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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 FIREWORKS AND PYROTECHNIC DEVICES [12500 - 12728]** ( *Part 2 repealed and added by Stats. 1973, Ch. 1109.*  )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 9. Remedies [12720 - 12728]** ( *Chapter 9 added by Stats. 1973, Ch. 1109.*  )

**12720.** Any threatened violation of any provision of this part or of any order or regulation of the State Fire Marshal issued pursuant to this part may be enjoined in a civil action brought in the name of the people of the State of California. Such actions may be instituted by the Attorney General or the district attorney of the county in which the act, practice, or transaction is about to be committed.

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

**12721.** The State Fire Marshal, his or her salaried deputies, or any chief of a fire department, or his or her authorized representatives, any fire protection agency, or any other public agency authorized by statute to enforce the State Fire Marshal's regulations, may seize any fireworks described in this part. The State Fire Marshal, any chief of a fire department, any fire protection agency, or any other public agency authorized to enforce the State Fire Marshal's regulations may charge any person, firm, or corporation, whose fireworks are seized pursuant to this section, an amount which is sufficient to cover the cost of transporting, storing, and handling the seized fireworks. When the State Fire Marshal, other enforcing officer or agency described in this section, or a court determines that a person's, firm's, or corporation's fireworks are illegally or erroneously seized, or if legal proceedings do not result in a conviction for violation of any provision of this part, any funds collected pursuant to this section shall be refunded, or if charged but unpaid, canceled.

(*Amended by Stats. 1984, Ch. 681, Sec. 1.*)

**12722.** The following fireworks may be seized pursuant to Section 12721:

- (a) Those fireworks that are sold, offered for sale, possessed, stored, used, or transported within this state prior to having been examined, classified, and registered by the State Fire Marshal, except those specific items designated as samples pending examination, classification, and registration by the State Fire Marshal where the licensee provides documentary evidence that the action by the State Fire Marshal is pending.
- (b) All imported fireworks possessed without benefit of the filing of notices as required by this part.
- (c) Safe and sane fireworks stored in violation of the conditions required by the permit as provided in this part.
- (d) Safe and sane fireworks sold or offered for sale at retail that do not bear the State Fire Marshal label of registration and firing instructions.
- (e) Safe and sane fireworks sold or offered for sale at retail that are in unsealed packages or containers that do not bear the State Fire Marshal label of registration and firing instructions.
- (f) Safe and sane fireworks sold or offered for sale at retail before 12 noon on the 28th day of June or after 12 noon on the sixth day of July of each year.
- (g) Each safe and sane fireworks item sold or offered for sale at retail that does not have its fuse or other igniting device protected by a cap approved by the State Fire Marshal, or groups of fireworks with exposed fuses that are not enclosed in sealed packages that bear the State Fire Marshal label of registration. The State Fire Marshal shall approve the caps as he or she determines provide reasonable protection from unintentional ignition of the fireworks.
- (h) Dangerous fireworks, including fireworks kits, used, possessed, stored, manufactured, or transported by a person who does not possess a valid permit authorizing an activity listed in this part.

- (i) Fireworks stored or sold in a public garage or public oil station, or on any premises where gasoline or any other class 1 flammable liquids are stored or dispensed.
- (j) Fireworks still possessed by a person who has just thrown any ignited fireworks at a person or group of persons.
- (k) Model rocket motors or model rockets with motors possessed by a person who does not hold a valid permit.
- (l) An emergency signaling device sold, offered for sale, or used that does not bear the State Fire Marshal label of registration as required by this part.
- (m) Fireworks or pyrotechnic device offered for sale by a person violating this part.

*(Amended by Stats. 2015, Ch. 106, Sec. 9. (AB 467) Effective January 1, 2016.)*

**12723.** (a) The authority seizing fireworks under the provisions of this chapter shall notify the State Fire Marshal not more than three days following the date of seizure and shall state the reason for the seizure and the quantity, type, and location of the fireworks. Fireworks, with the exception of dangerous fireworks, seized pursuant to Section 12721 shall be disposed of by the State Fire Marshal in the manner prescribed by the State Fire Marshal at any time subsequent to 60 days from the seizure or 10 days from the final termination of proceedings under the provisions of Section 12593 or 12724, whichever is later. Dangerous fireworks shall be disposed of according to procedures in Sections 12724 and 12726. Fireworks seized by any authority as defined in this chapter, other than the State Fire Marshal or his or her salaried assistants, shall be held in trust for the State Fire Marshal by that authority.

