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HEALTH AND SAFETY CODE - HSC

DIVISION 11. EXPLOSIVES [12000 - 12761] (Division 11 enacted by Stats. 1939, Ch. 60.)

PART 2. FIREWORKS AND PYROTECHNIC DEVICES [12500 - 12728] (Part 2 repealed and added by Stats. 1973, Ch. 1109.)

CHAPTER 5. Licenses [12570 - 12637] (Chapter 5 added by Stats. 1973, Ch. 1109.)

ARTICLE 2. Issuance, Revocation and Renewal [12580 - 12608] (Article 2 added by Stats. 1973, Ch. 1109.)

12580. The State Fire Marshal may issue and renew licenses for the manufacture, import, export, sale, and use of all fireworks and pyrotechnic devices in this state.

(Added by Stats. 1973, Ch. 1109.)

12581. Any person who desires to manufacture, import, export, sell or use fireworks, shall first make written application for a license to the State Fire Marshal on forms provided by him. Such application shall be accompanied by the annual license fee as prescribed in this chapter.

(Added by Stats. 1973, Ch. 1109.)

12582. The application for a license shall be signed by the applicant. If the application is made by a partnership, it shall be signed by each partner of the partnership. If the application is made by a corporation, it shall be signed by an officer of the corporation and bear the corporation's seal.

(Added by Stats. 1973, Ch. 1109.)

12583. The authorization to engage in the particular act or acts conferred by a license to a person shall extend to salesmen or other employees of such person who are registered with the State Fire Marshal. The sales personnel and other employees of licensed retailers, however, need not be registered with the State Fire Marshal. No person under the age of 18 shall sell, or handle for sale, any classification of fireworks.

(Added by Stats. 1973, Ch. 1109.)

12585. Any applicant may withdraw his application for a license or renewal of a license and the State Fire Marshal may allow the withdrawal when he has determined that it is in the best interest of public safety or the administration of this part.

(Added by Stats. 1973, Ch. 1109.)

12586. The suspension, expiration, or forfeiture by operation of law of a license issued by the State Fire Marshal, or its suspension, forfeiture, or cancellation by order of the State Fire Marshal or by a court of law, or its surrender to the State Fire Marshal shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the State Fire Marshal of his authority to institute or continue disciplinary action against the licensee upon any ground provided by law, or to enter an order suspending or revoking a license or otherwise taking disciplinary action against the licensee on any such ground.

(Added by Stats. 1973, Ch. 1109.)

12587. A written report by the State Fire Marshal, any of his deputies, or salaried assistants, or by the chief of any city or county fire department or fire protection district or their authorized representatives, disclosing that the applicant for a license or for renewal of a license does not meet, or the premises for which the license is required do not meet, the qualifications or conditions for such license as required by this part or regulations adopted pursuant to this part, may constitute grounds for denial of any application for the license or renewal of the license.

(Added by Stats. 1973, Ch. 1109.)

12588. The State Fire Marshal may deny, without hearing, an application for a license or renewal of a license, if within one year prior to the date of application, the State Fire Marshal has denied or revoked a license after proceedings conducted in accordance with the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code for the same applicant on the ground of violation of this part.

(Added by Stats. 1973, Ch. 1109.)

12589. The application for any license shall become void when any of the following occurs:

- (a) The State Fire Marshal has notified the applicant to appear for examination and the applicant fails to appear or fails to submit a written statement of just cause for not appearing.
- (b) The applicant fails to achieve a passing score on a required examination. A minimum qualifying score shall be established by regulations pursuant to this part.
- (c) The applicant has not submitted documentary evidence of his qualifications as required by regulations adopted pursuant to this part.
- (d) The applicant has failed to submit evidence of insurability as required by this part.
- (e) The applicant withdraws his application prior to an investigation by the State Fire Marshal to determine if the license shall be issued.
- (f) The license is denied after a hearing is conducted as provided by this part.
- (g) The applicant has made misrepresentations or filed false statements.

(Added by Stats. 1973, Ch. 1109.)

