Illinois. Each appointment to the Board shall have a minimum of
21 5 years' experience as a licensee in the field in which the
22 person is licensed, be an officer in a licensed fire equipment
23 distributor company, and be actively engaged in the fire
24 equipment business. In making Board appointments, the State

1 Fire Marshal shall give consideration to the recommendations by
2 members of the profession and by organizations therein. The
3 membership shall reasonably reflect representation from
4 geographic areas in this State.

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

15 A member of the Board may be removed from office for just
16 cause. A member subject to formal disciplinary proceedings
17 shall disqualify himself or herself from Board business until
18 the charge is resolved. A member also shall disqualify himself
19 or herself from any matter on which the member may not
20 objectively make a decision.

21 Board members shall receive no compensation, but shall be
22 reimbursed for expenses incurred in connection with their
23 duties as board members.

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

26 The Board shall elect from its membership a chairman and

1 other officers as it may deem necessary.

2 Board members shall not be liable for any of their acts,
3 omissions, decisions, or any other conduct in connection with
4 their duties on the Board, except those involving willful,
5 wanton, or intentional misconduct.

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

8 Section 30. Rules; report.

9 (a) The State Fire Marshal shall adopt rules consistent
10 with the provisions of this Act for the administration and
11 enforcement thereof, and may prescribe forms that shall be
12 issued in connection therewith. The rules shall include
13 standards and criteria for registration, professional conduct,
14 and discipline. The State Fire Marshal shall consult with the
15 Board in adopting all rules under this Act.

16 (b) The Board shall propose to the State Fire Marshal
17 additions or modifications to administrative rules whenever a
18 majority of the members believes the rules are deficient for
19 the proper administration of this Act.

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

23 (d) In the adopting of rules relating to fire equipment
24 distributors and employees, the State Fire Marshal shall be
25 guided by the national fire safety standards and codes and fire

1 equipment and facility standards and code, including, but not
2 limited to, those adopted by the National Fire Protection
3 Association and the National Association of Fire Equipment
4 Distributors.

5 (e) In the adopting of rules relating to the maintenance
6 and operation of hydrostatic testing equipment and tools for
7 all fire equipment distributors and employees, the State Fire
8 Marshal shall be guided by the requirements of the United
9 States Department of Transportation as set forth in Section
10 173.34(e) (1) of Title 49 of Code of Federal Regulations.

11 (f) The State Fire Marshal shall by rule establish
12 procedures for an applicant for any class fire equipment
13 employee license to work for a licensed fire equipment
14 distributor for training.

15 (g) The rules adopted by the Office of the State Fire
16 Marshal under the Fire Equipment Distributor and Employee
17 Regulation Act of 2000 shall remain in effect until such time
18 as the Office of the State Fire Marshal adopts rules under this
19 Act.

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

24 Section 35. Personnel. The State Fire Marshal may employ,
25 in conformity with the Personnel Code, such professional,

1 technical, investigative, or clerical help, on either a full or
2 part-time basis, as may be necessary for the enforcement of
3 this Act. Each investigator shall have a minimum of 2 years'
4 investigative experience out of the preceding 5 years.

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

12 Section 40. Qualifications for licensure; fees.

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

17 (b) To qualify for a Class A Fire Equipment Distributor
18 License to service, recharge, hydro-test, install, maintain,
19 or inspect all types of fire extinguishers, an applicant must
20 provide all of the following:

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

22 (2) Evidence of registration as an Illinois
23 corporation or evidence of compliance with the Assumed
24 Business Name Act.

25 (3) Evidence of financial responsibility in a minimum

1 amount of \$300,000 through liability insurance,
2 self-insurance, group insurance, group self-insurance, or
3 risk retention groups.

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

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

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

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

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

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

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

26 (2) Evidence of registration as an Illinois

1 corporation or evidence of compliance with the Assumed
2 Business Name Act.

3 (3) Evidence of financial responsibility in a minimum
4 amount of \$300,000 through liability insurance,
5 self-insurance, group insurance, group self-insurance, or
6 risk retention groups.

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

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

16 (1) Pass the examination.

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

18 (3) Provide a current photograph at least 1" x 1" in
19 size.

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

24 (1) Pass the examination.

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

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

1 size.

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

6 (1) Pass the examination.

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

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

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

13 Section 50. Examinations.

14 (a) Applicants for licensure shall be examined as provided
15 in this Section if they are qualified to be examined under this
16 Act. All applicants who are admitted to the examination shall
17 be evaluated upon the same standards as others being examined
18 for the respective license.

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

22 (c) Examinations shall test the minimum amount of knowledge
23 and skill needed to perform the duties set forth in the
24 definition of the license and be in the interest of protection

1 of the public. The State Fire Marshal may contract with a
2 testing service for the preparation and conduct of such
3 examination.

