

Assembly Bill No. 3080

Passed the Assembly July 11, 1996

Chief Clerk of the Assembly

Passed the Senate July 7, 1996

Secretary of the Senate

This bill was received by the Governor this ___ day
of _____, 1996, at ___ o'clock __M.

Private Secretary of the Governor



CHAPTER _____

An act to amend Section 12804 of the Government Code, to amend Sections 13073, 13100, 13101, 13103, 13104.5, 13105, 13107, 13108, 13109, 13113, 13114, 13115, 13120, 13121, 13122, 13124, 13127, 13128, 13129, 13140, 13142.6, 13143, 13143.8, 13144.1, 13146.3, 13158, and 25197.2 of, and to repeal Sections 13102, 13110, and 13111.2 of, the Health and Safety Code, to amend Section 13510.5 of the Penal Code, and to add Section 702 to the Public Resources Code, relating to fire protection.

LEGISLATIVE COUNSEL'S DIGEST

AB 3080, Hoge. Fire protection: State Fire Marshal.

Under existing law, the Governor's Reorganization Plan No. 3 of 1995 abolished the Office of the State Fire Marshal and the position of State Fire Marshal in the State and Consumer Services Agency, and created the Office of the State Fire Marshal and the position of State Fire Marshal in the Department of Forestry and Fire Protection, and transferred the functions of the former office and former position to the office or position, as the case was, in the department. The State Fire Marshal became a chief deputy director of the department, appointed by the Governor.

This bill would make additional changes to the law to further that plan.

Existing law requires the State Fire Marshal to encourage the adoption of fire prevention measures by means of education.

This bill would add engineering and enforcement measures to those that the State Fire Marshal is required to encourage for the purpose of fire prevention.

Existing law requires any chemical manufacturing concern, or any flame-retardant application concern, or any concern marketing a flame-retardant fabric or material that desires to have its name appear on the approval list of chemicals, chemically treated fabrics, or flame-retardant applicator concerns to first make



application to the State Fire Marshal and to pay a registration fee. Existing law also sets forth the renewal registration fee period for general applicators, as defined.

This bill would add that the renewal registration fee period provisions apply to chemical manufacturing concerns and concerns marketing a flame-retardant fabric as well as to general applicators.

Existing law requires the State Fire Marshal to adopt building standards and other regulations establishing minimum requirements for the prevention of fire and for the protection of life and property against fire and panic in buildings and structures used for specified occupancies.

This bill would delete the references to numerous of the specified occupancies for which the State Fire Marshal is required to adopt building standards and regulations under existing law and would substitute the term “assembly occupancies” therefor. Because specified local agencies with jurisdiction in the area affected by the standard or regulation adopted by the Fire Marshal have responsibility for enforcing those building standards and regulations and because a violation of the bill’s provisions and the standards and regulations adopted by the State Fire Marshal would be a misdemeanor, the bill would impose a state-mandated local program.

The bill also would make nonsubstantive conforming changes to the law.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates



determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

The people of the State of California do enact as follows:

SECTION 1. Section 12804 of the Government Code is amended to read:

12804. (a) The Agriculture and Services Agency is hereby renamed the State and Consumer Services Agency.

(b) The State and Consumer Services Agency consists of the following: the Department of General Services; the Department of Consumer Affairs; the Franchise Tax Board; the Public Employees' Retirement System; the State Teachers' Retirement System; the Department of Fair Employment and Housing; the California Museum of Science and Industry; and the California Building Standards Commission.

SEC. 2. Section 13073 of the Health and Safety Code is amended to read:

13073. The Office of Emergency Services shall carry out this chapter in cooperation with the Department of Forestry and Fire Protection, including the Office of the State Fire Marshal, and with the advice of the Fire and Rescue Service Advisory Committee/FIRESCOPE Board of Directors within the Office of Emergency Services. The Fire and Rescue Service Advisory Committee/FIRESCOPE Board of Directors shall submit periodic reports to the Joint Committee on Fire, Police, Emergency and Disaster Services of the Legislature on the status of the FIRESCOPE Program.

SEC. 3. Section 13100 of the Health and Safety Code is amended to read:

13100. (a) The Office of the State Fire Marshal is hereby created in the Department of Forestry and Fire Protection. The Office of the State Fire Marshal shall be administered by the State Fire Marshal, who shall be a Chief Deputy Director of Forestry and Fire Protection in accordance with paragraph (1) of subdivision (b) of



Section 702 of the Public Resources Code and appointed pursuant to Section 13101 of this code.

