

CHAPTER 299F

STATE FIRE MARSHAL

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299F.01 FIRE MARSHAL.

Subdivision 1. All the powers and duties now vested in or imposed upon the commissioner of commerce as ex officio state fire marshal as prescribed in Minnesota Statutes, chapters 73, 74, 75, 76, and any other law, are hereby transferred to, vested in, and imposed upon the commissioner of public safety. The duties and responsibilities of the commissioner of commerce as ex officio state fire marshal as heretofore constituted are abolished.

Subd. 2. A division in the department of public safety to be known as the division of fire marshal is hereby created, under the supervision and control of the state fire marshal, to whom shall be assigned the duties and responsibilities described

in this section. The commissioner may place the fire marshal's position in the unclassified service if the position meets the criteria of section 43A.08, subdivision 1a.

Subd. 3. Upon the effective date of this act, the individual occupying the position of assistant commissioner, fire marshal division, shall retain such position for a period of at least 12 months, or until removed for cause.

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

299F.011 UNIFORM FIRE CODE; ADOPTION.

Subdivision 1. The commissioner of public safety through the division of fire marshal may promulgate a uniform fire code and make amendments thereto in accordance with the administrative procedure act in chapter 14. The code and its amendments shall conform insofar as practicable to model fire codes generally accepted and in use throughout the United States, with consideration given to existing statewide specialty codes presently in use in the state of Minnesota. Statewide specialty codes and model codes with necessary modifications may be adopted by reference in accordance with section 14.07, subdivision 4.

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 [Repealed, 1981 c 106 s 16]

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

Subd. 4. The uniform fire code shall be applicable throughout the state and in all political subdivisions and municipalities therein. However, nothing in this subdivision shall prohibit a local unit of government otherwise authorized by law from adopting or enforcing any ordinance or regulation which specifies requirements equal to, in addition to, or more stringent than the requirements of the uniform fire code. Any ordinance or regulation adopted by a local unit which differs from the uniform fire code must be directly related to the safeguarding of life and property from the hazards of fire, must be uniform for each class or kind of building covered, and may not exceed the applicable requirements of the uniform building code adopted pursuant to sections 16B.59 to 16B.73.

Subd. 4a. **Family or group family day care home regulation.** Notwithstanding any contrary provision of this section, the fire marshal shall not adopt or enforce a rule:

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

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

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

For purposes of this subdivision, "family or group family day care home" means a single family dwelling in which the day care provider: (1) resides as a member of the household; and (2) provides the services referred to in section 245.782, subdivision 5, to one or more persons.

Nothing in this subdivision prohibits the department of human services from adopting or enforcing rules regulating day care, including the subjects in subdivision

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4a, clauses (1) and (3). The department may not, however, adopt or enforce a rule stricter than subdivision 4a, clause (2).

The department of human services may by rule adopt procedures for requesting the state fire marshal or a local fire marshal to conduct an inspection of day care homes to ensure compliance with state or local fire codes.

Subd. 5. Upon application, the state fire marshal may grant variances from the minimum requirements specified in the code if there is substantial compliance with the provisions of the code, the safety of the public and occupants of such building will not be jeopardized, and undue hardship will result to the applicant unless such variance is granted. No appeal to the state fire marshal for a variance from the uniform fire code shall be accepted until the applicant has first made application to the local governing body and the local unit has acted on the application. The state fire marshal shall consider the decision of the local governing body. Any person aggrieved by a decision made by the fire marshal under this subdivision may proceed before the fire marshal as with a contested case in accordance with the administrative procedure act.

Subd. 6. A person who violates a provision of the uniform fire code shall be guilty of a misdemeanor. No person shall be convicted for violating the uniform fire code unless he shall have been given notice of the violation in writing and reasonable time to comply.

History: 1974 c 550 s 1; 1978 c 777 s 1; 1981 c 106 s 1; 1982 c 424 s 114,130; 1984 c 544 s 89; 1984 c 654 art 5 s 58; 1984 c 658 s 3

299F.015 USE OF WASTE OIL BURNERS.

Subdivision 1. **Definitions.** For the purposes of this section, the following terms shall have the meanings given:

(a) "Waste oil" means a refined oil which has been used for the lubrication of an internal combustion engine or in a similar crankcase application or other applications in connection with motor vehicles and has been contaminated by impurities as a result of that use.

(b) "Approved waste oil burner" means a device designed to burn waste oil for heating purposes, which is found by a recognized independent testing laboratory to provide a degree of safety substantially equivalent to other devices approved for similar purposes under the uniform fire code or state building code.

Subd. 2. **Burners permitted.** Notwithstanding any contrary provision of sections 16B.59 to 16B.73 or 299F.011, or any rule adopted under those sections, the state fire marshal, the state building inspector, and political subdivisions may permit the installation and use of approved waste oil burners in gasoline service stations or commercial garages.

Subd. 3. **Limitations.** No person shall burn any waste oil in an approved waste oil burner if the waste oil does not conform with the specifications contained in rules of the pollution control agency adopted under section 116.07.

History: 1982 c 447 s 1; 1984 c 544 s 89

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

299F.03 SPECIAL ATTORNEY.

The attorney general may appoint a special attorney for the division, whose work shall be under the supervision of the attorney general, who shall fix the

compensation, such compensation to be paid out of the fund created under this chapter.

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

299F.04 ORIGIN OF FIRES INVESTIGATED.

Subdivision 1. The chief of the fire department of each city in which a fire department is established, and the mayor of each city in which no fire department exists, and the president of the statutory city board of each statutory city in which no fire department exists, and the town clerk of each town without the limits of any city or statutory city, shall investigate, or cause to be investigated, the cause, origin, and circumstances of each fire occurring in the city, statutory city or town by which property has been destroyed or damaged when the damage exceeds \$100, except that all fires of unknown origin shall be reported, and shall especially make investigation as to whether the fire was the result of carelessness, accident, or design.

Subd. 2. The investigation shall be begun within two days of the occurrence of the fire and the state fire marshal shall have the right to coordinate the investigation when he deems it necessary.

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

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

History: 1913 c 564 s 6; 1967 c 543 s 1; 1973 c 123 art 5 s 7; 1978 c 777 s 2,3 (5955)

299F.05 EVIDENCE, TAKING OF.

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

Subd. 2. **Information systems.** The state fire marshal and the superintendent of the bureau of criminal apprehension shall maintain a record of arrests, charges filed, and final disposition of all fires reported and investigated under sections

299F.04 and 299F.05. For this purpose a single reporting system shall be implemented by the department of public safety utilizing the systems operated by the fire marshal and the bureau. The system shall be operated in such a way as to minimize duplication and discrepancies in reported figures.

History: 1913 c 564 s 7; 1978 c 777 s 4 (5956)

299F.051 TRAINING LOCAL FIREFIGHTERS AND PEACE OFFICERS.

Subdivision 1. Content. The superintendent of the bureau of criminal apprehension, after consultation with the state fire marshal, the Minnesota peace officers standards and training board and the state advisory council on fire service education and research, shall establish the content of training programs which shall be available to firefighters and peace officers from political subdivisions. The content shall include fire scene investigation and preservation of evidence, interviewing of witnesses and suspects, constitutional limits on interrogation by sworn and nonsworn officers, and other topics deemed necessary to successful criminal investigation.

Subd. 2. Training program; locations, instructors. The superintendent of the bureau of criminal apprehension shall provide courses at convenient locations in the state for training firefighters and peace officers in the conduct of investigations following the occurrence of a fire. For this purpose, the superintendent may use the services and employees of the bureau, the state fire marshal, and the attorney general. In addition, after consultation with the state fire marshal, the superintendent is authorized to engage part time instructors necessary and proper to furnish the best possible instruction, subject to the limitation of funds appropriated and available for expenditure. Laws 1981, Chapter 210, Sections 1 to 48 shall not apply to the part time instructors.

Subd. 3. In-service training. The state fire marshal and the superintendent of the bureau of criminal apprehension, in cooperation with the Minnesota board of peace officer standards and training, shall encourage the establishment of in-service and refresher training for firefighters and peace officers through schools administered by the state, county, school district, municipality, or joint or contractual combinations thereof. The Minnesota board of peace officers standards and training shall report to the governor and legislature on the progress made in this effort as provided in section 626.843.

