

AN ACT concerning regulation.

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

Section 1. The Regulatory Sunset Act is amended by changing Section 4.23 and by adding Section 4.33 as follows:

(5 ILCS 80/4.23)

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 Acts and Sections repealed on January 1, 2013. The following Acts and Sections of Acts are repealed on January 1, 2013:

The Dietetic and Nutrition Services Practice Act.

The Elevator Safety and Regulation Act.

~~The Fire Equipment Distributor and Employee Regulation Act of 2011.~~

The Funeral Directors and Embalmers Licensing Code.

The Naprapathic Practice Act.

The Professional Counselor and Clinical Professional Counselor Licensing Act.

The Wholesale Drug Distribution Licensing Act.

Section 2.5 of the Illinois Plumbing License Law.

(Source: P.A. 95-331, eff. 8-21-07; 96-1499, eff. 1-18-11.)

(5 ILCS 80/4.33 new)

Sec. 4.33. Act repealed on January 1, 2023. The following

Act is repealed on January 1, 2023:

The Fire Equipment Distributor and Employee Regulation Act of 2011.

Section 5. The Fire Equipment Distributor and Employee Regulation Act of 2011 is amended by changing Sections 5, 10, 30, 35, 40, 75, 85, and 90 and by adding Sections 82 and 83 as follows:

(225 ILCS 217/5)

(Section scheduled to be repealed on January 1, 2013)

Sec. 5. Definitions. As used in this Act:

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

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

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

(d) "Fire equipment distributor" means any person, company or corporation that services, recharges, hydro-tests, inspects, installs, maintains, alters, repairs, replaces, or services fire extinguishing devices or systems, other than

water sprinkler systems, for customers, clients, or other third parties. "Fire equipment distributor" does not include a person, company, or corporation employing 2,000 or more employees within the State of Illinois that engages in these activities incidental to its own business.

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

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

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

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

(i) "NAFED" means the National Association of Fire Equipment Distributors located in Chicago, Illinois.

(j) "ICC" means the International Code Council.

(Source: P.A. 96-1499, eff. 1-18-11.)

(225 ILCS 217/10)

(Section scheduled to be repealed on January 1, 2013)

Sec. 10. License requirement; injunction; cease and desist order.

(a) No person shall act as a fire equipment distributor or employee, or advertise or assume to act as such, or use any title implying that such person is engaged in such practice or occupation unless licensed by the State Fire Marshal.

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

(b) The State Fire Marshal, in the name of the People and through the Attorney General, the State's Attorney of any county, any interested resident of the State, or any interested legal entity within the State, may petition the court with appropriate jurisdiction for an order seeking injunctive relief to enjoin from practicing a licensed activity in violation of this Act any person, firm, association, or corporation who has not been issued a license, or whose license

has been suspended, revoked, or not renewed. If any person, firm, association, or corporation holds itself out as being a licensee under this Act and is not licensed to do so, then any licensee, interested party, or any person injured thereby may petition for relief as provided in this Section. Upon the filing of a verified complaint, a copy shall be served upon the defendant and the proceedings shall thereafter be conducted as in other civil cases. The court with appropriate jurisdiction may issue a temporary restraining order without notice or bond.

~~apply for injunctive relief in any court to enjoin any person who has not been issued a license or whose license has been suspended, revoked, or not renewed from practicing a licensed activity, and upon the filing of a verified petition, the court, if satisfied by affidavit or otherwise, that such person is or has been practicing in violation of this Act may enter a temporary restraining order or preliminary injunction, without bond, enjoining the defendant from such further activity. A copy of the verified complaint shall be served upon the defendant and the proceedings shall thereafter be conducted as in other civil cases.~~ If it is established that the defendant has been or is practicing in violation of this Act, the court may enter a judgment permanently ~~perpetually~~ enjoining the defendant from such further activity. In case of violation of any injunctive order or judgment entered under the provisions of this Section, the court may summarily try and punish the offender for contempt of court. Such injunctive proceeding

shall be in addition to all penalties and other remedies in this Act.

(c) Whenever, in the opinion of the State Fire Marshal, a person, firm, association, or corporation violates any provision of this Act, the State Fire Marshal may issue an order to show cause why an order to cease and desist should not be entered against that person, firm, association, or corporation. The order shall clearly set forth the grounds relied upon by the State Fire Marshal and shall allow the person, firm, association, or corporation at least 7 days after the date of the order to file an answer satisfactory to the State Fire Marshal. A failure to answer an order to show cause to the satisfaction of the State Fire Marshal shall result in the issuance of an order to cease and desist.