(b) The Office of the State Fire Marshal and the State Fire Marshal in the Department of Forestry and Fire Protection succeed to, and are vested with, all of the powers, duties, responsibilities, and jurisdiction of the former Office of the State Fire Marshal and the former State Fire Marshal, as the case may be, in the State and Consumer Services Agency.

(c) Wherever any reference is made in any law to the former Office of the State Fire Marshal or to the former State Fire Marshal in the State and Consumer Services Agency pertaining to a power, duty, responsibility, or jurisdiction transferred to, and vested in, the Office of the State Fire Marshal or the State Fire Marshal in the Department of Forestry and Fire Protection, the reference shall be deemed to be a reference to, and to mean, the Office of the State Fire Marshal or the State Fire Marshal in the Department of Forestry and Fire Protection, as the case may be.

SEC. 4. Section 13101 of the Health and Safety Code is amended to read:

13101. The State Fire Marshal shall be appointed by the Governor with the advice and consent of the Senate and shall hold office at the pleasure of the Governor. In order to be eligible for appointment, he or she shall have had not less than eight years experience in a regularly organized fire department in this State. He or she shall be paid the annual salary provided for by Chapter 6 of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 5. Section 13102 of the Health and Safety Code is repealed.

SEC. 6. Section 13103 of the Health and Safety Code is amended to read:

13103. The State Fire Marshal may appoint those assistant or deputy state fire marshals as he or she may consider necessary from among active chiefs of fire departments, fire marshals of cities, counties, and districts providing fire protection, and the salaried field assistants of the State Fire Marshal.



The State Fire Marshal and the assistant or deputy state fire marshals shall exercise the functions of peace officers.

SEC. 7. Section 13104.5 of the Health and Safety Code is amended to read:

13104.5. Except on property which has been deeded to the state for taxes, the Department of Forestry and Fire Protection may abate fire hazards existing on property owned, controlled, or held in trust by the state, in areas not under the jurisdiction of the Director of Forestry and Fire Protection, upon the request of the legislative body of the city, county, or city and county within which the property is situated. The cost of the abatement shall be paid out of any money in the State Treasury appropriated for that purpose.

SEC. 8. Section 13105 of the Health and Safety Code is amended to read:

13105. The State Fire Marshal shall encourage the adoption of fire prevention measures by means of education, engineering, and enforcement and shall prepare or cause to be prepared for dissemination information relating to the subject of fire prevention and extinguishment.

SEC. 9. Section 13107 of the Health and Safety Code is amended to read:

13107. (a) The State Fire Marshal shall investigate every explosion or fire occurring in any state institution, state-owned building, or any building which is determined, pursuant to regulations adopted by the State Fire Marshal, to be state occupied, and every explosion or fire occurring in those areas of the state not under the jurisdiction of a legally organized fire department or fire protection district or other public entity, including, but not limited to, the state, which provides fire protection in which there is suspicion that the crime of arson or attempted arson has been committed.

(b) Upon request of the chief fire official of a legally organized fire department or fire protection district, or the governing body thereof, or upon request of the chief of a police department or the sheriff regarding a fire which occurs in an area where there is no operating arson



investigation unit, the State Fire Marshal shall, within the limitation of resources and manpower established for those purposes, investigate any explosion or fire occurring within the jurisdiction of the requesting official in which there is suspicion that the crime of arson or attempted arson has been committed.

(c) The State Fire Marshal shall cooperate in the establishment of a program for training fire department personnel in arson investigation and detection.

(d) In order to carry out his or her responsibilities and duties pursuant to this section, the State Fire Marshal shall establish an arson investigation unit within his or her office, which shall be staffed with necessary personnel to perform the function for which the unit is established.

(e) If there is reason to believe that any fire or explosion investigated by the State Fire Marshal resulted from a crime or that a crime has been committed in connection with it, the State Fire Marshal shall report that fact in writing to the district attorney of the county in which the fire or explosion occurred.

SEC. 10. Section 13108 of the Health and Safety Code is amended to read:

13108. (a) Except as limited by Chapter 6 (commencing with Section 140) of Division 1 of the Labor Code and Section 18930 of this code, the State Fire Marshal shall prepare and adopt building standards, not inconsistent with existing laws or ordinances, relating to fire protection in the design and construction of the means of egress and the adequacy of exits from, and the installation and maintenance of fire alarm and fire extinguishment equipment or systems in, any state institution or other state-owned building or in any state-occupied building and submit those building standards to the State Building Standards Commission for approval pursuant to the provisions of Chapter 4 (commencing with Section 18935) of Part 2.5 of Division 13 of this code. The State Fire Marshal shall prepare and adopt regulations other than building standards for the installation and maintenance of equipment and furnishings that present unusual fire hazards in any state



institution or other state-owned building or in any state-occupied building. The State Fire Marshal shall adopt those regulations as are reasonably necessary to define what buildings shall be considered as state-occupied buildings.

