

CHAPTER 444  
FORMERLY  
HOUSE BILL NO. 464  
AS AMENDED BY  
HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO AMUSEMENT RIDES SAFETY INSPECTION AND INSURANCE ACT; FIRE PREVENTION; REPORTING OF BURN INJURIES AND WOUNDS; AND REDUCED IGNITION PROPENSITY CIGARETTES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend §6404A(c), Title 16 of the Delaware Code by deleting the phrase “office of the State Fire Marshal” as it appears in subsection (c) and by substituting in lieu thereof the phrase “State Fire Prevention Commission”.

Section 2. Amend §6408, Title 16 of the Delaware Code by deleting the phrase “Fire Marshal’s regulations” and by substituting in lieu thereof the phrase “the State Fire Prevention Commission’s regulations”.

Section 3. Amend Title 16 of the Delaware Code, Chapter 66, by renumbering existing Subchapters II through V as Subchapters IV through VII.

Section 4. Further amend Title 16 of the Delaware Code, Chapter 66, Subchapter I by striking Subchapter I in its entirety and substituting in lieu thereof the following new Subchapters I through III:

“Subchapter I. State Fire Prevention Commission

§ 6601. Objectives.

The objective of the State Fire Prevention Commission, to which all other objectives and purposes are secondary, is to protect the general public, specifically those persons who are the direct recipients of services regulated by this Chapter, from unsafe practices.

§ 6602. State Fire Prevention Commission -- Appointment; qualifications; cause for removal; term of office; members to serve without compensation.

(a) The State Fire Prevention Commission shall consist of 7 persons who shall be qualified by experience and training to deal with the matters which are the responsibilities of the State Fire Prevention Commission. Three members of the State Fire Prevention Commission shall be appointed by the Governor and shall be representatives of industry from New Castle County, Kent County and Sussex County. Three members, 1 from each county, shall be members of paid or volunteer fire companies and shall be appointed by the Governor from a list of 3 names of members in good standing submitted by the Volunteer Firefighters' Association of the county in which a vacancy exists. The seventh member of the State Fire Prevention Commission shall be the immediate past President of the Delaware Volunteer Firefighters' Association and shall be appointed by the Governor.

(b) Members may be removed by the Governor for continued neglect of the duties required by this chapter, or for refusal to act, misconduct, incompetency, or other sufficient cause.

(c) Members of the State Fire Prevention Commission shall be appointed to serve for 6-year terms, but no member may be appointed to more than 2 successive full terms. Succeeding appointments shall be made, and any vacancy on the State Fire Prevention Commission shall be filled for the duration of the term, in the same manner as the prior appointment.

(d) Members shall serve without compensation but shall be reimbursed for their actual and necessary expenses incurred in the performance of their duties.

(e) No member of the State Fire Prevention Commission, while serving on the State Fire Prevention Commission, shall be an officer (president/chairperson, president-elect, vice president, secretary or treasurer) of any state or county volunteer

firemen's association, including but not limited to, the Delaware Volunteer Firefighter's Association, or any professional or trade association, or union representing an industry or service regulated by the State Fire Prevention Commission.

§ 6603. State Fire Prevention Commission -- Organization and meetings.

(a) The State Fire Prevention Commission shall select a Chairperson and Vice Chairperson from among its members and shall hold regular meetings at least once a month. Special meetings may be called by the Chairperson, by the Vice Chairperson in the absence of the Chairperson, or by 3 members of the State Fire Prevention Commission.

(b) No business shall be transacted by the State Fire Prevention Commission in the absence of a quorum which shall be 4 members, 1 of which must be the Chairperson or Vice Chairperson.

§ 6604. State Fire Prevention Commission -- Powers and Duties

(a) The State Fire Prevention Commission shall have authority to:

(1) Formulate rules and regulations, with appropriate notice to those affected; all rules and regulations shall be promulgated in accordance with the procedures specified in the Administrative Procedures Act [Chapter 101 of Title 29] of this State.

(A) Such regulations shall be in accordance with standard safe practice as embodied in widely recognized standards of good practice for fire prevention and fire protection and shall have the force and effect of law in the several counties, cities and political subdivisions of the State. Whenever such regulations and amendments require the issuance of permits or licenses, the State Fire Prevention Commission is authorized to issue such permits or licenses according to the provisions and schedules in § 6612 of this title. Such regulations and amendments shall not apply to existing installations, plants or equipment unless the State Fire Prevention Commission has duly found that the continuation thereof constitutes a hazard so inimicable to the public welfare and safety as to require correction; nor shall such regulations and amendments limit or prohibit the shipment, transportation, handling or storage incident to transportation of any explosive, combustible or other dangerous article in solid, liquid or gas form by rail, water or highway, when such articles are in conformity with regulations of the Interstate Commerce Commission; nor shall such regulations, insofar as they purport to prohibit the sale, purchase or domestic use of gasoline, kerosene or other fuel burning home appliances for heating or cooking apply to any person whose personal faith or belief prevents the use of any alternative heating or cooking appliance recommended by the State Fire Prevention Commission, the burden of proof is upon the person claiming relief from such regulation. In their interpretation and application the regulations promulgated under this chapter shall be held to be the minimum requirements for the safeguarding of life and property from the hazards of fire and explosion. Whenever the provisions of any other statute or local regulation are more stringent or impose higher standards than are required by any

regulations promulgated under this chapter, such statute or local regulation shall govern, provided they are not inconsistent with the state Code and are not contrary to recognized standards and good engineering practices.