(b) This section shall become operative on January 1, 2016.

*(Repealed (in Sec. 9) and added by Stats. 2015, Ch. 24, Sec. 10. (SB 83) Effective June 24, 2015. Section operative January 1, 2016, by its own provisions.)*

**12724.** (a) Any person whose fireworks are seized under the provisions of this chapter may, within 10 days after seizure, petition the State Fire Marshal to return the fireworks seized upon the ground that the fireworks were illegally or erroneously seized. Any petition filed pursuant to this section shall be considered by the State Fire Marshal within 15 days after filing or after a hearing granted to the petitioner, if requested. The State Fire Marshal shall advise the petitioner of his or her decision in writing. The determination of the State Fire Marshal is final unless within 60 days after seizure an action is commenced in a court of competent jurisdiction in the State of California for the recovery of the fireworks seized pursuant to this part, except as provided in subdivision (b).

(b) The determination of the State Fire Marshal is final in the case of the seizure of dangerous fireworks, unless within 20 days after the notice of the determination is mailed to the petitioner an action is commenced in a court of competent jurisdiction in the State of California for the recovery of the fireworks seized pursuant to this part.

*(Amended by Stats. 1985, Ch. 629, Sec. 2.)*

**12725.** The State Fire Marshal, his salaried deputies, or any chief or his authorized representatives as qualified in this chapter may prevent, stop, or cause to be stopped, any public display in progress, or any proposed public display, when the location, discharge, or firing of such public display is determined by him to be hazardous to property or dangerous to the public.

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

**12726.** (a) The dangerous fireworks seized pursuant to this part shall be managed by the State Fire Marshal in the manner prescribed by the State Fire Marshal and in accordance with subdivision (b) at any time after the final determination of proceedings under Section 12724, or upon final termination of proceedings under Section 12593, whichever is later. If no proceedings are commenced pursuant to Section 12724, the State Fire Marshal shall manage the dangerous fireworks in a manner prescribed by the State Fire Marshal and in accordance with subdivision (b).

(b) (1) The State Fire Marshal shall ensure that any dangerous fireworks seized pursuant to this part that are identified by the State Fire Marshal as hazardous waste are managed in accordance with California and federal hazardous waste laws and regulations. The State Fire Marshal shall ensure that this hazardous waste is shipped only by registered hazardous waste transporters and treated, stored, or disposed of only by authorized hazardous waste facilities.

(2) When managing fireworks seized pursuant to this part, the State Fire Marshal shall not repurpose, transfer, or sell the seized fireworks for purposes of retail sale.

(3) Management of fireworks seized pursuant to this part shall only involve the following actions:

(A) Use by fire and law enforcement agencies for safety, education, training, testing, and enforcement purposes.

(B) Use by the Office of the State Fire Marshal and the federal Consumer Product Safety Commission for regulatory compliance testing and comparison.

(C) Held for testing, comparison, or disposal in the interest of public safety, if identified and seized pursuant to a recall issued by the federal Consumer Product Safety Commission.

(D) Reclassification by the Office of the State Fire Marshal from a consumer product to a hazardous waste, and disposed of in accordance with applicable laws governing hazardous waste.

(E) Deconstruction or alteration by the arson and bomb unit of the Office of the State Fire Marshal, local public safety bomb squads, the federal Bureau of Alcohol, Tobacco, Firearms and Explosives, or the Federal Bureau of Investigations, for purposes of testing, as it relates to the investigation of criminal, terrorist, or civil disobedience acts.

(F) Held for investigation, as it relates to counterfeit or illicit seals of the State Fire Marshal, product packaging, labeling, coding, inspection labeling, manufacturer labeling, or importer or exporter labeling.

(G) Held by the Office of the State Fire Marshal as evidence for local, state, or federal criminal prosecution.