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

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

19 Section 60. Issuance of license; renewal.

20 (a) The State Fire Marshal shall, upon the applicant's
21 satisfactory completion of the requirements authorized under
22 this Act and upon receipt of the requisite fees, issue the
23 appropriate license and wallet card showing the name and
24 business location of the licensee, the dates of issuance and

1 expiration, and shall contain a photograph of the licensee
2 provided to the State Fire Marshal.

3 (b) Any license valid on December 31, 2010 under the Fire
4 Equipment Distributor and Employee Regulation Act of 2000 shall
5 be a valid license under this Act and expires when the valid
6 license issued under the Fire Equipment Distributor and
7 Employee Regulation Act of 2000 was scheduled to expire.

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

22 (d) As a condition of renewal of a license, the State Fire
23 Marshal may require the licensee to report information
24 pertaining to his practice which the State Fire Marshal
25 determines to be in the interest of public safety.

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

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

1 Section 70. Change of address; display of license;
2 duplicate license or certificate.

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

5 (b) Each licensee shall prominently display his or her
6 license to practice at each place from which the practice is
7 being performed. If more than one location is used, branch
8 office certificates shall be issued upon payment of the fees to
9 be established by the State Fire Marshal. Each fire equipment
10 employee shall carry on his or her person a wallet card issued
11 by the State Fire Marshal.

12 (c) If a license or certificate is lost, a duplicate shall
13 be issued upon payment of the required fee to be established by
14 the State Fire Marshal. If a licensee wishes to change his or
15 her name, the State Fire Marshal shall issue a license in the
16 new name upon satisfactory proof that such change was done in
17 accordance with law and upon payment of the required fee.

18 (d) Each licensee shall permit his or her facilities to be
19 inspected by representatives of the State Fire Marshal.

20 Section 75. Grounds for disciplinary sanctions. Licensees
21 subject to this Act shall conduct their practice in accordance
22 with this Act and with any rules adopted under this Act.
23 Licensees shall be subject to the exercise of the disciplinary
24 sanctions enumerated in Section 90 if the State Fire Marshal

1 finds that a licensee is guilty of any of the following:

2 (1) fraud or material deception in obtaining or renewing of
3 a license;

4 (2) professional incompetence as manifested by poor
5 standards of service;

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

9 (4) conviction of any crime by a licensee that has a
10 substantial relationship to his or her practice or an essential
11 element of which is misstatement, fraud, or dishonesty, or
12 conviction in this or another state of any crime that is a
13 felony under the laws of Illinois or conviction of a felony in
14 a federal court, unless the person demonstrates that he or she
15 has been sufficiently rehabilitated to warrant the public
16 trust;

17 (5) performing any services in a grossly negligent manner
18 or permitting any of his or her licensed employees to perform
19 services in a grossly negligent manner, regardless of whether
20 actual damage or damages to the public is established;

21 (6) habitual drunkenness or habitual addiction to the use
22 of morphine, cocaine, controlled substances, or other
23 habit-forming drugs;

24 (7) directly or indirectly willfully receiving
25 compensation for any professional services not actually
26 rendered;

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

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

6 (10) engaging in unprofessional conduct;

7 (11) engaging in false or misleading advertising;

8 (12) contracting or assisting unlicensed persons to
9 perform services for which a license is required under this
10 Act;

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

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

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

18 (16) conducting business regulated by this Act without a
19 currently valid license.

20 Section 80. Complaints. All complaints concerning
21 violations regarding licensees or unlicensed activity shall be
22 received and logged by the State Fire Marshal and reported to
23 the Board.

24 Section 85. Formal charges.

1 (a) Following the investigative process, the State Fire
2 Marshal may file formal charges against the licensee. The
3 formal charges shall, at a minimum, inform the licensee of the
4 facts that make up the basis of the charge and that are
5 specific enough to enable the licensee to defend himself.

6 (b) Each licensee whose conduct is the subject of a formal
7 charge that seeks to impose disciplinary action against the
8 licensee shall be served notice of said formal charge at least
9 30 days before the date of the hearing, which shall be presided
10 over by a hearing officer authorized by the State Fire Marshal.
11 Service shall be considered to have been given if the notice
12 was personally received by the licensee or if the notice was
13 sent by certified mail, return receipt requested to the
14 licensee at the licensee's last known address, as listed with
15 the State Fire Marshal.