(B) Promulgate regulations consistent with the following language: The State Fire Marshal shall require that all persons involved in the inspection and testing of water-based fire protection systems maintain current certification in the National Institute for Certification in Engineering Technologies (NICET II) "Inspection and Testing of Water-based Systems" certification program or a substantially similar and equivalent course of instruction, as determined by the State Fire Marshal, as a condition of permit renewal after July 1, 2010.

(C) Promulgate regulations consistent with the following language: The State Fire Marshal shall require that persons involved in the inspection and testing of water-based fire protection systems shall complete 16 contact hours of continuing education or similar course of instruction during each biennial period of renewal. Any and all continuing education requirements completed pursuant to subsection (b) of this Section may be used to meet the continuing education requirements as called for under this Section.

(2) Appoint a person qualified by that person's previous training and experience in endeavors similar to those herein prescribed as State Fire Marshal.

(3) Appoint a person qualified by that person's previous training and experience in endeavors similar to those described herein as the State Fire School Director.

(4) Conduct hearings and issue orders in accordance with procedures established pursuant to this chapter and Chapter 101 of Title 29. Where such provisions conflict with this Chapter, this Chapter shall govern.

(5) Issue subpoenas for named respondents, witnesses, documents, physical evidence or any other source of evidence needed during the investigation of a complaint made under this Chapter and/or for a public hearing on the complaint or for an appeal to the State Fire Prevention Commission from an order or decision of the State Fire Marshal. If the party or person subpoenaed fails to comply, the State Fire Prevention Commission may compel compliance with said subpoena by filing a motion to compel in the Superior Court which shall have jurisdiction. The Superior Court may order costs, attorney's fees and/or a civil fine not to exceed \$1,000 if the motion to compel is granted.

(6) Acquire any real or personal property by purchase, gift or donation and have water rights;

(7) Make contracts and execute instruments necessary or convenient;

(8) Undertake by contract or contracts, or by its own agent and employees, and otherwise than by contract, any project or projects, and operate and maintain such projects;

(9) Accept grants of money or materials or property of any kind from a federal agency, private agency, county, city, town, corporation, partnership or individual upon such terms and conditions as the grantor may impose;

(10) Perform all acts and do all things necessary or convenient to carry out the power granted herein.

§ 6605. State Fire Prevention Commission Advisory Board

(a) State Fire Prevention Commission Advisory Board. -- For the purpose of advising and make recommendations to the State Fire Prevention Commission in connection with the State Fire Prevention Commission's responsibilities regarding regulatory changes, there is hereby created the State Fire Commission Advisory Board. The State Fire Commission Advisory Board shall be composed of 7 members. One member shall be the Chairperson of the Fire School Advisory Board, one member shall be the chairperson of the Fire Marshal's Advisory Board, one member shall be the Chairperson of the Ambulance Advisory Committee and one member shall be the Chairperson of the Delaware Volunteer Firefighter's Advisory Board. Three members shall be public members appointed by the State Fire Prevention Commission. One public member shall be from New Castle County, one from Kent County and one from Sussex County. Of the initial three public members appointed by the State Fire Prevention Commission, one must be appointed for a one-year term, one must be appointed for a two-year term and one must be appointed for a three-year term. Thereafter, all public members shall serve one-year terms. The Chairperson of the State Fire Prevention Commission shall call the advisory board to its first meeting. The advisory board shall choose a chairperson and shall meet thereafter at the call of the chairperson of the advisory board or the Chairperson of the State Fire Prevention Commission.

§ 6606. Annual report; financial statement and budget.

(a) The State Fire Prevention Commission shall annually, on or before the 30th day of September, transmit to the Governor a full report of its proceedings under this Chapter and such statistics as it may wish to include therein. It shall also recommend any amendments to the law which in its judgment shall be desirable.

(b) Along with the annual report, the State Fire Prevention Commission shall transmit a financial statement showing all expenditures and income of the State Fire Prevention Commission covering the preceding 12 months, starting July 1 and ending June 30.

(c) In the even numbered years the State Fire Prevention Commission shall submit to the Budget Commission a budget showing proposed expenditures for the biennium beginning July 1 next succeeding.

(d) The State Fire Prevention Commission shall be given the authority to reimburse volunteer fire companies which incur extraordinary expenses, an amount not to exceed the amount specified in the annual appropriations act, upon request from a volunteer fire company. An 'extraordinary expense' under the provisions of this Section shall be defined as an expense for which a volunteer fire company would not normally prepare for in its company budget and is not covered by said company's own private insurance.

