

## Executive

### ARTICLE 6-C

#### OFFICE OF FIRE PREVENTION AND CONTROL

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§ 155. Office of fire prevention and control; creation; state fire administrator; employees. There is hereby created in the division of homeland security and emergency services an office of fire prevention and control. The head of such office shall be the state fire administrator, who shall be appointed by the governor and shall hold office during the pleasure of the governor. He shall receive an annual salary to be fixed by the commissioner of the division of homeland security and emergency services within the amount available by appropriation. He shall also be entitled to receive reimbursement for expenses actually and necessarily incurred by him in the performance of his duties within the amount available by appropriation.

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§ 155-a. Definitions. When used in this article:

1. "Districts" shall mean fire districts created pursuant to article eleven of the town law.
2. "Fire companies" shall mean fire companies governed by the not-for-profit corporation law.
3. "Municipal corporations" shall mean a county, city, town and village.
4. "Municipalities" shall mean municipal corporations.
5. "Sprinkler system" shall mean a system of piping and appurtenances designed and installed in accordance with generally accepted standards so that heat from a fire will automatically cause water to be discharged over the fire area to extinguish it or prevent its further spread.

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§ 156. Functions, powers and duties of the office. The office of fire prevention and control, by and through the state fire administrator or his duly authorized officer or employee, shall be empowered to:

1. Advise and assist in coordinating and strengthening the activities, programs and services, and rules and regulations of those departments and agencies of the state which have functions, powers and duties relating to (a) arson suppression, detection, investigation and prosecution, (b) fire prevention and control, and (c) fire service-related problems, to the end of providing more effective services to the public and strengthening governmental programs relating to such matters.

1-a. Advise and assist the state education department in the development of a specialized course of study for teachers of fire and arson prevention.

2. Advise and assist fire companies, municipal corporations and districts, including agencies and departments thereof in developing measures for more effective fire and arson prevention and control; to assist and encourage cooperative efforts to solve common problems relating to fire and arson prevention and control and to serve as a clearinghouse of information about fire and arson prevention and control, about reported cases of burn injuries or wounds sustained, and about state and federal services available to assist in solving such problems.

3. Employ or contract with individuals, agencies or corporations to assist fire companies, municipal corporations and districts in the development of an arson investigation program or in the investigation of cases of suspected arson or cases of burn injuries or wounds sustained upon the request of such an entity. However, nothing in this provision shall be construed to remove the primary responsibility for arson investigations from appropriate local jurisdictions or agencies.

4. Improve arson evidence analysis and testing at existing facilities and periodically recommend to the governor and the legislature methods to improve such services.

5. Collect, compile and disseminate information relating to fire and arson prevention and control, reported cases of burn injuries or wounds sustained, the use of sprinkler systems, and to operate a state fire reporting system. The state fire reporting system shall include a procedure for the identification of patterns of suspicious or criminal fires and for alerting appropriate state and local authorities. The fire reporting system shall also include fire incident data supplied by local fire agencies in a manner and on forms prescribed by the state fire administrator. To the extent practicable, the data shall be collected and maintained in a form compatible with information collected by other states and the federal government. The state fire administrator shall cooperate with the division of state police, division of criminal justice services, department of financial services, local police and fire agencies, the insurance industry and other appropriate organizations in maintaining such system. The provisions of section three hundred eighteen of the insurance law shall apply to any organization supplying information pursuant to this subdivision.

6. Plan, coordinate and provide training for firefighters, both paid and volunteer, and related governmental officers and employees, relating to fire and arson prevention and control, and encourage expansion and improvement of local training facilities in cooperation with fire companies, municipal corporations and districts. Such training shall be made available by video or computer to the maximum extent possible. The office shall adopt rules and regulations relating to such training, including but not limited to training standards used and the process by

which training hours are allocated to counties as well as a uniform procedure for requesting and providing additional training hours.

7. Operate the New York state academy of fire science.

8. Consult with and cooperate with state departments and agencies, and universities, colleges and institutions in the state for the development of specialized courses of study for public officers and employees, including paid and volunteer firefighters, in fire science and administration. As part of the development of a training program for firefighters, the office shall collect, compile, and disseminate information regarding training needs based on the data provided pursuant to section seventy-two-g of the general municipal law. Such information shall be compiled annually and, once compiled, a copy of such information shall be submitted to the governor, the temporary president of the senate, and the speaker of the assembly.

9. Coordinate and support arson training programs conducted by the division of criminal justice services and the division of state police.

10. Provide such public education and information programs, studies and reports as the state fire administrator may determine in furtherance of the provisions of this article and to coordinate and assist other state agencies, municipal corporations and districts and fire companies in such matters.

11. Provide management advice and technical assistance to municipal corporations and districts and fire companies relating to fire and arson prevention and control, including recommendations relating to organizations and structure of fire companies, municipal corporations and districts, allocations of powers and functions, cooperation and intergovernmental organizational and fiscal relationships, federal and state aid programs; to provide legal advice and technical services to state and local officials and agencies with respect to powers, duties and functions of municipal corporations and districts and fire companies relating to fire and arson prevention and control.

