

CHAPTER 299F

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 [Repealed, 1981 c 106 s 16]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 rules 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 dwelling unit in which the day care provider provides the services referred to in section 245A.02, subdivision 10, 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 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. 4b. The uniform fire code shall not require stairways of existing multiple dwelling buildings of two stories or less to be enclosed. For the purposes of this subdivision the term "stories" has the meaning given it in the state building code.

Subd. 5. **Appeal policy.** 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. 5a. **Local board of appeal.** Local governing bodies may appoint boards of appeal to hear and rule on appeals from orders issued under the fire code. An appeal from a local board of appeal may be made to the local governing body. If a board of appeal is not appointed, the appeals of orders must be made directly to the governing body. Local boards of appeal and governing bodies are not liable for damages in connection with granting variances, abatements, denials, or modifications of orders from the fire code that are made in good faith.

Subd. 5b. When considering appeals for variances from the fire code, the local appeal board or governing body, the state fire marshal, a state administrative law judge, and a court shall take into consideration the benefit to be obtained by complying with the fire marshal's orders and the effect on affordable housing, provided that the spirit of the code is complied with and public safety secured.

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 the person shall have been given notice of the violation in writing and reasonable time to comply. The notice must contain a statement explaining the right to appeal the orders.

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; 1985 c 248 s 70; 1986 c 444; 1Sp1986 c 3 art 4 s 10; 1987 c 201 s 1-3; 1987 c 333 s 22; 1990 c 388 s 1

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 instal-

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

299F.035 FIRE DEPARTMENT ACCESS TO AND USE OF CRIMINAL HISTORY DATA.

Subdivision 1. Definitions. (a) The definitions in this subdivision apply to this section.

(b) "Criminal history data" has the meaning given in section 13.87.

(c) "Criminal justice agency" has the meaning given in section 299C.46, subdivision 2.

(d) "Fire department" has the meaning given in section 299F.092, subdivision 6.

(e) "Private data" has the meaning given in section 13.02, subdivision 12.

Subd. 2. Access to data. The superintendent of the bureau of criminal apprehension, in consultation with the state fire marshal, shall develop and implement a plan for fire departments to have access to criminal history data. The plan must include:

(1) security procedures to prevent unauthorized use or disclosure of private data; and

(2) a procedure for the hiring authority in each fire protection agency to fingerprint job applicants, submit requests to the bureau of criminal apprehension, and obtain state and federal criminal history data reports for a nominal fee.

Subd. 3. Relation of conviction to fire protection. Criminal history data may be used in assessing fire protection agency job applicants only if the criminal history data are directly related to the position of employment sought.

Subd. 4. Determination of relationship. In determining if criminal history data are directly related to the position of employment sought, the hiring authority may consider:

(1) the nature and seriousness of the criminal history data on the job applicant;

(2) the relationship of the criminal history data to the purposes of regulating the position of employment sought; and

(3) the relationship of the criminal history data to the ability, capacity, and fitness required to perform the duties and discharge the responsibilities of the position of employment sought.

History: 1989 c 290 art 8 s 1

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 on deeming 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 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: (5955) 1913 c 564 s 6; 1967 c 543 s 1; 1973 c 123 art 5 s 7; 1978 c 777 s 2,3; 1986 c 444

299F.05 EVIDENCE, TAKING OF.

Subdivision 1. **Investigations.** The state fire marshal, on determining that reasonable grounds exist to believe that a violation of sections 609.561 to 609.576 has occurred, or reasonable grounds to believe that some other crime has occurred in connection with a fire investigated pursuant to section 299F.04, 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, the superintendent 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 the superintendent 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: (5956) 1913 c 564 s 7; 1978 c 777 s 4; 1986 c 444

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

IMMUNITY FOR REPORTING ARSON

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 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 the person 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; 1986 c 444

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

INVESTIGATORY POWERS**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 the state fire marshal's 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: (5957) 1913 c 564 s 8; 1978 c 777 s 6; 1986 c 444

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: (5958) 1913 c 564 s 9

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 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 the 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 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.

Subd. 4. Securing the scene. In order to prevent the loss, destruction, or alteration of evidence at a fire scene, fire officials may secure fire scenes for up to 48 hours after having extinguished the fire while warrants are obtained or while the investigation authorized in this section is conducted. Fire scene security may be accomplished by preventing any person from entering the fire scene or from removing property from the fire scene. An individual may enter the fire scene if accompanied by the fire official conducting the investigation, or if the individual obtains the fire official's written permission. Persons not complying with the fire security measures under this subdivision are guilty of obstructing legal process as defined in section 609.50. Nothing in this subdivision shall be construed to increase the civil liability of fire officials or to decrease municipal or state immunities as set forth in section 3.736 or 466.03.

History: (5959) 1913 c 564 s 10; 1981 c 106 s 2; 1985 c 141 s 1; 1986 c 444

299F.09 BUILDINGS, ENTERED WITHIN REASONABLE HOURS.

The state fire marshal, 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: (5960) 1913 c 564 s 11; 1973 c 123 art 5 s 7; 1981 c 106 s 3; 1986 c 444

HAZARDOUS SUBSTANCE EMERGENCIES**299F.091 CITATION.**

Sections 299F.091 to 299F.099 may be cited as the "community emergency response hazardous substances protection act."

History: 1Sp1986 c 1 art 10 s 10

299F.092 DEFINITIONS.

Subdivision 1. Scope. The terms used in sections 299F.091 to 299F.099 have the meanings given them in this section.

Subd. 2. Classified information. "Classified information" means information, data, or both that, for security reasons, has been given a special security classification such as "secret," "confidential," "private," or "nonpublic," by federal statute or rule and that, when so classified, is subject to handling, use, and storage in accordance with established standards to prevent unauthorized use or disclosure.

Subd. 3. Commissioner. "Commissioner" means the commissioner of public safety.

Subd. 4. Emergency response personnel. "Emergency response personnel" means personnel employed or authorized by the federal government, the state, or a political subdivision to provide fire suppression, police protection, emergency medical services, or emergency activities relating to health and safety.

Subd. 5. Employer. "Employer" means an employer as defined in section 182.651, subdivision 7. For the purposes of sections 299F.091 to 299F.099, "employer" also means a partnership or a self-employed person, whether or not the partnership or person has other employees. "Employer" does not mean a farm that is a "small business."