§ 6607. Power of State Fire Prevention Commission to authorize new fire companies or substations; resolve boundary disputes; and prohibit cessation of necessary fire protection services.

(a) The State Fire Prevention Commission, with the advice of the advisory board set forth in § 6605 of this Title, is empowered to promulgate, amend and repeal regulations related to the exercise of State Fire Prevention Commission powers and responsibilities defined in this Section.

(1) Except as provided in subsection (b) of this Section, the State Fire Prevention Commission shall determine whether any new fire companies or substations shall be authorized in any part of the State. In making such determination the State Fire Prevention Commission shall consider among other things the ability, financial or otherwise, of the company seeking authorization to maintain an effective fire company and the fire protection needs of the area involved. The State Fire Prevention Commission, however, shall not authorize the establishment of a new fire company main station or substation within 4 miles of an existing fire company's main station or substation unless the State Fire Prevention Commission determines that an existing company is not reasonably equipped, manned, organized, financed or disciplined to deliver, or is not actually delivering, adequate fire protection in accordance with recognized safety standards to the area it serves.

(2) Except as provided in subsection (c) of this Section, the State Fire Prevention Commission shall have authority to prohibit the suspension of fire protection services in this state by any fire company or substation thereof when the ability, financial or otherwise, of the company or substation seeking to suspend such service does not warrant such suspension. In making this determination the State Fire Prevention Commission shall consider, among other things, the fire protection needs of the area involved, whether the company or substation seeking to suspend fire protection services is inadequately financed, equipped, manned, organized or disciplined, and whether a new fire company should be authorized to deliver fire protection services to the area.

(3) The State Fire Prevention Commission shall have authority, acting on behalf of the State, to enter into agreements to confirm the established geographical boundaries of areas served by all existing fire companies in the State and to resolve boundary disputes between or among such fire companies.

(4) The State Fire Prevention Commission shall have authority to enter binding orders resolving boundary disputes between fire companies.

(b) The Delaware Volunteer Firefighters' Association shall designate from its members a 9-member advisory board to advise and make recommendations to the State Fire Prevention Commission in connection with the Commission's responsibilities under this Section. The Delaware Volunteer Firefighter's Advisory Board shall consist of the President, First

Vice-President, Second Vice-President and the 7 members of the Board of Directors, excluding the immediate past President who serves as a Commissioner, of the Delaware Volunteer Firefighters' Association.

(c) Paragraphs (1) and (2) of subsection (a) of this Section shall not be applied with respect to any fire company in municipalities with a population greater than 50,000 as established in the official 1980 federal census.

§ 6607A. Injunctive relief.

The State Fire Prevention Commission may in its discretion bring an action in the Delaware Court of Chancery to temporarily restrain or enjoin any act or practice which constitutes a violation of an order of the State Fire Prevention Commission or of any provision of this Chapter and to enforce compliance with any order of the State Fire Prevention Commission or provision of this Chapter.

§ 6608. Audits of volunteer fire and ambulance companies.

(a) The State Fire Prevention Commission shall promulgate regulations requiring financial audits of volunteer fire and ambulance companies and the Smyrna and Georgetown American Legion Ambulances and the Mid-Sussex Rescue Squad. The regulations shall include, but not be limited to, specifying the required types of audits, the reporting periods, procedures for reviewing the audits and the processes to be followed in the event a company fails to submit or submits an inadequate audits.

(b) The State Fire Prevention Commission shall have the authority, after a hearing, to impose a civil penalty not to exceed \$100 against any volunteer fire and ambulance companies, the Smyrna and Georgetown American Legion Ambulances and the Mid-Sussex Rescue Squad that fails to comply with any regulation promulgated pursuant to subsection (a) of this Section. Each day a violation continues may be deemed a separate offense in the State Fire Prevention Commission's discretion. However, in no event shall the total penalties exceed \$5,000 per reporting period.

(c) The penalties specified in this section are in addition to and not in lieu of any other penalties provided for under this Chapter.

§ 6609. Appeals to the State Fire Prevention Commission -- Procedure.

(a) Appeals to the State Fire Prevention Commission may be taken by any person aggrieved by an order or decision of the State Fire Marshal, or the Marshal's Deputy or Deputies, based upon or made in the course of the administration or enforcement of this Chapter. Appeals to the State Fire Prevention Commission may be taken by any officer, department, board or bureau of the State and the several counties, cities and political subdivisions thereof affected by an order or decision of the State Fire Marshal, or the Marshal's Deputy or Deputies, in the course of the administration or enforcement of this Chapter.