12. Prepare and recommend revisions, consolidations or compilations of statutes relating to arson, fire prevention and control.

13. Upon request of the appropriate state agency, provide for the fire safety inspection of state or state-regulated facilities with the cooperation and assistance of local fire inspection personnel. The completed fire inspection form shall be filed with the requesting agency and contain recommendations as may be appropriate and a copy filed with the office of fire prevention and control.

14. Act as the official agent of the state for the purpose of administering, carrying out and otherwise cooperating with the federal government in connection with the provisions of the federal fire prevention and control act of nineteen hundred seventy-four and any federal laws amendatory or supplemental to such act heretofore or hereafter enacted; to apply for, accept, and expend funds made available by the federal government pursuant to such act; and to enter into any necessary contracts or compacts pursuant to such federal acts in connection therewith and to take any further action which may be required under the terms of any such federal act.

15. Enter into contracts with any person, firm, corporation or governmental agency to do all things necessary and convenient to carry out the functions, powers and duties expressly set forth in this article.

16. Accept and administer as agent of the state any gift, grant, devise or bequest, including federal grants for any of the purposes of this article. Any moneys so received may be expended subject to the same limitations as to approval of expenditures and audits as are prescribed for state moneys.

17. Issue a written report to the governor and legislature, on or before February fifteenth of each year, on firefighter training activities. Such report shall include at least the following information: the minimum training hours allocated on a county-by-county basis, the training hours requested by each county, any unfulfilled training hour requests, and the number of hours used by each county on a county-by-county basis.

18. Establish rules and regulations as to the location and design of a delineator used to mark the location of fire hydrants.

19. Issue permits and enforce the provisions of article four hundred five of the penal law for the public displays of fireworks and indoor pyrotechnics on or within state property, unless such authority has been delegated pursuant to the rules and regulations promulgated by the office of fire prevention and control.

20. Register the manufacturers, distributors, wholesalers, retailers and seasonal retailers of sparkling devices who wish to do business within the state.

\* 21. Adopt, amend or rescind such rules, regulations or orders as may be necessary or convenient to the performance of the functions, powers and duties set forth in this article.

\* NB There are 2 sb 21's

\* 21. Provide written materials to consumers and builders which detail the benefits of and include the factors that can affect costs associated with the installation and maintenance of an automatic fire sprinkler system for a one- or two-family residential dwelling.

\* NB Repealed upon provisions set forth in § 3 of chapter 201 of 2014

\* NB There are 2 sb 21's

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§ 156-a. Establishment of a specialized hazardous materials emergency response training program. 1. The state fire administrator shall establish a specialized hazardous materials emergency response training program for individuals responsible for providing emergency response recovery following incidents involving hazardous materials as such term is defined in regulations promulgated by the commissioner of transportation pursuant to section fourteen-f of the transportation law. The state fire administrator shall inform all fire companies, municipal corporations and districts, including agencies and departments thereof and all firefighters, both paid and volunteer, and related officers and employees and police officers of the implementation and availability of the hazardous materials emergency response training program and shall, subject to the availability of an appropriation, conduct such training with sufficient frequency to assure adequate response to incidents involving hazardous materials and protection of responders in all geographic areas of the state.

2. The state fire administrator shall prescribe the curriculum of the hazardous materials emergency response training program, which shall include, but shall not be limited to:

(a) hands-on training, including information in regard to leak and spill control, product neutralization, pickup and disposal, fire control, decontamination procedures and use and application of foam agents;

(b) hazard assessment with emphasis on incident scene decision-making, including: potential threat to public safety and need for evacuation, calculation of the effect of weather on certain chemicals and evaluation of the result of chemical exposures to air, water, soil, vegetation, lives and property and impact on the personal safety of those working in the accident area;

(c) calibration and use of emergency equipment;

(d) chemical and biological properties of various classes of chemicals, for example, flammables, oxidizers, corrosives, poisons; and

(e) weapons of mass destruction and response to terrorism.

3. The state fire administrator is hereby directed to issue a report to the governor, speaker of the assembly, temporary president of the senate, chairman of the assembly transportation committee and the chairman of the senate transportation committee by February fifteenth of each year on the operations of the program set forth in this section.

4. The state fire administrator shall promulgate such rules and regulations as are necessary to carry out the provisions of this section.

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§ 156-b. Permanent marking indicating location of fire hydrants. A municipality or fire district may mark the location of any fire hydrant within its jurisdiction by means of a reflective delineator of a uniform type and color approved by the office of fire prevention and control.

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§ 156-c. Fire safety standards for cigarettes. 1. a. When used in this section, the word "cigarette" shall mean any roll for smoking made wholly or in part of tobacco or of any other substance, irrespective of size or shape and whether or not such tobacco or substance is flavored, adulterated or mixed with any other ingredient, the wrapper or cover of which is made of paper or any other substance or material except tobacco.

b. When used in this section, the word "sell" shall mean to sell, or to offer or agree to do the same.