Subd. 6. Fire department. "Fire department" means a regularly organized fire department, fire protection district, or fire company as defined in the uniform fire code adopted under section 299F.011, regularly charged with the responsibility of providing fire protection to the state or a political subdivision.

Subd. 7. Hazard category. "Hazard category" means a list or description of hazardous substances, as developed by rule by the commissioner of public safety, including human reproductive hazards, flammable substances, human carcinogens, explosives, corrosives, and reactive agents, that present similar hazards in an emergency, or individual hazardous substances of special concern to emergency response personnel.

Subd. 8. Hazardous substance. "Hazardous substance" means a substance or mixture as defined in section 182.651, subdivisions 14, 17, and 18, except that sections 299F.091 to 299F.099 do not apply to any hazardous substance while it is being transported in interstate or intrastate commerce.

Subd. 9. Hazardous substance notification advisory committee. "Hazardous substance notification advisory committee" is the committee established under section 299F.097.

Subd. 10. Hazardous substance notification report. "Hazardous substance notification report" means a written record submitted to a fire department, for each workplace, that contains the information required in section 299F.094.

Subd. 11. **Local fire department.** "Local fire department" means the fire department that would normally respond to a fire at a given workplace.

Subd. 12. **Material safety data sheet.** "Material safety data sheet" means a completed form recognized by the occupational safety and health administration, equivalent manufacturer's literature, or another form containing substantially the same information pertaining to a specific hazardous substance or a mixture containing one or more hazardous substances.

Subd. 13. **Nonpublic data.** "Nonpublic data" has the meaning given it in section 13.02, subdivision 9.

Subd. 14. **Significant change.** "Significant change" means a change in the reportable quantity of a hazardous substance that places the substance in a different quantity range as specified on the hazardous substance notification report form.

Subd. 15. **Small business.** "Small business" means a business entity organized for profit, including any individual, partnership, corporation, joint venture, association, or cooperative that has 20 or fewer full-time employees, or equivalent full-time employees during the preceding fiscal year or not more than \$1,000,000 in annual gross revenue in the preceding fiscal year, and that is not an affiliate or subsidiary of a business having more than 20 full-time or equivalent full-time employees and more than \$1,000,000 in annual gross revenues. For the purposes of this subdivision, "equivalent full-time employees" means part-time employees' work time combined to total 2,000 hours or the equivalent of one full-time employee.

Subd. 16. **Work area.** "Work area" means a defined space in a workplace where hazardous chemicals are stored, produced, or used and where employees are present.

Subd. 17. **Workplace.** "Workplace" means an establishment at one geographical location containing one or more work areas.

History: *1Sp1986 c 1 art 10 s 11*

299F.093 POWERS AND DUTIES OF COMMISSIONER.

Subdivision 1. **Duties.** (a) The commissioner shall:

(1) adopt rules no later than July 1, 1987, with the advice of the hazardous substance notification advisory committee, establishing the form and content of the hazardous substance notification report form, as required by section 299F.094, and describing one or more hazard categories with specified ranges of quantities in each hazard category, representing increments of substantially increased risk;

(2) print and provide to individual fire departments the requested number of hazardous substance notification reports, which must be made available to a fire department no more than 90 days following its request, for the fire department to mail or otherwise make available to employers in the jurisdiction;

(3) report to the legislature, as needed, on the effectiveness of sections 299F.091 to 299F.099 and recommend amendments to sections 299F.091 to 299F.099 that are considered necessary;

(4) appoint a hazardous substance notification advisory committee as required in section 299F.097;

(5) adopt rules to implement sections 299F.091 to 299F.099, compatible with the Minnesota Uniform Fire Code so as to not limit the authority of local fire officials under that code; and

(6) in consultation with the hazardous substance notification advisory committee, adopt rules that are based on the most recent standard 704, adopted by the National Fire Protection Association, and that allow a fire department to require employers within its jurisdiction to post signs conforming to standard 704, and indicating the presence of hazardous substances. If the signs are required, a fire department shall supply the signs or provide information to assist an employer to obtain them.

(b) The commissioner shall adopt criteria and guidelines, with the concurrence of the hazardous substance notification advisory committee, for the disbursement of

funds pursuant to Laws 1986, First Special Session chapter 1, article 10, section 20, subdivision 1. These criteria and guidelines are exempt from the Minnesota administrative procedure act.

Subd. 2. Investigation powers. The commissioner shall, at the request of a local fire department, investigate suspected violations of sections 299F.091 to 299F.099.

History: *1Sp1986 c 1 art 10 s 12*

299F.094 REPORT REQUIRED; CONTENTS.

Subdivision 1. Employer's duty. Except as provided in section 299F.096, subdivision 2, an employer who receives a hazardous substance notification report shall submit to the local fire department a completed hazardous substance notification report form containing the information and in the manner required by this section and the rules of the commissioner, within two months after receiving a hazardous substance notification report. As an alternative, an employer may, at the discretion of the local fire department, arrange with the local fire department for a date certain upon which that department may conduct an inspection of that employer's workplace in order for the employer to provide the information, or essentially the same information, as contained in the report form to the local fire department.

Subd. 2. Contents of form. The hazardous substance notification report must be completed on a form developed by the commissioner of public safety and contain the following information: (1) the range of maximum combined quantities of all hazardous substances contained in each designated hazard category that may reasonably be expected to be present in the workplace during normal operations; (2) the street address and any other special identifier of the workplace; and (3) the employer's name and street address with the telephone numbers of responsible persons in charge of the workplace who can be reached at all times.

Subd. 3. Updated information. If, after review of the hazardous substance notification report of an employer, a local fire department requires additional information, then the employer:

(1) shall provide, at the request of that fire department, a material safety data sheet, or any requested portion of it, for any hazardous substance contained in any designated hazard category covered by the hazardous substance notification report; and

(2) shall respond as soon as possible, but in no case later than 30 days, to a request by a local fire department for clarification of any information previously submitted or to a request for additional information under sections 299F.091 to 299F.099.

Subd. 4. Prompt notification of changes. An employer shall promptly notify the local fire department of significant changes in the information provided under this section, but not later than 30 days after each significant change.