(b) Appeals by any person aggrieved by an order or decision of the State Fire Marshal, the Marshal's Deputy or Deputies, or Assistant State Fire Marshals based upon or made in the course of the administration or enforcement of this Chapter or local regulations incorporating the State Fire Prevention Commission Regulations shall be taken to the State Fire Prevention Commission. Appeals by any officer, department, board or bureau of the State and the several counties, cities and political subdivisions

thereof affected by an order or decision of the State Fire Marshal, or the Marshal's Deputy or Deputies or Assistant Fire Marshals, in the course of the administration or enforcement of this Chapter or local regulations incorporating the State Fire Prevention Commission Regulations shall be taken to the State Fire Prevention Commission.

(c) The time within which such appeal must be made and the effect, form or other procedure relating thereto shall be as specified in regulations promulgated by the State Fire Prevention Commission following notice and public hearings as provided in § 6604 of this Title.

§ 6610. Appeals to the State Fire Prevention Commission -- Powers upon appeals.

Upon appeals the State Fire Prevention Commission shall have the following powers:

(1) To hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, decision or refusal made by the State Fire Marshal, or the Marshal's Deputy or Deputies, based on or made in the enforcement of this Chapter;

(2) To hear and decide, in accordance with any duly adopted regulation, requests for special exceptions or for interpretation of regulations or for decisions upon other special questions upon which the State Fire Prevention Commission is required by any regulation to pass;

(3) To authorize a variance from particular provisions of the regulations duly promulgated under § 6604 of this Title where strict compliance with such provisions would entail practical difficulties or unnecessary hardships, provided such relief may be granted without substantial detriment to the public safety and without substantially impairing the intent and purpose of the regulations promulgated under § 6604 of this Title;

(4) All decisions, authorizations or interpretations made by the State Fire Prevention Commission hereunder shall be written and signed by the Chairperson or Vice-Chairperson and filed in the office of the State Fire Marshal, or the Marshal's Deputy or Deputies, within 30 days following the appeal.

§ 6611. Court review of decision of State Fire Prevention Commission; procedure.

(a) Any person jointly or severally aggrieved by any decision of the State Fire Prevention Commission made in the exercise of its appellate function under §§ 6609 and 6610 of this Title, or in exercise of its authority decertifying, suspending or otherwise disciplining an emergency medical technician (EMT) under § 6714A of this Title, or any officer, department, board or bureau of the State and the several counties, cities and political subdivisions thereof may appeal the final order of the State Fire Prevention Commission to the Superior Court within 30 days of service, or of the postmarked date of the copy of the decision mailed to the party aggrieved by the decision. Upon such appeal the Superior Court shall hear the evidence on the record. Stays shall be granted in accordance with § 10144 of Title 29.

(b) Costs shall not be allowed against the State Fire Prevention Commission unless it shall appear to the Superior Court that it acted with

gross negligence or in bad faith or with malice in making the decision appealed from.

#### Subchapter II. State Fire Marshal

§ 6612. State Fire Marshal: Term, salary, duties, powers and responsibilities.

(a) The State Fire Marshal shall reside in Delaware after appointment. The State Fire Marshal shall receive such salary as may be set by the State Fire Prevention Commission within the limits set by the annual appropriation to the State Fire Prevention Commission. The State Fire Marshal shall devote their whole time to the duties of the State Fire Marshal's office. Whenever a vacancy shall occur in the office of State Fire Marshal for any reason other than the expiration of a term, the vacancy shall be filled by the State Fire Prevention Commission for the balance of the unexpired term. The State Fire Marshal shall be appointed for a term of 4 years and such term shall be renewable in the discretion of the State Fire Prevention Commission.

(b) The State Fire Marshal, with the consent and approval of the State Fire Prevention Commission, shall appoint all authorized personnel pursuant to Merit System rules and regulations and administer the usual oath as required. Salaries of all personnel to include appropriate position classifications, upgrading and promotions shall be in compliance with Chapter 59 of Title 29.

(c) The Fire Marshal of any political subdivision of this State, having such an office duly created by ordinance or resolution before January 1, 1959, shall serve as an Assistant State Fire Marshal. Within the limits of the said political subdivision, the Fire Marshal shall have exclusive jurisdiction exercising the duties and powers of the State Fire Marshal but the Fire Marshal shall serve without compensation.

(d) The State Fire Marshal, with the consent and approval of the State Fire Prevention Commission, shall employ or acquire such office and clerical employees as may be necessary for the orderly administration of Marshal's office. The State Fire Marshal shall acquire such equipment, furniture, supplies and paraphernalia as may be necessary for the orderly administration of Marshal's office.

(e) The State Fire Marshal, the State Fire Marshal's Deputy or Deputies, and other members of the State Fire Marshal's office, in addition to their salaries, shall be reimbursed for their actual and necessary expenses incurred in the performance of their duties.

(f) The State Fire Marshal, or the Marshal's Deputy or Deputies, shall enforce all laws and ordinances of the State and the several counties, cities and political subdivisions thereof having to do with:

(1) Prevention of fires;

(2) The storage, sale and use of any explosive, combustible or other dangerous article in solid, liquid or gas form;

(3) The installation and maintenance of equipment of all sorts intended for fire control, detection and extinguishment;

(4) The means and adequacy of exit, in case of fire, from buildings and all other places in which numbers of persons work, live or congregate from time to time for any purpose, except buildings used wholly as dwelling houses containing no more than 2 families;

(5) The suppression of arson.