(b) The fire chief of any city, county, or fire protection district, or that official's authorized representative, may enter any state institution or any other state-owned or state-occupied building for the purpose of preparing a fire suppression preplanning program or for the purpose of investigating any fire in a state-occupied building.

(c) Except as otherwise provided in this section, the State Fire Marshal shall enforce the regulations adopted by him or her and building standards relating to fire and panic safety published in the California Building Standards Code in all state-owned buildings, state-occupied buildings, and state institutions throughout the state. Upon written request from the chief fire official of any city, county, or fire protection district, the State Fire Marshal may authorize that chief fire official and his or her authorized representatives, in their geographical area of responsibility, to make fire prevention inspections of state-owned or state-occupied buildings, other than state institutions, for the purpose of enforcing the regulations relating to fire and panic safety adopted by the State Fire Marshal pursuant to this section and building standards relating to fire and panic safety published in the California Building Standards Code. Authorization from the State Fire Marshal shall be limited to those fire departments or fire districts which maintain a fire prevention bureau staffed by paid personnel.

(d) Any requirement or order made by any chief fire official pursuant to this section may be appealed to the State Fire Marshal. The State Fire Marshal shall, upon receiving an appeal and subject to the provisions of Chapter 5 (commencing with Section 18945) of Part 2.5 of Division 13 of this code, determine if the requirement or order made is reasonably consistent with the fire and panic safety regulations adopted by him or her and



building standards relating to fire and panic safety published in the California Building Standards Code.

SEC. 11. Section 13109 of the Health and Safety Code is amended to read:

13109. The State Fire Marshal, his or her deputies, or his or her salaried assistants, the chief of any city or county fire department or fire protection district and their authorized representatives may enter any building or premises not used for dwelling purposes at any reasonable hour for the purpose of enforcing this chapter. The owner, lessee, manager or operator of any such building or premises shall permit the State Fire Marshal, his or her deputies, his or her salaried assistants and the chief of any city or county fire department or fire protection district and their authorized representatives to enter and inspect them at the time and for the purpose stated in this section.

SEC. 12. Section 13110 of the Health and Safety Code is repealed.

SEC. 13. Section 13111.2 of the Health and Safety Code is repealed.

SEC. 14. Section 13113 of the Health and Safety Code is amended to read:

13113. (a) Except as otherwise provided in this section, no person, firm, or corporation shall establish, maintain, or operate any hospital, children's home, children's nursery, or institution, or a home or institution for the care of aged or senile persons, or any sanitarium or institution for insane or mentally retarded persons and any nursing or convalescent home, wherein more than six guests or patients are housed or cared for on a 24-hour-per-day basis unless there is installed and maintained in an operable condition in every building or portion thereof where patients or guests are housed an automatic sprinkler system approved by the State Fire Marshal.

(b) This section shall not apply to homes or institutions for the 24-hour-per-day care of ambulatory children if all of the following conditions are satisfied:



(1) The buildings or portions thereof in which children are housed are not more than two stories in height and are constructed and maintained in accordance with regulations adopted by the State Fire Marshal pursuant to Section 13143 and building standards published in the California Building Standards Code.

(2) The buildings or portions thereof housing more than six children shall have installed and maintained in an operable condition therein a fire alarm system of a type approved by the State Fire Marshal. The system shall be activated by detectors responding to invisible products of combustion other than heat.

(3) The buildings or portions thereof do not house mentally ill or mentally retarded children.

(c) This section shall not apply to any one-story building or structure of an institution or home for the care of the aged providing 24-hour-per-day care if such building or structure is used or intended to be used for the housing of no more than six ambulatory aged persons. However, the buildings or institutions shall have installed and maintained in an operable condition therein a fire alarm system of a type approved by the State Fire Marshal. The system shall be activated by detectors responding to products of combustion other than heat.

(d) This section shall not apply to occupancies, or any alterations thereto, located in type I construction, as defined by the State Fire Marshal, under construction or in existence on March 4, 1972.

(e) "Under construction," as used in this section, means that actual work shall have been performed on the construction site and shall not be construed to mean that the hospital, home, nursery, institution, sanitarium or any portion thereof, is in the planning stage.