Subd. 5. Inspections; emergency plans. At the request of the local fire department, an employer shall permit the local fire department inspection and cooperate in the preparation of fire and emergency plans.

History: *1Sp1986 c 1 art 10 s 13*

299F.095 POWERS AND DUTIES OF FIRE DEPARTMENTS.

To the extent feasible, given the amount of funds and training available, the local fire department shall:

(1) mail or otherwise distribute hazardous substance notification report forms to employers within the jurisdiction of the fire department except for those employers for whom an inspection has been arranged or employers from whom a hazardous substance notification is considered not necessary by the fire department;

(2) retain and evaluate each hazardous substance notification report and notification of significant change submitted by each employer until the employer's workplace ceases to exist or the fire department determines retention of the hazardous substance notification report is no longer necessary;

(3) develop for fire department use appropriate fire and emergency procedures for the hazardous substance risks of each workplace based on the information received;

(4) investigate suspected violations of sections 299F.091 to 299F.099, and issue appropriate orders for compliance; and

(5) provide available material safety data sheets and hazardous substance notification reports at the request of other emergency response personnel.

Data collected under sections 299F.091 to 299F.099 is nonpublic data within the meaning of section 13.02, subdivision 9.

History: *1Sp1986 c 1 art 10 s 14*

299F.096 DUTY TO SAFEGUARD PRIVATE INFORMATION.

Subdivision 1. Nonpublic data. Before a fire department and emergency response personnel may have access to information received under section 299F.094, the department shall establish security procedures to prevent unauthorized use or disclosure of nonpublic data. Nonpublic data must be made available in an emergency to emergency response personnel. No liability results under sections 299F.091 to 299F.099 with respect to disclosure of nonpublic data if emergency response personnel, in response to an emergency, reasonably determine that the use or disclosure of the data is necessary to expedite medical services or to protect persons from imminent danger. As soon as practicable after disclosure of nonpublic data is made by emergency response personnel, the circumstances necessitating the disclosure and the actual or estimated extent of the disclosure must be described in writing by the personnel and provided to the employer.

Subd. 2. Classified information. When the notification required in section 299F.094 involves classified information, the employer shall, without revealing the classified information, attempt to provide the local fire department with that information necessary to protect the department, emergency response personnel, and the public in an emergency. The employer is also responsible for requesting changes in the classification of classified information or declassification of that material when it is considered necessary by a local fire department in advance of an emergency to protect emergency response personnel or the public. An employer is not required to reveal classified information, except in an emergency, without prior governmental approval, and in an emergency, an employer shall disclose to emergency response personnel appropriate elements of classified information that are reasonably necessary to protect human life. An employer may choose to make classified information available to the local fire department or emergency response personnel if necessary for emergency preplanning purposes. In those cases, classified information (1) may be made available to a local fire department or emergency response personnel only after it has been demonstrated that the personnel intended to have access to the classified information meet access requirements applicable to the facilities and to personnel having access to classified information, and (2) must be protected from disclosure by the local fire department and emergency response personnel in accordance with applicable rules and statutes.

History: *1Sp1986 c 1 art 10 s 15*

299F.097 HAZARDOUS SUBSTANCE NOTIFICATION ADVISORY COMMITTEE.

The hazardous substance notification advisory committee is created. The committee shall consist of 11 members to be appointed by the commissioner of public safety to advise on the development of rules to implement and enforce sections 299F.091 to 299F.099 and to assist in the development of amendments to the hazardous substance notification report. The advisory committee shall consist of representation from fire chiefs; professional firefighters; volunteer firefighters; fire marshals; law enforcement personnel; emergency medical personnel; an independent health professional with training in toxicology; and four representatives from business and industry, at least one of whom shall represent small business. The committee must be appointed, serve,

expire, and be compensated in the manner provided in section 15.059, and shall serve at the pleasure of the commissioner.

History: 1Sp1986 c 1 art 10 s 16; 1988 c 629 s 58

299F.098 PENALTIES.

(a) An employer who violates a provision of sections 299F.091 to 299F.099 or a rule or order adopted or made under the authority of those sections, that is determined by rule not to be a violation of a serious nature, may be assessed a fine not to exceed \$1,000.

(b) An employer who violates a provision of sections 299F.091 to 299F.099 or a rule or order adopted or made under the authority of those sections, that is determined by rule to be of a serious nature, must be assessed a fine not to exceed \$1,000 for each violation.

(c) An employer who is convicted of knowingly making a false statement, representation, or certification in an application, record, report, plan, or other document filed or required to be maintained under sections 299F.091 to 299F.099 is guilty of a gross misdemeanor.

(d) An employer who is convicted of willfully or repeatedly violating the requirements of sections 299F.091 to 299F.099 or a rule or order adopted or made under those sections is guilty of a gross misdemeanor.

(e) The penalties provided by this section may be imposed in a criminal action in the name of the state brought in the district court of the county in which the violation is alleged to have occurred or the district court where the commissioner has an office. Fines imposed under sections 299F.091 to 299F.099 must be paid to the commissioner of public safety and deposited in the general fund.

(f) No employer may be convicted for violating sections 299F.091 to 299F.099 or a rule or order made or issued under those sections unless the employer was notified of the violation in writing and given a reasonable time to comply.

History: 1Sp1986 c 1 art 10 s 17

299F.099 LOCAL ORDINANCES.

Sections 299F.091 to 299F.099 preempt and supersede any local ordinance or rule concerning the subject matter of those sections.

History: 1Sp1986 c 1 art 10 s 18

UNSAFE BUILDINGS

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 willfully disobey the order directing the closing of the building pending the making of these repairs shall be guilty of a misdemeanor.

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

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 the 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 the treasurer as provided by law.

History: (5961-1) 1939 c 200; 1941 c 123; 1973 c 582 s 3; 1986 c 444

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 the state fire marshal may order such exits to be opened and such means of escape to be provided as are judged reasonably necessary to eliminate the danger arising therefrom.