12590. The State Fire Marshal may deny or revoke any license issued pursuant to this part if the State Fire Marshal finds any of the following conditions has occurred:

- (a) The licensee has failed to pay the annual renewal license fee provided in this chapter.
- (b) The licensee or license applicant has violated any provisions of this part or any regulations adopted by the State Fire Marshal pursuant to this part.
- (c) The licensee or license applicant has created or caused a fire nuisance.
- (d) The licensee has failed to keep full, complete, and accurate records or failed to file any required reports.
- (e) Any fact or condition exists which, if it had existed at the time of the original application for the license reasonably would have warranted the State Fire Marshal in refusing originally to issue the license.
- (f) The permit issued under Section 12640 has been rescinded or revoked by the issuing authority.
- (g) Any licensee or license applicant has refused to make available to the State Fire Marshal full, complete, and accurate records.

(Amended by Stats. 1985, Ch. 622, Sec. 1.)

12591. The State Fire Marshal may, upon three days notice, suspend any license for a period not exceeding 30 days pending investigation of any violation of the provisions of this part.

(Added by Stats. 1973, Ch. 1109.)

12592. Any applicant who has been denied a license or renewal of a license, or any licensee who has had a license suspended, shall be entitled to a hearing in accordance with the provisions of this part.

(Added by Stats. 1973, Ch. 1109.)

12593. Except where otherwise provided in this part, all hearings under this part shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(Added by Stats. 1973, Ch. 1109.)

12594. Reports on fireworks transactions or the payment of license fees or penalties required by this part shall be deemed to have been made or paid at the time they are filed with, or paid to, the State Fire Marshal, or, if sent by mail, on the date shown by the United States postmark on the envelope containing the report or payment.

(Added by Stats. 1973, Ch. 1109.)

12595. Except as otherwise provided in Section 12599, on and after July 1, 1974, the original and annual license fee shall be for the fiscal year beginning July 1 and ending June 30 of the following year, or for the remaining portion of such fiscal year if the license is issued after the beginning of that fiscal year.

(Added by Stats. 1973, Ch. 1109.)

12596. Any person or organization may obtain any license required by this part between January 1, 1974, and June 30, 1974, to be effective for that period only.

(Added by Stats. 1973, Ch. 1109.)

12597. Application for renewal of a license shall be made during the license renewal period in the current license year in order to renew a license for the next following license year. The license renewal period shall begin on January 1 and end May 1 preceding the license year for which renewal is requested. A penalty of 50 percent of the basic license fee shall be assessed in all cases where the renewal fees are not paid on or before May 1, preceding the license year for which renewal is requested. This section shall not apply to retail sales licenses.

(Added by Stats. 1973, Ch. 1109.)

12598. Every licensee who fails to renew his or her license by the time the license expires shall surrender the license to the State Fire Marshal within 10 days after the license expires.

(Amended by Stats. 1985, Ch. 622, Sec. 2.)

12599. A retail license shall authorize a retail sale of safe and sane fireworks within this state only during the period of 12 noon on the 28th of June through 12 noon on the 6th of July of the same calendar year and such license shall expire at the end of such period. No retail license shall be issued for the license period defined in this section unless the application for such license is received by the State Fire Marshal on or before June 15 preceding the license period. A new retail sales license shall be required annually for the period specified in this section.

(Added by Stats. 1973, Ch. 1109.)

12600. Except as provided in Section 12583, the authority to perform any acts permitted by a license issued under this part shall be limited to the licensee and shall not be transferable.

(Repealed and added by Stats. 1973, Ch. 1109.)

12601. Except as provided in Section 12599, any license not renewed in accordance with the provisions of this part shall automatically expire at 12 midnight on June 30 of each year.

(Repealed and added by Stats. 1973, Ch. 1109.)

12602. A license shall not be required for the retail sale, use, or discharge of agricultural and wildlife fireworks, model rocket motors, or emergency signaling devices.

(Amended by Stats. 2015, Ch. 106, Sec. 4. (AB 467) Effective January 1, 2016.)

12603. No person or employee holding a pyrotechnic license shall be required to obtain a manufacturer's license to design, assemble, compound, use, discharge, fabricate, construct, or erect any fireworks of any class or any combination thereof when such person or employee of such person is engaged in the business of producing television, motion picture, theater, or opera productions if the fireworks are for a specific use in a particular production or are used to maintain a reasonable inventory of special effects by a special effects independent contractor.