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

(Source: P.A. 96-1499, eff. 1-18-11.)

(225 ILCS 217/30)

(Section scheduled to be repealed on January 1, 2013)

Sec. 30. Rules; report.

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

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

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

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

(e) In the adopting of rules relating to the maintenance and operation of hydrostatic testing equipment and tools for all fire equipment distributors and employees, the State Fire Marshal shall be guided by the requirements of the United States Department of Transportation as set forth in Section

173.34(e)(1) of Title 49 of Code of Federal Regulations.

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

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

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

(Source: P.A. 96-1499, eff. 1-18-11.)

(225 ILCS 217/35)

(Section scheduled to be repealed on January 1, 2013)

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

An investigator may not hold an active license issued under this Act or have any fiduciary interest in any business



licensed under this Act. This prohibition does not, however, prohibit an investigator from holding stock in a publicly-traded business licensed or regulated under this Act, provided that the investigator does not hold more than 5% of the stock in the business.

(Source: P.A. 96-1499, eff. 1-18-11.)

(225 ILCS 217/40)

(Section scheduled to be repealed on January 1, 2013)

Sec. 40. Qualifications for licensure; fees.

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) Evidence of financial responsibility in a minimum

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

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

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

(1) Pass the ICC/NAFED examination administered by the ICC as a technician certified to service a Portable Fire Extinguisher.

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

(3) Provide 2 copies of a current photograph at least 1" x 1" in size.

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

(1) Pass the ICC/NAFED examination administered by the ICC as a technician certified to service Pre-Engineered Industrial Fire Suppression Systems.

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

(3) Provide 2 copies of a current photograph at least 1" x 1" in size.

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

(1) Pass the ICC/NAFED examination administered by the ICC as a technician certified to service Pre-Engineered Kitchen Fire Extinguishing Systems.

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

(3) Provide 2 copies of a current photograph at least 1" x 1" in size.

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

(1) Pass the examination.

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

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

(h) All licenses issued under this Act shall remain in effect unless the licensee is otherwise notified by the Office of the State Fire Marshal.

(Source: P.A. 96-1499, eff. 1-18-11.)

(225 ILCS 217/75)

(Section scheduled to be repealed on January 1, 2013)

Sec. 75. Grounds for disciplinary sanctions. Licensees subject to this Act shall conduct their practice in accordance with this Act and with any rules adopted under this Act. The State Fire Marshal may refuse to issue or renew any license and it may suspend or revoke any license or may place on probation, censure, reprimand, or take other disciplinary action deemed appropriate by the State Fire Marshal and enumerated in this Act, including the imposition of fines not to exceed \$5,000 for each violation, with regard to any license issued under this Act for any one or more of the reasons enumerated in this Section. Any civil penalty assessed by the State Fire Marshal pursuant to this Act shall be paid within 60 days after the effective date of the order imposing the civil penalty. The order shall constitute a judgment and may be filed and executed in the same manner as any judgment from any court of record.

Grounds for discipline under this Act are: ~~Licensees shall be subject to the exercise of the disciplinary sanctions enumerated in Section 90 if the State Fire Marshal finds that a licensee is guilty of any of the following:~~

- (1) fraud or material deception in obtaining or renewing of a license;
- (2) professional incompetence as manifested by poor standards of service;

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

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

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

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

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

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

(9) making differential treatment against any person

to his or her detriment because of race, color, creed, sex, religion, or national origin;

(10) engaging in unprofessional conduct;

(11) engaging in false or misleading advertising;

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

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

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

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

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

(Source: P.A. 96-1499, eff. 1-18-11.)

(225 ILCS 217/82 new)

Sec. 82. Investigations. The State Fire Marshal may investigate the actions of any applicant or any person, firm, association, or corporation holding or claiming to hold a license under this Act. Before revoking, suspending, reprimanding, or taking any other disciplinary action permitted under this Act, the State Fire Marshal may issue a citation, refer the matter for prosecution, or institute formal

charges as provided for in this Act.

(225 ILCS 217/83 new)

Sec. 83. Citations.

