

AN ACT concerning professional regulation.

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

Section 1. Short title. This Act may be cited as the Fire Equipment Distributor and Employee Regulation Act of 2011.

Section 5. Definitions. As used in this Act:

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

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

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

(d) "Fire equipment distributor" means any person, company or corporation that services, recharges, hydro-tests, inspects, installs, maintains, alters, repairs, replaces, or services fire extinguishing devices or systems, other than water sprinkler systems, for customers, clients, or other third parties. "Fire equipment distributor" does not include a person, company, or corporation employing 2,000 or more

employees within the State of Illinois that engages in these activities incidental to its own business.

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

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

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

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

Section 10. License requirement; injunction. No person shall act as a fire equipment distributor or employee, or

advertise or assume to act as such, or use any title implying that such person is engaged in such practice or occupation unless licensed by the State Fire Marshal.

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

The State Fire Marshal, in the name of the People and through the Attorney General, the State's Attorney of any county, any resident of the State, or any legal entity within the State may apply for injunctive relief in any court to enjoin any person who has not been issued a license or whose license has been suspended, revoked, or not renewed from practicing a licensed activity, and upon the filing of a verified petition, the court, if satisfied by affidavit or otherwise, that such person is or has been practicing in violation of this Act may enter a temporary restraining order or preliminary injunction, without bond, enjoining the defendant from such further activity. A copy of the verified complaint shall be served upon the defendant and the proceedings shall thereafter be conducted as in other civil cases. If it is established that the defendant has been or is practicing in violation of this Act, the court may enter a judgment perpetually enjoining the defendant from such further activity. In case of violation of any injunctive order or

judgment entered under the provisions of this Section, the court may summarily try and punish the offender for contempt of court. Such injunctive proceeding shall be in addition to all penalties and other remedies in this Act.

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

Section 15. Exemptions.

(a) This Act shall not apply to an officer or employee of this State or the fire department or fire protection district of any political subdivision of this State while such officer or employee is engaged in the performance of his or her official duties within the course and scope of his or her employment with this State, or any political subdivision. However, any such person who offers his or her services as a private fire equipment distributor or employee, or any title where similar services are performed for compensation, fee, or other valuable consideration, whether received directly or indirectly, shall be subject to this Act and its licensing requirements.

(b) Any person who engages in hydrostatic testing of fire

equipment but does not service, recharge, install, maintain, or inspect such equipment shall not be required to be licensed under this Act.

Section 20. Deposit of fees. All fees collected under this Act shall be deposited into the Fire Prevention Fund.

Section 25. Fire Equipment Distributor and Employee Advisory Board. There is created the Fire Equipment Distributor and Employee Advisory Board consisting of 9 members to be appointed by the State Fire Marshal as soon as practicable after the effective date of this Act. Two of the members shall possess at least a Class A Fire Distributor License, 2 shall possess at least a Class B Fire Distributor License, 2 shall possess at least a Class C Fire Distributor License, 2 shall be representatives of the active fire prevention services who are not licensed under this Act, and one shall be a public member who is not licensed under this Act or a similar Act of another jurisdiction and who has no connection with any business licensed under this Act. The State Fire Marshal shall be an ex officio member of the Board. Each member shall be a resident of Illinois. Each appointment to the Board shall have a minimum of 5 years' experience as a licensee in the field in which the person is licensed, be an officer in a licensed fire equipment distributor company, and be actively engaged in the fire equipment business. In making Board appointments, the State

Fire Marshal shall give consideration to the recommendations by members of the profession and by organizations therein. The membership shall reasonably reflect representation from geographic areas in this State.

Each Board member shall serve for a term of 4 years and until his or her successor is appointed and qualified. However, in making initial appointments, one member shall be appointed to serve for one year, 2 shall be appointed to serve for 2 years, 2 shall be appointed to serve for 3 years, and the remaining members, one of whom shall be the public member, shall be appointed to serve for 4 years. Appointments to fill vacancies shall be made in the same manner as original appointments for the unexpired portion of the vacated term. Initial terms shall begin upon the effective date of this Act.

A member of the Board may be removed from office for just cause. A member subject to formal disciplinary proceedings shall disqualify himself or herself from Board business until the charge is resolved. A member also shall disqualify himself or herself from any matter on which the member may not objectively make a decision.

Board members shall receive no compensation, but shall be reimbursed for expenses incurred in connection with their duties as board members.

Five members shall constitute a quorum. A majority vote of the Board is required for a Board decision.

The Board shall elect from its membership a chairman and

other officers as it may deem necessary.

Board members shall not be liable for any of their acts, omissions, decisions, or any other conduct in connection with their duties on the Board, except those involving willful, wanton, or intentional misconduct.

The Board may have such powers as may be granted by the State Fire Marshal to carry out the provisions of this Act.

Section 30. Rules; report.