SEC. 15. Section 13114 of the Health and Safety Code is amended to read:

13114. (a) The State Fire Marshal, with the advice of the State Board of Fire Services, shall adopt regulations and standards as he or she may determine to be necessary to control the quality and installation of fire alarm systems



and fire alarm devices marketed, distributed, offered for sale, or sold in this state.

(b) No person shall market, distribute, offer for sale, or sell any fire alarm system or fire alarm device in this state unless the system or device has been approved and listed by the State Fire Marshal.

SEC. 16. Section 13115 of the Health and Safety Code is amended to read:

13115. (a) It is unlawful for any person, firm or corporation to establish, maintain or operate any circus, side show, carnival, tent show, theater, skating rink, dance hall, or a similar exhibition, production, engagement or offering or other place of assemblage in or under which 10 or more persons may gather for any lawful purpose, in any tent, awning or other fabric enclosure unless a tent, awning or other fabric enclosure, and all auxiliary tents, curtains, drops, awnings and all decorative materials, are made from a nonflammable material or are treated and maintained in a flame-retardant condition. This subdivision shall not apply to tents used to conduct committal services on the grounds of a cemetery, nor to tents, awnings or other fabric enclosures erected and used within a sound stage, or other similar structural enclosure which is equipped with an overhead automatic sprinkler system.

(b) One year after the adoption of regulations by the State Fire Marshal, but not later than July 1, 1976, it shall be unlawful for any person to sell or offer for sale any tent designed and intended for use for occupancy by less than 10 persons unless the tent is made from flame-retardant fabrics or materials approved by the State Fire Marshal. One year after the adoption of regulations by the State Fire Marshal, but not later than July 1, 1976, all tents manufactured for sale in this state shall be flame retardant and shall be labeled in a manner specified by the State Fire Marshal. Any manufacturer of tents for sale in this state who fails to use flame-retardant fabrics or materials or who fails to label them as specified by the State Fire Marshal shall be strictly liable for any damage



which occurs to any person as a result of a violation of this section.

(c) “Flame retardant,” as used in this section, means a fabric or material resistant to flame or fire to the extent that it will successfully withstand standard fire-resistive tests adopted and promulgated by the State Fire Marshal.

SEC. 17. Section 13120 of the Health and Safety Code is amended to read:

13120. The State Fire Marshal shall establish minimum standard requirements, and shall adopt rules and regulations as are deemed necessary by him or her to properly regulate the manufacture, sale and application of flame-retardant chemicals and the sale of flame-retardant treated fabrics or materials used or intended for use in connection with any occupancy mentioned in Sections 13115 and 13119.

SEC. 18. Section 13121 of the Health and Safety Code is amended to read:

13121. The State Fire Marshal shall, before approving any flame-retardant chemical, fabric or material, require that flame-retardant chemicals and flame-retardant fabrics or materials be submitted to a laboratory approved by him or her for testing in accordance with the standards established pursuant to Section 13120.

SEC. 19. Section 13122 of the Health and Safety Code is amended to read:

13122. The State Fire Marshal shall promulgate and make available at cost of printing at least once each year a list of the flame-retardant chemicals, flame-retardant fabrics or materials, and flame-retardant application concerns approved by him or her. He or she may, without cost, furnish a single copy of each list to each flame-retardant chemical and application concern that is registered and approved by him or her and to all California fire officials.

SEC. 20. Section 13124 of the Health and Safety Code is amended to read:

13124. The name of any chemical, chemical concern or flame-retardant application concern whose name has been removed from the approved list shall not be



restored to the approved list for a period of 90 days from the date of the removal.

SEC. 21. Section 13127 of the Health and Safety Code is amended to read:

13127. (a) Any chemical manufacturing concern, or any flame-retardant application concern, or any concern marketing a flame-retardant fabric or material that desires to have its name appear on the approved list shall first make application to the State Fire Marshal on forms provided by the State Fire Marshal.

(b) For purposes of this section, Sections 13128 and 13129:

(1) “General applicator” means a concern that engages in the business of or performs for a fee the application of a flame-retardant compound or chemical to any textile including decorative materials.

(2) “Limited applicator” means a concern that engages in the business of or performs for a fee the application of a flame-retardant compound or chemical to nontextile decorative items, including Christmas trees.