(H) Use by the arson and bomb unit of the Office of the State Fire Marshal for fireworks education, testing, disposal, enforcement, and investigations not addressed in subparagraphs (A) to (G), inclusive.

(c) If dangerous fireworks are seized pursuant to a local ordinance that provides for administrative fines or penalties and these fines or penalties are collected, the local government entity collecting the fines or penalties shall forward 65 percent of the collected moneys to the Controller for deposit in the State Fire Marshal Fireworks Enforcement and Disposal Fund, as described in Section 12728.

*(Amended by Stats. 2022, Ch. 238, Sec. 1. (SB 277) Effective January 1, 2023.)*

**12726.1.** (a) Subject to an appropriation by the Legislature, the State Fire Marshal shall train local fire and law enforcement personnel on the requirements of this chapter.

(b) The State Fire Marshal shall, in consultation with relevant state and local public agencies, the fireworks industry, and other relevant stakeholders, develop, publish, and provide necessary guidance and training to local agencies that seize, collect, transport, store, and treat seized fireworks. This training and education may include, but is not limited to, the following specific areas:

(1) Standards for the transportation, storage, and handling of fireworks and pyrotechnic articles in accordance with Chapter 6 (commencing with Section 979) of Division 1 of Title 19 of the California Code of Regulations and the National Fire Protection Association 1124: Code for the Manufacture, Transportation, Storage, and Retail Sales of Fireworks and Pyrotechnic Articles of 2013.

(2) Recognition of explosive materials and isolation procedures in accordance with Chapter 10 (commencing with Section 1550) of Division 1 of Title 19 of the California Code of Regulations and the National Fire Protection Association 495: Explosive Materials Code of 2013.

(3) Recognition of commercial, consumer, and illegal fireworks in accordance with Chapter 6 (commencing with Section 979) of Division 1 of Title 19 of the California Code of Regulations and the National Fire Protection Association 1124: Code for the Manufacture, Transportation, Storage, and Retail Sales of Fireworks and Pyrotechnic Articles of 2013.

*(Added by Stats. 2023, Ch. 368, Sec. 6. (AB 1403) Effective January 1, 2024.)*

**12727.** (a) The State Fire Marshal shall establish regulations pursuant to the requirements and procedures established with the Office of Administrative Law to assess fees on all import and export, wholesale, and retail fireworks licensees in California to be deposited in the State Fire Marshal Fireworks Enforcement and Disposal Fund.

(b) In determining the appropriate amount of the fees described in subdivision (a), the State Fire Marshal shall consult with the fireworks industry and import and export, wholesale, and retail fireworks licensees.

(c) The total amount of the fees collected shall not exceed the reasonable costs of the statewide programs described in subdivision (c) of Section 12728.

*(Added by Stats. 2007, Ch. 563, Sec. 11. Effective January 1, 2008.)*

**12728.** (a) The State Fire Marshal Fireworks Enforcement and Disposal Fund is hereby established in the State Treasury.

(b) All of the moneys collected pursuant to Section 12706 shall be deposited in the fund and shall be available, upon appropriation by the Legislature, to the State Fire Marshal for the exclusive use in statewide programs for the enforcement, prosecution related to, disposal, and management of seized dangerous fireworks, and for the education of public safety agencies in the proper handling and management of dangerous fireworks.

(c) All of the moneys collected pursuant to Section 12727 shall be deposited in the fund and shall be available, upon appropriation by the Legislature, to the State Fire Marshal for the exclusive use in statewide programs for all of the following:

(1) To further assist in statewide programs for the enforcement, prosecution related to, disposal, and management of seized dangerous fireworks.

(2) The education of public safety agencies in the proper handling and management of dangerous fireworks as well as safety issues involving all fireworks and explosives.

(3) Assist the State Fire Marshal in identifying and evaluating methods to capture more detailed data relating to fires, damages, and injuries caused by both dangerous and safe and sane fireworks, and to assist with funding the eventual development and implementation of those methods.

(4) To further assist in public safety and education efforts within the general public as well as public safety agencies on the proper and responsible use of safe and sane fireworks.

*(Added by Stats. 2007, Ch. 563, Sec. 12. Effective January 1, 2008.)*