

## CHAPTER 73

## STATE FIRE MARSHAL

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**73.01 EX OFFICIO FIRE MARSHAL.** The commissioner shall be ex officio state fire marshal, but shall receive no additional compensation therefor. He shall have all the duties and rights formerly by law conferred upon the state fire marshal.

[1925 c. 426 art. 8 s. 4] (53-31)

**73.02 SPECIAL ATTORNEY.** The attorney general may appoint a special attorney for the department, 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.

[1913 c. 564 s. 4] (5953)

**73.03 ORIGIN OF FIRES INVESTIGATED.** Subdivision 1. The chief of the fire department of each city or village in which a fire department is established, and the mayor of each city in which no fire department exists, and the president of the village board of each village in which no fire department exists, and the town clerk of each town without the limits of any city or village, shall investigate, or cause to be investigated, the cause, origin, and circumstances of each fire occurring in the city, village, 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 supervise and direct the investigation when he deems it expedient or necessary.

Subd. 3. The officer making investigation of fires occurring in cities, villages, 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.

[1913 c 564 s 6; 1967 c 543 s 1] (5955)

**73.04 EVIDENCE, TAKING OF.** The state fire marshal shall, when in his opinion further investigation is necessary, take or cause to be taken the testimony on oath of all persons supposed to be cognizant of any facts or to have any means of knowledge in relation to the matter as to which an examination is herein required to be made and shall cause the same to be reduced to writing; and, if he shall be of the opinion that there is evidence sufficient to charge any person with the crime of arson, he shall cause such person to be arrested and charged with the offense and furnish to the proper prosecuting attorney all this evidence, together with the copy of all names of witnesses and all the information obtained by him, including a copy of all pertinent and material testimony taken in the case; and keep a record of the proceedings and progress made in all these prosecutions for arson and the result of all cases finally disposed of.

[1913 c. 564 s. 7] (5956)

**73.05 TESTIMONIAL POWERS.** Subdivision 1. **Attendance of witnesses.** 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 in relation to any matter which is by the provisions of this chapter a subject of inquiry and investigation 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.

[1913 c. 564 s. 8] (5957)

**73.06 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.

[1913 c. 564 s. 9] (5958)

**73.07 PREMISES, WHEN ENTERED.** In the performance of the duties imposed by the provisions of this chapter, the state fire marshal, and any of his subordinates, at all times of day or night may enter upon and examine any building or premises where a fire has occurred and other buildings and premises adjoining or near thereto.

[1913 c. 564 s. 10] (5959)

**73.08 BUILDINGS, ENTERED WITHIN REASONABLE HOURS.** The state fire marshal, his chief assistant, deputies, and subordinates, the chief of the fire department of each city or village where a fire department is established, the mayor of a city or village where no fire department exists, or the clerk of a town in territory without the limits of a city or village, at all reasonable hours may enter into all buildings and upon all premises within their jurisdiction for the purpose of examination.

[1913 c. 564 s. 11] (5960)

**73.09 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.

[1913 c. 564 s. 12; 1917 c. 469 s. 1] (5961)

**73.10 STRUCTURES REPAIRED OR DEMOLISHED.** 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 73.09. 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 taxation 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.

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 73.20. 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.

[1939 c. 200; 1941 c. 123] (5961-1)

**73.11 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.

[1913 c. 564 s. 12; 1917 c. 469 s. 1] (5962)

**73.12 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.

[1913 c. 564 s. 13; 1917 c. 469 s. 1] (5963)

**73.13 NOTICE, SERVICE ON OWNER.** A copy of the order filed in accordance with section 73.12, 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 73.14, 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 73.14, 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 73.15.

[1913 c. 564 s. 14; 1917 c. 469 s. 1; 1947 c. 417 s. 1] (5964)

**73.14 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 registered 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 73.15.

[1913 c. 564 s. 15; 1917 c. 469 s. 1; 1947 c. 417 s. 2] (5965)

**73.15 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.

[1913 c 564 s 16; 1917 c 469 s 1; 1947 c 417 s 3] (5966)

**73.16 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 73.15, 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 monies 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.