History: (5962) 1913 c 564 s 12; 1917 c 469 s 1; 1986 c 444

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 court administrator 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: (5963) 1913 c 564 s 13; 1917 c 469 s 1; 1Sp1986 c 3 art 1 s 82

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 any 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 the state fire marshal's filing in the office of the court administrator of the district court an 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 court administrator 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: (5964) 1913 c 564 s 14; 1917 c 469 s 1; 1947 c 417 s 1; 1986 c 444; 1Sp1986 c 3 art 1 s 82

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 court administrator 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 the owner 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: (5965) 1913 c 564 s 15; 1917 c 469 s 1; 1947 c 417 s 2; 1978 c 674 s 60; 1986 c 444; 1Sp1986 c 3 art 1 s 82

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

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 the purchaser shall be void, and the purchase price paid 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 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 the 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 the owner's 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: (5967) 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; 1986 c 444

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

EXPLOSIVES RULES**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

FAILURE TO PERFORM DUTY; PENALTY

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

FIRE INSURANCE TAX

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

Subdivision 1. **Estimated installment payments.** On or before April 15, June 15, and December 15 of each year, every licensed insurance company, including reciprocals or interinsurance exchanges, doing business in the state, excepting farmers' mutual fire insurance companies and township mutual fire insurance companies, shall pay to the commissioner of revenue installments equal to one-third of, a tax upon its fire premiums or assessments or both, based on a sum equal to one-half of one percent of the estimated fire premiums and assessments, less return premiums and dividends, on all direct business received by it in this state, or by its agents for it, in cash or otherwise, during the 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. A company that fails to make payments of at least one-third of either (1) the total tax paid during the previous calendar year or (2) 80 percent of the actual tax for the current calendar year is subject to the penalty and interest provided in this chapter, unless the total tax for the current tax year is \$500 or less.

Subd. 1a. **Addition to tax.** In case of an underpayment of installments by an insurer, there must be added to the tax for the taxable year an amount determined at the rate specified in section 270.75 upon the amount of underpayment.

Subd. 1b. **Amount of underpayment.** For purposes of subdivision 1a, the amount of the underpayment is the excess of: (1) the amount of the installment; over (2) the amount, if any, of the installment paid on or before the last date prescribed for payment.

Subd. 1c. **Period of underpayment.** The period of the underpayment runs from the date the installment was required to be paid to the earliest of the following dates:

- (1) on March 1 following the close of the taxable year;
- (2) with respect to any portion of the underpayment, the date on which that portion is paid. For purposes of this clause, a payment of estimated tax on any installment date is considered a payment of any previous underpayment only to the extent the payment exceeds the amount of the installment determined under clause (1), for the installment date.

Subd. 1d. **Definition of tax.** The term "tax" means the tax imposed by this chapter.

Subd. 1e. **Failure to file estimate.** In the case of an insurer that fails to file an estimated tax statement for a taxable year when one is required, the period of the underpayment runs from the installment dates as set forth in subdivision 1 to whichever of the periods set forth in subdivision 1c is the earlier.

Subd. 2. **Annual returns.** (a) Every insurer required to pay a tax under this section shall make and file a statement of estimated taxes for the period covered by the installment tax payment. The statement shall be in the form prescribed by the commissioner of revenue.

(b) On or before March 1, annually every insurer subject to taxation under this section shall make an annual return for the preceding calendar year setting forth information the commissioner of revenue may reasonably require on forms prescribed by the commissioner.

(c) On March 1, the insurer shall pay any additional amount due for the preceding calendar year; if there has been an overpayment, the overpayment may be credited without interest on the estimated tax due April 15.

(d) If unpaid by this date, penalties and interest as provided in section 289A.60, subdivision 1, shall be imposed.

History: (5973) 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; 1Sp1986 c 1 art 7 s 35; 1987 c 268 art 2 s 30-36; 1990 c 480 art 1 s 46; art 6 s 7

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 the commissioner deems necessary for determining the correctness of the return. The tax computed by the commissioner 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 3-1/2 years after the filing of the return.

The commissioner, having examined returns of a company for more than one year, 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; 1986 c 444

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, willfully 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 the commissioner's own knowledge and from the information obtained 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 289A.60, 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 289A.60, subdivision 6.

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 289A.60, subdivision 5.

History: 1965 c 499 s 2; 1969 c 1129 art 10 s 2; 1981 c 106 s 8; 1984 c 592 s 85; 1986 c 444; 1987 c 268 art 17 s 41; 1990 c 480 art 1 s 46

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 court administrator 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; 1Sp1986 c 3 art 1 s 82

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 a certificate for the refundment of the excess paid by the company, with interest at the rate specified in section 270.76 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; 1 Sp1985 c 14 art 15 s 17; 1986 c 444

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

OTHER PROVISIONS

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 may withhold from the public.

History: (5976) 1913 c 564 s 26; 1986 c 444

299F.29 COUNTY AND CITY ATTORNEYS TO ASSIST.

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

History: (5977) 1913 c 564 s 27; 1981 c 106 s 11; 1986 c 444

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, 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: (5978) 1913 c 564 s 28; 1971 c 516 s 1; 1973 c 11 s 1; 1986 c 444

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

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: (5980) 1913 c 564 s 30

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

299F.34 [Repealed, 1990 c 388 s 3]

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: (5983) 1913 c 564 s 33

299F.36 [Repealed, 1990 c 388 s 3]

FIRE PROTECTION

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. 3a. **New construction; dwellings.** In construction of a new dwelling, each smoke detector must be attached to a centralized power source.

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. An owner may file inspection and maintenance reports with the local fire marshal for establishing evidence of inspection and maintenance of smoke detectors.

Subd. 5a. **Inform owner; no added liability.** The occupant of a dwelling unit must inform the owner of the dwelling unit of a nonfunctioning smoke detector within 24 hours of discovering that the smoke detector in the dwelling unit is not functioning. If the occupant fails to inform the owner under this subdivision, the occupant's liability for damages is not greater than it otherwise would be.

Subd. 6. **Penalties.** (a) Any person who violates any provision of this section shall be subject to the same penalty and the enforcement mechanism that is provided for violation of the uniform fire code, as specified in section 299F.011, subdivision 6.

(b) An occupant who willfully disables a smoke detector or causes it to be nonfunctioning, resulting in damage or injury to persons or property, is guilty of a misdemeanor.

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.

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

Subd. 9. Notwithstanding subdivision 7, or other law, a local governing body may adopt, by ordinance, rules for the installation of a smoke detector in single-family homes in the city that are more restrictive than the standards provided by this section. Rules adopted pursuant to this subdivision may be enforced through a truth-in-housing inspection.