(Repealed and added by Stats. 1973, Ch. 1109.)

12604. Following the revocation or voluntary surrender of a license, or failure to renew his license, any person in lawful possession of lawfully acquired fireworks for which a license is required may sell or otherwise dispose of such fireworks only under supervision of the State Fire Marshal and in such a manner as he shall provide by regulations and solely to persons who are authorized to buy, possess, sell, or use such fireworks. Such disposal shall be accomplished not later than 90 days from the legal revocation, voluntary surrender, or day that the license expires. Any person possessing fireworks pursuant to this section shall report the disposition of such fireworks to the local authority who issued the storage permit within the time period specified by this section.

(Repealed and added by Stats. 1973, Ch. 1109.)

12605. Any person found guilty of violating any of the provisions of this part is not eligible to apply for a new license, apply for a renewal of a license, or take an examination for any license for a period of one year from the date of any conviction. The State Fire Marshal may waive the provisions of this section when he finds the granting of a license will not endanger public safety.

(Repealed and added by Stats. 1973, Ch. 1109.)

12606. Any charges against applicants for a license or against licensees which would be cause for the State Fire Marshal to initiate proceedings for revocation or denial of a license shall be filed with the State Fire Marshal within three years of the alleged act or omission.

(Repealed and added by Stats. 1973, Ch. 1109.)

12606.1. (a) If the State Fire Marshal or his or her designee determines that the public interest and public welfare will be adequately served by permitting a person licensed under this chapter to pay a monetary penalty to the State Fire Marshal in lieu of an actual license suspension, the State Fire Marshal or his or her designee may stay the execution of all or part of the suspension if all of the following conditions are met:

- (1) The violation that is the cause for the suspension did not pose, or have the potential to pose, a significant threat or risk of harm to the public.
- (2) The licensee pays a monetary penalty.
- (3) The licensee does not incur any other cause for disciplinary action within a period of time specified by the State Fire Marshal or his or her designee.

In making the determination, the State Fire Marshal or his or her designee shall consider the seriousness of the violation, the violator's record of compliance with the law, the impact of the determination on the licensee, the licensee's employees or customers, and other relevant factors.

(b) The State Fire Marshal or his or her designee may exercise the discretion granted under this section either with respect to a suspension ordered by a decision after a contested hearing on an accusation against the licensee or by stipulation with the licensee after the filing of an accusation, but prior to the rendering of a decision based upon the accusation. In either case, the terms and conditions of the disciplinary action against the licensee shall be made part of a formal decision of the State Fire Marshal or his or her designee.

(c) If a licensee fails to pay the monetary penalty in accordance with the terms and conditions of the decision of the State Fire Marshal or his or her designee, the State Fire Marshal or his or her designee may, without a hearing, order the immediate execution of all or any part of the stayed suspension in which event the licensee shall not be entitled to any repayment nor credit, prorated or otherwise, for money paid to the State Fire Marshal under the terms of the decision.

(d) The amount of the monetary penalty payable under this section shall not exceed two hundred fifty dollars (\$250) for each day of suspension stayed nor a total of ten thousand dollars (\$10,000) per decision regardless of the number of days of suspension stayed under the decision.

(e) Any monetary penalty received pursuant to this section shall be deposited in the State Fire Marshal Licensing and Certification Fund.

(f) On or before March 1 of each year, the State Fire Marshal shall make available to the public data showing the percentage of enforcement actions taken that resulted in license suspension or the assessment of monetary penalties pursuant to this section.

(Added by Stats. 2010, Ch. 161, Sec. 1. (AB 1773) Effective January 1, 2011.)

12607. The State Fire Marshal may deny the application for a license or the application for renewal of a license filed by any person who has been convicted of a felony involving explosives or dangerous fireworks or who has been convicted as a principal or accessory in a crime against property involving arson or any other fire-related offense contained in Chapter 1 (commencing with Section 447a) of Title 13 of Part 1 of the Penal Code.

(Amended by Stats. 1979, Ch. 626.)

12608. The authority to perform those acts conferred upon the employee of a licensee as provided for in Section 12583 may be denied to any person who has been convicted of a felony.

(Amended by Stats. 1979, Ch. 626.)