(c) (1) The annual registration fee renewal period for chemical manufacturing concerns, concerns marketing a flame-retardant fabric or material, and general applicators shall begin on January 1 and end on May 1 preceding the registration year for which the renewal is requested. A penalty of 50 percent of the listing fee shall be assessed in all cases where the renewal fees are not paid on or before May 1, preceding the registration year for which renewal is requested.

(2) The annual registration fee renewal period for limited applicators shall begin September 15 and end on October 31 preceding the registration year for which the renewal is requested. A penalty of 50 percent of the listing fee shall be assessed in all cases where the fees are not paid on or before October 31, preceding the registration year for which renewal is requested.

(d) All applications shall be accompanied by a registration fee established by the State Fire Marshal. The registration fee shall not exceed the amount necessary to



cover the costs incurred by the State Fire Marshal in carrying out Sections 13120 to 13126, inclusive.

SEC. 22. Section 13128 of the Health and Safety Code is amended to read:

13128. (a) The annual and renewal registration fee period for chemical manufacturing concerns, concerns marketing a flame-retardant fabric or material, and general applicators shall be for the fiscal year period from July 1 to June 30 or for the remaining portion thereof.

(b) The annual and renewal registration fee period for limited applicators shall be for the fiscal year period from November 1 to October 31 or for the remaining portion thereof.

SEC. 23. Section 13129 of the Health and Safety Code is amended to read:

13129. (a) The State Fire Marshal shall remove from the approved list the names of all chemicals, chemically treated fabrics or materials and the names of all flame-retardant general applicator concerns for which renewal registration fees have not been paid prior to May 1 of each year.

(b) The State Fire Marshal shall remove from the approved list the names of all flame-retardant limited applicator concerns that have not paid their renewal registration fee prior to October 31 of each year.

SEC. 24. Section 13140 of the Health and Safety Code is amended to read:

13140. There is hereby created in the Office of the State Fire Marshal a State Board of Fire Services which shall consist of 18 members. The State Board of Fire Services succeeds to all of the powers, duties, and responsibilities of the State Fire Advisory Board, which is hereby abolished. Whenever the term "State Fire Advisory Board" appears in any other law, it means the State Board of Fire Services.

SEC. 25. Section 13142.6 of the Health and Safety Code is amended to read:

13142.6. (a) The board, under the direction of the vice chairperson, shall sit as a board of appeals on the application of the State Fire Marshal's regulations



excepting application of building standards published in the California Building Standards Code, by the State Fire Marshal or his or her salaried assistants. When any affected person believes that the State Fire Marshal's regulations, excepting building standards, are being applied incorrectly, the person may appeal the decision of the State Fire Marshal to the board. The board shall not consider the appeal unless the matter has come to the attention of the State Fire Marshal and he or she has rendered a decision in writing. Any appeal to the board shall be made by the affected person or his or her agent in writing in the form and manner prescribed by the board. The decision of the board shall be binding upon the State Fire Marshal. Any decision made by the board shall be for the instant case only and shall not be construed as setting precedent for general application.

(b) When an affected person believes that building standards are being applied incorrectly by the State Fire Marshal or his or her salaried assistants, that person may appeal to the California Building Standards Commission pursuant to Chapter 5 (commencing with Section 18945) of Part 2.5 of Division 13 of this code.

SEC. 26. Section 13142.8 of the Health and Safety Code is amended to read:

13142.8. When the board sits as a board of appeals:

(a) The State Fire Marshal shall not sit as a member of the board.

(b) A member of the board shall not sit as a member or participant in the decision of any particular appeal if that member has a financial or other interest which would influence his or her decision on the particular appeal.

SEC. 27. Section 13143 of the Health and Safety Code is amended to read:

13143. (a) Except as provided in Section 18930, the State Fire Marshal, with the advice of the State Board of Fire Services, shall prepare, adopt, and submit building standards for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 of Division 13 and shall prepare and adopt other regulations establishing minimum requirements for the prevention



of fire and for the protection of life and property against fire and panic in any building or structure used or intended for use as an asylum, jail, mental hospital, hospital, home for the elderly, children's nursery, children's home or institution not otherwise excluded from the coverage of this subdivision, school, or any similar occupancy of any capacity, and in any assembly occupancy where 50 or more persons may gather together in a building, room, or structure for the purpose of amusement, entertainment, instruction, deliberation, worship, drinking or dining, awaiting transportation, or education. The State Fire Marshal shall adopt and submit building standards for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 of Division 13 for the purposes described in this section. Regulations adopted pursuant to this subdivision and building standards relating to fire and panic safety published in the California Building Standards Code shall establish minimum requirements relating to the means of egress and the adequacy of exits from, the installation and maintenance of fire extinguishing and fire alarm systems in, the storage and handling of combustible or explosive materials or substances, and the installation and maintenance of appliances, equipment, decorations, security bars, grills, grates, and furnishings that present a fire, explosion or panic hazard, and the minimum requirements shall be predicated on the height and fire-resistive qualities of the building or structure and the type of occupancy for which it is to be used. The building standards and other regulations shall apply to auxiliary or accessory buildings used or intended for use with any of the occupancies mentioned in this subdivision. Violation of any building standard or other regulation shall be a violation of the provisions of this chapter.

