

West's Delaware Code Annotated [Currentness](#)

Title 16. Health and Safety

Part VI. Safety

▢ [Chapter 66. Fire Prevention](#)

→ [Subchapter I. State Fire Marshal and State Fire Prevention Commission](#)

→ **§ 6601. State Fire Prevention Commission--Appointment; qualifications; cause for removal; term of office; members to serve without compensation**

(a) The State Fire Prevention Commission shall consist of 7 persons who shall be qualified by experience and training to deal with the matters which are the responsibilities of the Commission. Three members of the Commission shall be appointed by the Governor and shall be representatives of industry from New Castle County, Kent County and Sussex County. Three members, 1 from each county, shall be members of paid or volunteer fire companies and shall be appointed by the Governor from a list of 3 names of members in good standing submitted by the Volunteer Firefighters' Association of the county in which a vacancy exists. The seventh member of the Commission shall be the immediate past President of the State Volunteer Firefighters' Association and shall be appointed by the Governor.

(b) Members may be removed by the Governor for continued neglect of the duties required by this chapter, or for refusal to act, misconduct, incompetency or other sufficient cause.

(c) Members of the Commission shall be appointed to serve for 6-year terms, but no member may be appointed to more than 2 successive full terms. Succeeding appointments shall be made, and any vacancy on the Commission shall be filled for the duration of the term, in the same manner as the prior appointment.

(d) Members shall serve without compensation but shall be reimbursed for their actual and necessary expenses incurred in the performance of their duties.

§ 6602. State Fire Prevention Commission--Organization and meetings

(a) The State Fire Prevention Commission shall select a Chairperson and Vice Chairperson from among its members and shall hold regular meetings at least once a month. Special meetings may be called by the Chairperson, by the Vice Chairperson in the absence of the Chairperson or by 3 members of the Commission.

(b) No business shall be transacted by the State Fire Prevention Commission in the absence of a quorum which shall be 4 members, 1 of which must be the Chairperson or Vice Chairperson.

§ 6603. State Fire Prevention Commission--Promulgation of regulations

(a) The State Fire Prevention Commission shall have the power to promulgate, amend and repeal regulations for the safeguarding of life and property from the hazards of fire and explosion. Such regulations, amendments or repealers shall be in accordance with standard safe practice as embodied in widely recognized standards of good practice for fire prevention and fire protection and shall have the force and effect of law in the several counties, cities and political subdivisions of the State. Whenever such regulations and amendments require the issuance of permits or licenses, the Commission is authorized to issue such permits or licenses according to the provisions and schedules in § 6607 of this title. Such regulations and amendments shall not apply to existing installations, plants or equipment unless the State Fire Prevention Commission has duly found that the continuation thereof constitutes a hazard so inimicable to the public welfare and safety as to require correction; nor shall such regulations and amendments limit or prohibit the shipment, transportation, handling or storage incident to transportation of any explosive, combustible or other dangerous article in solid, liquid or gas form by rail, water or highway, when such articles are in conformity with regulations of the Interstate Commerce Commission; nor shall such regulations, insofar as they purport to prohibit the sale, purchase or domestic use of gasoline, kerosene or other fuel burning home appliances for heating or cooking apply to any person whose personal faith or belief prevents the use of any alternative heating or cooking appliance recommended by the State Fire Prevention Commission, the burden of proof is upon the person claiming relief from such regulation. In their interpretation and application the regulations promulgated under this chapter shall be held to be the minimum requirements for the safeguarding of life and property from the hazards of fire and explosion. Whenever the provisions of any other statute or local regulation are more stringent or impose higher standards than are required by any regulations promulgated under this chapter, such statute or local regulation shall govern, provided they are not inconsistent with the state Code and are not contrary to recognized standards and good engineering practices.

(b) The State Fire Prevention Commission shall promulgate regulations consistent with the following language: The State Fire Marshal shall require that all persons involved in the inspection and testing of water-based fire protection systems maintain current certification in the National Institute for Certification in Engineering Technologies (NICET II) "Inspection and Testing of Water-based Systems" certification program or a substantially similar and equivalent course of instruction, as determined by the State Fire Marshal, as a condition of permit renewal after July 1, 2009.

(c) The State Fire Prevention Commission shall promulgate regulations consistent with the following language: The State Fire Marshal shall require that persons involved in the inspection and testing of water-based fire protection systems shall complete 16 contact hours of continuing education or similar course of instruction during each biennial period of renewal. Any and all continuing education requirements completed pursuant to subsection (b) of this section may be used to meet the continuing education requirements as called for under this section.

§ 6604. State Fire Prevention Commission--Public hearing and notices

Prior to the promulgation, amendment or repeal of any regulation, the State Fire Prevention Commission shall hold at least 1 public hearing on each regulation, amendment or repealer to be separately submitted, notice of which hearing shall be published 15 days before the date of the hearing in a newspaper or newspapers of general circulation throughout the State. A copy of such notice shall be sent at the same time to every person, firm or corporation who shall have registered with the State Fire Prevention Commission a request to be so notified. The notice shall contain the time and place of hearing, subjects to be discussed, and shall specify the place and times at which the proposed regulation, amendment or repealer may be examined.

§ 6605. State Fire Prevention Commission--Powers in conduct of public hearing

For the purpose of any public hearing or inquiry made under this chapter, the Commission or any subcommittee of the Commission shall have the power to summon witnesses and documents and administer oaths for the purpose of giving of testimony, and issue orders requiring strict compliance with the decisions made under this chapter.

§ 6606. State Fire Marshal--Appointment; term; salary

(a) The office of State Fire Marshal is established. The State Fire Prevention Commission shall appoint a person qualified by person's previous training and experience in endeavors similar to those herein prescribed as State Fire Marshal. The State Fire Marshal shall be a citizen of this State and a resident for at least 5 years prior to appointment. The State Fire Marshal shall receive such salary as may be set by the Commission within the limits set by the annual appropriation to the Commission. The State Fire Marshal shall devote Marshal's whole time to the duties of Marshal's office. Whenever a vacancy shall occur in the office of State Fire Marshal for any reason other than the expiration of a term, the vacancy shall be filled by the State Fire Prevention Commission for the balance of the unexpired term. The office of the State Fire Marshal shall be located at the state Capitol in quarters provided by the State.

(b) The State Fire Marshal, with the consent and approval of the State Fire Prevention Commission, shall appoint all authorized personnel pursuant to Merit System rules and regulations and administer the usual oath as required. Salaries of all personnel to include appropriate position classifications, upgrading and promotions shall be in compliance with Chapter 59 of Title 29.

(c) The Fire Marshal of any political subdivision of this State, having such an office duly created by ordinance or resolution before January 1, 1959, shall serve as an Assistant State Fire Marshal. Within the limits of the said political subdivision, Fire Marshal shall have exclusive jurisdiction exercising the duties and powers of the State Fire Marshal but Fire Marshal shall serve without compensation.

(d) The State Fire Marshal, with the consent and approval of the State Fire Prevention Commission, shall employ or acquire such office and clerical employees as may be necessary for the orderly administration of Mar-

shal's office. The State Fire Marshal shall acquire such equipment, furniture, supplies and paraphernalia as may be necessary for the orderly administration of Marshal's office.