[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)

**73.17 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 73.171, 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.

[1913 c 564 s 18; 1917 c 469 s 1; 1949 c 292 s 1] (5968)

**73.171 REGULATIONS ON FLAMMABLE LIQUIDS AND EXPLOSIVES.** Subdivision 1. The state fire marshal shall make, promulgate, and enforce reasonable rules and regulations for the safekeeping, storage, handling, use, transportation, or other disposition of flammable liquids, flammable gases, blasting agents, and explosives except transportation by petroleum carriers as covered in chapter 221; but 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. The rules and regulations for flammable liquids and flammable gases shall be distinguished from each other and from the rules and regulations covering other materials subject to regulation under this subdivision.

Subd. 2. For the purposes of this section, and the rules and regulations adopted pursuant thereto, the term flammable liquids shall mean any liquid having a flash point below 200 degrees Fahrenheit and having a vapor pressure not exceeding 40 pounds per square inch, absolute, at 100 degrees Fahrenheit. The term flammable gases includes flammable materials which do not exist as a liquid or solid at a temperature of 60 degrees Fahrenheit and a pressure of 14.7 pounds per square inch absolute.

For the purposes of this section, and the rules and regulations adopted pursuant thereto, the term blasting agent shall mean 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 and regulations adopted pursuant thereto, explosives shall be 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, black powder, blasting caps, and detonating primers.

Class B explosives. Possessing flammable hazard, such as propellant explosives (including some smokeless powders), 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 shall mean 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 interstate commerce commission. The term explosives shall include all material which is classified as Class A, Class B, and Class C explosives by the interstate com-

merce commission, 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 and regulations adopted by the state fire marshal 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 or village 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 or village may prescribe routes for the transportation of flammable liquids through such city or village 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 or village in which a fire department is established, the mayor of each city in which no fire department exists, the president of the village board of each village in which no fire department exists, and the town clerk of each town without the limits of any city or village shall, upon direction of the state fire marshal, or assistant state fire marshal, enforce within their respective jurisdictions all rules and regulations adopted pursuant to this section and shall render such other assistance as may be requested.

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

Subd. 6. The code and all amendments thereto shall be filed with the secretary of state and published in accordance with sections 15.046 to 15.049.

[1949 c 292 s 2; 1957 c 424 s 1-3; 1963 c 437 s 1-4]

**73.18** [Repealed, 1955 c 61 s 1]

**73.19 FAILURE TO COMPLY, PUNISHMENT.** Any officer referred to in section 73.03 who neglects to comply with any of the requirements of this chapter shall, upon conviction, be punished by a fine of not less than \$25 nor more than \$100 for each neglect or violation.

[1913 c. 564 s. 20] (5970)

**73.20 FIRE INSURANCE COMPANIES TO PAY COST OF MAINTENANCE.** For the purpose of maintaining the office of the state fire marshal and paying all the expenses incident thereto, 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 state treasurer 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 set aside as a special fund and it is hereby appropriated for the maintenance of the office of the state fire marshal and the expenses incident thereto. The state shall not be liable in any manner for the salary of the state fire marshal, his chief assistant, deputies, clerks, and other employees, or for the maintenance of the office of fire marshal or any expenses incident thereto, and the same shall be payable only from the special fund provided for in this section.

If the tax prescribed by this section is not paid by March 1, annually, a penalty of ten percent shall accrue on such tax, and thereafter such tax and penalty shall draw interest at the rate of one percent per month until paid.