Subd. 4. Cooperative investigation; reimbursement. The state fire marshal and the superintendent of the bureau of criminal apprehension shall encourage the cooperation of local firefighters and peace officers in the investigation of violations of sections 609.561 to 609.576 or other crimes associated with reported fires in all appropriate ways, including the reimbursement of political subdivisions at a rate not to exceed 50 percent of the salaries of peace officers and firefighters for time spent in attending fire investigation training courses offered by the bureau. Volunteer firefighters from a political subdivision shall be reimbursed at the rate of \$35 per day plus expenses incurred in attending fire investigation training courses offered by the bureau. Reimbursement shall be made only in the event that both a peace officer and a firefighter from the same political subdivision attend the same training course. The reimbursement shall be subject to the limitation of funds appropriated and available for expenditure.

History: 1978 c 777 s 5; 1981 c 210 s 54

299F.052 ARSON REPORTING IMMUNITY LAW, CITATION.

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

History: 1979 c 226 s 1

299F.053 DEFINITIONS.

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

Subd. 2. "Authorized person" means:

- (a) The state fire marshal when authorized or charged with the investigation of fires at the place where the fire actually took place;
- (b) Superintendent of the bureau of criminal apprehension;
- (c) The prosecuting attorney responsible for prosecutions in the county where the fire occurred;
- (d) The sheriff or chief of police responsible for investigation in the county where the fire occurred;
- (e) The county attorney responsible for the prosecution in the county where the fire occurred;
- (f) The federal bureau of investigation or any other federal agency;
- (g) The United States attorney's office when authorized or charged with investigation or prosecution of a case involving a fire loss; or
- (h) The chief administrative officer of the municipal arson squad.

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

History: 1979 c 226 s 2

299F.054 DISCLOSURE OF INFORMATION.

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

- (a) pertinent insurance policy information relevant to a fire loss or potential fire loss under investigation including the application for a policy;
- (b) policy premium payment records which are available;
- (c) a history of previous claims made by the insured, including, where the insured is a corporation or partnership, a history of previous claims by a subsidiary or any affiliates, and a history of claims of any other business association in which individual officers or partners or their spouses were known to be involved; and
- (d) material relating to the investigation of the loss or potential loss, including statements of any person, proof of loss or potential loss, and any other evidence relevant to the investigation.

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

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

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

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

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

History: 1979 c 226 s 3; 1983 c 208 s 4-7

299F.055 EVIDENCE.

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

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

299F.056 ENFORCEMENT.

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

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

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

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

History: 1979 c 226 s 5

299F.057 HOME RULE AND COMMON LAW.

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

History: 1979 c 226 s 6

299F.06 TESTIMONIAL POWERS.

Subdivision 1. **Attendance of witnesses.** In order to establish if reasonable grounds exist to believe that a violation of sections 609.561 to 609.576, has occurred, or to determine compliance with the uniform fire code or corrective orders issued thereunder, the state fire marshal, chief assistant fire marshal, and deputy state fire marshals, shall each have the power in any county of the state to summon and compel the attendance of witnesses before them, or either of them, to testify and may require the production of any book, paper, or document deemed pertinent thereto by

them, or either of them. The summons shall be served in the same manner and have the same effect as subpoenas from district courts. All witnesses shall receive the same compensation as is paid to witnesses in district courts, which shall be paid out of the fire marshal fund upon vouchers signed by the state fire marshal, chief assistant fire marshal, or deputy fire marshal before whom any witnesses shall have attended and this officer shall, at the close of the investigation wherein the witness was subpoenaed, certify to the attendance and mileage of the witness, which certificate shall be filed in the office of the state fire marshal. All investigations held by or under the direction of the state fire marshal, or any subordinate, may in his discretion be private and persons other than those required to be present by the provisions of this chapter may be excluded from the place where the investigation is held, and witnesses may be kept separate and apart from each other and not allowed to communicate with each other until they have been examined.

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

Subd. 3. Refusal to testify. Any witness who refuses to be sworn, or who refuses to testify, or who disobeys any lawful order of the state fire marshal, chief assistant fire marshal, or deputy state fire marshal in relation to the investigation, or who fails or refuses to produce any paper, book, or document touching any matter under examination, or who is guilty of any contemptuous conduct, after being summoned to appear before them to give testimony in relation to any matter or subject under examination or investigation may be summarily punished by the state fire marshal, chief assistant state fire marshal, or deputy state fire marshals as for contempt by a fine in a sum not exceeding \$100 or be committed to the county jail until such time as such person may be willing to comply with any reasonable order made by the state fire marshal, chief assistant state fire marshal, or deputy state fire marshals, as provided in this chapter, and subject to the provisions of section 588.01.

History: 1913 c 564 s 8; 1978 c 777 s 6 (5957)

299F.07 DISOBEDIENCE, HOW PUNISHED.

Disobedience of any subpoena in such proceedings, or contumacy of a witness, may, upon application of the state fire marshal, be punished by any district court in the same manner as if the proceedings were pending in that court.

History: 1913 c 564 s 9 (5958)

299F.08 PREMISES, WHEN ENTERED.

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

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

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

- (a) Scope of the proposed search;
- (b) Number of prior entries by fire officials;
- (c) Time of day when the search is proposed to be made;
- (d) Lapse of time since the fire;
- (e) Continued use of the building; and
- (f) The owner's or occupant's efforts to secure the building against intruders.

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

History: 1913 c 564 s 10; 1981 c 106 s 2 (5959)

299F.09 BUILDINGS, ENTERED WITHIN REASONABLE HOURS.

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

History: 1913 c 564 s 11; 1973 c 123 art 5 s 7; 1981 c 106 s 3 (5960)

299F.10 BUILDINGS REPAIRED OR TORN DOWN, ENTRANCE TO.

The state fire marshal may condemn, and by order direct the destruction, repair, or alteration of, any building or structure which, by reason of age, dilapidated condition, defective chimneys, defective electric wiring, gas connections, heating apparatus, or other defect is especially liable to fire and which building or structure in the judgment of the state fire marshal, is so situated as to endanger life or limb or other buildings or property in the vicinity. In case the order requires the repair of a building, the owner, lessee, or other person upon whom rests the duty to keep the structure in repair and upon whom the order is served shall make such repairs as thereby directed and the order may direct that the structure be closed and not further used or occupied until the repairs are made. Any person who shall wilfully disobey the order directing the closing of the building pending the making of these repairs shall be guilty of a misdemeanor.

History: 1913 c 564 s 12; 1917 c 469 s 1 (5961)

299F.11 STRUCTURES REPAIRED OR DEMOLISHED.

Subdivision 1. The state fire marshal is hereby authorized to petition the district court of any county for an order of condemnation directing the destruction, repair, or alteration of any building or structure located on land owned by, or on land held in trust by, the state which is especially liable to fire and dangerous to life and limb within the purview of the provisions of section 299F.10. In case the petition is for an order requiring repairs, the person authorized by law to make the

repairs and upon whom the order is served, shall make these repairs as thereby directed and the order may direct that the building or structure be closed and not further used or occupied until the repairs are made. Upon the filing of the petition with the district court wherein any such building or structure is located, the court shall make a temporary order directing the state fire marshal to serve a copy of the petition and a copy of the temporary order upon the commissioner of revenue and the county board of the county wherein the lands are situated; and, if the lands are situated in a city of the first class, then upon the assessor of this city of the first class, within such time as may be fixed by the court in its order. If, within 20 days, no objections are filed to the petition by the parties so served, the court may require the state fire marshal to present sufficient proof to sustain the allegations set forth in his petition, and thereupon the court may or may not, as the case may require, make an order of condemnation and direct the state fire marshal to proceed with the destruction of the building or structure; but if objections are filed and a copy of the objections have been duly served upon the state fire marshal within 20 days of the service of the copy of the temporary order and copy of the petition hereinbefore referred to, the court upon application by the state fire marshal shall make its order fixing the time and place for hearing of the matter, which place may be at any convenient point, at any general or special term, or out of the term, or in chambers, within the judicial district where the lands are situated, and which time shall be within ten days from the date of the filing of the objections or as soon thereafter as may be. If upon the hearing the petition shall be sustained, the court shall issue an order of condemnation and fix the time within which the building or structure shall be destroyed, repaired, or altered in compliance with the order and that upon failure of the proper person or persons to comply with the order the state fire marshal shall proceed with the destruction thereof. If upon the hearing the petition of the state fire marshal is not sustained, the court shall deny the petition.

Subd. 2. In all cases where the order of the court has not been complied with and the state fire marshal is authorized to proceed with the demolition of any building or structure, the state fire marshal shall sell and dispose of the salvage materials therefrom at public auction upon three days posted notice and all expenses incurred by the state fire marshal shall be paid out of the moneys received from the auction of salvage material, and any deficit remaining unpaid thereafter may be paid out of the funds created by and provided for in section 299F.21. Should any surplus remain of the amount received for salvage material, after deducting the expenses incurred by the state fire marshal, this surplus shall be paid to the treasurer of the county where the property was situated to be distributed by him as provided by law.