(g) The State Fire Marshal, or the Marshal's Deputy or Deputies, shall assist any chief of any recognized fire company upon request of such chief.



(h) The State Fire Marshal, or the Marshal's Deputy or Deputies, shall enforce the regulations promulgated by the State Fire Prevention Commission as authorized by § 6604 of this Title.

(i) The State Fire Marshal, or the Marshal's Deputy or Deputies, shall require the administrative heads of public and private schools and educational institutions to have at least 1 fire drill each month when said schools are in session and to keep all doors and exits unlocked during school hours.

(j) The State Fire Marshal, or the Marshal's Deputy or Deputies, shall inspect all state and county owned institutions, all schools, theatres, churches and other places of public assembly as to fire exits and reasonable safety standards and report the Marshal's findings and recommendations to the proper administrative heads.

(k) The State Fire Marshal, or the Marshal's Deputy or Deputies, may at any time investigate as to the origin or circumstances of any fire or explosion occurring in the State and may at all reasonable hours enter any building or premises within the Marshal's jurisdiction for the purpose of making an inspection or investigation, which, under this Chapter, they may deem necessary to be made.

(l)(1) The State Fire Marshal or the Marshal's designee(s) shall review all plans and specifications, with the exception of those political subdivisions having exclusive jurisdiction under subsection (c) of this section for conformance to the requirements of subsections (f) and (j) of this Section, prior to actual construction for:

(A) All new buildings and additions; for any building undergoing a change in occupancy; or any part of a building suffering damage from fire, explosion, or any other cause; with the exception of buildings used wholly as dwelling houses containing no more than 2 families and buildings used wholly for farming purposes.

(B) Alarm systems, fire protection systems, flammable and combustible liquid or gas installation or other miscellaneous installations falling under the State Fire Prevention Rules and Regulations.

(C) Subdivision plans.

(2) The State Fire Marshal is authorized to establish a schedule of plan review fees to be paid by the submitter of the plans reviewed under paragraph (1) of this subsection, except that no fees shall be charged for projects financed in excess of 50 percent by state funds, housing developed by an organization exempt from tax under § 501(c)(3) of the Federal Internal Revenue Code [26 U.S.C. § 501(c)(3)], and projects financed under Chapters 40 and 45 of Title 31.

(3) The plan review fees shall be based on actual costs with the initial payment being based on the estimated cost of construction of the building, additions, renovation, alarm system, fire protection systems, or flammable or combustible liquid or gas installations or other miscellaneous installations required to be approved and shall not exceed the following schedule:

(A) 7/10 of 1% on July 1, 2009;

(B) 3/10 of 1% over \$1,000,000 of cost;

(C) With respect to the provisions of paragraphs (1)(3) a. and b. of this Section, the minimum fee for any plan review shall be no less than \$150.

(D) The State Fire Marshal must provide a schedule of reduced fees for low life hazard occupancies such as warehouses.

(4) Subdivision plan review fees shall be set at \$150.

(5) The State Fire Marshal, with the approval of the State Fire Prevention Commission, where such regulations or amendments duly promulgated under the authority of the State Fire Prevention Commission require the issuing of a permit, license or certificate, is authorized to issue such permits, licenses or certificates and to establish a schedule of fees not to exceed the following schedule:

(A) A maximum of \$100 per fire alarm signaling system or fire suppression system, where a license is issued under the preceding provision of this section, for wholly owned or proprietary fire alarm signaling systems or fire suppression systems, serviced by the system owner.

(B) A maximum of \$50 for a license to service portable unit fire suppression appliances.

(C) A maximum of \$25 for all other permits, licenses and certifications as required in the State Fire Prevention Regulations.

(D) The fees as authorized in this paragraph shall be the maximum so charged by the State Fire Prevention Commission and every 2 years shall be reviewed by the Department of Finance, the Controller General and the State Fire Marshal.

(E) All fees associated with the permitting, licensing, or certification processes shall be annual fees, payable on a date as scheduled by the State Fire Marshal.

(6) It is expressly provided that said fees collected by the State Fire Marshal shall not affect the State appropriation or be deducted there from, but shall be so much additional monies available for carrying out the provisions of this subsection, and the said fees shall be paid to the State Treasurer for accounting and deposited in a special fund in the State Treasury. Said fees included in this subsection shall not be charged for projects financed in excess of 50 percent by state funds, and projects financed under Chapters 40 and 45 of Title 31.

(7) The fees as authorized for the plan review process shall be the maximum allowed by the State Fire Prevention Commission and will be a cap, that every 2 years, by September 15, a review shall be conducted by the Director of the Office of Management and Budget, the Controller General and the State Fire Marshal, based upon the revenue experience and the anticipated funding needs of the Technical Services Division of the State Fire Marshal's Office, to revise the fees according to the anticipated funding needs of the State Fire Marshal's Office Technical Services Division, incorporating the plan review, licensing and additional consultative services.