[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] (5973)

**73.201 EXAMINATION OF RETURNS; ASSESSMENT; RETURNS.** The commissioner of insurance shall, as soon as practicable after a return required by Minnesota Statutes, Section 73.20, is filed, examine the same and make any

investigation or examination of the company's records and accounts that he may deem necessary for determining the correctness of the return. The tax computed by him on the basis of such examination and investigation shall be the tax to be paid by such company. If the tax found due shall be greater than the amount reported as due on the company's return, the commissioner shall assess a tax in the amount of such excess and the whole amount of such excess shall be paid to the state treasurer within 30 days after notice of the amount and demand for its payment shall have been 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 have not been paid shall be paid to the state treasurer within 30 days after notice of the amount thereof and demand for payment shall have been mailed to the company by the commissioner. If the amount of the tax found due the commissioner shall be 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 73.205, except that no demand therefor shall be necessary, if they have already paid the whole of such tax, or credited against any unpaid installment thereof; provided, that no refundment shall be made except as provided in section 73.205, 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 73.201 to 73.203 shall be in such form as the commissioner may determine, 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.

[1965 c 499 s 1]

**73.202 ASSESSMENT, FAILURE TO FILE RETURN; FALSE OR FRAUDULENT RETURN FILED.** If any company required by Minnesota Statutes, Section 73.20, to file any return shall fail to do so within the time prescribed or shall make, wilfully or otherwise, an incorrect, false, or fraudulent return, it shall, on the written demand of the commissioner of insurance, file such return, or corrected return, within 30 days after the mailing of such written demand and at the same time pay the whole tax, or additional tax, due on the basis thereof. If such company shall fail within that time to file such return, or corrected return, the commissioner shall make for it a return or corrected return, from his own knowledge and from such information as 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 such return, shall be paid within ten days after the commissioner has mailed to such company a written notice of the amount thereof and demand for its payment. Any such return or assessment made by the commissioner on account of the failure of the company to make a return, or a corrected return, shall be prima facie correct and valid, and the company shall have the burden of establishing its incorrectness or invalidity in any action or proceeding in respect thereto.

[1965 c 499 s 2]

**73.203 COLLECTION OF TAX.** The tax required to be paid by Minnesota Statutes, Section 73.20, may be collected in any ordinary action at law by the commissioner of insurance 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.

[1965 c 499 s 3]

**73.204 APPEALS.** Either party to an action or a judgment for the recovery of any taxes, interest, or penalties under section 73.203 may remove the action or judgment to the supreme court by appeal, as provided for appeals in civil cases.

[1965 c 499 s 4]

**73.205 OVERPAYMENTS, CLAIMS FOR REFUND.** Subdivision 1. **Procedure, time limit, appropriation.** A company who has paid, voluntarily or other-



wise, or from whom there has been collected an amount of tax for any year in excess of the amount legally due for that year, may file with the commissioner of insurance a claim for a refund of such excess. Except as provided in subdivision 4, no such claim shall be entertained unless filed within two years after such tax was paid or collected, or within three and one-half years from the filing of the return, whichever period is the longer.

Upon the filing of a claim the commissioner of insurance 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 two percent per annum computed from the date of the payment or collection of the tax until the date the refund is paid to the company, and the state auditor shall cause such refund to be paid out of the proceeds of the taxes imposed by Minnesota Statutes, Section 73.20, as other state moneys are expended. So much of the proceeds of such taxes as may be necessary are hereby appropriated for that purpose.

**Subd. 2. Denial of claim, court proceedings.** If the claim is denied in whole or in part, the company may commence an action against the commissioner to recover any overpayments of taxes claimed to be refundable but for which the commissioner has issued no certificate of refundment. Such 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. Such action may be commenced after the expiration of six months after the claim is filed if the commissioner has not then taken final action thereon, and shall be commenced within 18 months after the notice of the order denying the claim.

**Subd. 3. Denial of claim, appeal.** Either party to said action may appeal to the supreme court as in other 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 Minnesota Statutes, Section 73.20, 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 of insurance, within the applicable period of limitations, shall refund any balance of more than one dollar to such company if the company shall so request.

[1965 c 499 s 5]

**73.21 ITEMIZED STATEMENT KEPT.** The state fire marshal shall keep on file in his office an itemized statement of all expenses incurred by his office and approve all vouchers issued therefor before the same are submitted to the state auditor for payment, which vouchers shall be allowed and paid in the same manner as other claims against the state.