History: 1939 c 200; 1941 c 123; 1973 c 582 s 3 (5961-1)

299F.12 EXITS OPENED, ORDER.

When the state fire marshal upon inspection shall find a building of such construction and use that the exits and means of egress already provided do not afford reasonably safe escape in case of fire for the number of people customarily within he may order such exits to be opened and such means of escape to be provided as in his judgment are reasonably necessary to eliminate the danger arising therefrom.

History: 1913 c 564 s 12; 1917 c 469 s 1 (5962)

299F.13 ORDER TO BE IN WRITING.

The order shall be in writing, recite the grounds therefor, and be filed in the office of the clerk of the district court of the county in which the building or

structure so ordered to be altered, repaired, or demolished is situated and thereupon all further proceedings for the enforcement thereof shall be had in that court.

History: 1913 c 564 s 13; 1917 c 469 s 1 (5963)

299F.14 NOTICE, SERVICE.

A copy of the order filed in accordance with section 299F.13, together with a written notice that the same has been so filed and will be put in force unless the owner or occupying tenant shall file with the clerk of the court his objections and answer thereto within the time specified in section 299F.15, shall be served upon the owner of the building or structure so directed to be altered, repaired, or demolished; and, if there be a tenant occupying the building, then also upon this occupant. Service shall be made upon the owner and occupying tenant, if there be one, personally, either within or without the state. It shall be deemed a personal service of the order and notice if the copy thereof be left at the house of the usual abode of the person to be served, with some person of suitable age and discretion then residing therein. If the whereabouts of the owner is unknown and the same cannot be ascertained by the state fire marshal in the exercise of reasonable diligence, then, upon his filing in the office of the clerk of the district court his affidavit to this effect, service of the notice upon the owner may be made by publishing the same once in each week for three successive weeks in a newspaper printed and published in the county in which the building or structure is located and by posting a copy thereof in a conspicuous place upon the building or structure, and the service so made shall be deemed to be complete upon the expiration of the publication period. Proof of service of the notice shall be filed in the office of the clerk of the district court not less than five days before the filing of a motion for an order affirming the state fire marshal's order of condemnation in case of default as provided for by section 299F.15, or in case written objections are filed and served, not less than five days before the time fixed for the hearing provided for by section 299F.16.

History: 1913 c 564 s 14; 1917 c 469 s 1; 1947 c 417 s 1 (5964)

299F.15 WRITTEN OBJECTIONS FILED BY OWNER.

The owner of any building or structure so condemned, or any occupying tenant upon whom the notice and order are served, within 20 days from the date of the service, as herein provided, may file with the clerk of the district court and serve upon the state fire marshal, either personally or by certified mail, written objections to the order in the form of an answer denying the existence of any of the facts therein recited which he desires to controvert. If no answer is so filed and served, the owner and all other persons in interest shall be deemed to be in default and thereupon the court shall affirm the order of condemnation and direct the state fire marshal to proceed with the enforcement thereof; but, if an answer be filed and served, as herein provided, the court shall hear and determine the issues so raised and make its order as provided for by section 299F.16.

History: 1913 c 564 s 15; 1917 c 469 s 1; 1947 c 417 s 2; 1978 c 674 s 60 (5965)

299F.16 HEARING.

The court upon motion of the state fire marshal shall make its order fixing a time and place for the hearing, which place may be at any convenient point within the judicial district, and which time shall be within ten days from the date of the filing of the answer, or as soon thereafter as may be. Upon the trial the order of the state fire marshal shall be prima facie evidence of the existence of the facts therein

recited. If upon the trial the order of the state fire marshal shall be sustained, the court shall make its order accordingly and shall fix a time within which the building or structure shall be altered, repaired, or demolished, as the case may be, in compliance with the order of the state fire marshal, but otherwise the court may annul and set aside such order of the state fire marshal, or modify it if the facts so warrant.

History: 1913 c 564 s 16; 1917 c 469 s 1; 1947 c 417 s 3 (5966)

299F.17 FAILURE TO COMPLY WITH ORDER.

Subdivision 1. Sale or destruction of building. If the owner or other party in interest shall fail to comply with the order of the state fire marshal within the time fixed thereby, or with such order as affirmed or modified by the court, within the time fixed by court, in case a trial is had as provided for in section 299F.16, the state fire marshal may proceed to cause the building or structure to be altered, repaired, or demolished in accordance with the directions contained in the order. Where a building or structure is demolished in accordance with the order the state fire marshal may sell and dispose of the salvage materials therefrom at public auction upon three days' posted notice. In lieu of demolishing the building or structure the state fire marshal may sell it at a public auction, upon the same notice, provided the purchaser signs a written agreement to demolish the building and remove the salvage within such time from the date of sale as the state fire marshal shall announce before the sale. In case any such purchaser shall fail to so demolish the building or structure and remove the salvage within the specified time, the sale to him shall be void, and the purchase price paid by him shall be retained by the state fire marshal as liquidated damages for breach of the agreement. Any amount collected for the sale of salvage, or the building or structure, or as liquidated damages for breach of the agreement shall be deposited with the state treasurer and credited to the fund of the state fire marshal.

Subd. 2. Statement of moneys received and expenses incurred; surplus to owner. The state fire marshal shall keep an accurate account of the expenses incurred in carrying out the order and all other expenses theretofore incurred in connection with its enforcement, including specifically, but not exclusively, initial inspection fees incurred before the filing of the order of condemnation, including costs of photographs of building, filing fees, service fees, publication fees, appraisers' fees, witness fees, including expert witness fees, and traveling expenses incurred by the state fire marshal and his deputies from the time the order was originally made, and shall credit thereon the amount, if any, received from the sale of the salvage, or building or structure, or as liquidated damages for breach of the agreement, and shall report his action under the order, with a statement of moneys received and expenses incurred to the court for approval and allowance. Thereupon the court shall examine, correct, if necessary, and allow the expense account and, if the amount received from the sale of the salvage, or of the building or structure, or for liquidated damages for breach of the agreement does not equal or exceed the amount of expenses as allowed, the court shall by its order certify the deficiency in the amount so allowed to the county auditor for collection. The owner or other party in interest shall pay the same within 30 days thereafter, with 25 percent penalty added thereon, and in default of payment the auditor shall enter this expense on the tax lists of the county as a special charge against the real estate on which the building is or was situated and the same shall be collected in the same manner as other taxes and the amount so collected, including the penalty thereon, shall be paid into the state treasury and credited to the fund of the state fire marshal. When any real estate on which the building or structure is or was situated forfeits to the state for taxes, this expense shall be apportioned by the county auditor from the net proceeds

of the sale or rental of such forfeited land to the state treasury to be credited to the fund of the state fire marshal in the same manner as any other special assessment is apportioned as provided in section 282.08, clause (2). If the amount received for the sale of the salvage, or of the building or structure, or for liquidated damages for breach of the agreement to remove the building or structure exceeds the expense incurred by the state fire marshal, as allowed by the court, and if there are no delinquent taxes, the court shall direct the payment of the surplus to the owner or the payment of the same into court for his use and benefit. If there are delinquent taxes against the property, the court shall direct the payment of the surplus to the county treasurer to be applied on such taxes.

There is hereby appropriated to the persons entitled to such surplus, from the fund in the state treasury to which the money was credited, an amount sufficient to make the payment.

History: 1913 c 564 s 17; 1917 c 469 s 1; 1947 c 417 s 4; 1959 c 157 s 5; 1963 c 638 s 1 (5967)

299F.18 COMBUSTIBLE MATERIAL REMOVED.

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

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

299F.19 RULES ON FLAMMABLE LIQUIDS AND EXPLOSIVES.

Subdivision 1. The commissioner of public safety shall adopt rules for the safekeeping, storage, handling, use, or other disposition of flammable liquids, flammable gases, blasting agents, and explosives. Loads carried in or on vehicles transporting such products upon public highways within this state shall be governed by the uniform vehicle size and weights provisions in sections 169.80 to 169.88 and the transportation of hazardous materials provisions of section 221.033. The rules for flammable liquids and flammable gases shall be distinguished from each other and from the rules covering other materials subject to regulation under this subdivision.