(e) The State Fire Marshal, the Marshal's Deputy or Deputies, and other members of the Marshal's office, in addition to their salaries, shall be reimbursed for their actual and necessary expenses incurred in the performance of their duties.

§ 6607. State Fire Marshal--Duties and powers

(a) The State Fire Marshal, or the Marshal's Deputy or Deputies, shall enforce all laws and ordinances of the State and the several counties, cities and political subdivisions thereof having to do with:

(1) Prevention of fires;

(2) The storage, sale and use of any explosive, combustible or other dangerous article in solid, liquid or gas form;

(3) The installation and maintenance of equipment of all sorts intended for fire control, detection and extinguishment;

(4) The means and adequacy of exit, in case of fire, from buildings and all other places in which numbers of persons work, live or congregate from time to time for any purpose, except buildings used wholly as dwelling houses containing no more than 2 families;

(5) The suppression of arson.

(b) The State Fire Marshal, or the Marshal's Deputy or Deputies, shall assist any chief of any recognized fire company upon request of such chief.

(c) The State Fire Marshal, or the Marshal's Deputy or Deputies, shall enforce the regulations promulgated by the State Fire Prevention Commission as authorized by § 6603 of this title.

(d) The State Fire Marshal, or the Marshal's Deputy or Deputies, shall require the administrative heads of public and private schools and educational institutions to have at least 1 fire drill each month when said schools are in session and to keep all doors and exits unlocked during school hours.

(e) The State Fire Marshal, or the Marshal's Deputy or Deputies, shall inspect all state and county owned insti-

tutions, all schools, theatres, churches and other places of public assembly as to fire exits and reasonable safety standards and report the Marshal's findings and recommendations to the proper administrative heads.

(f) The State Fire Marshal, or the Marshal's Deputy or Deputies, may at any time investigate as to the origin or circumstances of any fire or explosion occurring in the State and may at all reasonable hours enter any building or premises within the Marshal's jurisdiction for the purpose of making an inspection or investigation, which, under this chapter, they may deem necessary to be made.

(g)(1) The State Fire Marshal, or the Marshal's designee(s) shall review all plans and specifications, with the exception of those political subdivisions having exclusive jurisdiction under [§ 6606\(c\)](#) of this title for conformance to the requirements of subsections (a) and (c) of this section, prior to actual construction for:

a. All new buildings and additions; for any building undergoing a change in occupancy; or any part of a building suffering damage from fire, explosion, or any other cause; with the exception of buildings used wholly as dwelling houses containing no more than 2 families and buildings used wholly for farming purposes.

b. Alarm systems, fire protection systems, flammable and combustible liquid or gas installation or other miscellaneous installations falling under the State Fire Prevention Rules and Regulations.

c. Subdivision plans.

(2) The State Fire Marshal is authorized to establish a schedule of plan review fees to be paid by the submitter of the plans reviewed under paragraph (1) of this subsection, except that no fees shall be charged for projects financed in excess of 50 percent by state funds, housing developed by an organization exempt from tax under [§ 501\(c\)\(3\) of the Federal Internal Revenue Code \[26 U.S.C. § 501\(c\)\(3\)\]](#), and projects financed under Chapters 40 and 45 of Title 31.

(3) The plan review fees shall be based on actual costs with the initial payment being based on the estimated cost of construction of the building, additions, renovation, alarm system, fire protection systems, or flammable or combustible liquid or gas installations or other miscellaneous installations required to be approved and shall not exceed the following schedule:

a. 7/10 of 1% on July 1, 2009;

b. 3/10 of 1% over \$1,000,000 of cost;

c. With respect to the provisions of subparagraphs a. and b. of this paragraph, the minimum fee for any plan

review shall be no less than \$150.

d. The Fire Marshal must provide a schedule of reduced fees for low life hazard occupancies such as warehouses.

(4) Subdivision plan review fees shall be set at \$150.

(5) The State Fire Marshal, with the approval of the State Fire Prevention Commission, where such regulations or amendments duly promulgated under the authority of the State Fire Prevention Commission require the issuing of a permit, license or certificate, is authorized to issue such permits, licenses or certificates and to establish a schedule of fees not to exceed the following schedule:

a. A maximum of \$100 per fire alarm signalling system or fire suppression system, where a license is issued under the preceding provision of this section, for wholly owned or proprietary fire alarm signalling systems or fire suppression systems, serviced by the system owner.

b. A maximum of \$50 for a license to service portable unit fire suppression appliances.

c. A maximum of \$25 for all other permits, licenses and certifications as required in the State Fire Prevention Regulations.

d. The fees as authorized in this paragraph shall be the maximum so charged by the State Fire Prevention Commission and every 2 years shall be reviewed by the Department of Finance, the Controller General and the State Fire Marshal.

e. All fees associated with the permitting, licensing or certification processes shall be annual fees, payable on a date as scheduled by the State Fire Marshal.

(6) It is expressly provided that said fees collected by the State Fire Marshal shall not affect the State appropriation or be deducted therefrom, but shall be so much additional monies available for carrying out the provisions of this subsection, and the said fees shall be paid to the State Treasurer for accounting and deposited in a special fund in the State Treasury. Said fees included in this subsection shall not be charged for projects financed in excess of 50 percent by state funds, and projects financed under Chapters 40 and 45 of Title 31.

(7) The fees as authorized for the plan review process shall be the maximum allowed by the State Fire Prevention Commission and will be a cap, that every 2 years, by September 15, a review shall be conducted by the Director of the Office of Management and Budget, the Controller General and the State Fire Marshal, based upon the revenue experience and the anticipated funding needs of the Technical Services Division of the State

Fire Marshal's Office, to revise the fees according to the anticipated funding needs of the State Fire Marshal's Office Technical Services Division, incorporating the plan review, licensing and additional consultative services.

(8) The permit, licensing and plan review fee requirements of this chapter shall not apply to municipalities, towns or other subdivisions of this State or to fire companies that wish to construct improvements upon their fire stations.

(h) The State Fire Marshal, or the Marshal's Deputy or Deputies, shall have the authority to issue subpoenas in the enforcement of this chapter.

§ 6608. Appeals to the State Fire Prevention Commission--Procedure

(a) Appeals to the State Fire Prevention Commission may be taken by any person aggrieved by an order or decision of the State Fire Marshal, or the Marshal's Deputy or Deputies, based upon or made in the course of the administration or enforcement of this chapter. Appeals to the State Fire Prevention Commission may be taken by any officer, department, board or bureau of the State and the several counties, cities and political subdivisions thereof affected by an order or decision of the State Fire Marshal, or the Marshal's Deputy or Deputies, in the course of the administration or enforcement of this chapter.

(b) Appeals by any person aggrieved by an order or decision of the State Fire Marshal, the Marshal's Deputy or Deputies, or Assistant State Fire Marshals based upon or made in the course of the administration or enforcement of this chapter or local regulations incorporating the State Fire Prevention Commission Regulations shall be taken to the State Fire Prevention Commission. Appeals by any officer, department, board or bureau of the State and the several counties, cities and political subdivisions thereof affected by an order or decision of the State Fire Marshal, or the Marshal's Deputy or Deputies or Assistant Fire Marshals, in the course of the administration or enforcement of this chapter or local regulations incorporating the State Fire Prevention Commission Regulations shall be taken to the State Fire Prevention Commission.