2. a. Within two years after this section takes effect, the office of fire prevention and control shall promulgate fire safety standards for cigarettes sold or offered for sale in this state. Such standards shall take effect as provided in subdivision four of this section and shall insure either:

(1) That such cigarettes, if ignited, will stop burning within a time period specified by the standards if the cigarettes are not smoked during that period; or

(2) That such cigarettes meet performance standards prescribed by the office of fire prevention and control to limit the risk that such cigarettes will ignite upholstered furniture, mattresses or other household furnishings.

b. In promulgating fire safety standards for cigarettes pursuant to this section, the office of fire prevention and control, in consultation with the department of health, shall consider whether cigarettes manufactured in accordance with such standards may reasonably result in increased health risks to consumers.

c. The office of fire prevention and control shall be responsible for administering the provisions of this section.

d. The office of fire prevention and control shall report to the governor and the legislature no later than eighteen months after this section takes effect on the status of its work in promulgating the fire safety standards required by this subdivision.

e. When a cigarette is suspected of having ignited a fire, and the office of fire prevention and control receives information regarding the brand and style of such cigarette pursuant to section two hundred four-d or ninety-one-a of the general municipal law, and where such brand and style had been previously certified pursuant to subdivision three of this section and the package has been marked as required by subdivision six of this section, the office of fire prevention and control shall conduct random testing on cigarettes of the same brand and style in order to determine whether such cigarettes meet the fire safety standards mandated by this section; provided however that such testing shall not be required if the office of fire prevention and control has tested such brand and style within the preceding three months.

3. On and after the date the fire safety standards take effect in accordance with subdivision four of this section, no cigarettes shall be sold or offered for sale in this state unless the manufacturer thereof has certified in writing to the office of fire prevention and control that such cigarettes meet the performance standards prescribed by the office of fire prevention and control pursuant to subdivision two of this section.

(a) Such certifications must be based upon testing conducted by a laboratory that has been accredited pursuant to Standard ISO/IEC 17025 of the international organization for standardization, or such other comparable accreditation standard as the office of fire prevention and control shall require by regulation.

(b) Such certification shall be signed by an officer of the manufacturer and shall contain for each cigarette brand style such

information as shall be deemed necessary by the office of fire prevention and control, including but not limited to: (i) the brand and style; (ii) length in millimeters; (iii) circumference in millimeters; (iv) flavor, if applicable; (v) filter or non-filter; (vi) package description; (vii) the name, address and telephone number of the laboratory, if different than the manufacturer that conducted the test; (viii) the date that the testing occurred; and (ix) a notarized statement from an officer or director of the laboratory certifying that the cigarette meets the performance standards prescribed by the office of fire prevention and control.

(c) If a manufacturer has certified a cigarette pursuant to this subdivision, and thereafter makes any change to such cigarette that is likely to alter its compliance with the fire safety standards mandated by this section, then before such cigarette may be sold or offered for sale in this state such manufacturer shall retest such cigarette in accordance with the testing standards prescribed by the office of fire prevention and control and maintain records of such retesting as required by subdivision seven of this section. Any such altered cigarette which does not meet the performance standard prescribed by the office of fire prevention and control may not be sold in the state. Copies of such written certifications shall be provided by the certifying manufacturer to all wholesale dealers, as defined in subdivision eight of section four hundred seventy of the tax law, and all agents, as defined in subdivision eleven of section four hundred seventy of the tax law. The office of fire prevention and control shall prescribe procedures by which stamping agents, wholesale dealers or retail dealers are notified of which cigarettes have been certified by manufacturers as meeting the performance standards prescribed by the office of fire prevention and control, which may include the maintenance of a website listing certified cigarette brands and styles.

4. The fire safety standards required pursuant to subdivision two of this section shall take effect on such date as the office of fire prevention and control shall specify in promulgating such standards and such date shall be the earliest practicable date by which manufacturers of cigarettes can comply with such standards; provided, however, that such date shall not be later than one hundred eighty days after such standards are promulgated. On and after such date, no person or entity shall sell in this state cigarettes that have not been certified by the manufacturer in accordance with subdivision three of this section or that have not been marked in the manner required by subdivision six of this section; provided, however, that nothing in this subdivision shall be construed to prohibit any person or entity from selling or offering for sale cigarettes that have not been certified by the manufacturer in accordance with subdivision three of this section and have not been marked in the manner required by subdivision six of this section if such cigarettes are or will be stamped for sale in another state or are packaged for sale outside the United States.