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

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

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

(d) In the adopting of rules relating to fire equipment distributors and employees, the State Fire Marshal shall be guided by the national fire safety standards and codes and fire

equipment and facility standards and code, including, but not limited to, those adopted by the National Fire Protection Association and the National Association of Fire Equipment Distributors.

(e) In the adopting of rules relating to the maintenance and operation of hydrostatic testing equipment and tools for all fire equipment distributors and employees, the State Fire Marshal shall be guided by the requirements of the United States Department of Transportation as set forth in Section 173.34(e) (1) of Title 49 of Code of Federal Regulations.

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

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

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

Section 35. Personnel. The State Fire Marshal may employ, in conformity with the Personnel Code, such professional,

technical, investigative, or clerical help, on either a full or part-time basis, as may be necessary for the enforcement of this Act. Each investigator shall have a minimum of 2 years' investigative experience out of the preceding 5 years.

An investigator may not hold an active license issued under this Act or have any fiduciary interest in any business licensed under this Act. This prohibition does not, however, prohibit an investigator from holding stock in a publicly-traded business licensed or regulated under this Act, provided that the investigator does not hold more than 5% of the stock in the business.

Section 40. Qualifications for licensure; fees.

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

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

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

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

(3) Evidence of financial responsibility in a minimum

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

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

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

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

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

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

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

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

(2) Evidence of registration as an Illinois

corporation or evidence of compliance with the Assumed Business Name Act.

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

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

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

- (1) Pass the examination.
- (2) Pay an annual license fee of \$20.
- (3) Provide a current photograph at least 1" x 1" in size.

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

- (1) Pass the examination.
- (2) Pay an annual license fee of \$20.
- (3) Provide a current photograph at least 1" x 1" in

size.

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

- (1) Pass the examination.
- (2) Pay an annual license fee of \$20.
- (3) Provide a current photograph at least 1" x 1" in size.

Section 45. Applications. Each application for a license to practice under this Act shall be in writing and signed by the applicant on forms provided by the State Fire Marshal.

Section 50. Examinations.

(a) Applicants for licensure shall be examined as provided in this Section if they are qualified to be examined under this Act. All applicants who are admitted to the examination shall be evaluated upon the same standards as others being examined for the respective license.

(b) Examination for licensure shall be at such times and places as the State Fire Marshal may determine, but shall be given at least quarterly.

(c) Examinations shall test the minimum amount of knowledge and skill needed to perform the duties set forth in the definition of the license and be in the interest of protection

of the public. The State Fire Marshal may contract with a testing service for the preparation and conduct of such examination.

(d) If an applicant neglects, fails, or refuses to take an examination under this Act within one year after filing his or her application, the fee paid by the applicant shall be forfeited. However, the applicant may thereafter make a new application for examination, accompanied by the required fee.

Section 55. Licensure without examination. The State Fire Marshal shall adopt rules for licensure without examination and may license under this Act without examination, on payment of the required fee, an applicant who is registered under the laws of another state or territory or of another country, if the requirements for registration in the jurisdiction in which the applicant was licensed were, at the date of his registration, substantially equal to the requirements then in force in this State and that State, territory, or country has similar rules for licensure.

Section 60. Issuance of license; renewal.

(a) The State Fire Marshal shall, upon the applicant's satisfactory completion of the requirements authorized under this Act and upon receipt of the requisite fees, issue the appropriate license and wallet card showing the name and business location of the licensee, the dates of issuance and

expiration, and shall contain a photograph of the licensee provided to the State Fire Marshal.

(b) Any license valid on December 31, 2010 under the Fire Equipment Distributor and Employee Regulation Act of 2000 shall be a valid license under this Act and expires when the valid license issued under the Fire Equipment Distributor and Employee Regulation Act of 2000 was scheduled to expire.

(c) Each licensee may apply for renewal of his license upon payment of fees, as set forth in this Act. The expiration date and renewal period for each license issued under this Act shall be set by rule. Failure to renew within 60 days of the expiration date shall lapse the license. A lapsed license may not be reinstated until a written application is filed, the renewal fee is paid, and a \$50 reinstatement fee is paid. Renewal and reinstatement fees shall be waived for persons who did not renew while on active duty in the military and who file for renewal or restoration within one year after discharge from such service. A lapsed license may not be reinstated after 5 years have elapsed, except upon passing an examination to determine fitness to have the license restored and by paying the required fees.

(d) As a condition of renewal of a license, the State Fire Marshal may require the licensee to report information pertaining to his practice which the State Fire Marshal determines to be in the interest of public safety.

(e) All fees paid under this Act are non-refundable.