[1913 c. 564 s. 24] (5974)

**73.22 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.

[1913 c. 564 s. 26] (5976)

**73.23 COUNTY ATTORNEYS TO ASSIST.** The county attorney of any county, 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.

[1913 c. 564 s. 27] (5977)

**73.24 FIRE DRILLS IN SCHOOLS.** It shall be the duty of the state fire marshal, his deputies and assistants, to require teachers of public and private schools and educational institutions to have one fire drill each month and to keep all doors and exits unlocked during school hours.

[1913 c. 564 s. 28] (5978)

**73.25 PENALTIES PAID INTO STATE TREASURY.** All penalties, fees, or forfeitures collected under the provisions of this chapter shall be paid into the state treasury for the benefit of the state fire marshal fund.

[1913 c. 564 s. 29] (5979)

**73.26 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.

[1913 c. 564 s. 30] (5980)

**73.27 ANNUAL REPORT.** The state fire marshal shall submit annually as early as consistent with full and accurate preparation and not later than the fifteenth day of February a detailed report of his official actions to the governor.

[1913 c. 564 s. 31] (5981)

**73.28 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 village 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.

[1913 c. 564 s. 32] (5982)

**73.29 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.

[1913 c. 564 s. 33] (5983)

**73.30 FIRE EXTINGUISHERS.** Subdivision 1. M.S. 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,  $\text{CCl}_4$ ; chlorobromomethane,  $\text{CH}_2\text{BrCl}$ ; dibromodifluoromethane,  $\text{CBr}_2\text{F}_2$ ; 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,  $\text{HBr}$ ; methylene bromide,  $\text{CH}_2\text{Br}_2$ ; bromodifluoromethane,  $\text{CHBrF}_2$ ; methyl bromide,  $\text{CH}_3\text{Br}$ .

Subd. 2. It shall be 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 have in possession any make, type or model of extinguisher, either new or used, for use as a fire extinguisher as required by state or local laws, unless such make, type or model of extinguisher has first been tested and is approved and labeled by the Factory Mutual Laboratories, Underwriters' Laboratories, Inc., or other testing laboratory approved by the state fire marshal, as providing adequate and reliable tests and examinations; 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 entitled "Standards for the Installation, Maintenance and Use of Portable Fire Extinguishers" (NFPA No. 10) dated June 1959.

Subd. 3. The state fire marshal, his chief assistant, deputies, and subordinates, the chief of the fire department of each city, village, borough, 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.

[1953 c 430 s 1-3; 1955 c 791 s 1, 2; 1965 c 385 s 1]

**73.31 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.

[1965 c 50 s 1]

**73.41 FIRE SAFETY CODE.** The state fire marshal after holding a public hearing in accordance with law, shall establish a fire safety code. The regulations in the code shall provide for reasonable safety from fire, smoke, and panic therefrom, in all hospitals, nursing homes, rest homes, board and care homes, as defined by the state board of health, schools, hotels, as defined in Minnesota Statutes, Section 60.91, Subdivision 2.

[1957 c 723 s 1; 1961 c 560 s 8]

**73.42 REQUIREMENTS OF CODE.** The code shall specify reasonable minimum requirements for fire safety in new and existing buildings and facilities. Regulations may be in accordance with the size, type of construction and nature of use or occupancy of such buildings or facilities. No regulation made in accordance with sections 73.41 to 73.43, shall be inconsistent with the provisions of the statutes nor impair the rights of municipalities to enact ordinances and make orders with respect to buildings as provided by law, so far as such ordinances or orders specify requirements equal to, additional to or more stringent than the regulations issued under the authority of sections 73.41 to 73.43.

[1957 c 723 s 2]

**73.43 FILING OF CODE AND AMENDMENTS.** The code and all amendments thereto shall be filed with the secretary of state and published in accordance with Minnesota Statutes, sections 15.046 to 15.049, and in addition thereto a copy shall be provided each local fire marshal, fire chief, building inspector, or other governmental official who request a copy of the code.