5. a. Any wholesale dealer, as defined in subdivision eight of section four hundred seventy of the tax law, or any agent, as defined in subdivision eleven of section four hundred seventy of the tax law, or any other person or entity who knowingly sells or offers to sell cigarettes in violation of subdivision four of this section shall be subject to a civil penalty not to exceed one hundred dollars for each pack of such cigarettes sold or offered for sale provided that in no case shall the penalty against any wholesale dealer exceed one hundred thousand dollars for sales or offers to sell during any thirty day period. Any retail dealer, as defined in subdivision nine of section four hundred seventy of the tax law, who knowingly sells or offers to

sell cigarettes in violation of subdivision four of this section shall be subject to a civil penalty not to exceed one hundred dollars for each pack of such cigarettes sold or offered for sale, provided that in no case shall the penalty against any retail dealer exceed twenty-five thousand dollars for sales or offers to sell during any thirty day period. Any person engaged in the business of selling cigarettes in or for shipment into New York who possesses cigarettes that have not been certified or marked in accordance with the requirements of this section shall be deemed to be offering such cigarettes for sale in New York. An agent licensed in more than one state may rebut such presumption by establishing: (i) that such cigarettes have been physically segregated from cigarettes offered for sale in New York; and (ii) no New York tax stamps have been placed on any cigarettes that have not been certified or marked in accordance with this section. In addition to any penalties imposed by this section the commissioner of taxation and finance, after an opportunity for a hearing has been afforded pursuant to subdivision five of section four hundred eighty of the tax law, shall suspend for six months the license of any agent issued pursuant to section four hundred seventy-two of the tax law, the license of any wholesale dealer issued pursuant to section four hundred eighty of the tax law, or the registration of any retail dealer issued pursuant to section four hundred eighty-a of the tax law, when such agent, wholesale dealer or retail dealer violates this section three or more times within a three year period, provided such violations occurred on at least three separate calendar days.

b. In addition to any penalty prescribed by law, any corporation, partnership, sole proprietor, limited partnership, association or any other business entity engaged in the manufacture of cigarettes that knowingly makes a false certification pursuant to subdivision three of this section shall be subject to a civil penalty of at least seventy-five thousand dollars and not to exceed two hundred fifty thousand dollars for each such false certification, and any entity that fails to pay a civil penalty imposed pursuant to this paragraph within thirty days after such penalty is imposed, shall be subject to a bar from selling cigarettes covered by that false certification in this state until the state receives full payment of such penalty.

c. There is hereby established in the custody of the state comptroller a special fund to be known as the "Cigarette Fire Safety Act Fund". Such fund shall consist of all moneys recovered from the assessment of civil penalties authorized by this subdivision. Such monies shall be deposited to the credit of the fund and shall, in addition to any other moneys made available for such purpose, be available to the office of fire prevention and control for the purpose of fire safety and prevention programs. All payments from the cigarette fire safety act fund shall be made on the audit and warrant of the state comptroller on vouchers certified and submitted by the state fire administrator.

6. No cigarettes shall be distributed, sold or offered for sale in this state unless the manufacturer has placed on each individual package the letters "FSC" which signifies Fire Standards Compliant. Such letters shall appear in eight point type and be permanently printed, stamped, engraved or embossed on the package at or near the UPC Code, if present. Any package containing such symbol is deemed to be in compliance with the office of fire prevention and control regulations set forth in 19 NYCRR 429.8.

7. a. Each manufacturer shall maintain copies of the reports of all tests conducted on all cigarettes for a period of three years, and shall make copies of such reports available to the office of fire prevention and control and the attorney general upon written request; provided,

however, that any manufacturer that fails to make copies of such reports available within sixty days of receiving such a written request shall be subject to a civil penalty not to exceed ten thousand dollars for each day after the sixtieth day that such manufacturer does not make such copies available and shall be subject to a bar from selling or offering to sell cigarettes in New York until such copies are made available.

b. Testing performed or sponsored by the office of fire prevention and control in order to determine a cigarette's compliance with the fire safety standards mandated by this section shall be conducted (i) in accordance with the requirements applicable to manufacturers pursuant to the regulations of the office of fire prevention and control, and (ii) by a laboratory that has been accredited pursuant to Standard ISO/IEC 17025 of the international organization for standardization or such other comparable accreditation standard as the office of fire prevention and control shall require by regulation.

8. a. To enforce the provisions of this section, the commissioner of taxation and finance and the state fire administrator may take administrative action imposing the civil penalties and suspensions authorized by subdivision five of this section. In addition, the attorney general may bring an action on behalf of the people of the state of New York to enjoin acts in violation of this section and to recover any civil penalties unless civil penalties have been previously recovered in such administrative proceedings.

b. Any enforcement officer as defined in section thirteen hundred ninety-nine-t of the public health law shall have the power to impose upon any retail dealer the civil penalties authorized by subdivision five of this section, following a hearing conducted in the same manner as hearings conducted under article thirteen-E of the public health law.

c. To enforce the provisions of this section, the commissioner of taxation and finance and the state fire administrator, or their duly authorized representatives, are hereby authorized to examine the books, papers, invoices and other records of any person in possession, control or occupancy of any premises where cigarettes are placed, stored, sold or offered for sale, as well as the stock of cigarettes in any such premises. Every person in the possession, control or occupancy of any premises where cigarettes are placed, sold or offered for sale, is hereby directed and required to give the commissioner of taxation and finance and the state fire administrator, and their duly authorized representatives, the means, facilities and opportunity for such examinations as are herein provided for and required.

d. Whenever any police officer designated in section 1.20 of the criminal procedure law or a peace officer designated in subdivision four and subdivision seventy-nine pertaining to the Office of Fire Prevention and Control, of section 2.10 of such law, acting pursuant to his or her special duties, shall discover any cigarettes which have not been marked in the manner required by subdivision six of this section, such officer is hereby authorized and empowered to seize and take possession of such cigarettes. Such seized cigarettes shall be turned over to the commissioner of taxation and finance, and shall be forfeited to the state. Cigarettes seized pursuant to this section shall be destroyed.

e. The commissioner of the division of homeland security and emergency services, in consultation with the state fire administrator, and the commissioner of taxation and finance are hereby authorized to promulgate such regulations as are deemed necessary to implement the provisions of this section.