(c) The time within which such appeal must be made and the effect, form or other procedure relating thereto shall be as specified in regulations promulgated by the State Fire Prevention Commission following notice and public hearings as provided in §§ 6604 and 6605 of this title.

§ 6609. Appeals to the State Fire Prevention Commission--Powers upon appeals

Upon appeals the State Fire Prevention Commission shall have the following powers:

(1) To hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement,

decision or refusal made by the State Fire Marshal, or the Marshal's Deputy or Deputies, based on or made in the enforcement of this chapter;

(2) To hear and decide, in accordance with any duly adopted regulation, requests for special exceptions or for interpretation of regulations or for decisions upon other special questions upon which the Commission is required by any regulation to pass;

(3) To authorize a variance from particular provisions of the regulations duly promulgated under § 6603 of this title where strict compliance with such provisions would entail practical difficulties or unnecessary hardships, provided such relief may be granted without substantial detriment to the public safety and without substantially impairing the intent and purpose of the regulations promulgated under § 6603 of this title;

(4) All decisions, authorizations or interpretations made by the State Fire Prevention Commission hereunder shall be written and signed by the Chairperson or Vice-Chairperson and filed in the office of the State Fire Marshal, or the Marshal's Deputy or Deputies, within 20 days following the appeal.

§ 6610. Court review of decision of State Fire Prevention Commission; procedure

(a) Any person jointly or severally aggrieved by any decision of the State Fire Prevention Commission made in the exercise of its appellate function under § 6609 of this title, or in exercise of its authority decertifying or suspending the certificate of an ambulance attendant or emergency medical technician (EMT) under § 6712(c) of this title, or any officer, department, board or bureau of the State and the several counties, cities and political subdivisions thereof may present to the Superior Court of the county in which the property in question or the party aggrieved, or either, shall be located or of which such party shall be a resident, a duly verified petition setting forth that such decision is illegal in whole or in part, specifying the grounds of the illegality. The petition shall be presented to the Court within 30 days after the filing of the decision in the office of the State Fire Marshal.

(b) Upon the presentation of the petition, the Court may allow a writ of certiorari, directed to the State Fire Prevention Commission, to review the decision of the State Fire Prevention Commission and shall prescribe therein the time within which a return thereto must be made and served upon the petitioner's attorney, which shall not be less than 10 days and may be extended by the Court.

(c) The allowance of the writ shall not stay proceedings upon the decision appealed from, but the Court may, on application, on notice to the Commission and on due cause shown, grant a restraining order.

(d) The State Fire Prevention Commission shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof or of such portions thereof as may be called for by the writ. The return shall concisely set forth such other facts as may be pertinent and material to show

the grounds of the decision appealed from and shall be verified.

(e) If, upon the hearing, it shall appear to the Court that testimony is necessary for the proper disposition of the matter, it may take evidence, or appoint a referee to take such evidence as it may direct and report the same to the Court with the referee's findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the Court shall be made.

(f) The Court may reverse or affirm, wholly or partly, or may modify the decision brought up for review.

(g) Costs shall not be allowed against the Commission unless it shall appear to the Court that it acted with gross negligence or in bad faith or with malice in making the decision appealed from.

§ 6611. Maintenance of fire hazard, violations of regulations or chapter; enforcement; remedies and penalties

(a) No person shall erect, construct, reconstruct, alter, maintain or use any building, structure or equipment or use any land in such a way to endanger life or property from the hazards of fire or explosion or in violation of any regulation or any provision of or any change thereof promulgated by the State Fire Prevention Commission under the authority of this chapter.

(b) Whoever recklessly violates such regulations, provisions or change or any provision of this chapter with the exception of exceeding the posted occupant load in a place of assembly as outlined in subsection (c) of this section shall be fined not more than \$100 or imprisoned not more than 10 days or both.

(c) Whoever negligently violates the regulation of exceeding the posted occupant load in a place of assembly, as defined in the Delaware State Fire Prevention Regulations, shall be fined at least \$10.00 but not more than \$100 per person exceeding the posted occupant load as determined by the State Fire Marshal.

(d) Each and every day during which such illegal erection, construction, reconstruction, alteration, maintenance or use continues after knowledge or official notice that same is illegal shall be deemed a separate offense.

(e) In case any building, structure or equipment is or is proposed to be erected, constructed, reconstructed, altered, maintained or used, or any land is or is proposed to be used in such a way to endanger life or property from the hazards of fire or explosion or in violation of this chapter or of any regulation or provision of any regulation or change thereof promulgated by the State Fire Prevention Commission under the authority granted by this chapter, the State Fire Prevention Commission, the State Fire Marshal or the Attorney General may, in addition to other remedies provided by law, institute injunction, mandamus, abatement or any other appropriate action or actions, proceeding or proceedings to prevent, enjoin, abate or remove such unlawful

erection, construction, reconstruction, alteration, maintenance or use.

(f) The State Fire Marshal, or the Marshal's Deputy or Deputies, may make arrests of persons violating offenses under this section or of persons violating any of the laws of this State relating to fires or burning.

(g) Justices of the peace shall have jurisdiction over offenses under this section.

(h) All moneys derived from a violation of subsection (c) of this section shall be placed in a special fund to be used by the State Fire Marshal to carry out the provisions of this chapter. Fines that are a result of violations of this chapter that occur within the jurisdiction of the Jurisdictional Fire Marshals shall be placed in a separate special fund to be used in that jurisdiction to carry out the provisions of this chapter.

§ 6612. Annual report; financial statement; budget

(a) The State Fire Prevention Commission shall annually, on or before the 30th day of September, transmit to the Governor a full report of its proceedings under this chapter and such statistics as it may wish to include therein. It shall also recommend any amendments to the law which in its judgment shall be desirable.

(b) Along with the annual report, the State Fire Prevention Commission shall transmit a financial statement showing all expenditures and income of the State Fire Prevention Commission covering the preceding 12 months, starting July 1 and ending June 30.

(c) In the even numbered years the State Fire Prevention Commission shall submit to the Budget Commission a budget showing proposed expenditures for the biennium beginning July 1 next succeeding.

(d) The Commission shall be given the authority to reimburse volunteer fire companies which incur extraordinary expenses, an amount not to exceed the amount specified in the annual appropriations act, upon request from a volunteer fire company. An "extraordinary expense" under the provisions of this section shall be defined as an expense for which a volunteer fire company would not normally prepare for in its company budget and is not covered by said company's own private insurance.

§ 6613. State fire school--Location; supervision; purposes

There is established in the Dover-Camden-Wyoming area a state institution to be known as the Delaware State Fire School. The school shall be under the supervision and control of the State Fire Prevention Commission to effectuate the following purposes:

- (1) To provide professional and volunteer firefighters with needful professional instruction and training at a minimum cost to them and their employers;
- (2) To develop new methods and practices of fire fighting;
- (3) To provide facilities for testing fire fighting equipment;
- (4) To disseminate information relative to fires, techniques of fire fighting and other related subjects to all interested agencies and individuals throughout the State;
- (5) To undertake any project and engage in any activity which in the opinion of the Fire Prevention Commission will serve to protect the public safety.