Subd. 10. **Public fire safety educator.** The position of Minnesota public fire safety educator is established in the department of public safety.

History: 1977 c 333 s 2; 1978 c 777 s 7; 1987 c 122 s 1; 1987 c 201 s 4-6; 1989 c 322 s 1-5

NOTE: Subdivision 10, as added by Laws 1989, chapter 322, section 5, is repealed June 30, 1991. See Laws 1989, chapter 322, section 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 nonstandard 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 [Repealed, 1990 c 388 s 3]

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 the owner: (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 whose name, mark, initial or other device is 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 the person's or officer's 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, the judge 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; 1986 c 444

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 [Repealed, 1990 c 388 s 3]

299F.454 [Repealed, 1990 c 388 s 3]

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, the commissioner, or the commissioner's 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 the 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: (3288, 5950) 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; 1986 c 444

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

INTRASTATE GAS PIPELINE SAFETY

299F.56 DEFINITIONS; NATURAL GAS PIPELINE SAFETY.

Subdivision 1. As used in sections 299F.56 to 299F.641, the terms defined in this section shall have the meanings given them.

Subd. 2. "The federal Natural Gas Pipeline Safety Act" means United States Code, title 49, sections 1671 to 1686.

Subd. 2a. "The federal Hazardous Liquid Pipeline Safety Act" means United States Code, title 49, sections 2001 to 2014.

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, liquefied natural gas, flammable gas, or gas which is toxic or corrosive. "Gas" also includes liquefied petroleum gas in distribution systems.

Subd. 4a. "Hazardous liquid" means "hazardous liquid" and "highly volatile liquid" as defined in Code of Federal Regulations, title 49, section 195.2.

Subd. 4b. "Liquefied natural gas" means natural gas or synthetic gas having methane (CH₄) as its major constituent that has been changed to a liquid or semisolid.

Subd. 5. "Transportation" means the gathering, transmission, or distribution of gas or hazardous liquid by pipeline or its storage; except that it shall not include any such transportation of gas or hazardous liquid which is subject to the jurisdiction of the Federal Energy Regulatory Commission under the Natural Gas Act of the United States and the federal Hazardous Liquid Pipeline Safety Act, or the gathering of gas or hazardous liquid 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 office of pipeline safety may define as a nonrural area.

Subd. 6. "Gas 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. "Pipeline facilities" shall not include any facilities subject to the jurisdiction of the Federal Energy Regulatory Commission under the Natural Gas Act of the United States.

Subd. 6a. "Hazardous liquid pipeline facilities" includes, without limitation, new and existing pipe, rights-of-way, and any equipment, facility, or building used or intended for use in the transportation of hazardous liquids including transportation by gravity or at a stress level of 20 percent or less of the specified minimum yield strength of the pipe.

Subd. 7. "Commissioner" means the commissioner of public safety, acting through the director of pipeline safety.

History: 1969 c 988 s 1; 1973 c 123 art 5 s 7; 1975 c 31 s 1; 1987 c 353 s 14; 1988 c 624 s 3-10; 1989 c 244 s 8,9

299F.57 SAFETY STANDARDS; GAS PIPELINES.

Subdivision 1. The commissioner may by rule establish additional or more stringent safety standards for the transportation of gas and gas pipeline facilities. Such standards may apply to the design, installation, inspection, testing, construction, extension, operation, replacement, and maintenance of gas pipeline facilities. These standards may include a requirement that individuals responsible for the operation and maintenance of gas pipeline facilities be tested for qualifications and certified to perform these functions. The standards may not prescribe the location or routing of a pipeline facility. Standards affecting the design, installation, construction, initial inspection, and initial testing shall not be 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 commissioner 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 federal Natural Gas Pipeline Safety Act.

Provided, however, that the commissioner 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 Energy Regulatory Commission under the Natural Gas Act of the United States, except as provided in sections 299J.01 to 299J.17.

Subd. 1a. **Adoption of federal standards.** The federal safety standards adopted as Code of Federal Regulations, title 49, parts 191, 192, and 193, and standards that may be adopted that amend parts 191, 192, and 193, are adopted as minimum safety standards.

Subd. 2. [Repealed by amendment, 1989 c 244 s 10]

Subd. 3. The rulemaking, contested case, and judicial review provisions of chapter 14 shall apply to all rules and orders establishing, amending, revoking, or waiving compliance with any standard established under sections 299F.56 to 299F.641 or any penalty imposed under sections 299F.56 to 299F.641. The commissioner 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. The commissioner, on finding a particular facility to be hazardous to life or property, 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 commissioner may, after notice and opportunity for hearing and under such terms and conditions and to such extent as the commissioner deems appropriate, waive in whole or in part compliance with any standards established under sections 299F.56 to 299F.64, on determining that a waiver of compliance with such standard is not inconsistent with gas pipeline safety. The commissioner shall state the reasons for any such waiver.

History: 1969 c 988 s 2; 1971 c 24 s 32; 1982 c 424 s 130; 1986 c 444; 1987 c 353 s 15; 1988 c 624 s 11,12; 1989 c 244 s 10

299F.58 CERTIFICATIONS AND REPORTS.

The commissioner is authorized to make certifications and reports to the United States Secretary of Transportation as may be required from time to time under the federal Natural Gas Pipeline Safety Act.

History: 1969 c 988 s 3; 1987 c 353 s 16; 1988 c 624 s 13

299F.59 COMPLIANCE WITH STANDARDS.

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

(1) at all times after the date any applicable safety standard established under sections 299F.56 to 299F.641 takes effect comply with the requirements of such standard;

(2) file and comply with a plan for operation and maintenance required by sections 299F.56 to 299F.641;

(3) 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.641 and the standards adopted or orders issued under sections 299F.56 to 299F.641; and

(4) comply with sections 216D.01 to 216D.07, the one call excavation notice system.

Subd. 2. Nothing in sections 299F.56 to 299F.641 shall affect the common law or statutory tort liability of any person.

History: 1969 c 988 s 4; 1988 c 624 s 14; 1989 c 244 s 11

299F.60 CIVIL PENALTIES.

Subdivision 1. Any person who violates any provision of sections 299F.56 to 299F.641, or any rule issued thereunder, shall be subject to a civil penalty to be imposed by the commissioner not to exceed \$10,000 for each such violation for each day that such violation persists, except that the maximum civil penalty shall not exceed \$500,000 for any related series of violations.