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§ 156-d. Thermal imaging camera grant program. 1. Subject to available appropriation, there is hereby established in the office of fire prevention and control a thermal imaging camera grant program, under which grants shall be made available to fire organizations for the purchase of one thermal imaging camera each or for reimbursement to such fire organizations for public funds, other than state or federal funds, that have been expended by such fire organizations on or after April first, two thousand for the purchase of a thermal imaging camera, provided, however, no reimbursement, when combined with any required match, shall exceed the office of general services contract price per camera. Such grants shall be made available upon application by such fire organizations. Fire organizations that are without a thermal imaging camera shall receive priority from the office of fire prevention and control for grants made pursuant to this section. The office of fire prevention and control may require, pursuant to such uniform standards as such office may prescribe, that applicants for such grants or reimbursement provide matching funds of up to, but not more than, the amount awarded; provided, however, that a fire organization having an annual operating budget of one hundred fifty thousand dollars or less shall not be required to provide matching funds. The office of fire prevention and control shall promulgate such rules and regulations as are necessary to advance the purposes of this section. Such regulations shall establish, among other things, training requirements for the use of thermal imaging cameras by fire organizations.

2. As used in this section, "fire organizations" means a board of fire commissioners, which operates a fire department pursuant to the town law, a fire department established pursuant to the village law or general city law or a fire company located within a fire protection district pursuant to the town law.

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§ 156-e. College fire safety. 1. Notwithstanding the provisions of any law to the contrary, the office of fire prevention and control of the division of homeland security and emergency services, by and through the state fire administrator or their duly authorized officers and employees, shall have the responsibility to annually inspect buildings under the jurisdiction of public colleges and independent colleges, as these terms are defined in section eight hundred seven-b of the education law, for compliance with and violations of the uniform fire prevention and building code; or any other applicable code, rule or regulation pertaining to fire safety. Buildings subject to inspection are all buildings under the jurisdiction of such colleges used for classroom, dormitory, fraternity, sorority, laboratory, physical education, dining, recreational or other purposes.

2. a. The office of fire prevention and control shall have the power to issue a notice of violation and orders requiring the remedying of any condition found to exist in, on or about any such building which violates the uniform fire prevention and building code, or any other code, rule or regulation pertaining to fire safety, fire safety equipment and fire safety devices. Such office is further authorized to promulgate regulations regarding the issuance of violations, compliance with orders, and providing for time for compliance, reinspection procedures, and issuance of certificates of conformance.

b. Where any college authority in general charge of the operation of any public or independent college buildings is served personally or by registered or certified mail with an order of the office of fire prevention and control to remedy any violation and fails to comply with such order immediately or within such other time as specified in the order, the office of fire prevention and control may avail itself of any or all of the following remedies: (1) assess a civil penalty of up to five hundred dollars per day until the violation is corrected; (2) order immediate closure of the building, buildings or parts thereof where a violation exists that poses an imminent threat to public health and safety; (3) refer violations to the appropriate local government authorities for enforcement pursuant to article eighteen of this chapter.

c. The office of fire prevention and control is authorized to commence necessary proceedings in a court of competent jurisdiction seeking enforcement of any of its orders and payment of assessed penalties.

3. a. Except as provided herein, any county, city, town or village, pursuant to resolution of their respective legislative bodies, may apply to the office of fire prevention and control for delegation of all or part of the duties, rights and powers conferred upon the office of fire prevention and control by this section and section eight hundred seven-b of the education law. Upon acceptable demonstration of adequate capability, resources and commitment on the part of the applicant local government, the office of fire prevention and control may make such delegation, in which case the local government shall also have all of the rights, duties and powers provided to local governments in article eighteen of this chapter and in any city charter or code. The authority granted in this section to assess civil penalties and order closure of buildings shall not be delegated to the local government. Such powers shall continue in the office of fire prevention and control which may exercise them in the case of violations, on its own volition or at the request of the delegee local government. The delegation shall expire after three years, and may be renewed at the discretion of the office of fire prevention and control. All inspection reports conducted pursuant to a delegation of authority shall be promptly filed with the office of fire prevention and control. In the event any such report is not filed

or reasonable grounds exist to believe that inspections or enforcement are inadequate or ineffective, the office of fire prevention and control may revoke the delegation or continue it subject to terms and conditions specified by the office of fire prevention and control.

b. The authorities in a city having a population of one million or more shall exercise all of the rights, powers and duties pertaining to inspection of independent and public college buildings and enforcement provided in this section and section eight hundred seven-b of the education law, without impairing any existing authority of such city. A copy of all inspection reports shall be filed with the office of fire prevention and control by the authorities conducting inspections.