§ 6614. State fire school--Commission's powers and duties

(a) The State Fire Prevention Commission shall have complete jurisdiction over, and complete management and control of, the Delaware State Fire School and is invested with full power and authority:

- (1) To make all rules and regulations necessary for the governing of said institution;
- (2) To appoint a director and such instructors, experimental helpers, secretaries and laborers as may be necessary, and to remove the same at their judgment and discretion;
- (3) To fix compensations and provide for payment thereof;
- (4) To have full management, possession and control of the lands, buildings, structures and property belonging thereto;
- (5) To provide for the courses of study and curriculum of the institution;
- (6) To make rules and regulations for the admission of trainees to said institution;
- (7) To visit and inspect said institution and every department thereof, and to provide for the proper keeping of accounts and records thereof;
- (8) To make and prepare all necessary budgets of expenditures for the enlargement, proper furnishings, main-

tenance, support and conduct of said institution;

(9) To select and purchase all property, furniture, fixtures and paraphernalia necessary for said institution from time to time;

(10) To build, construct, change, enlarge, repair and maintain any and all buildings or structures of said institution that may at any time be necessary for said institution;

(11) To purchase and acquire all lands and property necessary for same, of every nature and description whatsoever;

(12) To care for and maintain the same and to do and perform every other matter or thing requisite to the proper management, maintenance, support and control of said institution necessary or requisite to carry out fully the purpose of §§ 6613-6618 of this title, and for raising it to and maintaining it at the proper efficiency and standard as required in the interest of public safety.

(b) The State Fire Prevention Commission, subject to the limitations and restrictions imposed under this chapter, may

(1) Acquire any real or personal property by purchase, gift or donation and have water rights;

(2) Make contracts and execute instruments necessary or convenient;

(3) Undertake by contract or contracts, or by its own agent and employees, and otherwise than by contract, any project or projects, and operate and maintain such projects;

(4) Accept grants of money or materials or property of any kind from a federal agency, private agency, county, city, town, corporation, partnership or individual upon such terms and conditions as the grantor may impose;

(5) Perform all acts and do all things necessary or convenient to carry out the power granted herein.

(c) The State Fire Prevention Commission shall be permitted to conduct any live burn operation at the Delaware State Fire Service Center necessary to carry out the purposes and duties of this chapter, notwithstanding any other provision of the Code, any county or municipal ordinance or any rules or regulations prohibiting the same to the contrary.

§ 6615. State fire school--School attendance fees

The State Fire Prevention Commission may fix and collect admission fees and other fees that it may deem necessary to be charged for training given, and it is expressly provided that all such fees so collected by the Commission shall not affect the state appropriation or be deducted therefrom, but shall be so much additional moneys available for the operation and maintenance of said institution, and the said fees shall be paid to the State Treasury for accounting and deposit in a special fund in the State Treasury.

§ 6616. State fire school--Director and employees

The State Fire Prevention Commission shall employ a Director for the State Fire School who shall be especially trained and qualified in fire fighting and fire experimental work and shall employ, on the recommendations of said Director, such other instructors, experimental helpers, secretaries and laborers as may be necessary to the proper conduct of said institution and may proceed with the erection and detailed operation of said institution.

§ 6616A. State fire school--Liability in the performance of instructional service

(a) No full-time or part-time instructor certified, assigned, approved or contracted by the Delaware State Fire School who in good faith provides instructional services shall be liable for any civil damages as a result of issuing such instructions, unless guilty or gross of wilful negligence.

(b) No university, college or medical facility, nor any other entity nor any of its faculty members, participating in good faith as part of an approved Delaware State Fire School training or educational program, shall be liable for any civil damages as a result of any primary or continuing training or educational practice by any enrolled students unless guilty of gross or wilful negligence.

§ 6617. State fire school--Buildings and equipment

The State Fire Prevention Commission shall have the power to prescribe and shall make the necessary rules and regulations for the use of the buildings, equipment and other facilities of the institution when they are not in use for the purpose set forth.

§ 6618. Advisory boards

(a) Fire School Advisory Board.--The Delaware Volunteer Firemen's Association shall appoint from its members a 6-person Fire School Advisory Board. Two members shall come from New Castle County, 2 from Kent County and 2 from Sussex County. The State Fire Prevention Commission may consult the advisory board on any Fire School matters whether administrative or technical and receive recommendations thereon.

(b) Fire Marshal's Advisory Board.--The Delaware Volunteer Firemen's Association shall appoint from its members a 6-person Fire Marshal's Advisory Board. Two members shall come from New Castle County, 2 from Kent County and 2 from Sussex County. The State Fire Prevention Commission and the Fire Marshal may consult the advisory board on any Fire Marshal matters whether administrative or technical and receive recommendations thereon.

§ 6619. Power of Commission to authorize new fire companies or substations; resolve boundary and other disputes; prohibit cessation of necessary fire protection services

(a) The State Fire Prevention Commission, with the advice of the advisory board, is empowered to promulgate, amend and repeal regulations related to the exercise of Commission powers and responsibilities defined in this section.

(1) Except as provided in subsection (c) of this section, the Commission shall determine whether any new fire companies or substations shall be authorized in any part of the State. In making such determination the Commission shall consider among other things the ability, financial or otherwise, of the company seeking authorization to maintain an effective fire company and the fire protection needs of the area involved. The Commission, however, shall not authorize the establishment of a new fire company within 4 miles of an existing fire company unless the Commission determines that an existing company is not reasonably equipped, manned, organized, financed or disciplined to deliver, or is not actually delivering, adequate fire protection in accordance with recognized safety standards to the area it serves.

(2) Except as provided in subsection (c) of this section, the Commission shall have authority to prohibit the suspension of fire protection services in this state by any fire company or substation thereof when the ability, financial or otherwise, of the company or substation seeking to suspend such service does not warrant such suspension. In making this determination the Commission shall consider, among other things, the fire protection needs of the area involved, whether the company or substation seeking to suspend fire protection services is inadequately financed, equipped, manned, organized or disciplined, and whether a new fire company should be authorized to deliver fire protection services to the area.

(3) The Commission shall have authority, acting on behalf of the State, to enter into agreements to confirm the established geographical boundaries of areas served by all existing fire companies in the State and to resolve boundary disputes between or among such fire companies.

(4) The Commission shall have authority to enter binding orders resolving disputes or grievances within or between fire companies.

(b) The Delaware Volunteer Firemen's Association shall designate from its members a 9-member advisory board to advise and make recommendations to the State Fire Prevention Commission in connection with the

Commission's responsibilities under this section. The advisory board shall consist of the President, First Vice-President, Second Vice-President and the 6 members of the Board of Directors, excluding the immediate past President who serves as a Commissioner, of the Delaware Volunteer Firemen's Association.

(c) Paragraphs (1) and (2) of subsection (a) of this section shall not be applied with respect to any fire company in municipalities with a population greater than 50,000 as established in the official 1980 federal census.