Subd. 2. The commissioner may negotiate a compromise settlement of a civil penalty. In determining the amount of such penalty, or the amount of the compromise settlement, the commissioner 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 commissioner imposing any penalty for violations of sections 299F.56 to 299F.641 or any rule 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.641 and under the federal Natural Gas Pipeline Safety Act or the federal Hazardous Liquid Pipeline Safety Act, for conduct which may give rise to a violation of both acts.

Subd. 4. All penalties collected under sections 299F.56 to 299F.641 shall be paid over to the state treasurer for deposit in the state treasury to the credit of the pipeline safety account.

Subd. 5. **Rules.** The commissioner shall adopt rules establishing reasonable guidelines for imposing penalties. The rules must treat separately and distinguish between violations that relate to hazardous liquid pipelines, gas pipelines, and other pipelines; must provide for notice that a penalty is assessed; and may exempt activities from penalties unless the person has evidenced a course of action in disregard of this chapter.

History: 1969 c 399 s 1; 1969 c 988 s 5; 1975 c 31 s 2,3; 1982 c 424 s 130; 1985 c 248 s 70; 1987 c 353 s 17; 1989 c 244 s 12

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.641, including the restraint of transportation of gas or hazardous liquid or the operation of a pipeline facility, or to enforce standards established under sections 299F.56 to 299F.641 upon petition by the attorney general on behalf

of the state of Minnesota. Whenever practicable, the commissioner shall give notice to any person against whom an action for injunctive relief is contemplated and afford the person an opportunity to present views, and, except in the case of a knowing and willful violation, shall afford the person 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.641 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; 1986 c 444; 1987 c 353 s 18; 1989 c 244 s 13

299F.62 PLAN FOR OPERATION AND MAINTENANCE; GAS PIPELINES.

Each person who engages in the transportation of gas or who owns or operates gas pipeline facilities subject to sections 299F.56 to 299F.641 shall prepare, maintain, carry out, and file with the commissioner a plan for operation and maintenance of each such pipeline facility owned or operated by such person, and any changes in such plan, in accordance with the rules prescribed by the commissioner. On finding that such plan is inadequate to achieve safe operation, the commissioner shall, after notice and opportunity for a hearing, require such plan to be revised. The plan required by the commissioner shall be practicable and designed to meet the need for pipeline safety. In determining the adequacy of any such plan, the commissioner 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; 1985 c 248 s 70; 1986 c 444; 1987 c 353 s 19; 1988 c 624 s 15; 1989 c 244 s 14

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

Subdivision 1. (a) The commissioner may, to the extent necessary to carry out the enforcement responsibilities of sections 299F.56 to 299F.641, conduct investigations, make reports, issue subpoenas, require the production of relevant documents and records, take depositions, and conduct research, testing, development, demonstration, and training activities.

(b) The commissioner may require each person who engages in the transportation of gas or hazardous liquid or who owns or operates pipeline facilities to establish and maintain records, and to make reports and provide information to the commissioner. The records and other information must be made available as the commissioner orders to enable the commissioner to determine whether the person has acted or is acting in compliance with sections 299F.56 to 299F.641 and the standards adopted or orders issued under sections 299F.56 to 299F.641.

(c) Officers, employees, and agents authorized by the commissioner, on presenting appropriate credentials to the person in charge, may enter upon, inspect, and examine, at reasonable times and in a reasonable manner, the records and properties of a person subject to regulation under sections 299F.56 to 299F.641 to the extent the records and properties are relevant to determine whether the person has acted or is acting in compliance with those sections and the standards adopted under those sections.

(d) An accident report made by an officer, employee, or agent of the office of pipeline safety is available for use in a civil, criminal, or other judicial proceeding arising out of the accident. The officer, employee, or agent may be required to testify in the proceedings as to the facts developed in the investigation. A report made available to

the public need not identify individuals. Reports on research projects, demonstration projects, and other related activities are public information.

(e) All information reported to or otherwise obtained by the commissioner under sections 299F.56 to 299F.641 that contains or relates to a trade secret referred to in United States Code, title 18, section 1905, is confidential for the purpose of that section, and is private or nonpublic data as defined in section 13.02. However, the information may be disclosed to other officers or employees authorized to enforce sections 299F.56 to 299F.641. Nothing in this section authorizes the withholding of information by the commissioner from a duly authorized committee of the legislature or the United States Congress.

Subd. 2. The commissioner must establish and implement an inspection program to enforce the standards adopted under section 299F.57. The program must be established and implemented in a manner that complies with requirements for state certification under United States Code, title 49, section 1674. In the course of the exercise of duties and responsibilities under sections 299F.56 to 299F.641, the commissioner shall wherever practicable employ a practice of spot checking, with respect to persons subject to sections 299F.56 to 299F.641.

Subd. 3. [Repealed by amendment, 1989 c 244 s 15]

Subd. 4. [Repealed, 1988 c 624 s 23]

History: 1969 c 988 s 8; 1984 c 654 art 3 s 84; 1986 c 444; 1987 c 353 s 20; 1988 c 624 s 16; 1989 c 244 s 15

299F.631 INSPECTION FEE.

Subdivision 1. **Assessment and deposit of fee.** From each pipeline operator subject to the intrastate pipeline inspection authority under sections 299F.56 to 299F.641, the commissioner shall assess and collect an inspection fee in an amount calculated under subdivisions 2 and 4. The assessment of the inspection fee must be made no fewer than 30 days after the end of the quarter. If an operator does not pay the fee within 60 days after the assessment was mailed, the commissioner may impose a delinquency fee of ten percent of the quarterly inspection fee and interest at the rate of 15 percent per year on the portion of the fee not paid. Fees collected under this section must be credited to the pipeline safety account.

