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HEALTH AND SAFETY CODE - HSC

DIVISION 12. FIRES AND FIRE PROTECTION [13000 - 14959] (*Division 12 enacted by Stats. 1939, Ch. 60.*)

PART 2. FIRE PROTECTION [13100 - 13263] (*Part 2 enacted by Stats. 1939, Ch. 60.*)

CHAPTER 1. State Fire Marshal [13100 - 13159.10] (*Chapter 1 enacted by Stats. 1939, Ch. 60.*)

ARTICLE 1.5. Financial Provisions [13137 - 13139] (*Article 1.5 added by Stats. 1992, Ch. 306, Sec. 3.*)

13137. (a) The State Fire Marshal Licensing and Certification Fund is hereby created in the State Treasury. All money in the fund is available for the support of the State Fire Marshal upon appropriation by the Legislature. All moneys collected by the State Fire Marshal pursuant to this part, pursuant to Part 2 (commencing with Section 12500) or Part 3 (commencing with Section 12750) of Division 11, and pursuant to Section 41961, shall be deposited in the fund and shall be available to the State Fire Marshal for expenditure upon appropriation by the Legislature for the purposes of this part, Part 2 (commencing with Section 12500) or Part 3 (commencing with Section 12750) of Division 11, or Section 41961, respectively.

(b) Neither this article nor any provision of this part or Part 2 (commencing with Section 12500) or Part 3 (commencing with Section 12750) of Division 11 or Section 41961 authorize fees to exceed the actual cost of administration of the programs administered by the State Fire Marshal, nor authorize the charging of fees to a particular group being regulated under a program, for the costs of regulation under another program or for the costs of a different group under the same program.

(*Amended by Stats. 2004, Ch. 496, Sec. 2. Effective January 1, 2005.*)

13138. (a) For state agencies, local agencies, or private entities that are charged for the costs of fire and life safety building code inspections and related fire and life safety activities rendered by the State Fire Marshal, such as plan review, construction consulting, fire watch, and investigation, the State Fire Marshal shall charge an amount sufficient to recover the costs incurred for the fire and life safety building code inspections and those related fire and life safety activities.

(b) Upon the request of the State Fire Marshal, in the form prescribed by the Controller, the Controller shall transfer the amount of the charges for services rendered from the agency's appropriation to the appropriation for the support of the State Fire Marshal's office. The State Fire Marshal shall charge local agencies and private entities for the amount sufficient to recover the costs of the services provided.

(c) A state agency that has a dispute regarding charges for fire and life safety building code inspections provided by the State Fire Marshal shall notify the State Fire Marshal, in writing, of the dispute and the basis therefor. The State Fire Marshal shall immediately provide a credit to the state agency in the subsequent billing or billings for the amount of the charges in dispute. No further transfer of funds shall occur with respect to the services for which charges are disputed until the dispute is resolved by the State Fire Marshal, subject to the approval of the Department of Finance.

(*Amended by Stats. 2008, Ch. 760, Sec. 4. Effective September 30, 2008.*)

13139. (a) On or before January 1, 2008, the State Fire Marshal shall approve and list portable gasoline containers that are designed and constructed according to one of the following child-resistant standards:

(1) Construction and design standards that are substantially the same as the American Society for Testing and Materials (ASTM) F2517-05 standard, issued by ASTM International, or any successor standard issued by ASTM International.

(2) Construction and design standards approved by a national testing laboratory recognized by the State Fire Marshal.

(b) No person shall sell, offer for sale, or possess for sale, on or after April 1, 2008, a portable gasoline container that has not been listed and approved by the State Fire Marshal.

(c) For purposes of this section, "portable gasoline container" means any container or vessel with a nominal capacity of 10 gallons or less that is intended for reuse and is designed, used, sold, advertised, or offered for sale primarily for receiving, transporting, storing,

or dispensing gasoline. "Portable gasoline container" does not include either of the following:

(1) A container or vessel permanently embossed or permanently labeled as described in Section 172.407(a) of Title 49 of the Code of Federal Regulations, as it existed on September 15, 2005, indicating containers or vessels that are solely intended for use with nonfuel or nonkerosene products.

(2) A safety can meeting the requirements of Subpart F (commencing with Section 1926.150) of Part 1926 of Title 29 of the Code of Federal Regulations, as it existed on January 1, 2008. This exception shall not apply to any safety can manufactured after October 31, 2008, unless the can contains a label or silkscreen of the words "NOT CHILDPROOF" in a conspicuous and prominent place against a contrasting background, and the type shall be clear and legible. On safety cans larger than one quart, the font size of the label wording shall be printed in at least 12-point type. On safety cans one-quart and smaller, the font size of the label wording shall be printed in at least 8-point type. All labels shall be printed in both English and Spanish.

(d) Retailers are permitted to sell through existing supplies of portable gasoline containers that have not been listed and approved for sale by the State Fire Marshal.

(e) This section shall cease to be applicable if federal fire safety standards for portable gasoline containers that preempt this section are enacted and take effect subsequent to the effective date of this statute and the State Fire Marshal so notifies the Secretary of State.

(Amended by Stats. 2008, Ch. 5, Sec. 1. Effective April 15, 2008. Section conditionally inapplicable as provided in subd. (e).)