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

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

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

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

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

The term explosive or explosives means any chemical compound, mixture or device, the primary or common purpose of which is to function by explosion; that is, with substantially instantaneous release of gas and heat, unless such compound, mixture, or device is otherwise specifically classified by the United States department of transportation. The term explosives includes all material which is classified as class A, class B, and class C explosives by the United States department of transportation, and includes, but is not limited to dynamite, black powder, pellet powder, initiating explosives, blasting caps, electric blasting caps, safety fuse, fuse lighters, fuse igniters, squibs, cordeau detonate fuse, instantaneous fuse, igniter cord, igniters, and some special fireworks. Commercial explosives are those explosives which are intended to be used in commercial or industrial operation. The term explosives does not include flammable liquids or flammable gases.

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

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

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

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

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

299F.20 FAILURE TO COMPLY, PUNISHMENT.

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

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

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

Every insurance company, including reciprocals, interinsurance exchanges or Lloyds, doing business in the state, excepting farmers' mutual fire insurance

companies and township mutual fire insurance companies, shall hereafter pay to the commissioner of revenue on or before March 1 annually, a tax upon its fire premiums or assessments or both, as follows:

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

If the tax prescribed by this section is not paid by March 1, annually, penalties and interest as provided in section 290.53, subdivision 1, shall be imposed.

History: 1913 c 564 s 23; 1915 c 341 s 1; 1937 c 77 s 1; 1949 c 315 s 1; 1963 c 88 s 6; 1981 c 106 s 6; 1984 c 592 s 83 (5973)

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

The commissioner of revenue shall, as soon as practicable after a return required by section 299F.21 is filed, examine the same and make any investigation or examination of the company's records and accounts that he deems necessary for determining the correctness of the return. The tax computed by him on the basis of the examination and investigation is the tax to be paid by the company. If the tax found due is greater than the amount reported as due on the company's return, the commissioner shall assess a tax in the amount of the excess and the whole amount of the excess shall be paid to the state treasurer within 60 days after notice of the amount and demand for its payment is mailed to the company by the commissioner. If the understatement of the tax on the return was false and fraudulent with intent to evade the tax, the installments of the tax shown by the company on its return which are not paid shall be paid to the commissioner of revenue within 60 days after notice of the amount thereof and demand for payment is mailed to the company by the commissioner. If the amount of the tax found due the commissioner is less than that reported as due on the company's return, the excess shall be refunded to the company in the manner provided by section 299F.26, except that no demand therefor is necessary, if they have already paid the whole of the tax, or credited against any unpaid installment thereof; provided, that no refundment shall be made except as provided in section 299F.26, after the expiration of three and one-half years after the filing of the return.

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

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

History: 1965 c 499 s 1; 1969 c 1129 art 10 s 2; 1981 c 106 s 7; 1984 c 592 s 84

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

Subdivision 1. Failure to file; false or fraudulent return. If any company required by section 299F.21 to file any return fails to do so within the time

prescribed or makes, wilfully or otherwise, an incorrect, false, or fraudulent return, it shall, on the written demand of the commissioner of revenue, file the return, or corrected return, within 60 days after the mailing of the written demand and at the same time pay the whole tax, or additional tax, due on the basis thereof. If the company fails within that time to file the return, or corrected return, the commissioner shall make for it a return or corrected return, from his own knowledge and from the information he can obtain through testimony, or otherwise, and assess a tax on the basis thereof, which tax, less any payments theretofore made on account of the tax for the taxable year covered by the return, shall be paid within 60 days after the commissioner has mailed to the company a written notice of the amount thereof and demand for its payment. Any return or assessment made by the commissioner on account of the failure of the company to make a return, or a corrected return, is prima facie correct and valid, and the company has the burden of establishing its incorrectness or invalidity in any action or proceeding in respect thereto.

Subd. 2. Failure to file; penalties and interest. In case of any failure to make and file a return as required by this chapter within the time prescribed by law or prescribed by the commissioner of revenue in pursuance of law there shall be added to the tax penalties and interest as provided in section 290.53, subdivision 2.

Subd. 3. Intent to evade tax; penalty. If any company with intent to evade the tax imposed by this chapter, fails to file any return required by this chapter or with such intent files a false or fraudulent return there shall also be imposed on it a penalty as provided in section 290.53, subdivision 3.

Subd. 4. Negligence or intentional disregard; penalty. If any part of any additional assessment is due to negligence or intentional disregard of the statute or a rule (but without intent to defraud), there shall be added to the tax a penalty as provided in section 290.53, subdivision 3a.

History: 1965 c 499 s 2; 1969 c 1129 art 10 s 2; 1981 c 106 s 8; 1984 c 592 s 85

299F.24 COLLECTION OF TAX.

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

History: 1965 c 499 s 3; 1969 c 1129 art 10 s 2; 1981 c 106 s 9; 1984 c 592 s 86

299F.25 APPEALS.

Either party to an action or a judgment for the recovery of any taxes, interest, or penalties under section 299F.24 may appeal to the court of appeals as in other civil cases.

History: 1965 c 499 s 4; 1983 c 247 s 131

299F.26 OVERPAYMENTS, CLAIMS FOR REFUND.

Subdivision 1. Procedure, time limit, appropriation. A company which has paid, voluntarily or otherwise, or from which there was collected an amount of tax for any year in excess of the amount legally due for that year, may file with the commissioner of revenue a claim for a refund of the excess. Except as provided in subdivision 4, no claim or refund shall be allowed or made after 3-1/2 years from the

date prescribed for filing the return (plus any extension of time granted for filing the return but only if filed within the extended time) or after two years from the date of overpayment, whichever period is longer, unless before the expiration of the period a claim is filed by the company. For this purpose a return or amended return claiming an overpayment constitutes a claim for refund.

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

Subd. 2. Denial of claim, court proceedings. If the claim is denied in whole or in part, the commissioner of revenue shall mail an order of denial to the company in the manner prescribed in section 299F.22. An appeal from this order may be taken to the Minnesota tax court in the manner prescribed in section 271.06, or the company may commence an action against the commissioner to recover the denied overpayment. The action may be brought in the district court of the district in which lies the county of its principal place of business, or in the district court for Ramsey county. The action in the district court must be commenced within 18 months following the mailing of the order of denial to the company. If a claim for refund is filed by a company and no order of denial is issued within six months of the filing, the company may commence an action in the district court as in the case of a denial, but the action must be commenced within two years of the date that the claim for refund was filed.

Subd. 3. Denial of claim, appeal. Either party to the action may appeal to the court of appeals as in other civil cases.

Subd. 4. Consent to extend time. If the commissioner and the company have within the periods prescribed in subdivision 1, consented in writing to any extension of time for the assessment of the tax, the period within a claim for refund may be filed, or a refund may be made or allowed, if no claim is filed, shall be the period within which the commissioner and the company have consented to an extension for the assessment of the tax and six months thereafter, provided, however, that the period within which a claim for refund may be filed shall not expire prior to two years after the tax was paid.

Subd. 5. Overpayment; refunds. If the amount determined to be an overpayment exceeds the taxes imposed by section 299F.21, the amount of such excess shall be considered an overpayment. An amount paid as tax shall constitute an overpayment even if in fact there was no tax liability with respect to which such amount was paid.

Notwithstanding any other provision of law to the contrary, in the case of any overpayment the commissioner, within the applicable period of limitations, shall refund any balance of more than one dollar to such company if the company shall so request.

History: 1965 c 499 s 5; 1969 c 1129 art 10 s 2; 1973 c 492 s 14; 1981 c 106 s 10; 1983 c 247 s 132; 1984 c 592 s 87,88

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

299F.28 RECORDS TO BE PUBLIC, EXCEPT IN CERTAIN CASES.

All records on file in the state fire marshal's office shall be public, except any testimony, correspondence, or other matter taken in an investigation under the provisions of this chapter, which the state fire marshal, in his discretion, may withhold from the public.

History: 1913 c 564 s 26 (5976)

299F.29 COUNTY AND CITY ATTORNEYS TO ASSIST.

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

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

299F.30 FIRE DRILLS REQUIRED IN SCHOOLS; DOORS AND EXITS TO BE KEPT OPEN.

Subdivision 1. It shall be the duty of the state fire marshal, his deputies and assistants, to require public and private schools and educational institutions to have at least nine fire drills each school year and to keep all doors and exits unlocked from the inside of the building during school hours.

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

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

History: 1913 c 564 s 28; 1971 c 516 s 1; 1973 c 11 s 1 (5978)

299F.31 PENALTIES PAID INTO STATE TREASURY.

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

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

299F.32 DECLARATION FOR PUBLIC SAFETY.