In preparing and adopting building standards for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 of Division 13, and in preparing and adopting other regulations affecting public schools, the State Fire Marshal shall also secure the advice of the State Department of Education. No regulation adopted



by the State Fire Marshal shall conflict with any rule, regulation, or building standard lawfully adopted or enforced by the Department of General Services pursuant to Article 3 (commencing with Section 39140) of Chapter 2 of Part 23 or Article 7 (commencing with Section 81130) of Chapter 1 of Part 49 of the Education Code.

In addition to any other requirements for location of exit signs or devices, the State Fire Marshal shall adopt building standards pursuant to this section establishing minimum requirements for the placement of distinctive devices, signs, or other means that identify exits and can be felt or seen near the floor. These building standards shall apply to all newly constructed buildings or structures subject to this subdivision for which a building permit is issued, (or construction commenced, where no building permit is issued) on or after January 1, 1989.

(b) Notwithstanding the provisions of subdivision (a) and Section 13143.6, facilities licensed pursuant to Chapter 3 (commencing with Section 1500) of Division 2 which provide nonmedical board, room, and care for six or fewer ambulatory children placed with the licensee for care or foster family homes and family day care homes for children, licensed pursuant to Chapter 3.6 (commencing with Section 1597.50) of Division 2, with a capacity of six or fewer and providing care and supervision for ambulatory children or children two years of age or younger, or both, shall not be subject to the provisions of Article 1 (commencing with Section 13100) or Article 2 (commencing with Section 13140) of this chapter or regulations adopted pursuant thereto. No city, county, or public district shall adopt or enforce any requirement for the prevention of fire or for the protection of life and property against fire and panic with respect to structures used as facilities specified in this subdivision, unless the requirement would be applicable to a structure regardless of the special occupancy. Nothing in this subdivision shall restrict the application of state or local housing standards to those facilities, if the standards are applicable to residential occupancies and are not based



upon the use of the structure as a facility specified in this subdivision.

“Ambulatory children,” as used in this subdivision, does not include nonambulatory persons, as defined in Section 13131, and relatives of the licensee or the licensee’s spouse.

(c) The State Fire Marshal shall adopt building standards establishing regulations providing that all school classrooms constructed after January 1, 1990, not equipped with automatic sprinkler systems, which have metal grills or bars on all their windows and do not have at least two exit doors within three feet of each end of the classroom opening to the exterior of the building or to a common hallway used for evacuation purposes, shall have an inside release for the grills or bars on at least one window farthest from the exit doors. The window or windows with the inside release shall be clearly marked as an emergency exit, in accordance with regulations adopted by the State Fire Marshal.

SEC. 28. Section 13143.8 of the Health and Safety Code is amended to read:

13143.8. In case of conflict between the State Fire Marshal and the local enforcement agency in the interpretation or application of the provisions, regulations, or building standards of the State Fire Marshal by local enforcement agencies as they pertain to community care facilities, upon request of the permittee or licensee of the community care facility, the State Fire Marshal shall notify the local enforcement agency in writing of the State Fire Marshal’s interpretation, and if the local enforcement agency fails to apply the State Fire Marshal’s interpretation, the State Fire Marshal shall conduct an adjudication hearing pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code before a hearing officer of the Office of Administrative Hearings, with the local enforcement agency as respondent, to resolve the conflict. The interpretation or application made by the hearing officer is binding on that local enforcement agency and the State Fire Marshal. The adjudication



hearing shall be held within 30 days after the State Fire Marshal notifies the local enforcement agency of the interpretation, and a decision shall be rendered within 15 days of the hearing.

SEC. 29. Section 13144.1 of the Health and Safety Code is amended to read:

13144.1. (a) Except as provided in Sections 18930 and 18933, the State Fire Marshal shall biennially prepare and publish listings of construction materials and equipment and methods of construction and of installation of equipment, together with the name of any person, firm, corporation, association, or similar organization designated as the manufacturer, representative, or supplier, which are in conformity with building standards relating to fire and panic safety adopted and published in the State Building Standards Code and other fire and panic safety requirements adopted by the State Fire Marshal and published in Title 19 of the California Administrative Code. The State Fire Marshal shall in alternate years prepare and publish revisions to the listings.