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§ 156-f. Evacuation drills. Except as may be otherwise provided in rules and regulations promulgated by the department of state pursuant to article eighteen of this chapter, in any building owned or leased in whole by the state or any agency thereof, an evacuation drill shall be conducted at least twice each year in which all of the occupants of the buildings shall participate simultaneously and which shall conduct all such occupants to a place of safety. In New York city, the state fire administrator shall make rules, regulations and special orders necessary and suitable to each situation, as appropriate.

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§ 156-g. Establishment of teams for urban search and rescue, specialty rescue and incident support. 1. Authorization to establish urban search and rescue task force teams, specialty rescue teams, and incident support teams. The commissioner of the division of homeland security and emergency services after consultation with the state fire administrator shall have the authority to establish, organize, administer, support, train, and fund urban search and rescue task force teams, specialty rescue teams, and incident support teams created pursuant to this section.

2. Definitions. For the purposes of this section, the following terms shall have the following meanings:

(a) "urban search and rescue task force team" shall mean a specialized team or group of teams, formed pursuant to this section, organized with capabilities equivalent to urban search and rescue task force teams established under the federal emergency management agency in order to assist in the removal of trapped victims in emergency situations including, but not limited to, collapsed structures, trench excavations, elevated locations, and other technical rescue situations.

(b) "specialty rescue team" shall mean a specialized team, formed pursuant to this section, organized to provide technical rescue assistance to first responders including, but not limited to, canine search and rescue/disaster response, cave search and rescue, collapse search and rescue, mine and tunnel search and rescue, and swift water/flood search and rescue teams. Such teams shall be aligned with one or more of the search and rescue categories within the federal emergency management agency's national resource typing system.

(c) "incident support team" shall mean a team of trained response personnel, formed pursuant to this section, organized to provide coordination with governmental agencies and non-governmental organizations as well as technical, and logistical support to urban search and rescue task force teams and specialty rescue teams.

3. Appointment and training of team members; equipment. (a) The commissioner of the division of homeland security and emergency services is hereby authorized to appoint members to any team created pursuant to this section. Team membership shall consist of local emergency response personnel, state agency personnel and specialty personnel as required.

(b) The commissioner of the division of homeland security and emergency services shall be responsible for training and equipping the teams established pursuant to this section and for training such other teams located within the state for response to man-made or natural disasters to the extent appropriations are provided. The commissioner of the division of homeland security and emergency services shall support the capabilities of each team established pursuant to this section with the necessary training and equipment to ensure mobilization and deployment for rapid response to emergencies and disasters to the extent appropriations are provided.

4. Accreditation of teams. The commissioner of the division of homeland security and emergency services shall have the authority to establish an accreditation program to review and evaluate new and existing local and regional technical rescue capabilities, and provide recommendations for capability enhancement in accordance with the national incident management system, the national response plan, and nationally recognized standards.

5. Defense, indemnification and insurance coverage of team members. Members of the teams formed pursuant to this section who are volunteer firefighters, volunteer ambulance workers, municipal or state employees, or employees of a non-governmental entity shall be provided coverage by their respective municipalities, organizations, and entities for

purposes of sections seventeen and eighteen of the public officers law and/or other defense and indemnification coverage and workers' compensation coverage pursuant to applicable provisions of the workers' compensation law or benefits pursuant to applicable provisions of the volunteer firefighters' benefit law or the volunteer ambulance workers' benefit law. Individuals appointed to an urban search and rescue task force team, a specialty rescue team or an incident support team, for which such coverage is not available, shall be deemed volunteer state employees for purposes of section seventeen of the public officers law and section three of the workers' compensation law.

6. Rules and regulations. The commissioner of the division of homeland security and emergency services after consultation with the state fire administrator shall have the authority to promulgate rules and regulations as deemed necessary relating to the accreditation of urban search and rescue task force teams, specialty rescue teams, and incident support teams and to the formation and operation of all teams established pursuant to this section.

7. Funding. The division of homeland security and emergency services shall expend the necessary monies for training, equipment, and other items necessary to support the operations of urban search and rescue task force teams, specialty rescue teams and incident support teams within appropriations provided. The division of homeland security and emergency services also may, pursuant to applicable rules and regulations approved by the director of the division of the budget, approve grants of funds from monies allocated and appropriated for any or all such teams.

## Executive

§ 156-h. Registration and fees for manufacturers, distributors, wholesalers, and retailers of sparkling devices. 1. Definitions. As used in this section, the term:

(a) "Distributor" means any person or entity engaged in the business of selling sparkling devices to wholesalers, specialty retailers, permanent retailers or temporary seasonal retailers for resale.

(b) "Manufacturer" means any person or entity engaged in the manufacture or construction of sparkling devices.