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

History: 1913 c 564 s 30 (5980)

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

299F.34 COMPENSATION FOR FIRES REPORTED.

There shall be paid to the chiefs of fire departments, and mayors of cities, who do not receive to exceed \$50 annually as compensation for their services as such chiefs and mayors, and to presidents of the statutory city boards, and to the town clerks of towns, who are by this chapter required to report fires to the state fire marshal, the sum of \$1 for each fire reported to the satisfaction of the state fire marshal; and in addition thereto mileage at the rate of ten cents per mile for each mile traveled to and from the place of fire. These allowances shall be paid by the state fire marshal at the close of each fiscal year out of any funds appropriated for the use of the office of the state fire marshal.

All chiefs of departments who receive a stated salary and devote their entire time to the duties of chiefs of the department and those mayors of cities who receive a stated salary exceeding \$50 as such officer shall be precluded from receiving any extra allowance from the report herein mentioned.

History: 1913 c 564 s 32; 1973 c 123 art 5 s 7 (5982)

299F.35 STATEMENT NOT USED IN CIVIL ACTION, WHEN.

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

History: 1913 c 564 s 33 (5983)

299F.36 FIRE EXTINGUISHERS.

Subdivision 1. MS 1953 [Repealed, 1955 c 791 s 3]

Subdivision 1. No person, firm or corporation shall sell, expose for sale, buy, exchange, give, receive or, after the period allowed by the order provided for in subdivision 3 have in possession any fire extinguisher containing any of the following materials: carbon tetrachloride, CCl_4 ; chlorobromomethane, CH_2BrCl ; dibromodifluoromethane, CBr_2F_2 ; 1, 2 dibromo-2-chlor-1, 1-2-trifluoroethane, $\text{CBrF}_2\text{CBrClF}$; 1, 2 dibromo-2, 2-difluoroethane, $\text{CH}_2\text{BrCBrF}_2$; ethylene dibromide, $\text{CH}_2\text{BrCH}_2\text{Br}$; hydrogen bromide, HBr ; methylene bromide, CH_2Br_2 ; bromodifluoromethane, CHBrF_2 ; methyl bromide, CH_3Br .

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

Subd. 3. The state fire marshal, his chief assistant, deputies, and subordinates, the chief of the fire department of each city or other subdivision of government where a fire department is established, who finds in any building or upon any premises any fire extinguisher containing any of the materials listed in subdivision 1, or in dangerous or not in efficient operating order, or does not conform to the standards described in subdivision 2, shall order the extinguisher removed or repaired. This order shall be in writing and directed generally to the owner, lessee, agent or occupant of the building or premises and shall allow a period of 15 days in which to make required repairs or to remove the extinguisher, and any owner, lessee,

agent, or occupant who fails to comply therewith shall be guilty of a misdemeanor, and the party issuing the order may remove the fire extinguisher.

Subd. 4. It shall be the duty of the sheriff and his deputies in areas not served by a fire department to report the existence of any extinguisher containing any of the materials listed in subdivision 1, or any extinguisher not in an efficient operating order, to the fire marshal, his chief deputy assistants, or subordinates when such extinguishers are found.

Subd. 5. Any person, firm or corporation who shall violate any of the provisions of this section shall be guilty of a misdemeanor.

History: 1953 c 430 s 1-3; 1955 c 791 s 1,2; 1965 c 385 s 1; 1971 c 78 s 1; 1973 c 123 art 5 s 7; 1981 c 106 s 13

299F.361 INSTALLATION OF FIRE EXTINGUISHERS IN MULTIPLE UNIT RESIDENTIAL BUILDINGS.

Subdivision 1. There shall be provided and installed in each apartment of a multiple unit residence building containing four or more apartments, at least one fire extinguisher complying with the standards prescribed by section 299F.36 and with a rating of not less than 1A-10BC, as defined by the National Fire Protection Pamphlet No. 10, or there shall be provided and installed within 50 feet of each apartment entrance at least one fire extinguisher complying with the standards prescribed by section 299F.36 and with a rating of not less than 2A-10BC as defined by the National Fire Protection Pamphlet No. 10.

Subd. 2. Owners of multiple unit residence buildings heretofore constructed shall have 180 days to comply with the provisions of subdivision 1, except that those multiple unit residence buildings providing 2A type fire extinguishers and meeting the standards prescribed by the National Fire Protection Pamphlet No. 10 shall have three years to comply with the provisions of subdivision 1.

Subd. 3. Nothing in this section shall prohibit a local unit of government from adopting standards more stringent than those provided in subdivision 1.

History: 1974 c 63 s 1-3

299F.362 SMOKE DETECTION DEVICES; INSTALLATION; PENALTY.

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

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

(b) "Dwelling" is any building constructed, remodeled, rented, or offered for rent after January 1, 1980, or any portion thereof which is not an apartment house, lodging house or a hotel and which contains one or two "dwelling units" which are, or are intended or designed to be, occupied for living purposes.

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

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

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

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

Subd. 3. **Fire warning systems; dwellings.** Every dwelling unit within a dwelling shall be provided with a smoke detector meeting the requirements of Underwriters Laboratories, Inc., or approved by the International Conference of Building Officials. The detector shall be mounted in accordance with the rules regarding smoke detector location promulgated under the provisions of subdivision 2. When actuated, the detector shall provide an alarm in the dwelling unit.

Subd. 4. **Fire warning systems; apartment houses, lodging houses, and hotels.** Every dwelling unit within an apartment house and every guest room in a lodging house or hotel used for sleeping purposes shall be provided with a smoke detector conforming to the requirements of Underwriters Laboratories, Inc., or approved by the International Conference of Building Officials. In dwelling units, detectors shall be mounted in accordance with the rules regarding smoke detector location promulgated under the provisions of subdivision 2. When actuated, the detector shall provide an alarm in the dwelling unit or guest room.

Subd. 5. **Maintenance responsibilities.** For all occupancies covered by this section where the occupant is not the owner of the dwelling unit or the guest room, the owner is responsible for maintenance of the smoke detectors.

Subd. 6. **Penalty.** Any person who violates any provision of this section shall be subject to the same penalty incurred for violation of the uniform fire code, as specified in section 299F.011, subdivision 6.

Subd. 7. **Local units of government; variances.** This section prohibits a local unit of government from adopting standards different from those provided in this section, except that, as to new construction, a local unit of government may require that smoke detectors be attached to a centralized electrical power source.

Subd. 8. **Effective date.** This section is effective January 1, 1980, except for subdivision 2 which is effective August 1, 1977.

History: 1977 c 333 s 2; 1978 c 777 s 7

299F.37 FIRE HOSE THREADS AND FITTINGS TO BE UNIFORM.

All fire hose fittings, apparatus fittings, 1 1/2 and 2 1/2 inches in diameter, purchased or procured after January 1, 1970, by fire departments operating in Minnesota, shall be of the national standard hose thread as adopted by the national fire protection association. Any person selling non-standard hose couplings, fittings, or apparatus fittings, 1 1/2 and 2 1/2 inches in diameter, for fire department use in Minnesota, after January 1, 1970, shall be guilty of a misdemeanor.

History: 1969 c 286 s 1

299F.38 NO SMOKING SIGNS; POSTING.

The state fire marshal, his deputies, or assistants may prominently post "no smoking" signs wherever they deem public safety requires. It shall be unlawful to violate the prohibition of such a sign. Smoking shall include carrying a lighted cigar, cigarette, pipe, or any other lighted smoking equipment.

History: 1965 c 50 s 1

299F.39 Subdivision 1. MS 1976 [Repealed, 1978 c 777 s 20]

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

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

Subd. 3. MS 1976 [Repealed, 1978 c 777 s 20]

Subd. 4. MS 1976 [Repealed, 1978 c 777 s 20]

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

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

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

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

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

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

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

Subd. 2. **Requirements.** All hospitals, nursing homes, schools, lodging houses and hotels shall be operated and maintained in compliance with the uniform fire code as promulgated pursuant to section 299F.011.

Subd. 3. **Local ordinances.** Nothing in this section shall be construed to prohibit a local unit of government otherwise authorized by law, from enforcing or adopting ordinances or regulations with standards equal to, in addition to, or more stringent than the requirements of the uniform fire code. Any ordinance or regulation adopted by a local unit which differs from the uniform fire code must be directly related to the safeguarding of life and property from the hazards of fire, uniform for each class or kind of building covered, and may not exceed the applicable requirements of the uniform building code adopted pursuant to sections 16B.59 to 16B.73.