Copies of the listings or revisions shall be distributed by the State Fire Marshal at the costs incurred by him or her for the printing and distribution of the listings or revisions to persons who have submitted written requests for the approved listings or revisions.

The purpose of this section is to provide enforcement authorities, architects, engineers, contractors, local building officials, and any other interested persons, with a reliable and readily available source of information of construction materials, equipment, methods of construction, and installation of equipment which meet the minimum requirements established or enforced by the State Fire Marshal, pursuant to Sections 13108 and 13143. No person, firm, corporation, association, or similar organization shall be denied listing if the material to be listed is approved by a testing organization using testing procedures approved by the State Fire Marshal.

It shall not be construed that because a material, assemblies of materials, method of construction and



installation of equipment have not been listed, as provided by this section, the material, assemblies of materials, method of construction and installation of equipment does not conform to the fire and panic safety requirements as published in the State Building Standards Code or in Title 19 of the California Administrative Code.

(b) The State Fire Marshal may evaluate, test, approve, disapprove, and list any other fire safety product not covered in subdivision (a).

SEC. 30. Section 13146.3 of the Health and Safety Code is amended to read:

13146.3. The chief of any city or county fire department or district providing fire protection services and his or her authorized representatives shall inspect every building used as a public or private school within his or her jurisdiction, for the purpose of enforcing regulations promulgated pursuant to Section 13143, not less than once each year. The State Fire Marshal and his or her authorized representatives shall make these inspections not less than once each year in areas outside of corporate cities and districts providing fire protection services.

SEC. 31. Section 13158 of the Health and Safety Code is amended to read:

13158. The State Fire Marshal shall employ under civil service a program manager and staff as necessary to perform the functions for which the program has been established.

All personnel of the State Fire Training Program with the Department of Education shall be eligible to transfer to appropriate positions in the California Fire Service Training and Education Program provided they meet the qualifications for those positions.

SEC. 32. Section 25197.2 of the Health and Safety Code is amended to read:

25197.2. (a) The department shall establish a statewide Hazardous Waste Strike Force which shall consist of a representative from each of the following agencies:



- (1) The Department of Transportation.
- (2) The Department of Industrial Relations.
- (3) The Department of Food and Agriculture.
- (4) The State Water Resources Control Board.
- (5) The State Air Resources Board.
- (6) The Department of the California Highway Patrol.
- (7) The Office of the State Fire Marshal in the Department of Forestry and Fire Protection.
- (8) The California Integrated Waste Management Board.
- (9) The Department of Fish and Game.
- (10) The Office of Emergency Services.
- (11) The Department of Toxic Substances Control.
- (12) The Attorney General.
- (13) The Department of Pesticide Regulation.

(b) The director, or the director's designee, shall direct and coordinate the activities of the Hazardous Waste Strike Force.

(c) The Hazardous Waste Strike Force shall do all of the following:

(1) Recommend standardized programs among the agencies represented on the Hazardous Waste Strike Force for the purposes of uniformly enforcing state hazardous waste statutes and regulations and reporting violators of these statutes and regulations.

(2) Recommend programs to publicize and improve the statewide telephone number established pursuant to paragraph (5) of subdivision (b) of Section 25197.1.

(3) Recommend local and regional programs to report information concerning violations of this chapter and any other hazardous waste statutes and regulations.

SEC. 33. Section 13510.5 of the Penal Code is amended to read:

13510.5. For the purpose of maintaining the level of competence of state law enforcement officers, the commission shall adopt, and may, from time to time amend, rules establishing minimum standards for training of peace officers as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, who are employed by any railroad company, the California



State Police Division, the University of California Police Department, a California State University police department, the Department of Alcoholic Beverage Control, the Division of Investigation of the Department of Consumer Affairs, the Wildlife Protection Branch of the Department of Fish and Game, the Department of Forestry and Fire Protection, including the Office of the State Fire Marshal, the Department of Motor Vehicles, the California Horse Racing Board, the Bureau of Food and Drug, the Division of Labor Law Enforcement, the Director of Parks and Recreation, the State Department of Health Services, the Department of Toxic Substances Control, the State Department of Social Services, the State Department of Mental Health, the State Department of Developmental Services, the State Department of Alcohol and Drug Programs, the Office of Statewide Health Planning and Development, and the Department of Justice. All rules shall be adopted and amended pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 34. Section 702 is added to the Public Resources Code, to read:

702. (a) Pursuant to Section 13100 of the Health and Safety Code, there is within the department the Office of the State Fire Marshal.