[1957 c 723 s 3]

**73.44 VIOLATIONS.** Any person who violates any provision of the fire safety code shall be fined not more than \$200 or imprisoned not more than three months or both. No person shall be convicted of violating the fire safety code unless he shall have been given notice of the violation in writing and reasonable time to comply.

[1957 c 723 s 4]

**73.51 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 gases through implementing both the interstate commerce commission regulations, within the State of Minnesota, the rules and regulations 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 a liquefied petroleum gas of

suitable and safe vapor pressure be placed in these containers. To attain this end the filling or refilling of liquefied petroleum gas containers by other than the owner or authorized person must be controlled and specific authority to prevent violation and encourage enforcement be established.

[1957 c 768 s 1]

**73.52 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 such 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 such container for a period of not less than one year prior to the final enactment and approval of sections 73.51 through 73.56, 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 sections 73.51 through 73.56 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.

[1957 c 768 s 2]

**73.53 LIQUEFIED PETROLEUM GAS CONTAINERS, IDENTIFYING DEVICES; UNLAWFUL ACTS.** If a liquefied petroleum 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 such owner or a person authorized in writing by him: (a) To fill or refill such container with liquefied petroleum 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 such 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 such container.

[1957 c 768 s 3]

**73.54 PRESUMPTIVE EVIDENCE OF UNLAWFUL USE OF LIQUEFIED PETROLEUM GAS CONTAINERS.** The use of a liquefied petroleum gas container or containers by any person other than the person whose name, mark, initial or device shall be or shall have been upon such liquefied petroleum gas container or containers, without written consent or purchase of such marked and distinguished liquefied petroleum gas container, for the sale of liquefied petroleum gas or filling or refilling with liquefied petroleum gas, or the possession of such liquefied petroleum gas containers by any person other than the person having his name, mark, initial or other device thereon, without the written consent of such owner, shall and is hereby declared to be presumptive evidence of the unlawful use, filling or refilling, transition of, or trafficking in such liquefied petroleum gas containers.

[1957 c 768 s 4]

**73.55 VIOLATIONS, SEARCH WARRANTS.** Whenever any person, or the president, secretary, treasurer, or other officer of any corporation mentioned in sections 73.51 to 73.56, or his duly authorized agent who has personal knowledge of the facts, shall make oath in writing before any justice of the peace or police judge, or other magistrate, that the party so making such affidavit has reason to believe and does believe that any of his, her, its or their liquefied petroleum gas containers marked with the name, initials, mark or other device of said owner, are in the possession of or being used by or being filled or refilled or transferred by any person whose name, initials, mark or other device does not appear on said containers, and who is in the possession of, filling or refilling, or using any such containers without the written consent of the owner of such name, initials or trade mark, the said magistrate 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 same, and may also cause to be brought before him the person in whose possession such containers may be found, and shall then inquire into the circumstances of such possession; and if such magistrate finds that such person

has been guilty of a violation of sections 73.51 through 73.56, he shall impose the punishment herein prescribed, and he shall also award the possession of property taken upon such search warrant to the owner thereof.

[1957 c 768 s 5]

**73.56 MISDEMEANOR.** Any person who shall fail to comply with any of the foregoing provisions of sections 73.51 through 73.56 shall be deemed guilty of a misdemeanor for each separate offense.

[1957 c 768 s 6]

**73.57 PUBLIC BUILDINGS, USE BY HANDICAPPED; DEFINITIONS.** Subdivision 1. When used in sections 73.57 to 73.61, the following words and phrases have the meanings ascribed to them in this section.

Subd. 2. "Public building" means any building and the grounds appurtenant thereto, the cost of which is paid for by the state of Minnesota or any governmental subdivision thereof, or any agency of the state or of any governmental subdivision, or school district.

Subd. 3. "Physically handicapped" means sight disabilities, hearing disabilities, disabilities of incoordination, disabilities of aging, and any other disability that significantly reduces mobility, flexibility, coordination, or perceptiveness.

Subd. 4. "Fire marshal" means the fire marshal of the state of Minnesota.