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

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

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

21 (3) that the licensee shall have the right to produce
22 witnesses and evidence in his behalf and shall have the
23 right to cross-examine witnesses and refute evidence
24 produced against him or her;

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

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

4 (6) that a hearing officer authorized by the State Fire
5 Marshal shall preside at the hearing and following the
6 conclusion of said hearing shall make findings of fact,
7 conclusions of law, and recommendations, separately
8 stated, to the State Fire Marshal as to what disciplinary
9 action, if any, should be imposed on the licensee; and

10 (7) that the State Fire Marshal may continue such
11 hearing.

12 (d) The hearing officer authorized by the State Fire
13 Marshal shall hear evidence produced in support of the formal
14 charges and contrary evidence produced by the licensee, if any.
15 At the conclusion of the hearing, the hearing officer shall
16 make findings of fact, conclusions of law, and recommendations,
17 separately stated, and submit them to the State Fire Marshal
18 and to all parties to the proceeding. Submission to the
19 licensee shall be considered as having been made if done in a
20 similar fashion as service of the notice of formal charges.
21 Within 20 days after such service, any party to the proceeding
22 may present to the State Fire Marshal a motion, in writing, for
23 a rehearing which written motion shall specify the particular
24 grounds therefor.

25 (e) The State Fire Marshal, following the time allowed for
26 filing a motion for rehearing, shall review the hearing

1 officer's findings of fact, conclusions of law, and
2 recommendations, and any motions filed subsequent thereto.
3 After review of such information the State Fire Marshal may
4 hear oral arguments and thereafter shall issue an order. The
5 report of findings of fact, conclusions of law, and
6 recommendations of the hearing officer shall be the basis for
7 the State Fire Marshal's order. If the State Fire Marshal finds
8 that substantial justice was not done, he or she may issue an
9 order in contravention of the findings of fact, conclusions of
10 law, and recommendations of the hearing officer. The State Fire
11 Marshal shall provide the Board with written explanation of any
12 such deviation, and shall specify with particularity the
13 reasons for said action. The finding is not admissible in
14 evidence against the person in criminal prosecution brought for
15 the violation of this Act.

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

18 Section 90. Disciplinary sanctions; hearings.

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

23 (1) revocation;

24 (2) suspension for any period of time;

25 (3) reprimand or censure;

1 (4) placement on probationary status and the
2 requirement of the submission of any of the following:

3 (i) report regularly to the Board or State Fire
4 Marshal upon matters that are the basis of the
5 probation;

6 (ii) continuation or renewal of professional
7 education until a satisfactory degree of skill has been
8 attained in those areas that are the basis of the
9 probation; or

10 (iii) such other reasonable requirements or
11 restrictions as are proper;

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

13 (6) revocation of probation that has been granted and
14 imposition of any other discipline in this subsection (a)
15 when the requirements of probation have not been fulfilled
16 or have been violated.

17 (b) The State Fire Marshal may summarily suspend a license
18 under this Act, without a hearing, simultaneously with the
19 filing of a formal complaint and notice for a hearing provided
20 under this Section if the State Fire Marshal finds that the
21 continued operations of the individual would constitute an
22 immediate danger to the public. In the event the State Fire
23 Marshal suspends a license under this subsection, a hearing by
24 the hearing officer designated by the State Fire Marshal shall
25 begin within 20 days after such suspension begins, unless
26 continued at the request of the licensee.

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

5 (d) The State Fire Marshal shall reinstate any license to
6 good standing under this Act, upon recommendation to the State
7 Fire Marshal, after a hearing before the hearing officer
8 authorized by the State Fire Marshal. The State Fire Marshal
9 shall be satisfied that the applicant's renewed practice is not
10 contrary to the public interest.

11 (e) The State Fire Marshal may order a licensee to submit
12 to a reasonable physical examination if his or her physical
13 capacity to practice safely is at issue in a disciplinary
14 proceeding. Failure to comply with a State Fire Marshal order
15 to submit to a physical examination shall render a licensee
16 liable to the summary suspension procedures described in this
17 Section.

18 (f) The State Fire Marshal may conduct hearings and issue
19 cease and desist orders to persons who engage in activities
20 prohibited by this Act without having a valid license,
21 certificate, or registration. Any person in violation of a
22 cease and desist order entered by the State Fire Marshal shall
23 be subject to all of the remedies provided by law, and in
24 addition, shall be subject to a civil penalty payable to the
25 party injured by the violation.

26 (g) The State Fire Marshal shall seek to achieve

1 consistency in the application of the foregoing sanctions and
2 consent orders and significant departure from prior decisions
3 involving similar conduct shall be explained in the State Fire
4 Marshal's orders.

5 Section 95. Witnesses; record of proceedings.

6 (a) The State Fire Marshal has the power to subpoena and
7 bring before it any person in this State and to take testimony
8 either orally or by deposition, or both, with the same fees and
9 mileage and in the same manner as is prescribed by law for
10 judicial proceedings in civil cases. The State Fire Marshal and
11 the hearing officer approved by the State Fire Marshal have the
12 power to administer oaths at any hearing that the State Fire
13 Marshal is authorized to conduct.