Section 65. Returned checks. Any person who on 2 occasions issues or delivers a check or other order to the State Fire Marshal that is not honored by the financial institution upon which it is drawn because of insufficient funds on account shall pay to the State Fire Marshal, in addition to the amount owing upon the check or other order, a fee of \$50. The State Fire Marshal shall notify the licensee whose license has lapsed, within 30 days after the discovery by the State Fire Marshal that the licensee is practicing without a current license, that the individual, person, or distributor is acting as a fire equipment distributor or employee, as the case may be, without a license, and the amount due to the State Fire Marshal, which shall include the lapsed renewal fee and all other fees required by this Section. If after the expiration of 30 days from the date of such notification, the licensee whose license has lapsed seeks a current license, he shall thereafter apply to the State Fire Marshal for reinstatement of the license and pay all fees due to the State Fire Marshal. The State Fire Marshal may establish a fee for the processing of an application for reinstatement of a license that allows the State Fire Marshal to pay all costs and expenses incident to the processing of this application. The State Fire Marshal may waive the fees due under this Section in individual cases where he finds that the fees would be unreasonable or unnecessarily burdensome.

Section 70. Change of address; display of license; duplicate license or certificate.

(a) A licensee shall report a change in home or office address within 10 days of when it occurs.

(b) Each licensee shall prominently display his or her license to practice at each place from which the practice is being performed. If more than one location is used, branch office certificates shall be issued upon payment of the fees to be established by the State Fire Marshal. Each fire equipment employee shall carry on his or her person a wallet card issued by the State Fire Marshal.

(c) If a license or certificate is lost, a duplicate shall be issued upon payment of the required fee to be established by the State Fire Marshal. If a licensee wishes to change his or her name, the State Fire Marshal shall issue a license in the new name upon satisfactory proof that such change was done in accordance with law and upon payment of the required fee.

(d) Each licensee shall permit his or her facilities to be inspected by representatives of the State Fire Marshal.

Section 75. Grounds for disciplinary sanctions. Licensees subject to this Act shall conduct their practice in accordance with this Act and with any rules adopted under this Act. Licensees shall be subject to the exercise of the disciplinary sanctions enumerated in Section 90 if the State Fire Marshal

finds that a licensee is guilty of any of the following:

(1) fraud or material deception in obtaining or renewing of a license;

(2) professional incompetence as manifested by poor standards of service;

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

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

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

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

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

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

(9) making differential treatment against any person to his or her detriment because of race, color, creed, sex, religion, or national origin;

(10) engaging in unprofessional conduct;

(11) engaging in false or misleading advertising;

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

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

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

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

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

Section 80. Complaints. All complaints concerning violations regarding licensees or unlicensed activity shall be received and logged by the State Fire Marshal and reported to the Board.

Section 85. Formal charges.

(a) Following the investigative process, the State Fire Marshal may file formal charges against the licensee. The formal charges shall, at a minimum, inform the licensee of the facts that make up the basis of the charge and that are specific enough to enable the licensee to defend himself.

(b) Each licensee whose conduct is the subject of a formal charge that seeks to impose disciplinary action against the licensee shall be served notice of said formal charge at least 30 days before the date of the hearing, which shall be presided over by a hearing officer authorized by the State Fire Marshal. Service shall be considered to have been given if the notice was personally received by the licensee or if the notice was sent by certified mail, return receipt requested to the licensee at the licensee's last known address, as listed with the State Fire Marshal.

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

- (1) the time, place, and date of the hearing;
- (2) that the licensee shall appear personally at the hearing and may be represented by counsel;
- (3) that the licensee shall have the right to produce witnesses and evidence in his behalf and shall have the right to cross-examine witnesses and refute evidence produced against him or her;
- (4) that the hearing could result in disciplinary action being taken against his or her license;

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

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

(7) that the State Fire Marshal may continue such hearing.

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

(e) The State Fire Marshal, following the time allowed for filing a motion for rehearing, shall review the hearing

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

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

Section 90. Disciplinary sanctions; hearings.

(a) The State Fire Marshal shall impose any of the following sanctions, singly or in combination, when he or she finds that a licensee is guilty of any offense described in Section 75:

- (1) revocation;
- (2) suspension for any period of time;
- (3) reprimand or censure;

(4) placement on probationary status and the requirement of the submission of any of the following:

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

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

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

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

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

(b) The State Fire Marshal may summarily suspend a license under this Act, without a hearing, simultaneously with the filing of a formal complaint and notice for a hearing provided under this Section if the State Fire Marshal finds that the continued operations of the individual would constitute an immediate danger to the public. In the event the State Fire Marshal suspends a license under this subsection, a hearing by the hearing officer designated by the State Fire Marshal shall begin within 20 days after such suspension begins, unless continued at the request of the licensee.

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

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

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

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

(g) The State Fire Marshal shall seek to achieve

consistency in the application of the foregoing sanctions and consent orders and significant departure from prior decisions involving similar conduct shall be explained in the State Fire Marshal's orders.

Section 95. Witnesses; record of proceedings.