(b) There shall be a Chief Deputy Director of Forestry and Fire Protection who shall administer the Office of the State Fire Marshal and who shall be known as the State Fire Marshal. The State Fire Marshal shall be appointed pursuant to Section 13101 of the Health and Safety Code.

(c) The State Fire Marshal may, with the approval of the director, appoint assistant or deputy state fire marshals and employ office and field assistants and other employees pursuant to Sections 12551, 13102, and 13103 of the Health and Safety Code.

(d) There is within the Office of the State Fire Marshal the State Board of Fire Services, established pursuant to Section 13140 of the Health and Safety Code. The State



Board of Fire Services shall advise the State Fire Marshal as provided by law.

SEC. 35. (a) (1) The Office of the State Fire Marshal and the position of State Fire Marshal in the State and Consumer Services Agency are hereby abolished.

(2) The Office of the State Fire Marshal and the position of State Fire Marshal are hereby created in the Department of Forestry and Fire Protection.

(b) The functions of the former Office of the State Fire Marshal and the former position of State Fire Marshal in the State and Consumer Services Agency are hereby transferred to the Office of the State Fire Marshal or to the position of State Fire Marshal, as the case may be, in the Department of Forestry and Fire Protection.

(c) The Office of the State Fire Marshal and the State Fire Marshal in the Department of Forestry and Fire Protection hereby succeed to, and are vested with, all of the powers, duties, responsibilities, and jurisdiction of the former Office of the State Fire Marshal and the former position of State Fire Marshal in the State and Consumer Services Agency.

(d) The Office of the State Fire Marshal and the State Fire Marshal in the Department of Forestry and Fire Protection may use the unexpended balance of funds available for use in connection with the performance of the functions of the former Office of the State Fire Marshal or the former position of State Fire Marshal, as the case may be, in the State and Consumer Services Agency.

SEC. 36. (a) Any officer or employee of the former Office of the State Fire Marshal in the State and Consumer Services Agency who is serving in the state civil service, other than as a temporary employee, shall be transferred to the Office of the State Fire Marshal in the Department of Forestry and Fire Protection.

(b) The status, position, and rights of any officer or employee specified in subdivision (a) shall not be affected by the transfer and shall be retained by the person as an officer or employee of the Office of the State Fire Marshal in the Department of Forestry and Fire



Protection, pursuant to the State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5 of Title 2 of the Government Code), except as to a position that is exempt from civil service.

SEC. 37. The Office of the State Fire Marshal and the State Fire Marshal in the Department of Forestry and Fire Protection shall have possession and control of all records, paper, offices, equipment, supplies, money, funds, appropriations, licenses, permits, agreements, contracts, claims, judgments, lands, and other property, real or personal, connected with the administration of, or held for the benefit or use of, the former Office of the State Fire Marshal or the former position of State Fire Marshal, as the case may be, in the State and Consumer Services Agency.

SEC. 38. (a) Any regulation or other action, adopted, prescribed, taken, or performed by an agency or officer in the administration of a program or the performance of a duty, responsibility, or authorization transferred by this reorganization plan shall remain in effect and shall be deemed to be a regulation or action of the agency or officer to whom the program, duty, responsibility, or authorization is transferred.

(b) No suit, action, or other proceeding lawfully commenced by or against any agency or other officer of the state, in relation to the administration of any program or the discharge of any duty, responsibility, or authorization transferred by this reorganization plan, shall abate by reason of the transfer of the program, duty, responsibility, or authorization under this reorganization plan.

SEC. 39. Nothing in this reorganization plan shall be construed to restrict the authority of the Department of Forestry and Fire Protection to administratively organize its functions or to provide necessary staff on and after the effective date of this reorganization plan.

SEC. 40. Upon the effective date of this reorganization plan, the Department of Finance may direct the transfer of such unexpended balances of appropriations and of other funds available for use in



connection with any function or agency affected by this reorganization plan as the director determines to be necessary to facilitate the reorganization, for use in connection with the functions affected by the reorganization or for the use of any agency which has those functions after this reorganization plan takes effect, provided that unexpended balances so transferred shall be used only for the purpose for which the appropriation was originally made.

SEC. 41. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because in that regard this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

However, notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.



Approved _____, 1996

Governor