Subd. 5. "Remodeling" means deliberate reconstruction of an existing building in whole or in part in order to bring it up to date in conformity with present uses of the structure and to which other rules and regulations on the upgrading of health and safety provisions are applicable.

[1963 c 813 s 1; 1965 c 243 s 1, 2]

**73.58 ADMINISTRATION.** The duty and the power to administer and enforce sections 73.57 to 73.61 is conferred upon and vested in the fire marshal.

[1963 c 813 s 2]

**73.59 SPECIFICATIONS AND STANDARDS.** Subdivision 1. The fire marshal shall promulgate in the manner otherwise provided by law, reasonable rules and regulations necessary for or incident to the administration of sections 73.57 to 73.61, which among other matters shall prescribe specifications making public buildings constructed or remodeled after final enactment of sections 73.57 to 73.61 accessible to and usable by physically handicapped persons. In prescribing the specifications the fire marshal shall set minimum specifications as set forth in the booklet entitled, "American Standard Specifications For Making Buildings And Facilities Accessible To And Usable By The Physically Handicapped," approved by the American Standard Association, Incorporated, on October 31, 1961.

Subd. 2. Nothing in sections 73.57 to 73.61 shall be construed to require the remodeling of public buildings solely to provide accessibility and usability to the physically handicapped when remodeling would not otherwise be undertaken.

[1963 c 813 s 3; 1965 c 243 s 3]

**73.60 APPROVAL AND REVIEW OF PLANS AND SPECIFICATIONS.** Construction or remodeling shall not be hereafter commenced of any public building owned by the state of Minnesota until the plans and specifications of the public building have been approved by the fire marshal. In the case of any other public building defined in section 73.57 but not owned by the state of Minnesota to be constructed or remodeled the plans and specifications thereof shall be submitted to the fire marshal for review and within 30 days after his receipt thereof he shall notify the submitting authority of his recommendations if any. The provisions of this section are inapplicable to contracts awarded prior to April 23, 1965.

[1963 c 813 s 4; 1965 c 243 s 4]

**73.61 EFFECTIVE DATE.** Subdivision 1. Except as hereinafter provided sections 73.57 to 73.61 are effective on the first day of July next following its final enactment.

Subd. 2. The fire marshal may promulgate the rules and regulations provided for in section 73.59 at any time after the final enactment of sections 73.57 to 73.61.

[1963 c 813 s 5]

**73.62 ENFORCEMENT.** Subdivision 1. It shall be the duty of the commissioner to enforce all laws of the state, thereof, as follows:

(1) The prevention of fires;

- (2) The storage, sale, and use of combustibles and explosives;
- (3) The means and adequacy of exits, in case of fire, from churches, schools, halls, theatres, amphitheatres, and all other places in which numbers of persons congregate, from time to time, for any purpose; and
- (4) The suppression of arson and investigation of the cause, origin, and circumstances of fire.

Subd. 2. (1) It shall be the duty of the commissioner to inspect, or cause to be inspected, at least once annually, every hotel in this state; and, for that purpose, he, or any of his deputies, or designated subordinates, 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 Minnesota Statutes 1945, Sections 157.01 to 157.14, as amended, in so far as the same relate to fire prevention or fire protection of hotels, or the rules and regulations promulgated thereunder, or is being conducted in such manner as to violate any other law of this state relating to fire prevention and fire protection of hotels, the commissioner and his deputies or designated alternates shall proceed as provided for in sections 157.01 to 157.14, or otherwise by statute.

(2) The word "hotel," as used in this subdivision, means any building or other structure, or any part thereof, kept, used, or maintained as, advertised as, or held out to the public to be an inn, an hotel, or other place where sleeping accommodations are furnished persons for hire, whether with or without meals, or a multiple dwelling housing five or more families.

(3) All powers and duties in sections 157.01 to 157.14, which relate to fire prevention and fire protection of hotels and which are by sections 157.01 to 157.14, now conferred upon the hotel inspector, are hereby transferred to and vested in the commissioner.

[1911 c 386 s 2; 1913 c 564 s 2; 1949 c 469 s 1] (3288, 5950)