§ 6620. Reports from insurance companies; reports of investigations by Fire Commission

(a) Each fire insurance company or association doing business in this State shall, within 30 days after the adjustment of any loss sustained by it, report to the State Fire Commission, upon forms furnished by it, such information regarding the amount of insurance, the value of the property insured and the amount of claim as adjusted, as in the judgment of the State Fire Commission it is necessary for it to know. This report shall be in addition to any such information required by the Insurance Commissioner.

(b) Upon the request of the owner or insurer of any property destroyed or injured by fire or explosion, or in which an attempt to cause a fire or explosion may have occurred, the State Fire Commission, upon approval of the Attorney General's office, may make a written report to the person requesting the same of the result of the examination made by the Commission regarding the property.

§ 6621. Injunctive relief

The Fire Prevention Commission may in its discretion bring an action in the Court of Chancery to temporarily restrain or enjoin any act or practice which constitutes a violation of an order of the Commission or of any provision of this chapter and to enforce compliance with any order of the Commission or provision of this chapter.

§ 6622. Audits of volunteer fire and ambulance companies

(a) The State Fire Prevention Commission shall promulgate regulations requiring financial audits of volunteer fire and ambulance companies and the Smyrna and Georgetown American Legion Ambulances and the Mid-Sussex Rescue Squad. The regulations shall include, but not be limited to, specifying the required types of audits, the reporting periods, procedures for reviewing the audits and the processes to be followed in the event a company fails to submit or submits an inadequate audits.

(b) The State Fire Prevention Commission shall have the authority, after a hearing, to impose a civil penalty not to exceed \$100 against any volunteer fire and ambulance companies, the Smyrna and Georgetown American Legion Ambulances and the Mid-Sussex Rescue Squad that fails to comply with any regulation promul-

gated pursuant to subsection (a) of this section. Each day a violation continues may be deemed a separate offense in the Commission's discretion. However, in no event shall the total penalties exceed \$5,000 per reporting period.

(c) The penalties specified in this section are in addition to and not in lieu of any other penalties provided for under this Chapter.

§ 6624. Repealed.

§ 6625. Protection of records

Any and all records and reports compiled by the State Fire Marshal's office resulting from the State's Juvenile Fire Setter Intervention Program, including, but not limited to, case histories, interviews and findings, shall be considered confidential and privileged and shall not be disclosed directly or indirectly to anyone other than Family Court, the Attorney General and the Deputies Attorney General and the employees of the State Fire Marshal's office in the discharge of their official duties. Such records and reports shall not be subject to the Freedom of Information Act pursuant to Chapter 100 of Title 29 and shall not be subject to any subpoena powers of any court.

§ 6631. Smoke detectors required

(a) Each owner of a residential occupancy, used wholly or in part as a home, residence, dwelling or sleeping place for 1 or more persons, either permanent or transient, including but not limited to any 1-family and 2-family dwelling, mobile home, modular home, townhouse; lodging, rooming or boarding house; hotel, motel, bed and breakfast facility; dormitory, apartment or multi-family dwelling; board and care facility; or a residential occupancy by any other name, be it rented, leased or owned, shall install, within such occupancy, smoke detection devices and/or smoke detection systems, either photo-electric or ionization types, capable of automatically sensing visible or invisible particles or products of combustion, and which activate an alarm sufficiently audible to warn the occupants of the building of an impending danger of fire or hazard to life.

(b) The requirement for the installation of smoke detecting devices and/or smoke detection systems as provided for in this section shall apply to all new and existing occupancies, buildings and/or structures listed in subsection (a) of this section, regardless of when any such occupancy, building or structure was built.

(c) It shall be the responsibility of the owner of a residential occupancy listed in subsection (a) of this section to install and maintain smoke detection devices as required by this chapter, with the following exception: Where there is a tenant of a rented or leased occupancy, structure or building required to have smoke detection devices and/or smoke detection systems, as required in this subchapter, and the rental, lease agreement or contract is for a period of 1 month or more, such tenant shall be responsible for the maintenance of any smoke de-

tection devices, with respect to maintaining an operable battery in the smoke detection device, within the individual rented or leased unit.

(d) All smoke detection devices and/or smoke detection systems which are required to be installed under this subchapter shall be installed in accordance with the applicable provisions of the State Fire Prevention Regulations.

(e) When the standards of the State Fire Prevention Regulations and the building codes change with respect to the number and location of smoke detectors in new construction, such standards shall be the minimum to be utilized for determining compliance with this statute for new construction. A listing of all updated standards and their effective dates shall be maintained in the State Fire Marshal's Office.

(f) It shall not be the duty of a real estate salesperson or broker, licensed under Chapter 29 of Title 24 to verify the compliance of any person or residential occupancy with the provisions of this subchapter.

§ 6632. Smoke detector installation in 1- and 2-family dwellings; mobile homes; modular homes; townhouses

(a) Each 1-family and 2-family dwelling, mobile home, modular home, and townhouse shall have smoke detection devices and/or smoke detection systems installed according to the following requirements:

(1) For each new building or occupancy built after July 8, 1993, smoke detection devices shall be installed in accordance with the provisions of the State Fire Prevention Regulations and the building codes in effect at the time of new construction.

(2) For all buildings or occupancies erected or built prior to July 8, 1993, each required smoke detection device shall be installed outside each sleeping area in the immediate vicinity of the bedrooms and shall be installed on each additional story of the family living unit, including basements, but excluding crawl spaces and unfinished attics, if nothing is stored or kept in such area; but the smoke detection devices in existing buildings or occupancies may be single-station, individual smoke detection devices, approved by Underwriters Laboratories or the Factory Mutual Association, and powered by a monitored battery power supply in accordance with Delaware Fire Prevention Regulations.

(b) Nothing contained in this section shall prohibit the owner of any 1-family or 2-family dwelling, mobile home, modular home or townhouse from installing an inter-connected smoke detection system, hard-wired to the building's electrical system.

§ 6633. Smoke detector installation; other residential occupancies

(a) Each lodging, rooming or boarding house; hotel, motel, bed and breakfast facility; dormitory; apartment or multi-family dwelling; board and care facility; or a residential occupancy by any other name shall have smoke detection devices and/or smoke detection systems installed in conformance to the standards of the State Fire Prevention Regulations and the building codes pursuant to the specifications for the individual occupancies or use.

(b) Where there is a conflict between installation requirements, this section shall be interpreted to require the more strict of the installation specifications, for a particular occupancy.

(c) All required smoke detection devices and/or smoke detection systems listed in subsection (a) of this section, except as otherwise specified herein, shall be inter-connected, so that operation of any smoke detection device shall cause the alarm-sounding devices in all smoke detection devices within the building, occupancy or within a separate zoned area to sound; or that will initiate the building fire alarm system to provide an audible warning to all occupants of the building, and all such smoke detection devices and/or systems shall be hard-wired into the electric system of the building, in accordance with the National Electric Code.

(d) With approval of the Fire Marshal, smoke detection devices in individual sleeping rooms may be excepted from the requirement that smoke detection devices be interconnected if such building or occupancy is provided with an automatic smoke detection system in the hallways, corridors or stairwells, or is connected to a building fire alarm system which will activate an alarm which is sufficiently audible to warn the occupants of the building of the impending danger of fire or hazard to life.