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

History: 1978 c 777 s 8; 1981 c 106 s 14; 1984 c 544 s 89

299F.40 LIQUEFIED PETROLEUM AND INDUSTRIAL GAS CONTAINERS.

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

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

The term "owner" shall mean and include (a) any person who holds a written bill of sale or other instrument under which title to the container was transferred to such person, (b) any person who holds a paid or receipted invoice showing purchase and payment of the container, (c) any person whose name, initials, mark, or other identifying device has been plainly and legibly stamped or otherwise shown upon the surface of the container for a period of not less than one year prior to the final enactment and approval of this section, or (d) any manufacturer of a container who has not sold or transferred ownership thereof by written bill of sale or otherwise;

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

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

Subd. 3. **Containers, identifying devices; unlawful acts.** If a liquefied petroleum or industrial gas container shall bear upon the surface thereof in plainly legible characters the name, mark, initials or other identifying device of the owner thereof, it shall be unlawful for any person except the owner or a person authorized in writing by him: (a) To fill or refill such container with liquefied petroleum or industrial gas or any other gas or compound;

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

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

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

Subd. 5. **Violations, search warrants.** Whenever any person or officer of any corporation mentioned in this section, or his duly authorized agent who has personal knowledge of the facts, makes an oath in writing before any judge, that the party making affidavit has reason to and does believe that any of the person's or the corporation's liquefied petroleum or industrial gas containers marked with the name, initials, mark or other device of the owner, are in the possession of or being used, filled, refilled, or transferred by any person whose name, initials, mark or other device does not appear on the containers, and who is in the possession of, filling or refilling, or using the containers without the written consent of the owner of the name, initials or trade mark, the judge may, when satisfied that there is reasonable cause, issue a search warrant and cause the premises designated to be searched for

the purpose of discovering and obtaining the containers. The judge may also order the person in whose possession the containers are found to appear, and inquire into the circumstances of the possession. If the judge finds that the person has been guilty of a violation of this section, he shall impose the punishment prescribed, and award the property taken upon the search warrant to its owner.

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

History: 1957 c 768 s 1-6; 1977 c 152 s 1; 1983 c 359 s 25

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

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

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

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

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

299F.451 FIRE ALARM SYSTEMS; DEFINITIONS.

Subdivision 1. Except where the context requires otherwise, the terms defined in subdivisions 2 to 5 have the meanings given them.

Subd. 2. "Educational facility" means a building used for the gathering of groups of six or more persons for purposes of instruction, including schools, day care facilities, kindergartens, academies, colleges, and universities.

Subd. 3. "Malicious false fire alarm" means an intentional activation of a fire alarm system for mischievous purposes with the foreknowledge that no fire, hazard, or other appropriate threat exists.

History: 1976 c 15 s 1

299F.452 REPORTING OF MALICIOUS FALSE FIRE ALARMS.

The principal, headmaster, administrator, or supervisor of an educational facility shall report all malicious false fire alarms and the circumstances surrounding the incident to the local fire service.

History: 1976 c 15 s 2

299F.453 DEACTIVATION OF FIRE ALARM SYSTEMS.

No one shall disconnect or cause to be disconnected all or part of a fire alarm system without the prior knowledge and approval of the local fire marshal or fire chief and the state fire marshal.

History: 1976 c 15 s 3

299F.454 REQUESTS FOR DEACTIVATION OF FIRE ALARM SYSTEMS.

Subdivision 1. The principal, headmaster, administrator, or supervisor of an educational facility experiencing repeated malicious false alarms may request approval for the deactivation of the fire alarm system only after he has exhausted all other means of stopping the malicious false alarms with the guidance of the local fire service personnel. Requests for approval to disconnect a fire alarm system shall be made in writing to the local fire chief or to the state fire marshal if not in a city of the first class. The request shall include the times, dates, and exact locations of the facilities where the malicious false alarms were initiated as well as all pertinent details regarding these incidents and the effect they have on the educational process of the facility.

Subd. 2. The local fire chief or state fire inspector shall investigate the justification for the requested disconnection of the fire alarm system. This investigation shall be completed and its results transmitted to the state fire marshal within ten working days of receipt of the request for deactivation of fire alarm.

Subd. 3. The state fire marshal shall review each request for deactivation of fire alarms together with the investigation report and shall either approve the request and issue a permit stating the conditions and limitations under which it is approved, or disapprove the request stating the reasons why it has been disapproved and what additional action may be taken by the principal, headmaster, administrator, or supervisor of the facility to eliminate or reduce malicious false alarms in the facility.

Subd. 4. The state fire marshal shall act on each request for disconnection of a fire alarm system within 30 days. An interim permit with specific temporary measures supervised by the local fire chief, fire marshal, or state fire inspector may be issued by the state fire marshal to prevent malicious false alarms while the matter is being reviewed.

Subd. 5. Additional times beyond the limits set in subdivisions 2, 3, and 4 shall be allowed officials acting on requests for disconnections of fire alarm systems when it is reasonably necessary.

Subd. 6. Approval of deactivation of a fire alarm system shall be valid for a period of three years or less. Conditions under which the request was approved shall be observed by the facility.

History: 1976 c 15 s 4

299F.46 ENFORCEMENT.

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

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

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

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

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

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

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

History: 1911 c 386 s 2; 1913 c 564 s 2; 1949 c 469 s 1; 1969 c 1129 art 10 s 2; 1978 c 777 s 9; 1981 c 106 s 15 (3288, 5950)

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

NATURAL GAS PIPELINE SAFETY

299F.56 DEFINITIONS; NATURAL GAS PIPELINE SAFETY.

Subdivision 1. As used in sections 299F.56 to 299F.64 the terms defined in this section shall have the meanings given them.

Subd. 2. "The Natural Gas Pipeline Safety Act of 1968 of the United States" shall mean Public Law 90-481, 82 Stat. 720, 90th Congress, S. 1166, approved August 12, 1968.

Subd. 3. "Person" means any individual, firm, joint venture, partnership, corporation, association, municipality, cooperative association or joint stock association, and includes any trustee, receiver, assignee, or personal representative thereof.

Subd. 4. "Gas" means natural gas, flammable gas or gas which is toxic or corrosive, except that "gas" shall not include liquefied petroleum gas.

Subd. 5. "Transportation of gas" means the gathering, transmission, or distribution of gas by pipeline or its storage; except that it shall not include any such transportation of gas which is subject to the jurisdiction of the Federal Power Commission under the Natural Gas Act of the United States, or the gathering of gas in those rural locations which lie outside the limits of any incorporated or unincorporated city, town, or any other designated residential or commercial area such as a subdivision, a business or shopping center, a community development or any similar populated area which the state fire marshal may define as a nonrural area.

Subd. 6. "Pipeline facilities" includes, without limitation, new and existing pipe rights of way and any equipment facility or building used in the transportation of gas or the treatment of gas during the course of transportation, but "rights of way" as used in sections 299F.56 to 299F.64 does not authorize the state fire marshal to prescribe the location or routing of any pipeline facility. "Pipeline facilities" shall not include any facilities subject to the jurisdiction of the Federal Power Commission under the Natural Gas Act of the United States.

History: 1969 c 988 s 1; 1973 c 123 art 5 s 7; 1975 c 31 s 1

299F.57 MINIMUM SAFETY STANDARDS.

Subdivision 1. The state fire marshal shall, by order, establish minimum safety standards for the transportation of gas and pipeline facilities. Such standards may apply to the design, installation, inspection, testing, construction, extension, operation, replacement and maintenance of pipeline facilities. Standards affecting the design, installation, construction, initial inspection and initial testing shall not be

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applicable to pipeline facilities in existence on the date such standards are adopted. Such safety standards shall be practicable and designed to meet the need for pipeline safety. In prescribing such standards, the state fire marshal shall consider:

- (a) relevant available pipeline safety data;
- (b) whether such standards are appropriate for the particular type of pipeline transportation;
- (c) the reasonableness of any proposed standards;
- (d) the extent to which any such standards will contribute to public safety; and
- (e) the existing standards established by the Secretary of Transportation of the United States pursuant to the Natural Gas Pipeline Safety Act of 1968 of the United States.

Provided, however, that the state fire marshal shall not be empowered to adopt any such standards as to the transportation of gas or to pipeline facilities which are subject to the jurisdiction of the Federal Power Commission under the Natural Gas Act of the United States.

Subd. 2. Any standards prescribed under this section, and amendments thereto, shall become effective 30 days after the date of issuance of such standards unless the state fire marshal, for good cause recited, determines an earlier or later effective date is required as the result of the period reasonably necessary for compliance.