Subd. 2. **Calculation of fee.** (a) For each quarter that an inspection fee is to be assessed, the commissioner shall calculate the total actual expenses and obligations incurred by the office of pipeline safety in implementing sections 299F.56 to 299F.641. The calculation must not include:

- (1) expenses that will be reimbursed by the federal government;
- (2) expenses attributable to follow-up inspections necessitated by the failure of a pipeline facility to comply with safety standards;
- (3) expenses attributable to investigations of specific pipeline facilities;
- (4) expenses attributable to inspections of newly constructed pipelines over 2,000 feet in length;
- (5) expenses attributable to the inspection of facilities carrying liquefied natural gas, and hazardous liquids;
- (6) expenses attributable to the inspection of facilities carrying liquefied petroleum gas, until the commissioner adopts a rule providing for metered billing of these facilities; and
- (7) expenses attributable to seeking and maintaining federal interstate agent status.

(b) The commissioner shall assess each pipeline operator for a pro rata share of the expenses and obligations calculated under paragraph (a), based on the number of meters in service on the preceding December 31.

(c) The expenses and obligations described in paragraph (a), clauses (2), (3), (4), and (5), must be directly charged to the appropriate pipeline operators on a quarterly

basis. The expenses and obligations described in paragraph (a), clause (6), must be directly charged to the appropriate pipeline operators on a quarterly basis until the commissioner adopts a rule providing for metered billing of facilities carrying liquefied petroleum gas.

Subd. 3. Rules. The commissioner shall adopt rules to implement this section.

Subd. 4. Support costs. The commissioner shall calculate the general support costs of the office of pipeline safety for the preceding quarter, and add to the inspection fee calculated under subdivision 2 the share of those costs that is proportionate to the amount of time spent by the office in implementing sections 299F.56 to 299F.641 with respect to that type of pipeline facility.

History: 1988 c 624 s 17; 1989 c 244 s 16

299F.64 FEDERAL MONEY.

The commissioner may accept any and all money 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 and safety standards for the transportation of natural and other gas, and hazardous liquids, by pipelines in accordance with the provisions of federal law and any rules or regulations promulgated thereunder and the commissioner 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 money.

History: 1969 c 988 s 9; 1985 c 248 s 70; 1987 c 353 s 21; 1988 c 624 s 18

299F.641 INTRASTATE HAZARDOUS LIQUID PIPELINES.

Subdivision 1. Jurisdiction. The commissioner has regulatory jurisdiction over the safety standards and practices of intrastate hazardous liquid pipeline facilities and the transportation of hazardous liquids associated with those facilities.

Subd. 2. Federal standards adopted. The federal safety standards adopted as Code of Federal Regulations, title 49, part 195, and standards that may be adopted that amend part 195, are adopted as minimum safety standards. The commissioner may by rule adopt additional or more stringent safety standards for intrastate hazardous liquid pipeline facilities and the transportation of hazardous liquids associated with those facilities, if the state standards are compatible with the federal standards. The standards may not prescribe the location or routing of a pipeline facility.

Subd. 3. Enforcement. The commissioner must establish and implement an inspection program to enforce the standards adopted under subdivision 2. The program must be established and implemented in a manner that complies with requirements for state certification under United States Code, title 49, section 2004.

Subd. 4. [Repealed by amendment, 1989 c 244 s 17]

Subd. 5. [Repealed by amendment, 1989 c 244 s 17]

Subd. 5a. Waiver. On application of a person engaged in the transportation of hazardous liquid or the operation of hazardous liquid pipeline facilities, the commissioner may, after notice and opportunity for hearing and under terms and conditions and to the extent the commissioner considers appropriate, waive in whole or in part compliance with standards established under this section, on determining that a waiver of compliance with a standard is consistent with hazardous liquid pipeline safety. The commissioner shall state the reason for a waiver.

Subd. 6. Operation and maintenance plan. (a) Each person who engages in the transportation of hazardous liquids or who owns or operates hazardous liquid pipeline facilities must prepare, maintain, and carry out a current written plan for operation and maintenance of each facility used in that transportation and owned or operated by that person as prescribed by the commissioner. The commissioner may, by regulation, also require persons who engage in the transportation of hazardous liquids or who own or operate pipeline facilities subject to this section to file the plans for approval. A plan required by this subdivision must be practicable, designed to meet the need for pipeline

safety, and available to the commissioner on request. The plan must enhance the commissioner's ability to discover a condition that causes a significant change or restriction in the operation of the pipeline facilities or constitutes a hazard to life or property.

(b) If the commissioner finds that a plan required under this subdivision is inadequate to achieve safe operation of pipeline facilities, the commissioner may, after notice and opportunity for a hearing, require the plan to be revised. In determining the adequacy of a plan filed under this section, the commissioner shall consider:

- (1) relevant available pipeline safety data;
- (2) whether the plan is appropriate for the particular type of pipeline transportation or facility;
- (3) the reasonableness of the plan; and
- (4) the extent to which the plan will contribute to public safety.

Subd. 7. Annual certification report. The commissioner is authorized to make certifications and reports to the United States Secretary of Transportation as may be required from time to time under the federal Hazardous Liquid Pipeline Safety Act.

Subd. 8. Civil relief. The safety standards adopted under this section may be enforced as is provided for gas pipeline facilities under sections 299F.60 and 299F.61, and penalties collected must be paid to the commissioner for deposit in the state treasury and credit to the pipeline safety account.

History: 1988 c 624 s 19; 1989 c 244 s 17

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 rules 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; 1985 c 248 s 70

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 the commissioner 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 14.69 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; 1986 c 444; 1987 c 384 art 2 s 1

299F.74 PERMIT REQUIRED.

No person shall possess 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; 1986 c 444

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 14.69 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; 1987 c 384 art 2 s 1

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 the applicant's 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; 1986 c 444

299F.77 ISSUANCE OF 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 person with mental illness or mental retardation as defined in section 253A.02 who has been confined or committed in Minnesota or elsewhere for mental illness or mental retardation to any hospital, mental institution or sanitarium, or who has been certified by a medical doctor as being mentally ill or mentally retarded, unless in possession of a certificate of a medical doctor or psychiatrist licensed to practice in this state, or other satisfactory proof, that the person no longer has 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 in possession of a certificate of a medical doctor or psychiatrist licensed to practice in this state, or other satisfactory proof, that the person no longer has this disability;

(d) Any person who by reason of the habitual and excessive use of intoxicating liquors is incapable of self-management or management of personal affairs and who has been confined or committed to any hospital, or treatment facility in this state or elsewhere as a "chemically dependent person" as defined in section 253B.02, or who has been certified by a medical doctor as being addicted to alcohol, unless in possession of a certificate of a medical doctor or psychiatrist licensed to practice in this state, or other satisfactory proof, that the person no longer has 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; 1985 c 21 s 63; 1986 c 444

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 explo-

sives 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 duties as such.