14 (b) Any circuit court, upon the application of the licensee
15 or the State Fire Marshal, may order the attendance of
16 witnesses and the production of relevant books and papers in
17 any hearing under this Act. The court may compel obedience to
18 its order by proceedings for contempt.

19 (c) The State Fire Marshal, at its expense, shall provide a
20 stenographer or a mechanical recording device to record the
21 testimony and preserve a record of all proceedings at the
22 hearing of any case wherein a license may be revoked,
23 suspended, or placed on probationary status or other
24 disciplinary action taken with regard to the license. The
25 notice of hearing, complaint, and all other documents in the

1 nature of pleadings and written motions filed in the
2 proceedings, the transcript of testimony, the report of the
3 hearing officer, and the orders of the State Fire Marshal
4 constitute the record of such proceedings. The State Fire
5 Marshal shall furnish a transcript of the record to any
6 interested person upon payment of the costs of copying and
7 transmitting the record.

8 Section 100. Judicial review. All final administrative
9 decisions of the State Fire Marshal are subject to judicial
10 review under the provisions of the Administrative Review Law
11 and the rules adopted under this Act. Such proceedings for
12 judicial review shall be commenced in the circuit court of the
13 county in which the party applying for review resides. If the
14 party applying for review is not a resident of Illinois, the
15 venue shall be in Sangamon County. The State Fire Marshal shall
16 not be required to certify any record to the court or file any
17 answer in court or otherwise appear in any court in a judicial
18 review proceeding, unless there is filed in the court with the
19 complaint a receipt from the State Fire Marshal acknowledging
20 payment of the costs of furnishing and certifying the record
21 which costs shall be computed at the cost of preparing such
22 record. Exhibits shall be certified without cost. Failure on
23 the part of the licensee to file the receipt in court shall be
24 grounds for dismissal of the action. During all judicial
25 proceedings incident to the disciplinary action, the sanctions

1 imposed upon the accused by the State Fire Marshal shall remain
2 in effect, unless the court feels justice requires a stay of
3 the Order.

4 Section 105. Order; prima facie proof. An order of
5 revocation, suspension, placing the license on probationary
6 status or other formal disciplinary action as the State Fire
7 Marshal may deem proper, or a certified copy thereof, over the
8 seal of the State Fire Marshal and purporting to be signed by
9 the State Fire Marshal, is prima facie proof that:

- 10 (1) the signature is that of the State Fire Marshal;
11 (2) the State Fire Marshal is qualified to act; and
12 (3) the hearing officer is qualified to act on behalf of
13 the State Fire Marshal.
14 Such proof may be rebutted.

15 Section 110. Surrender of license. Upon the suspension or
16 revocation of a license issued under this Act, a licensee shall
17 surrender the license to the State Fire Marshal and, upon
18 failure to do so, the State Fire Marshal shall seize the same.

19 Section 115. Publication of records. The State Fire Marshal
20 shall, upon request, publish a list of the names and addresses
21 of all licensees under the provisions of this Act. The State
22 Fire Marshal shall publish a list of all persons whose licenses
23 have been disciplined within one year, and a quarterly list of

1 each individual who was denied employment status because of a
2 criminal history, together with such other information as it
3 may deem of interest to the public.

4 Section 120. Criminal penalties.

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

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

9 (2) the obtaining of or the attempting to obtain a
10 license, practice, or business or any other thing of value
11 by fraudulent representation;

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

16 (b) Whenever any person is punished as a repeat offender
17 under this Section, the State Fire Marshal may proceed to
18 obtain a permanent injunction against the person under Section
19 10.

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

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

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

3 Section 900. The Regulatory Sunset Act is amended by
4 changing Section 4.23 as follows:

5 (5 ILCS 80/4.23)

6 Sec. 4.23. Acts and Sections repealed on January 1, 2013.
7 The following Acts and Sections of Acts are repealed on January
8 1, 2013:

9 The Dietetic and Nutrition Services Practice Act.

10 The Elevator Safety and Regulation Act.

11 The Fire Equipment Distributor and Employee Regulation Act
12 of 2011.

13 The Funeral Directors and Embalmers Licensing Code.

14 The Naprapathic Practice Act.

15 The Professional Counselor and Clinical Professional
16 Counselor Licensing Act.

17 The Wholesale Drug Distribution Licensing Act.

18 Section 2.5 of the Illinois Plumbing License Law.

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

20 Section 999. Effective date. This Act takes effect upon
21 becoming law.