Subd. 3. The rulemaking, contested case and judicial review provisions of chapter 14, shall apply to all orders establishing, amending, revoking, or waiving compliance with, any standard established under sections 299F.56 to 299F.64 or any penalty imposed under sections 299F.56 to 299F.64. The state fire marshal shall afford interested persons an opportunity to participate fully in the establishment of such safety standards through submission of written data, views or arguments, with opportunity to present oral testimony and argument.

Subd. 4. Whenever the state fire marshal shall find a particular facility to be hazardous to life or property, he shall be empowered to require the person operating such facility to take such steps necessary to remove such hazards.

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

History: 1969 c 988 s 2; 1971 c 24 s 32; 1982 c 424 s 130

299F.58 CERTIFICATIONS AND REPORTS.

The state fire marshal is authorized to make such certifications and reports to the United States Secretary of Transportation as may be required from time to time under the Natural Gas Pipeline Safety Act of 1968 of the United States.

History: 1969 c 988 s 3

299F.59 COMPLIANCE WITH STANDARDS.

Subdivision 1. Each person who engages in the transportation of gas or who owns or operates pipeline facilities shall:

- (a) at all times after the date any applicable safety standard established under sections 299F.56 to 299F.64 takes effect comply with the requirements of such standard;

(b) file and comply with a plan of inspection and maintenance required by sections 299F.56 to 299F.64; and

(c) permit access to or copying of records, and make reports or provide information, and permit entry or inspection, as required by sections 299F.56 to 299F.64.

Subd. 2. Nothing in sections 299F.56 to 299F.64 shall affect the common law or statutory tort liability of any person.

History: 1969 c 988 s 4

299F.60 CIVIL PENALTIES.

Subdivision 1. Any person who violates any provision of sections 299F.56 to 299F.64, or any regulation issued thereunder, shall be subject to a civil penalty to be imposed by the state fire marshal not to exceed \$1,000 for each such violation for each day that such violation persists, except that the maximum civil penalty shall not exceed \$200,000 for any related series of violations.

Subd. 2. The state fire marshal may negotiate a compromise settlement of a civil penalty. In determining the amount of such penalty, or the amount of the compromise settlement, the state fire marshal shall consider the appropriateness of such penalty to the size of the business of the person charged, the gravity of the violation, and the good faith of the person charged in attempting to achieve compliance, after notification of a violation. The contested case and judicial review provisions of chapter 14 shall apply to all orders of the state fire marshal imposing any penalty under sections 299F.56 to 299F.64 or under any regulation promulgated thereunder. The amount of such penalty, when finally determined, may be deducted from any sums owing by the state of Minnesota to the person charged.

Subd. 3. No person shall be subjected to civil penalties under both sections 299F.56 to 299F.64 and under Public Law 90-481, 82 Stat. 720, 90th Congress, S. 1166, approved August 12, 1968, for conduct which may give rise to a violation of both acts.

Subd. 4. All penalties collected under sections 299F.56 to 299F.64 shall be paid over to the state treasurer for deposit in the state treasury to the credit of the general fund.

History: 1969 c 399 s 1; 1969 c 988 s 5; 1975 c 31 s 2,3; 1982 c 424 s 130

299F.61 INJUNCTIVE RELIEF.

Subdivision 1. The district courts of the state of Minnesota shall have jurisdiction, subject to the provisions of the statutes and the rules of practice and procedure of the state of Minnesota relative to civil actions in the district courts, to restrain violations of sections 299F.56 to 299F.64, including the restraint of transportation of gas or the operation of a pipeline facility, or to enforce standards established hereunder upon petition by the attorney general on behalf of the state of Minnesota. Whenever practicable, the state fire marshal shall give notice to any person against whom an action for injunctive relief is contemplated and afford him an opportunity to present his views, and, except in the case of a knowing and willful violation, shall afford him reasonable opportunity to achieve compliance. However, the failure to give such notice and afford such opportunity shall not preclude the granting of appropriate relief.

Subd. 2. Actions under sections 299F.56 to 299F.64 shall be brought in the district in the state of Minnesota wherein the defendant's principal place of business is located, and process in such cases may be served in any other district in the state

of Minnesota where the defendant may be found or of which the defendant is an inhabitant or transacts business.

History: 1969 c 988 s 6

299F.62 PLAN FOR INSPECTION AND MAINTENANCE.

Each person who engages in the transportation of gas or who owns or operates pipeline facilities subject to sections 299F.56 to 299F.64 shall file with the state fire marshal a plan for inspection and maintenance of each such pipeline facility owned or operated by such person, and any changes in such plan, in accordance with the regulations prescribed by the state fire marshal. If the state fire marshal finds that such plan is inadequate to achieve safe operation, he shall, after notice and opportunity for a hearing, require such plan to be revised. The plan required by the state fire marshal shall be practicable and designed to meet the need for pipeline safety. In determining the adequacy of any such plan, the state fire marshal shall consider the following:

- (a) relevant available pipeline safety data;
- (b) whether the plan is appropriate for the particular type of pipeline transportation;
- (c) the reasonableness of the plan; and
- (d) the extent to which such plan will contribute to public safety.

History: 1969 c 988 s 7

299F.63 RECORDS AND REPORTS; INSPECTIONS; TRADE SECRETS.

Subdivision 1. Each person who engages in the transportation of gas or who owns or operates pipeline facilities shall establish and maintain such records, make such reports, and provide such information as the state fire marshal may reasonably require to enable him to determine whether such person has acted or is acting in compliance with sections 299F.56 to 299F.64 and the standards established under sections 299F.56 to 299F.64. Each such person shall, upon request of an officer, employee, or agent authorized by the state fire marshal, permit such officer, employee, or agent to inspect books, papers, records and documents relevant to determining whether such person has acted or is acting in compliance with sections 299F.56 to 299F.64 and the standards established pursuant to sections 299F.56 to 299F.64. For purposes of enforcement of sections 299F.56 to 299F.64, officers, employees, or agents authorized by the state fire marshal, upon presenting appropriate credentials to the individual in charge, are authorized to enter upon, at reasonable times, pipeline facilities, and to inspect, at reasonable times and within reasonable limits and in a reasonable manner, such facilities. Each such inspection shall be commenced and completed with reasonable promptness.

Subd. 2. In the course of the exercise of his duties and responsibilities under sections 299F.56 to 299F.64, the state fire marshal shall wherever practicable employ a practice of spot checking and issuance of certificates of compliance, with respect to persons subject to sections 299F.56 to 299F.64, to limit costs of enforcement of the safety standards established pursuant to sections 299F.56 to 299F.64.

Subd. 3. All information reported to or otherwise obtained by the state fire marshal or his representative, which contains or relates to a trade secret, as referred to in section 1905 of title 18 of the United States Code, or otherwise constitutes a trade secret under law, shall be considered confidential for the purpose of such laws, except that such information may be disclosed to other officers or employees concerned with carrying out sections 299F.56 to 299F.64 or when relevant in any proceeding under sections 299F.56 to 299F.64.

Subd. 4. **Cost of inspection and review.** The state fire marshal shall establish, by rule under section 16A.128, a fee to recover the state share of all costs related to field inspections, investigations of pipeline facilities, plan review, and other duties as provided by sections 299F.56 to 299F.63. Fees collected under this subdivision shall be credited to the general fund.

History: 1969 c 988 s 8; 1984 c 654 art 3 s 84

299F.64 FEDERAL MONEYS.

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

History: 1969 c 988 s 9

CONTROLS OF EXPLOSIVES

299F.71 POLICY.

The beneficial use of explosives has resulted in great savings of time, labor, and money in the development of the state. However, existing laws and regulations have not restricted explosives to those who would use or contribute to their use for beneficial purposes. The inattentive care, indiscriminate and unrecorded transfer and perverse use of explosives has resulted in death, grave personal injury, and substantial property damage in this state; in addition, the resulting bombings and bombing threats have terrorized and inconvenienced the public.

It is the policy of this state to require such controls of explosives and their component parts from the time prior to manufacture through ultimate use as are necessary to protect the safety and welfare of the public, without unduly restricting the legitimate manufacture, sale, transport, and use of explosives.

History: 1971 c 845 s 1

299F.72 DEFINITIONS.

Subdivision 1. For the purposes of Laws 1971, Chapter 845 the terms defined in this section have the meanings given them.