(a) The State Fire Marshal has the power to subpoena and bring before it any person in this State and to take testimony either orally or by deposition, or both, with the same fees and mileage and in the same manner as is prescribed by law for judicial proceedings in civil cases. The State Fire Marshal and the hearing officer approved by the State Fire Marshal have the power to administer oaths at any hearing that the State Fire Marshal is authorized to conduct.

(b) Any circuit court, upon the application of the licensee or the State Fire Marshal, may order the attendance of witnesses and the production of relevant books and papers in any hearing under this Act. The court may compel obedience to its order by proceedings for contempt.

(c) The State Fire Marshal, at its expense, shall provide a stenographer or a mechanical recording device to record the testimony and preserve a record of all proceedings at the hearing of any case wherein a license may be revoked, suspended, or placed on probationary status or other disciplinary action taken with regard to the license. The notice of hearing, complaint, and all other documents in the

nature of pleadings and written motions filed in the proceedings, the transcript of testimony, the report of the hearing officer, and the orders of the State Fire Marshal constitute the record of such proceedings. The State Fire Marshal shall furnish a transcript of the record to any interested person upon payment of the costs of copying and transmitting the record.

Section 100. Judicial review. All final administrative decisions of the State Fire Marshal are subject to judicial review under the provisions of the Administrative Review Law and the rules adopted under this Act. Such proceedings for judicial review shall be commenced in the circuit court of the county in which the party applying for review resides. If the party applying for review is not a resident of Illinois, the venue shall be in Sangamon County. The State Fire Marshal shall not be required to certify any record to the court or file any answer in court or otherwise appear in any court in a judicial review proceeding, unless there is filed in the court with the complaint a receipt from the State Fire Marshal acknowledging payment of the costs of furnishing and certifying the record which costs shall be computed at the cost of preparing such record. Exhibits shall be certified without cost. Failure on the part of the licensee to file the receipt in court shall be grounds for dismissal of the action. During all judicial proceedings incident to the disciplinary action, the sanctions

imposed upon the accused by the State Fire Marshal shall remain in effect, unless the court feels justice requires a stay of the Order.

Section 105. Order; prima facie proof. An order of revocation, suspension, placing the license on probationary status or other formal disciplinary action as the State Fire Marshal may deem proper, or a certified copy thereof, over the seal of the State Fire Marshal and purporting to be signed by the State Fire Marshal, is prima facie proof that:

- (1) the signature is that of the State Fire Marshal;
- (2) the State Fire Marshal is qualified to act; and
- (3) the hearing officer is qualified to act on behalf of the State Fire Marshal.

Such proof may be rebutted.

Section 110. Surrender of license. Upon the suspension or revocation of a license issued under this Act, a licensee shall surrender the license to the State Fire Marshal and, upon failure to do so, the State Fire Marshal shall seize the same.

Section 115. Publication of records. The State Fire Marshal shall, upon request, publish a list of the names and addresses of all licensees under the provisions of this Act. The State Fire Marshal shall publish a list of all persons whose licenses have been disciplined within one year, and a quarterly list of

each individual who was denied employment status because of a criminal history, together with such other information as it may deem of interest to the public.

Section 120. Criminal penalties.

(a) Any person who violates any of the following provisions shall be guilty of a Class A misdemeanor for the first offense:

(1) the practice of or attempted practice as a fire equipment distributor or employee without a license;

(2) the obtaining of or the attempting to obtain a license, practice, or business or any other thing of value by fraudulent representation;

(3) permitting, directing, or authorizing any person in one's employ or under one's direction or supervision to work or serve as a licensee if that individual does not possess an appropriate valid license.

(b) Whenever any person is punished as a repeat offender under this Section, the State Fire Marshal may proceed to obtain a permanent injunction against the person under Section 10.

(c) If any person in making an oath or affidavit required by this Act swears falsely, that person is guilty of perjury and upon conviction thereof, may be punished accordingly.

(d) A person who violates any Section of this Act other than this Section shall be guilty of a Class A misdemeanor for the first offense.

A second or subsequent offense in violation of any Section of this Act, including this Section, is a Class 4 felony.

Section 900. The Regulatory Sunset Act is amended by changing Section 4.23 as follows:

(5 ILCS 80/4.23)

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

The Dietetic and Nutrition Services Practice Act.

The Elevator Safety and Regulation Act.

The Fire Equipment Distributor and Employee Regulation Act of 2011.

The Funeral Directors and Embalmers Licensing Code.

The Naprapathic Practice Act.

The Professional Counselor and Clinical Professional Counselor Licensing Act.

The Wholesale Drug Distribution Licensing Act.

Section 2.5 of the Illinois Plumbing License Law.

(Source: P.A. 95-331, eff. 8-21-07.)

Section 999. Effective date. This Act takes effect upon becoming law.