(c) "Specialty retailer" means any person or entity who, at a fixed place of business, is engaged solely in selling sparkling devices at retail. For purposes of this section, a person or entity is engaged solely in selling sparkling devices if fifty-one percent or more of such person's or entity's annual gross sales are from the sale of sparkling devices.

(d) "Permanent retailer" means any person or entity who, at a fixed place of business, is engaged in selling sparkling devices at retail.

(e) "Sparkling devices" means any item defined in subparagraph (vi) of paragraph (a) of subdivision one of section 270.00 of the penal law.

(f) "Temporary seasonal retailer" means any person or entity who, at a temporary stand or tent, is engaged in selling sparkling devices from June twentieth through July fifth or from December tenth through January second of each year at retail.

(g) "Wholesaler" means any person or entity engaged in the business of selling sparkling devices to specialty retailers, permanent retailers or temporary seasonal retailers at wholesale.

2. Registration requirements. Any manufacturer, distributor, wholesaler, specialty retailer, permanent retailer or temporary seasonal retailer of sparkling devices who wishes to do business in this state or to otherwise sell, ship, or assign for sale its products in this state must register annually with the office of fire prevention and control on forms prescribed by such office. Any specialty retailer, permanent retailer or temporary seasonal retailer that sells sparkling devices at more than one retail location may submit one registration form for all such locations but must provide the address of each location with the registration form; however, any retailer may submit multiple registration forms.

3. Registration form. The registration form filed with the office of fire prevention and control must be notarized and must include the following information: business name; address; telephone number; officers, if the business is a corporation; and an individual designated as a contact person.

4. Fees. (a) Each manufacturer, distributor or wholesaler must pay an annual registration fee to be set by the office of fire prevention and control not to exceed five thousand dollars. Each specialty retailer must pay an annual registration fee to be set by such office not to exceed two thousand five hundred dollars. Each permanent retailer shall pay an annual registration fee to be set by such office not to exceed two hundred dollars for each retail location registered. Each temporary seasonal retailer must pay a registration fee to be set by such office not to exceed two hundred fifty dollars per season. Each certificate-holder wishing to have a duplicate certificate issued for one which is lost or to reflect a change of address shall request such duplicate in writing and shall pay a fee of five dollars.

(b) Revenue from registration fee payments shall be used for the purposes of implementing firefighter safety and training programs as well as registration and testing provisions of this chapter.

(c) No city, municipality or other local jurisdiction shall charge any fee or require any permit whatsoever for the sale and use of sparkling devices.

5. Record and reports. Each manufacturer, distributor and wholesaler shall maintain and make available to the state fire administrator, upon the state fire administrator's reasonable request, full and complete, true, and accurate records showing the name and quantity of any sparkling device produced in, imported to, exported from, or sold in this state.

6. Rules. The state fire administrator shall promulgate rules prescribing registration forms required by this section.

## Executive

§ 157. Granting authority. The division of homeland security and emergency services by and through the commissioner of the division of homeland security and emergency services or his duly authorized officers and employees, shall administer, carry out and approve grants of funds from moneys allocated and appropriated therefor, for authorized arson, fire prevention and control expenditures as defined herein, that are conducted by municipal corporations. "Authorized arson, fire prevention and control expenditures" shall mean those expenditures utilized by a municipal corporation for fire or arson prevention, fire or arson investigation and arson prosecution. No expenditure which has not been specifically designated by the local legislative body for arson, fire prevention and control and approved by the office of fire prevention and control pursuant to rules and regulations promulgated thereby shall be considered an "authorized arson, fire prevention and control expenditure." The division of homeland security and emergency services shall adopt, amend and rescind such rules, regulations and guidelines as may be necessary for the performance of its functions, powers and duties under this section. The division of homeland security and emergency services shall allocate grants under this article among the municipalities whose applications have been approved in such a manner as will most nearly provide an equitable distribution of the grants among municipalities, taking into consideration such factors as the level of suspected arson activity, population and population density, the need for state funding to carry out local programs, and the potential of the municipalities to effectively employ such grants.

## Executive

§ 158. Firefighting training. 1. For the purpose of this section, the term fire fighter shall mean a member of a fire department whose duties include fire service as defined in paragraph d of subdivision eleven of section three hundred two of the retirement and social security law.

2. In addition to the functions, powers and duties otherwise provided by this article, the state fire administrator may promulgate rules and regulations with respect to:

(a) The approval, or revocation thereof, of fire training programs for fire fighters;

(b) Minimum courses of study, attendance requirements, and equipment and facilities to be required for approved fire training programs for fire fighters;

(c) Minimum qualifications for instructors for approved fire training programs for fire fighters;

(d) The requirements of minimum basic training which fire fighters appointed to probationary terms shall complete before being eligible for permanent appointment, and the time within which such basic training must be completed following such appointment to a probationary term;

(e) The requirements of minimum basic training which fire fighters not appointed for probationary terms but appointed on other than a permanent basis shall complete in order to be eligible for continued employment or permanent appointment, and the time within which such basic training must be completed following such appointment on a non-permanent basis;

(f) The requirements for in-service training programs designed to assist fire fighters in maintaining skills and being informed of technological advances;