Subd. 2. "Explosive" means any compound or mixture, the primary or common purpose of which is to function by explosion; that is, with substantially instantaneous release of gas and heat; but shall not mean or include the components for handloading rifle, pistol, and shotgun ammunition, and/or rifle, pistol and shotgun ammunition, black powder, primers and fuses when used for ammunition and components for antique or replica muzzleloading rifles, pistols, muskets, shotguns and cannons, or fireworks as defined in section 624.20, nor shall it include any fertilizer product possessed, used or sold solely for a legitimate agricultural, forestry, conservation, or horticultural purpose.

Subd. 3. "Explosive device" means any device so articulated that an ignition by fire, by friction, by concussion, or by detonation of any part thereof may cause such sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructive effects, but shall not mean or include the

components for handloading rifle, pistol and shotgun ammunition and/or rifle, pistol and shotgun ammunition, black powder, primers and fuses when used for ammunition and components for antique or replica muzzleloading rifles, pistols, muskets, shotguns and cannons, or fireworks as defined in section 624.20, nor shall it include any fertilizer product possessed, used or sold solely for legitimate agricultural, forestry, conservation, or horticultural purpose.

Subd. 4. "Incendiary device" means any device so articulated that ignition by fire, friction, concussion, detonation, or other method may produce destructive effects primarily through combustion rather than explosion, but shall not mean or include a manufactured device or article in common use by the general public which is designed to produce combustion for a lawful purpose, including but not limited to matches, lighters, flares, and petroleum derivatives, nor shall it include any fertilizer product possessed, used or sold solely for legitimate agricultural, forestry, conservation, or horticultural purpose.

History: 1971 c 845 s 2

299F.73 LICENSE REQUIRED.

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

Subd. 2. In order to obtain the license herein required such person shall make application to the commissioner of public safety. The application shall be on forms provided by the commissioner of public safety and shall require such information as he deems necessary including but not limited to the name, address, age, experience and knowledge of the applicant in the use, handling, and storage of explosives and explosive devices, and whether the applicant is a person to whom no such license may be issued pursuant to section 299F.77. The commissioner of public safety may refuse to issue a license to any person who does not have sufficient knowledge of the use, handling, or storage of explosives to protect the public safety. Any person aggrieved by the denial of a license may request a hearing before the commissioner of public safety. The provisions of sections 14.57 to 14.70 shall apply to such hearing and subsequent proceedings, if any.

History: 1971 c 845 s 3; 1975 c 77 s 1; 1982 c 424 s 130

299F.74 PERMIT REQUIRED.

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

History: 1971 c 845 s 4

299F.75 PERMIT APPLICATION.

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

Subd. 2. The application shall require the applicant's name, address, purpose for acquiring explosives, place of intended acquisition, quantity required, place and time of intended use, place and means of storage until such use and whether the applicant is a person to whom no such permit may be issued pursuant to section 299F.77. Any person aggrieved by the denial of a permit may request a hearing before the commissioner of public safety. The provisions of sections 14.57 to 14.70 shall apply to such hearings and subsequent proceedings, if any.

Subd. 3. Prior to the storage of explosives, the applicant shall notify the appropriate local fire official.

History: 1971 c 845 s 5; 1973 c 169 s 1; 1975 c 77 s 2; 1982 c 424 s 130

299F.76 AFFIRMATION.

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

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

History: 1971 c 845 s 6

299F.77 ISSUANCE OF A LICENSE OR PERMIT TO CERTAIN PERSONS PROHIBITED.

The following persons shall not be entitled to receive an explosives license or permit:

(a) Any person who within the past five years has been convicted of a felony or gross misdemeanor involving moral turpitude, is on parole or probation therefor, or is currently under indictment for any such crime;

(b) Any mentally ill person or any mentally deficient person as defined in section 253A.02 who has been confined or committed in Minnesota or elsewhere for a mental disorder or defect to any hospital, mental institution or sanitarium, or who has been certified by a medical doctor as being mentally ill or mentally deficient, unless he possesses a certificate of a medical doctor or psychiatrist licensed to practice in this state, or other satisfactory proof, that he is no longer suffering from this disability;

(c) Any person who is or has been hospitalized or committed for treatment for the habitual use of a narcotic drug, as defined in section 152.01, subdivision 10 or a controlled substance, as defined in section 152.01, subdivision 4, or who has been certified by a medical doctor as being addicted to narcotic drugs or depressant or stimulant drugs, unless he possesses a certificate of a medical doctor or psychiatrist licensed to practice in this state, or other satisfactory proof, that he is no longer suffering from this disability;

(d) Any person who by reason of the habitual and excessive use of intoxicating liquors is incapable of managing himself or his affairs and who has been confined or committed to any hospital, mental institution or sanitarium in this state or elsewhere as an "inebriate person" as defined in section 253A.02, or who has been certified by a medical doctor as being addicted to alcohol, unless he possesses a certificate of a

medical doctor or psychiatrist licensed to practice in this state, or other satisfactory proof, that he is no longer suffering from this disability;

(e) Any person under the age of 18 years.

History: 1971 c 845 s 7; 1973 c 725 s 55; 1976 c 2 s 120

299F.78 TRANSFER.

Subdivision 1. No person shall transfer explosives to another unless the transferee shall display to the transferor a copy of a valid license or use permit and proper identification, and unless said transferee shall present to the transferor a signed standardized form provided by the commissioner of public safety, acknowledging receipt of the quantity of explosives transferred, the identifying numbers of the same explosives, or if none, the identifying numbers of the primary container from which the same explosives were distributed, and the serial number of the use permit displayed, which receipt shall be kept among the transferor's records until authorized to dispose of it by the state fire marshal.

Subd. 2. No person shall purchase more than five pounds of black powder without providing suitable identification and such other information as the commissioner may require. The records shall be submitted to the local fire marshal designated in section 299F.19, subdivision 4 at such times as the commissioner may by rule prescribe and such records shall be open to the inspection of any peace officer acting in the normal course of his duties as such.

History: 1971 c 845 s 8

299F.79 POSSESSION WITH INTENT.

Whoever has in his possession one or more of the components necessary to manufacture or assemble explosives, with the intent to manufacture or assemble explosives, unless said person shall have a valid license or permit as provided by sections 299F.73 and 299F.75 may be sentenced to imprisonment for not more than five years.

History: 1971 c 845 s 9

299F.80 POSSESSION WITHOUT A PERMIT.

Subdivision 1. Except as provided in subdivision 2, whoever has in his possession explosives without a valid license or permit may be sentenced to imprisonment for not more than three years.

Subd. 2. Whoever has in his possession, dynamite or other explosives commonly used for agricultural, forestry, conservation, industry or mining purposes, without a valid license or permit, with intent to use the same for legitimate agricultural, forestry, conservation, industry or mining purposes, and in only such quantities as are reasonably necessary for such intended use, may be sentenced to imprisonment for not more than 90 days or to a payment of a fine of not more than \$300 or both.

History: 1971 c 845 s 10

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

299F.811 POSSESSION OF EXPLOSIVES OR INCENDIARY DEVICES.

Whoever possesses, manufactures, or transports any explosive compound, timing or detonating device for use with any explosive compound or incendiary device and either intends to use the explosive or device to commit a crime or knows that

another intends to use the explosive or device to commit a crime, may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$10,000 or both.

History: 1976 c 124 s 1; 1984 c 628 art 3 s 11

299F.815 POSSESSION OF A CHEMICAL IGNITING DEVICE OR MOLOTOV COCKTAIL.

Subdivision 1. Whoever shall possess, manufacture, transport, or store a chemical self-igniting device or a molotov cocktail with intent to use the same for any unlawful purpose may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$10,000 or both.

Subd. 2. For purposes of this section, "molotov cocktail" means any crude hand grenade made of a bottle or container filled with a flammable liquid and fitted with an ignition device.

History: 1976 c 124 s 2; 1984 c 628 art 3 s 11

299F.82 ILLEGAL TRANSFER.

Subdivision 1. Except as provided in subdivision 2, whoever illegally transfers an explosive to another may be sentenced to imprisonment for not more than five years.

Subd. 2. Whoever illegally transfers dynamite or other explosives commonly used for agricultural, forestry, conservation, industry or mining purposes to another, personally known to the transferrer, in the belief that the same shall be used for legitimate agricultural, forestry, conservation, industry or mining purposes, and in only such quantities as are reasonably necessary for such believed use, may be sentenced to imprisonment for not more than 90 days or to payment of a fine of not more than \$300 or both.

History: 1971 c 845 s 12

299F.83 NEGLIGENT DISCHARGE.

Whoever, acting with gross disregard for human life or property, negligently causes an explosive, explosive device, or incendiary device, to be discharged may be sentenced to imprisonment for not more than ten years.

History: 1971 c 845 s 13