History: 1971 c 845 s 8; 1986 c 444

299F.79 POSSESSION WITH INTENT.

Whoever possesses 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; 1986 c 444

299F.80 POSSESSION WITHOUT PERMIT.

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

Subd. 2. Whoever possesses 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; 1986 c 444; 1989 c 290 art 6 s 3

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 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

FLAMMABILITY STANDARDS FOR SEATING FURNITURE

299F.840 CITATION.

Sections 299F.840 to 299F.848 may be cited as the "furniture fire safety act."

History: 1990 c 465 s 1

NOTE: This section is effective January 1, 1992. See Laws 1990, chapter 465, section 10.

299F.841 DEFINITIONS.

Subdivision 1. **Scope.** The terms used in sections 299F.840 to 299F.848 have the meanings given them in this section.

Subd. 2. **Sell.** "Sell" includes sell, offer or expose for sale, barter, trade, deliver, give away, rent, consign, lease, or possess with an intent to sell or dispose of in any other commercial manner.

Subd. 3. **Seating furniture.** "Seating furniture" means movable or stationery furniture, manufactured on or after January 1, 1992, including children's furniture, that is made of or with loose or attached cushions or pillows or is itself stuffed or filled in whole or in part with filling material; is or can be stuffed or filled in whole or in part with any substance or material, hidden or concealed by fabric or other covering, including cushions or pillows belonging to or forming a part of the furniture; together with the structural units, the filling material, and its container and its covering that can be used as a support for the body of a human being or a person's limbs and feet when sitting or resting in an upright or reclining position.

Subd. 4. **Filling material.** "Filling material" includes cotton, wool, kapok, feathers, down, hair, liquid, or other natural or man-made material, substance, or prefabricated form, concealed or not concealed, to be used or that could be used in seating furniture.

Subd. 5. **Manufacturer.** "Manufacturer" means a person or the person's employee or agent who makes an article of seating furniture in whole or in part.

Subd. 6. **Public occupancies.** "Public occupancies" means:

- (1) jails, prisons, and penal institutions;
- (2) hospitals, mental health facilities, and similar health care facilities;
- (3) nursing care and convalescent homes;
- (4) child day care centers;
- (5) public auditoriums and stadiums; and
- (6) public assembly areas of hotels and motels containing more than ten articles of seating furniture.

History: 1990 c 465 s 2

NOTE: This section is effective January 1, 1992. See Laws 1990, chapter 465, section 10.

299F.842 EXEMPT ARTICLES.

Articles of upholstered furniture, other than juvenile furniture and furniture used for and in facilities designed for the care or treatment of humans, that meet any of the following criteria are exempt from compliance with sections 299F.840 to 299F.848:

- (1) cushions and pads intended solely for outdoor use;
- (2) articles that are smooth-surfaced and contain no more than one-half inch of filling material, provided that the article does not have a horizontal surface meeting a vertical surface; and
- (3) articles manufactured solely for recreational use or physical fitness purposes, such as weightlifting benches, gymnasium mats or pads, sidehorses, and similar articles.

History: 1990 c 465 s 3

NOTE: This section is effective January 1, 1992. See Laws 1990, chapter 465, section 10.

299F.843 ENFORCEMENT.

The state fire marshal shall enforce sections 299F.840 to 299F.848 in accordance with the laws of this state.

History: 1990 c 465 s 4

NOTE: This section is effective January 1, 1992. See Laws 1990, chapter 465, section 10.

299F.844 RULES.

The state fire marshal shall adopt rules necessary for the enforcement of sections 299F.840 to 299F.848 within six months of January 1, 1992. The fire marshal, in adopting rules, shall consider the testing and labeling procedures and requirements set forth in Technical Bulletin 133 of the state of California, "Flammability Testing and Labeling Procedures for Use in Public Occupancies," published in April 1988 by the California Bureau of Home Furnishings and Thermal Insulation and periodically the deletions, revisions, and updates of California Technical Bulletin 133. An amendment to a rule does not apply to seating furniture manufactured before the effective date of the amendment. New seating furniture sold for use in a public occupancy that meets the test criteria under rules adopted by the fire marshal must conform to the labeling requirements specified under the adopted rules.

History: 1990 c 465 s 5

NOTE: This section is effective January 1, 1992. See Laws 1990, chapter 465, section 10.

299F.845 SCOPE.

Sections 299F.840 to 299F.848 apply to seating furniture manufactured on or after January 1, 1992, that is sold or intended for use in public occupancies in this state regardless of its point of origin. New seating furniture sold or intended for use in public occupancies after January 1, 1992, that fails to conform to the applicable flammability standard and labeling requirement provided under sections 299F.840 to 299F.848, or rule of the state fire marshal adopted under section 299F.844, is prohibited from being sold or used for public occupancies.

History: 1990 c 465 s 6

NOTE: This section is effective January 1, 1992. See Laws 1990, chapter 465, section 10.

299F.846 PERFORMANCE STANDARDS; TESTING.

The applicable flammability requirements of sections 299F.840 to 299F.848 or rules adopted under section 299F.844 are to be considered as performance standards. Testing under these standards is at the discretion of the manufacturer. However, new seating furniture offered for sale in this state on or after January 1, 1992, must meet applicable flammability requirements as set out by rule adopted under section 299F.844.

History: 1990 c 465 s 7

NOTE: This section is effective January 1, 1992. See Laws 1990, chapter 465, section 10.

299F.847 TEST INSPECTIONS, AUDITS.

The state fire marshal may inspect or audit the testing of seating furniture as may be considered necessary under rules adopted under section 299F.844.

History: 1990 c 465 s 8

NOTE: This section is effective January 1, 1992. See Laws 1990, chapter 465, section 10.

299F.848 CIVIL ACTION.

The state fire marshal may institute a civil action or proceeding to enjoin a person from selling seating furniture on or after January 1, 1992, that does not meet the requirements of sections 299F.840 to 299F.847, and that is sold or intended for use in public occupancies.

History: 1990 c 465 s 9

NOTE: This section is effective January 1, 1992. See Laws 1990, chapter 465, section 10.