(8) The permit, licensing and plan review fee requirements of this Chapter shall not apply to municipalities, towns or other subdivisions of this State or to fire companies that wish to construct improvements upon their fire stations.

(m) The State Fire Marshal, or the State Fire Marshal's Deputy or Deputies, shall have the authority to issue subpoenas in the enforcement of this Chapter.

(n) Appeals to the State Fire Prevention Commission from a decision of the State Fire Marshal shall be made in accordance with the provisions of 16 Del. C. §§ 6609 and 6610.

(o) The Office of the State Fire Marshal shall have the authority to:

(1) Advise and assist fire companies, municipal corporations and districts, including agencies and departments thereof in developing measures for more effective fire and arson prevention and control;

(2) Assist and encourage cooperative efforts to solve common problems relating to fire and arson prevention and control and to serve as a clearinghouse of information about fire and arson prevention and control, about reported cases of burn injuries or wounds sustained, and about state and federal services available to assist in solving such problems;

(3) Employ or contract with individuals, agencies or corporations to assist fire companies, municipal corporations and districts in the development of an arson investigation program or in the investigation of cases of suspected arson or cases of burn injuries or wounds sustained upon the request of such an entity. However, nothing in this provision shall be construed to remove the primary responsibility for arson investigations from appropriate local jurisdictions or agencies;

(4) Establish a burn registry data bank and disseminate information relating to fire and arson prevention and control, reported cases of burn injuries or wounds sustained, and to operate a state fire reporting system. The state fire reporting system shall include a procedure for the identification of patterns of suspicious, accidental or criminal fires and for alerting appropriate state and local authorities. The fire reporting system shall also include fire incident data supplied by local fire agencies in a manner and on forms prescribed by the State Fire Marshal. To the extent practicable, the data shall be collected and maintained in a form compatible with information collected by other Delaware agencies, other states and the federal government. The State Fire Marshal shall cooperate with the Division of State Police, Insurance Department, local police, fire and health agencies, the insurance industry and other appropriate organizations in maintaining such system.

§ 6613. Reports from insurance companies; reports of investigations by State Fire Marshal.

(a) Each fire insurance company or association doing business in this State shall, within 30 days after the adjustment of any loss sustained by it, report to the State Fire Marshal, upon forms furnished by it, such information regarding the amount of insurance, the value of the property insured and the amount of claim as adjusted, as in the judgment of the State Fire Marshal it is necessary for the State Fire Marshal to know. This report shall be in addition to any such information required by the Insurance Commissioner.

(b) Upon the request of the owner or insurer of any property destroyed or injured by fire or explosion, or in which an attempt to cause a fire or explosion may have occurred, the State Fire Marshal, upon approval of the Attorney General's office, may make a written report to the person requesting the same of the result of the examination made by the State Fire Marshal regarding the property.

§ 6614. Maintenance of fire hazard, violations of regulations or Chapter; burn injuries and wounds to be reported; enforcement; remedies and penalties.

(a) No person shall erect, construct, reconstruct, alter, maintain or use any building, structure or equipment or use any land in such a way to endanger life or property from the hazards of fire or explosion or in violation of any regulation or any provision of or any change thereof promulgated by the State Fire Prevention Commission under the authority of this Chapter.

(b) Whoever recklessly violates such regulations, provisions or change or any provision of this Chapter, with the exception of exceeding the posted occupant

load in a place of assembly as outlined in subsection (c) of this Section, shall be fined not more than \$100 or imprisoned not more than 10 days or both.

(c) Whoever negligently violates the regulation of exceeding the posted occupant load in a place of assembly, as defined in the Delaware State Fire Prevention Regulations, shall be fined at least \$10.00 but not more than \$100 per person exceeding the posted occupant load as determined by the State Fire Marshal.

(d) Each and every day during which such illegal erection, construction, reconstruction, alteration, maintenance or use continues after knowledge or official notice that same is illegal shall be deemed a separate offense.

(e) In case any building, structure or equipment is or is proposed to be erected, constructed, reconstructed, altered, maintained or used, or any land is or is proposed to be used in such a way to endanger life or property from the hazards of fire or explosion or in violation of this Chapter or of any regulation or provision of any regulation or change thereof promulgated by the State Fire Prevention Commission under the authority granted by this chapter, the State Fire Prevention Commission, the State Fire Marshal or the Attorney General may, in addition to other remedies provided by law, institute injunction, mandamus, abatement or any other appropriate action or actions, proceeding or proceedings to prevent, enjoin, abate or remove such unlawful erection, construction, reconstruction, alteration, maintenance or use.