(e) For all buildings or occupancies which under subsection (a) of this section are required to install smoke detection devices and/or smoke detection systems, and for such buildings or occupancies that do not have an auxiliary, emergency or back-up power system in accordance with State Fire Prevention Regulations, each smoke detection device or smoke detection system shall utilize the type of smoke detection device that has a built-in battery back-up power supply.

(f) The plans and specifications for all smoke detection devices and/or systems required by this subsection shall be submitted to the State Fire Marshal's Office, prior to installation, for review and approval in accordance with § 6607 of this title.

§ 6634. Smoke detectors; compliance dates

(a) For each newly erected or constructed 1-family and 2-family dwelling, mobile home, modular home or townhouse listed in § 6631 of this title, the compliance date shall be July 8, 1993.

(b) For all existing 1-family and 2-family dwellings, mobile homes, modular homes or townhouses listed in § 6631 of this title, erected or constructed prior to July 8, 1993, the compliance date shall be July 1, 1994.

(c) For all other residential occupancies listed in § 6633 of this title, constructed after July 8, 1993, the required smoke detection devices and/or smoke detection systems shall be installed at time of construction.

(d) For all other existing residential occupancies listed in § 6633 of this title, newly erected or constructed prior to July 8, 1993, the compliance date shall be July 1, 1996.

§ 6635. Smoke detectors, penalties for noncompliance

(a) Each owner and/or tenant of every building or occupancy required to have smoke detection devices and/or smoke detection systems in accordance with this subchapter, whether an individual or a body corporate, who fails to comply with this subchapter regarding smoke detection devices and/or smoke detection systems, shall be fined not less than \$100 nor more than \$500 for each offense. The Justice of the Peace Courts shall have jurisdiction over any violation of this subchapter.

(b) Anyone who tampers with, damages, destroys or renders inoperative any smoke detection device and/or smoke detection system, shall be fined not less than \$100 nor more than \$500 for each offense. The Justice of the Peace Courts shall have jurisdiction over these violations.

(c) Where a fire department responds to an alarm of any type at a building or occupancy required to have smoke detection devices and/or smoke detection systems as required by this subchapter or by the State Fire Prevention Regulations, and such building does not have a functional, working smoke detection device and/or the smoke detection system is not operable, is not in service, or is not installed or maintained as required by this chapter or by the State Fire Prevention Regulations; or the Fire Marshal's Office becomes aware of such building or occupancy, the State Fire Marshal's Office shall have authority to investigate. The State Fire Marshal may issue a summons, where necessary, to the owner and/or occupant of such building or occupancy, for an appearance in the nearest Justice of the Peace Court.

(d) Each fine specified in this section of this title shall be remitted to the State Fire Marshal's Office in accordance with § 6607(g)(5) of this title, which provisions shall be complied with in implementing the requirements of this chapter. All receipts shall be used to subsidize the costs of providing a greater public awareness of the ramifications of not having smoke detectors; and to provide smoke detection devices, where possible and/or permissible, for 1-family and 2-family dwellings, mobile homes, modular homes or townhouses, where enforcement action takes place with respect to the owner and/or occupant of the 1-family and 2-family dwelling, mobile home, modular home or townhouse.

(e) In the enforcement of this subchapter with respect to smoke detection devices and/or smoke detection systems, where the fines are collected within the jurisdictions of the cities of Wilmington, Newark, Dover or New Castle, such fines shall be remitted to the appropriate political subdivision, and shall be utilized for the purposes stated in subsection (d) of this section.

(f) The State Fire Marshal's Office shall be the state-wide manager and agency for all public awareness programs generated by the proceeds of the fines collected under this section.

(g) With the exception of subsection (f) of this section, where any reference is made to the State Fire Marshal or the State Fire Marshal's Office, such reference shall be interpreted to also apply to the Assistant State Fire Marshals of the cities of Wilmington, Newark, Dover and New Castle for the enforcement actions of these provisions.

(h) The State Fire Marshal or the Attorney General may, in addition to other remedies provided by this section, institute injunction, mandamus, abatement or any other appropriate action or actions or proceedings to prevent any continued violations of this chapter.

§ 6636. Exceptions; claims of negligence

Failure to comply with this subchapter shall not be considered as evidence of either comparative or contributory negligence in any civil suit or insurance claim adjudication arising out of any injury or death arising from a fire or the direct consequences of a fire; nor shall failure to comply with this subchapter be admissible as evidence in any trial of any civil action or insurance claim adjudication.

§ 6637. Fire Detection Fund

(a) This section shall be referred to as the "Delaware Fire Detection Fund."

(b) A special fund of the State is hereby created to be known as the "Delaware Fire Detection Fund." All moneys, including gifts, bequests, grants or other funds from private or public sources specifically designated for the Delaware Fire Detection Fund shall be deposited or transferred to the Fire Detection Fund. Moneys in the Delaware Fire Detection Fund may be saved and deposited in an interest bearing savings or investment account. Interest or other income earned on the moneys in the Delaware Fire Detection Fund shall be deposited or transferred into the Delaware Fire Detection Fund. The Delaware Fire Detection Fund shall not lapse or revert to the General Fund.

(c) Moneys from the Delaware Fire Detection Fund shall be expended for the purpose of providing hard-wired smoke detectors with battery back up to Delaware residences lacking fire detection devices; provided, however, any moneys received from State-appropriated funds shall only be used for owner-occupied residences. Any moneys derived from private sources may be used for any Delaware residences. Any moneys derived from private sources may be used for any Delaware residences.

(d) The State Fire Marshal is authorized to identify and maintain an approved contractor list of licensed master

electricians and licensed fire alarm signaling system companies for the purpose of installing hard-wired smoke detectors. The State Fire Marshal will maintain this approved list in each county in order to minimize costs and maximize efficiency consistent with public safety. This approved list will be furnished to those owners identified as lacking fire detection devices as outlined in subsection (c) of this section.

(e) The State Fire Prevention Commission (Commission) is authorized to adopt rules and regulations necessary to administer the program in accordance with this section. The Commission will establish a priority list to distribute the hard-wired smoke detectors.

(f) The State Fire Marshal shall supervise and administer the program in accordance with any rules and regulations adopted by the Commission through the State Fire Marshal's Office Quality Assurance Program.

(g) The objective of the Fund is to ensure the installation of working smoke detectors in every private residence in the State.

§ 6638. Definitions

As used in this subchapter:

(a) "Alarm Activation Report" means a designated form issued by the State Fire Marshal for use by the Fire Chief indicating the alarm signal was found to be the result of a false alarm.

(b) "Alarm signal" means the activation of a fire alarm signaling system or a fire suppression system that requests a response by a fire department.

(c) "Audible alarm" means any device, bell, horn, or siren which is attached to the interior or exterior of a building, emits a warning signal outside the building and is designed to attract attention when activated by a fire.

(d) "Dispatch center" means a location specifically configured for the primary purpose of providing emergency communications services, public safety answering point services, and dispatch of fire apparatus to emergency situations.

(e) "False alarm" means the activation of a fire alarm signaling system or any audible alarm which results in a response by the fire department and which is not the result of a fire or other emergency.

