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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 1.5. Portable Fire Extinguishers [13160 - 13190.4]** ( Chapter 1.5 added by Stats. 1968, Ch. 802. )

**ARTICLE 4. Denial, Revocation, and Suspension [13185 - 13188.4]** ( Article 4 added by Stats. 1968, Ch. 802. )

**13185.** The issuance of a license or certificate of registration may be denied by the State Fire Marshal for any of the following reasons:

- (a) The applicant is not the real person in interest.
- (b) Material misrepresentation or false statement in the application.
- (c) Refusal to allow inspection by the State Fire Marshal or his duly authorized employees.
- (d) The applicant for a license does not have the proper or necessary facilities, including qualified personnel, to conduct the operations for which application is made.
- (e) The applicant for a certificate of registration does not possess the qualifications of skill or competence to conduct the operations for which application is made as evidenced by failure to pass the examination pursuant to Article 3 (commencing with Section 13175) of this chapter.
- (f) Refusal to take the examination required by Section 13177 of this chapter.
- (g) The applicant has been convicted of a violation of the provisions of this chapter of the regulations adopted by the State Fire Marshal pursuant to this chapter.

(Added by Stats. 1968, Ch. 802.)

**13186.** Within 30 days after receipt of notice of denial sent by the State Fire Marshal by registered or certified mail to the applicant's last address of record, the applicant may file with the State Fire Marshal a request for statement of issues. Such request shall not be deemed an answer to the statement of issues, a request for a hearing, or a notice of defense. Unless the State Fire Marshal files a statement of issues regarding the denial of the application within 30 days after the timely filing of such request, the license or certificate of registration shall be issued.

(Added by Stats. 1968, Ch. 802.)

**13187.** When a statement of issues has been so filed, the State Fire Marshal may order denial pursuant to Chapter 5 (commencing with Section 11500), Part 1, Division 3, Title 2 of the Government Code.

(Added by Stats. 1968, Ch. 802.)

**13188.** A license or certificate of registration may be suspended or revoked by the State Fire Marshal pursuant to Chapter 5 (commencing with Section 11500), Part 1, Division 3, Title 2, of the Government Code, for any of the following reasons:

- (a) The applicant is not the real person in interest.
- (b) Material misrepresentation or false statement in the application.
- (c) Violation of any provision of this chapter or any regulation adopted by the State Fire Marshal pursuant to this chapter.

(Added by Stats. 1968, Ch. 802.)

**13188.1.** The State Fire Marshal may, upon a preliminary finding of a violation of the provisions of this part, suspend any license or certificate of registration for a period not exceeding 30 days pending investigation of any violation of the provisions of this part.

(Added by Stats. 1989, Ch. 909, Sec. 2.)

**13188.2.** Any applicant who has been denied a license or certificate of registration or who has had a license or certificate of registration suspended, shall be entitled to a hearing in accordance with the provisions of this part.

*(Added by Stats. 1989, Ch. 909, Sec. 3.)*

**13188.3.** 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. 1989, Ch. 909, Sec. 4.)*

**13188.4.** (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 who has a license issued pursuant to Section 13165 or a certificate of registration issued pursuant to Section 13178 to pay a monetary penalty to the State Fire Marshal in lieu of a license or certificate of registration 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 holder of the license or certificate of registration pay a monetary penalty.
- (3) The holder of the license or certificate of registration 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 violator, the violator'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 holder of the license or certificate of registration or by stipulation with the holder of the license or certificate of registration 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 holder of the license or certificate of registration shall be made part of a formal decision of the State Fire Marshal or his or her designee.

(c) If a holder of the license or certificate of registration 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 holder of the license or certificate of registration 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. 2. (AB 1773) Effective January 1, 2011.)*