(f) Every case of a burn injury or wound, where the victim sustained 2nd or 3rd degree burns to 5 percent or more of the body and/or any burns to the upper respiratory tract with laryngeal edema due to the inhalation of super-heated air, and every case of a burn injury or wound which is likely to or may result in death, shall be reported to the Office of State Fire Marshal. The State Fire Marshal shall accept the report and notify the proper investigatory agency. The report shall be provided to the Office of the State Fire Marshal within 72 hours of the initial treatment. The report shall be made by:

(1) The physician attending or treating the case; or

(2) The manager, superintendent or other person in charge, whenever such case is treated in a hospital or other health care facility. The intentional failure to make such report is a class A misdemeanor.

(g) The State Fire Marshal, or the Marshal's Deputy or Deputies, may make arrests of persons violating offenses under this Section or of persons violating any of the laws of this State relating to fires or burning.

(h) Justices of the Peace shall have jurisdiction over offenses under this Section.

(i) All moneys derived from a violation of subsection (c) of this Section shall be placed in a special fund to be used by the State Fire Marshal to carry out the provisions of this Chapter. Fines that are a result of violations of this Chapter that occur within the jurisdiction of the Jurisdictional Fire Marshals shall be placed in a separate special fund to be used in that jurisdiction to carry out the provisions of this Chapter.

§ 6615. Advisory Board.

State Fire Marshal's Advisory Board. -- For the purpose of advising and making recommendations to the State Fire Marshal in connection with any matters relating to the State Fire Marshal, there is hereby created the State Fire Marshal's Advisory Board. The advisory board shall be comprised of 6 members appointed by the Delaware Volunteer Firefighters' Association. Two members shall come from

New Castle County, 2 from Kent County and 2 from Sussex County. Each member of the advisory board shall serve at the pleasure of the Delaware Volunteer Firefighters' Association. The advisory board shall choose a chairperson and shall meet thereafter at the call of the chairperson of the advisory board, or the State Fire Marshal.

§ 6616. Protection of Records.

Any and all records and reports compiled by the State Fire Marshal's office resulting from the State's Juvenile Fire Setter Intervention Program, including, but not limited to, case histories, interviews and findings, shall be considered confidential and privileged and shall not be disclosed directly or indirectly to anyone other than Family Court, the Attorney General and the Deputy Attorneys General and the employees of the State Fire Marshal's office in the discharge of their official duties. Such records and reports shall not be subject to the Freedom of Information Act pursuant to Chapter 100 of Title 29 and shall not be subject to any subpoena powers of any court.

Subchapter III. State Fire School

§ 6617. Location; supervision; purposes.

There is established in the Dover area a state institution known as the Delaware State Fire School. The Delaware State Fire School shall be under the supervision and control of the State Fire Prevention Commission to effectuate the following purposes:

- (1) To provide firefighters and first responders with needed professional instruction and training at a minimum cost to them and their employers;
- (2) To develop new methods and practices of fire fighting;
- (3) To provide facilities for testing fire fighting equipment;
- (4) To disseminate information relative to fires, techniques of fire fighting and other related subjects to all interested agencies and individuals throughout the State;
- (5) To undertake any project and engage in any activity which in the opinion of the Fire Prevention Commission will serve to protect the public safety.

§ 6618. State Fire Prevention Commission's powers and duties.

(a) The State Fire Prevention Commission shall have complete jurisdiction over the Delaware State Fire School and is vested with full power and authority:

- (1) To adopt rules and regulations necessary for the governing of said institution;
- (2) To appoint a director to run the daily operations of the Delaware State Fire School and to employ or acquire such other instructors, office and clerical employees as may be necessary.
- (3) To have full management, possession and control of the lands, buildings, structures and property belonging thereto;
- (4) To approve the courses of study of the institution;
- (5) To approve the rules and regulations for the admission of trainees to said institution;
- (6) To visit and inspect said institution and every department thereof, including any and all accounts and records;
- (7) To approve all necessary budgets of expenditures for the enlargement, proper furnishings, maintenance, support and conduct of said institution;

(8) To build, construct, change, enlarge, repair and maintain any and all buildings or structures of said institution that may at any time be necessary for said institution;

(9) To purchase and acquire all lands and property necessary for same, of every nature and description whatsoever;

(10) To care for and maintain the same and to do and perform every other matter or thing requisite to the proper management, maintenance, support and control of said institution necessary or requisite to carry out fully the purpose of §§ 6617-6623 of this Title, and for raising it to and maintaining it at the proper efficiency and standard as required in the interest of public safety.

(b) The State Fire Prevention Commission shall be permitted to conduct any live burn operation at the Delaware State Fire Service Center, including the New Castle and Sussex Divisions, necessary to carry out the purposes and duties of this Chapter, notwithstanding any other provision of the Delaware Code, any county or municipal ordinance or any rules or regulations prohibiting the same to the contrary.

§ 6619. Director and employees.