(a) The State Fire Marshal may adopt rules to permit the issuance of citations for certain violations of this Act or the rules adopted under this Act. The citation shall be issued to the licensee and shall contain the licensee's name and address, the licensee's license number, a brief factual statement, the Sections of the law or rules allegedly violated, and the penalty imposed. The citation must clearly state that the licensee may choose, in lieu of accepting the citation, to request a hearing on the date and at the place specified on the citation. The citation shall not provide a hearing date less than 30 days after the citation's issuance date. Any dispute filed by the licensee with the State Fire Marshal shall comply with the requirements for a written answer set forth in subsection (a) of Section 85 of this Act. If the licensee does not dispute the citation with the State Fire Marshal within 20 days after the citation is served, then the citation shall become a final order and shall constitute discipline. The penalty shall be a fine or other conditions as established by rule.

(b) The State Fire Marshal shall adopt rules designating violations for which a citation may be issued. Such rules shall identify citation violations for those violations for which



there is, in the determination of the State Fire Marshal or his or her designee, no substantial threat to the public health, safety, or welfare. Citations shall not be utilized if, in the determination of the State Fire Marshal or his or her designee, significant consumer harm resulted from the violation.

(c) A citation must be issued within 6 months after the State Fire Marshal became first aware of the facts forming the basis for the citation.

(d) Service of a citation may be made by personal service or certified mail to the licensee at the licensee's address of record.

(225 ILCS 217/85)

(Section scheduled to be repealed on January 1, 2013)

Sec. 85. Formal charges.

(a) Before revoking, suspending, annulling, withdrawing, amending materially, or refusing to renew any valid license, ~~Following the investigative process,~~ the State Fire Marshal shall ~~may~~ file formal charges against the licensee. The formal charges shall, at a minimum, inform the licensee of the facts that make up the basis of the charge and that are specific enough to enable the licensee to defend himself.

(b) Each licensee whose conduct is the subject of a formal charge that seeks to impose disciplinary action against the licensee shall be served notice of said formal charge at least 30 days before the date of the hearing, which shall be presided

over by a hearing officer authorized by the State Fire Marshal. Service shall be considered to have been given if the notice was personally received by the licensee or if the notice was sent by certified mail, return receipt requested to the licensee at the licensee's last known address, as listed with the State Fire Marshal.

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

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

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

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

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

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

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

(7) that the State Fire Marshal may continue such hearing; ~~and~~

(8) that the licensee shall file a written answer to the charges with the State Fire Marshal under oath within 20 days after service of the notice; and

(9) that if the accused fails to answer, a default judgment shall be taken against him, her, or it, or that his, her, or its license may be suspended, revoked, placed on probationary status, or subject to other disciplinary action as the State Fire Marshal deems proper, without a hearing, if the act or acts charged constitute sufficient grounds for such action under this Act.

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

(e) The State Fire Marshal, following the time allowed for

filing a motion for rehearing, shall review the hearing officer's findings of fact, conclusions of law, and recommendations, and any motions filed subsequent thereto. After review of such information the State Fire Marshal may hear oral arguments and thereafter shall issue an order. The report of findings of fact, conclusions of law, and recommendations of the hearing officer shall be the basis for the State Fire Marshal's order. If the State Fire Marshal finds that substantial justice was not done, he or she may issue an order in contravention of the findings of fact, conclusions of law, and recommendations of the hearing officer. ~~The State Fire Marshal shall provide the Board with written explanation of any such deviation, and shall specify with particularity the reasons for said action.~~ The finding is not admissible in evidence against the person in criminal prosecution brought for the violation of this Act, but the hearing and findings are not a bar to a criminal prosecution brought for the violation of this Act.

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

(Source: P.A. 96-1499, eff. 1-18-11.)

(225 ILCS 217/90)

(Section scheduled to be repealed on January 1, 2013)

Sec. 90. Disciplinary sanctions; hearings.

(a) The State Fire Marshal shall impose any of the

following sanctions, singly or in combination, when he or she finds that a licensee is guilty of any offense described in Section 75:

- (1) revocation;
- (2) suspension for any period of time;
- (3) reprimand or censure;
- (4) placement on probationary status and the requirement of the submission of any of the following:

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

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

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

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

- (6) revocation of probation that has been granted and imposition of any other discipline in this subsection (a) when the requirements of probation have not been fulfilled or have been violated; or -

- (7) imposition of a fine not to exceed \$5,000 for each violation of this Act or the rules adopted under this Act.

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

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

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

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

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

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

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

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

(Source: P.A. 96-1499, eff. 1-18-11.)

(225 ILCS 217/25 rep.)

(225 ILCS 217/50 rep.)

(225 ILCS 217/55 rep.)

Section 10. The Fire Equipment Distributor and Employee Regulation Act of 2011 is amended by repealing Sections 25, 50, and 55.

Section 99. Effective date. This Act takes effect upon becoming law.

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