(1) "False alarm" includes:

- a. Negligently or accidentally activated alarm signals; and
 - b. Alarm signals that are the result of faulty, malfunctioning, or improperly installed or maintained equipment.
- (2) “False alarm” does not include:
- a. Alarm signals activated by severe weather conditions;
 - b. Alarm signals activated during the initial 30-day period following new installation; or
 - c. Alarm signals knowingly activated pursuant to [§ 1245\(1\) of Title 11](#), falsely reporting an incident.
- (f) “Fire alarm contractor” means a person or company licensed by the State Fire Marshal's Office and engaged in installing, maintaining, monitoring, altering, or servicing fire alarm signaling or fire suppression systems.
- (g) “Fire alarm signaling monitoring company” means a station or building located remote from the protected premises where fire alarm signals from one or more protected premises are received and from where, upon receipt of such signal, a dispatch center is notified.
- (h) “Fire alarm signaling system” means an automatic or manual fire alarm or fire suppression system in accordance with the State Fire Prevention Regulations. For the purpose of this legislation, “fire alarm signaling system” does not include typical household single-station smoke detectors in 1-and 2-family dwellings.
- (i) “Fire Chief” means the Fire Chief or officer in charge of the responding fire department.
- (j) “Monitored System” means the process by which a fire alarm signaling monitoring company receives signals from a fire alarm system and notifies the dispatch center.
- (k) “Owner” means any person who owns the premises where the fire alarm signaling system or fire suppression system is installed or the person or persons who lease, operate, occupy, manage the premises, or are bound by the contract for services provided by the fire alarm signaling monitoring company.
- (l) “Premises” means any building or structure where a fire alarm signaling system is installed.

§ 6639. Initial installation requirements

(a) Upon the installation of a new fire alarm signaling system, the fire alarm contractor shall furnish the owner with written operating instructions and training to enable the owner to use the fire alarm signaling system properly. The fire alarm contractor shall notify the owner of the provisions of this chapter and of the State Fire Prevention Regulations upon completion of the installation of the fire alarm signaling system.

(b) A "Record of Completion" form, designated by the Office of the State Fire Marshal, containing owner and system information shall be submitted by the fire alarm contractor to the State Fire Marshal for all new fire alarm signaling systems.

§ 6640. Fire alarm signaling monitoring companies

(a) All fire alarm signaling monitoring companies are responsible for directing the call reporting the fire alarm signal to the appropriate dispatch center, and for providing the dispatch center with accurate location information.

(b) All fire alarm signaling monitoring companies shall maintain a current contact list of 3 representatives or designees of the owners of which 1 will respond to the premises within 30 minutes to assist the fire department in gaining access to the building. The fire alarm signaling monitoring company shall have current contact information for each representative or designee of the owner. The contact list must be updated on an annual basis.

(c) Where an owner is unable to provide a minimum of 3 representatives or designees who can respond within 30 minutes, in accordance with subsection (b) of this section, a lock box containing keys for fire department access shall be provided as specified in the State Fire Prevention Regulations.

(d) A \$100 civil penalty will be charged if an owner fails to provide either a minimum of 3 representatives or designees who can respond within 30 minutes or a lock box approved by the Office of the State Fire Marshal.

(e) A \$100 civil penalty shall be charged each time a fire alarm signaling monitoring company violates a provision of this section.

(f) For a fire alarm system installed in a single-family dwelling, the fire alarm contractor is responsible to solicit an updated contact list on an annual basis from the owner. It is an affirmative defense if the owner fails to comply with the fire alarm contractor's requests for information.

§ 6641. Testing of fire alarm signaling systems

(a) No person shall conduct any test or demonstration of a fire alarm signaling system without first contacting the appropriate fire dispatch center and fire alarm signaling monitoring company. The fire dispatch center and fire alarm signaling monitoring company shall also be contacted when the fire alarm test or demonstration is completed.

(b) A violation of this section shall be punished as follows:

(1) First offense; written warning; no fine.

(2) Second offense: \$100 civil penalty.

(3) Third and subsequent offenses: \$500 civil penalty for each offense.

(c) For purposes of this section, a fire alarm contractor that employs a person who violates this section will be held accountable for the offense.

(d) The offenses will be cumulative for all of the fire alarm contractor's employees who violate this section within a calendar year.

(e) The term "calendar year" shall be January 1, 2004 through December 31, 2004 for the first year and shall be January 1 through December 31 for each subsequent year.

§ 6642. Inspection and maintenance of fire alarm signaling systems

(a) The owner shall ensure that the fire alarm signaling system is inspected and tested in accordance with the State Fire Prevention Regulations.

(b) The owner shall ensure that the fire alarm signaling system is maintained per manufacturer's specifications.

§ 6643. Fire alarm activation

(a) The owner shall be responsible for the activation of a fire alarm signaling system.

(b) A response to the activation of a fire alarm signaling system shall result when the fire department is dispatched to the premises where the fire alarm signaling system has been activated.

(c) In the event that the dwelling fire alarm system, as defined in NFPA 72, is a Monitored System, the fire alarm signaling monitoring company shall be permitted to verify residential alarm signals prior to reporting them to the dispatch center, provided that the verification process does not delay the reporting by more than 90 seconds.

(d) Upon determining that a false alarm has occurred at the premises, the Fire Chief will submit an "Alarm Activation Report" to the State Fire Marshal's Office.

(e) Resetting an alarm panel by any person prior to the Fire Chief's authorization shall be prohibited, and shall be considered a false alarm if the Fire Chief cannot determine the cause and nature of the alarm activation.

§ 6644. Excessive false alarms prohibited

(a) Owners of a premise protected by a fire alarm signaling system shall not cause more than 3 false alarms within a calendar year.

(b) The State Fire Marshal will record the number of "Alarm Activation Reports" for each premise.

(c) An owner that is in violation of subsection (a) of this section will be subject to a civil penalty as follows:

(1) Fourth alarm: \$100 civil penalty.

(2) Fifth alarm: \$200 civil penalty.

(3) Sixth and subsequent alarms: \$250 civil penalty for each offense.

(d) The term "calendar year" shall be January 1, 2004 through December 31, 2004 for the first year and shall be January 1 through December 31 for each subsequent year.

§ 6645. Civil penalties and appeals

(a) The State Fire Marshal shall assess all civil penalties as outlined in this subchapter.

(b) All civil penalties will be paid within 30 days of assessment.

(c) All moneys derived from the civil penalties shall be placed in the Fire Detection Fund pursuant to [§ 6637](#)

of this title.

(d) An owner or a fire alarm contractor may appeal the assessment of a civil penalty to the State Fire Prevention Commission in accordance with the State Fire Prevention Regulations.

(e) The Justice of the Peace Court shall have jurisdiction over all unpaid civil penalties.

§ 6646. Definitions

“Member” means a volunteer firefighter of a Delaware volunteer fire department, as certified by the Delaware State Fire Prevention Commission.