(g) Categories or classifications of advanced in-service training programs and minimum courses of study and attendance requirements with respect to such categories or classifications;

(h) Exemptions from particular provisions of this article in the case of any county, city, town, village or fire district, if in the opinion of the state fire administrator the standards of fire training established and maintained by such county, city, town, village or fire district are equal to or higher than those established pursuant to this article; or revocation in whole or in part of such exemption, if in his or her opinion the standards of fire training established and maintained by such county, city, town, village or fire district are lower than those established pursuant to this article; and

(i) Education, health and physical fitness requirements for eligibility of persons for provisional or permanent appointment in the competitive class of the civil service as fire fighters as it deems necessary and proper for the efficient performance of such duties;

3. In furtherance of his or her functions, powers and duties as set forth in this section, the state fire administrator may:

(a) Recommend studies, surveys and reports to be made by the state fire administrator regarding the carrying out of the objectives and purposes of this section;

(b) Visit and inspect any fire training programs approved by the state fire administrator or for which application for such approval has been made; and

(c) Recommend standards for promotion to supervisory positions.

4. In addition to the functions, powers and duties otherwise provided by this section, the state fire administrator shall:

(a) Approve fire training programs for fire fighters and issue certificates of approval to such programs, and revoke such approval or certificate;

(b) Certify, as qualified, instructors for approved fire training programs for fire fighters and issue appropriate certificates to such instructors;

(c) Certify fire fighters who have satisfactorily completed basic training programs and in-service training programs, and issue appropriate certificates to such fire fighters and revoke such certificates;

(d) Cause studies and surveys to be made relating to the establishment, operation, effectiveness and approval of fire training programs;

(e) Cause studies and surveys to be made relating to the completion or partial completion of training programs by video or computer to the maximum extent practicable; and

(f) Consult with and cooperate with the state university of New York and private universities, colleges and institutes in the state for the development of specialized courses of study for fire fighters in fire science and fire administration.

## Executive

§ 159. Advisory council for fire prevention and control. 1. There is hereby created within the division of homeland security and emergency services an advisory council for fire prevention and control for the purpose of advising the commissioner and the state fire administrator with regard to: (a) execution of the functions, powers and duties of the office with respect to fire and arson prevention and control services, policies and programs; (b) recommendations on courses of instruction and standards for training of firefighters of fire departments, fire companies, municipal corporations, districts, and private industry of the state; (c) recommendations on federal and state legislation and programs relating to fire and arson prevention services, policies and programs; and (d) recommendations upon such other matters as the commissioner and the state fire administrator may request.

2. The council shall be composed of the state fire administrator, as chair, or his or her designee, and twelve other members appointed as follows: six members appointed by the governor; two members appointed by the temporary president of the senate; one member appointed by the minority leader of the senate; two members appointed by the speaker of the assembly; one member appointed by the minority leader of the assembly.

3. Membership of such council shall consist of representatives from the volunteer and career fire service, at least half of which shall serve at the municipal level.

4. Members of the council, other than the state fire administrator, shall serve for terms of three years, with such terms to commence on April first and expire on March thirty-first.

5. No member of the council shall be disqualified from holding any other public office or employment, nor shall he or she forfeit any such office or employment by reason of the appointment hereunder, notwithstanding the provisions of any general, special or local law, ordinance or city charter.

6. The council shall meet at least twice a year. Special meetings may be called by the chairperson. The agenda and meeting place of all regular or special meetings shall be made available to the public in advance of such meeting.

7. Members of the council shall serve without salary or per diem allowance, but shall be entitled to reimbursement for actual and necessary expenses incurred in the performance of official duties under this section, provided, however, that such members are not, at the time such expenses are incurred, public employees otherwise entitled to such reimbursement.

8. The chairperson may create subcommittees as he or she may from time to time deem appropriate to provide the council with advice and recommendations. Members of such subcommittees shall be entitled to reimbursement for actual and necessary expenses incurred in the performance of official duties under this section, provided, however, that such members are not, at the time such expenses are incurred, public employees otherwise entitled to such reimbursement.

## Executive

§ 159-a. Inclusion on the fallen firefighters memorial. In the case of a death of a firefighter, regardless of whether such death occurred before, on, or after the effective date of this section, that results from services performed in the line of duty, as determined by an authoritative agency including, but not limited to, the workers' compensation board, the federal Department of Justice, or the office of fire prevention and control, the name of that firefighter shall be inscribed upon the New York state fallen firefighters memorial on the Capitol Mall in Albany. The fallen firefighters memorial selection committee shall amend its election criteria so that it is not in conflict with the provisions of this section.

## Executive

§ 159-c-1. Training; live fire conditions. 1. In the training of firefighters under live fire conditions no person or persons shall play the role of a victim.

2. For purposes of this section, a live fire condition is any unconfined open flame or device that can propagate fire to a building, a training tower, an acquired structure or other combustible material.

3. A violation of this section shall be punishable by a civil penalty not to exceed one thousand dollars paid for by the fire department conducting such training.