The State Fire Prevention Commission shall employ a Director for the Delaware State Fire School who shall be especially trained and qualified in fire fighting, fire experimental work, and emergency services training or shall have such other qualifications as deemed appropriate by the State Fire Prevention Commission including, but not limited to, educational and administrative experience. The Director shall receive such salary as may be set by the State Fire Prevention Commission within the limits set by the annual appropriation to the State Fire Prevention Commission. The Director shall be appointed for a term of 4 years and such term shall be renewable in the discretion of the State Fire Prevention Commission. The Director with the consent and approval of State Fire Prevention Commission shall appoint all authorized personnel pursuant to the Merit System rules and regulations as may be necessary for the orderly administration of the Fire School. Salaries of all personnel, to include appropriate classifications, upgrading and promotions, shall be in compliance with Chapter 59 of Title 29.

§ 6620. School attendance fees.

The Director with the consent and approval of the State Fire Prevention Commission may fix and collect admission fees and other fees that it may deem necessary to be charged for training given, and it is expressly provided that all such fees so collected by the State Fire School shall not affect the state appropriation or be deducted there from, but shall be so much additional moneys available for the operation and maintenance of said institution, and the said fees shall be paid to the State Treasury for accounting and deposit in a special fund in the State Treasury.

§ 6621. Liability in the performance of instructional service.

(a) No full-time or part-time instructor certified, assigned, approved or contracted by the Delaware State Fire School who in good faith provides instructional services shall be liable for any civil damages as a result of issuing such instructions, unless guilty or gross of willful negligence.

(b) No university, college or medical facility, nor any other entity nor any of its faculty members, participating in good faith as part of an approved Delaware State Fire School training or educational program, shall be liable for any civil damages as a result of any primary or continuing training or educational practice by any enrolled students unless guilty of gross or willful negligence.

§ 6622. Buildings and equipment.

The State Fire Prevention Commission shall have the power to prescribe and shall make the necessary rules and regulations for the use of the buildings, equipment and other facilities of the institution when they are not in use for the purpose set forth.

§ 6623. Advisory board.

(a) Fire School Advisory Board. -- For the purpose of advising and make recommendations to the State Fire School in connection with any matters relating to the State Fire School, there is hereby created the State Fire School Advisory Board. The advisory board shall be comprised of 6 members appointed by the Delaware Volunteer Firefighters' Association. Two members shall come from New Castle County, 2 from Kent County and 2 from Sussex County. Each member of the advisory board shall serve at the pleasure of the Delaware Volunteer Firefighters' Association. The advisory board shall choose a chairperson and shall meet thereafter at the call of the chairperson of the advisory board or the Director of the State Fire School.”.

Section 5. Amend § 6635(d), Title 16 of the Delaware Code by deleting the reference to “§ 6607(g)(5)” and substituting in lieu thereof “§ 6612”.

Section 6. Amend § 6633(f), Title 16 of the Delaware Code by deleting the reference to “§ 6607” and substituting in lieu thereof “§ 6612”.

Section 7. Amend § 6637(e), Title 16 of the Delaware Code by deleting the word and punctuation “(Commission)” where it appears in the first sentence of subsection (e).

Section 8. Further Amend § 6637(e), Title 16 of the Delaware Code by deleting the word “Commission” where it appears in the second sentence of subsection (e) and by substituting in lieu thereof the phrase “State Fire Prevention Commission”.

Section 9. Amend § 6637(f), Title 16 of the Delaware Code by deleting the word “Commission” where it appears in subsection (e) and by substituting in lieu thereof the phrase “State Fire Prevention Commission”.

Section 10. Amend § 6650(a), Title 16 of the Delaware Code by deleting the word “Delaware” where it appears after the word “the “ and before the phrase “State Fire Prevention Commission”.

Section 11. Amend § 6650(a)(4), Title 16 of the Delaware Code by deleting the word “Firemen’s” and by substituting in lieu thereof the word “Firefighters”.

Section 12. Amend § 6650(b)(3), Title 16 of the Delaware Code by deleting the word “Delaware” where it appears in subsection (b)(3).

Section 13. Amend § 6650(b)(5), Title 16 of the Delaware Code by deleting the word “Delaware” where it appears in subsection (b)(5).

Section 14. Amend Title 16 of the Delaware Code by striking Chapter 66B in its entirety.

Section 15. Amend § 7120(f), Title 16 of the Delaware Code by deleting subsection (f) in its entirety and by substituting in lieu thereof new subsection (f) to read as follows:

“(f) The State Fire Prevention Commission is authorized to promulgate regulations as necessary to implement and administer this law.”

Section 16. Amend § 7120(g), Title 16 of the Delaware Code by deleting the phrase “State Fire Marshal” as it appears in subsection (g) and by substituting in lieu thereof the phrase “State Fire Prevention Commission”.

Section 17. Further amend § 7120(g), Title 16 of the Delaware Code by inserting the phrase “State Fire Marshal,” after the word “the” and before the phrase “Director of the Division of Revenue”.

Section 18. Further amend § 7120, Title 16 of the Delaware Code by adding a new subsection to read: “(j) The State Fire Marshall is authorized to enforce this Chapter as necessary to implement and administer this law.”.

Section 19. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to that end the provisions of this Act are declared to be severable.

Approved July 27, 2010