§ 6647. Membership requirements for volunteer firefighters

(a) An applicant for membership in a Delaware volunteer fire department who has been convicted of or, had that applicant been charged as a juvenile, adjudicated delinquent of any of the following crimes is prohibited from serving as a firefighter in this State:

(1) A felony involving sexual misconduct where the victim's failure to affirmatively consent is an element of the crime, such as forcible rape;

(2) A felony involving the sexual or physical abuse of a child or of an elderly or infirm person, such as sexual misconduct with a child, sexual exploitation of a child, making or distributing child pornography, incest involving a child, or assault on an elderly or infirm person;

(3) A crime in which the victim is an out-of-hospital patient or a patient or resident of a healthcare facility, including abuse, neglect, or theft from or financial exploitation of a person entrusted to the care or protection of the applicant;

(4) Arson in the third, second, or first degree; reckless burning or exploding; cross or religious symbol burning; or any crime in which the applicant intentionally or recklessly started a fire or caused an explosion, or attempted or conspired to do so;

(5) A law of another state, territory, or jurisdiction which is the same or equivalent to the offenses described in paragraphs (a)(1) through (4) of this section.

(b) Membership in a Delaware volunteer fire department must be denied if the applicant has been convicted

or, if that applicant was charged as a juvenile, has been adjudicated delinquent of any of the following crimes, except in extraordinary circumstances:

(1) Any crime for which the applicant is currently incarcerated, on work release, on probation, or on parole;

(2) Any crime in the following categories, unless at least 5 years have passed since the applicant's conviction or at least 5 years have passed since the applicant was released from custodial confinement, whichever occurs later:

a. A serious crime of violence against a person, such as assault with a dangerous weapon, aggravated assault, murder or attempted murder, manslaughter (other than involuntary manslaughter), kidnapping, or robbery of any degree;

b. A crime involving a controlled substance or designer drug, including unlawful possession or distribution of, or intent to unlawfully possess or distribute, a controlled substance in Schedules I through V of the Uniform Controlled Substances Act of Chapter 47 of this title;

c. A serious crime involving property, such as burglary, embezzlement, or insurance fraud;

d. Any crime involving sexual misconduct;

e. A crime of another state, territory, or jurisdiction which is the same or equivalent to the offenses described in paragraphs (b)(2)a. through d. of this section.

(3) In extraordinary circumstances, membership may be granted under subsection (b) of this section only if the applicant establishes by clear and convincing evidence that his or her membership will not jeopardize public health or safety.

(c) An applicant for membership in a Delaware volunteer fire department who knowingly provides false, incomplete, or inaccurate criminal history information, or who otherwise knowingly violates a provision of this subchapter, is guilty of a class G felony. In addition to a term of imprisonment of up to 2 years, the court shall impose a fine of no less than \$1,000 which may not be suspended.

(d) The State Fire Prevention Commission shall adopt regulations to implement the provisions of this subchapter. The regulations must include, as part of the application form for membership in a Delaware volunteer fire department, a dated and signed statement by the applicant swearing to or affirming the following, if the following is true. If it is not true, the applicant must explain in writing what is not true and why it is not true.

“I have never been convicted of an offense that constitutes any of the crimes set forth in 16 Del. C. § 6647 or any similar offense under any federal, state, or local law. I hereby certify that the statements contained in this application are true and correct to the best of my knowledge and belief. I understand that if I knowingly make any false statement in this application, I am subject to penalties prescribed by law, including denial or revocation of membership in the volunteer fire department and a mandatory fine of at least \$1,000 or a term of imprisonment of up to 2 years, or both.”

(e) An applicant for membership in a Delaware volunteer fire department who is denied membership or whose membership is revoked because of the requirements of this subchapter may appeal the denial or revocation to the State Fire Prevention Commission within 15 days of written notification of the denial or revocation by the volunteer fire department. An appeal under this subsection must be held in accordance with the appropriate provisions of the Administrative Procedures Act, Chapter 101 of Title 29, and is subject to judicial review under subchapter V of Chapter 101 of Title 29.

§ 6650. Delaware Burn Camp Corporation Authorization

The State Fire Prevention Commission is hereby authorized to incorporate a non-profit, non-stock corporation known as the Delaware Burn Camp Corporation for the purpose of establishing, administering and operating an overnight camp devoted to helping burned children cope with the emotional and physical issues arising from their injuries.

§ 6651. Powers

The Delaware Burn Camp Corporation shall be empowered, notwithstanding any other laws to the contrary:

- (1) To adopt by-laws to govern the conduct of its affairs and to carry out and discharge its powers, duties and functions as appropriate;
- (2) To enter into contracts and agreements as it may deem necessary, convenient or desirable;
- (3) To plan, finance, develop, construct, purchase, lease, maintain, improve, own, operate or control facilities and such real, personal or intellectual property as it may deem necessary, convenient or desirable;
- (4) To employ such personnel as necessary to carry out its functions;
- (5) To retain, by contract, engineers, advisors, legal counsel and other providers of advice, counsel and services which it deems advisable or necessary in the exercise of its purposes and powers and upon such terms as it deems appropriate;

- (6) To do all acts and things necessary or convenient to carry out its functions and purposes;
- (7) To have and exercise any and all powers available to a corporation organized pursuant to Chapter 1 of Title 8, the Delaware General Corporation Law; and
- (8) To accept appropriations, donations, contributions, grants and loan repayments and to keep such monies in the Corporation's own accounts.

§ 6652. Board of directors

(a) An initial board of directors of the Delaware Burn Camp Corporation shall consist of the members of the Burn Camp Task Force, as established under Senate Concurrent Resolution 38 of the 144th General Assembly, and one (1) commissioner from the Delaware State Fire Prevention Commission. The terms of office of the initial board of directors shall expire two (2) years after the effective date of this Act.

(b) Upon expiration of the terms of the initial board of directors, members of the board of directors shall be appointed to oversee the operation of the burn camp consisting of thirteen (13) members to be determined as follows:

- (1) two (2) public members appointed by the President Pro Tempore of the Delaware State Senate;
- (2) two (2) public members appointed by the Speaker of the Delaware State House of Representatives;
- (3) one (1) representative of the Office of the Delaware State Fire Marshal, as designated by the Delaware State Fire Marshal;
- (4) one (1) representative of the Delaware Volunteer Firemen's Association, as designated by the Association's president;
- (5) one (1) commissioner from the Delaware State Fire Prevention Commission;
- (6) one (1) representative from the Delaware health care community appointed by the President Pro Tempore of the Delaware State Senate;
- (7) one (1) representative from the Delaware health care community appointed by the Speaker of the House;

(8) one (1) representative of Delaware youth organizations appointed by the President Pro Tempore of the Delaware State Senate;

(9) one (1) representative of Delaware youth organizations appointed by the Speaker of the House; and

(10) two (2) public members appointed by the Governor.

(c) In order to stagger the terms of the board members;

(1) Those board members initially appointed pursuant to subsections (b)(1) and (b)(2) shall be appointed to a one- (1) year term.

(2) Those board members initially appointed pursuant to subsection (b)(3), (b)(4), (b)(5) and (b)(6) shall be appointed to a two- (2) year term.

(3) Thereafter, and all other board members shall be appointed to three-year terms.

(d) The chairperson of the board of directors shall be chosen by the members of the board of directors. The board of directors shall adopt by-laws and other procedures needed for the operation and management of the Delaware Burn Camp Corporation and the burn camp.

END OF DOCUMENT