

CHAPTER 97-124

House Bill No. 1603

An act relating to the State Fire Marshal; amending s. 633.061, F.S.; providing a limitation upon licensees; providing requirements for licensees; providing procedures for licensure; prescribing what constitutes unlawful activity; providing for training; providing for duties of the State Fire Marshal; amending s. 633.071, F.S.; providing standards for tagging; providing for inspection reports; amending s. 633.175, F.S.; providing authority for law enforcement officers or fire department officials; providing for civil immunity; providing for notice of release of investigative records; amending s. 633.35, F.S.; providing standards for private entities that provide the services of firefighters; providing standards for firefighters; amending s. 633.511, F.S.; redesignating certain classifications; amending s. 633.514, F.S.; providing for permitholders; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 633.061, Florida Statutes, is amended to read:

633.061 License or permit required of organizations and individuals servicing, recharging, repairing, testing, marking, inspecting, or installing fire extinguishers and preengineered systems.—

(1) It is unlawful for any organization or individual to engage in the business of servicing, repairing, recharging, testing, marking, inspecting, or installing any fire extinguisher or preengineered system in this state except in conformity with the provisions of this chapter. Each organization or individual which engages in such activity must possess a valid and subsisting license issued by the State Fire Marshal. All fire extinguishers and preengineered systems required by statute or by rule must be serviced by an organization or individual licensed under the provisions of this chapter. The licensee is legally qualified to act for the business organization in all matters connected with its business, and the licensee must supervise all activities undertaken by such business organization. Each licensee shall maintain a specific business location. A further requirement, in the case of multiple locations where such servicing or recharging is taking place, is that each licensee who maintains more than one place of business where actual work is carried on must possess an additional license, as set forth in this section, for each location, except that no licensed individual may qualify for more than five locations. A licensee is limited to a specific type of work performed depending upon the class of license held. Licenses and license fees are required for the following:

(a) Class A . . . . . \$150  
To service, recharge, repair, install, or inspect all types of fire extinguishers, including recharging carbon dioxide units, and to conduct hydrostatic tests on all types of fire extinguishers, including carbon dioxide units.

(b) Class B ..... \$100  
To service, recharge, repair, install, or inspect all types of fire extinguishers, including recharging carbon dioxide units and conducting hydrostatic tests on water, water chemical, and dry chemical types of extinguishers only.

(c) Class C ..... \$100  
To service, recharge, repair, install, or inspect all types of fire extinguishers, except recharging carbon dioxide units, and to conduct hydrostatic tests on water, water chemical, and dry chemical types of fire extinguishers only.

(d) Class D ..... \$125  
To service, repair, install, or inspect all types of preengineered fire extinguishing systems.

(e) Licenses issued as duplicates or to reflect a change of address ..... \$10

Any fire equipment dealer licensed pursuant to this subsection who does not want to engage in the business of servicing, inspecting, recharging, repairing, or installing halon equipment must file an affidavit on a form provided by the division so stating. Licenses will be issued by the division to reflect the work authorized thereunder. It is unlawful, unlicensed activity for any person or firm to falsely hold himself or herself or a business organization out to perform any service, inspection, recharge, repair, or installation except as specifically described in the license.

(2) Each individual actually performing the work of servicing, recharging, repairing, installing, testing, or inspecting fire extinguishers or preengineered systems must possess a valid and subsisting permit issued by the State Fire Marshal. Permittees are limited as to specific type of work performed dependent upon the class of permit held which shall be a class allowing work no more extensive than the class of license held by the licensee under whom the permittee is working. Permits and fees therefor are required for the following:

(a) Class 1 ..... \$50  
Servicing, recharging, repairing, installing, or inspecting all types of fire extinguishers, including carbon dioxide units, and conducting hydrostatic tests on all types of fire extinguishers, including carbon dioxide units.

(b) Class 2 ..... \$50  
Servicing, recharging, repairing, installing, or inspecting all types of fire extinguishers, including carbon dioxide units, and conducting hydrostatic tests on water, water chemical, and dry chemical types of fire extinguishers only.

(c) Class 3 ..... \$50  
Servicing, recharging, repairing, installing, or inspecting all types of fire extinguishers, except recharging carbon dioxide units, and conducting hydrostatic tests on water, water chemical, and dry chemical types of fire extinguishers only.

(d) Class 4 ..... \$65  
Servicing, repairing, installing, or inspecting all types of preengineered fire extinguishing systems.

(e) Permits issued as duplicates or to reflect a change of address ..... \$10

Any fire equipment permittee licensed pursuant to this subsection who does not want to engage in servicing, inspecting, recharging, repairing, or installing halon equipment must file an affidavit on a form provided by the division so stating. Permits will be issued by the division to reflect the work authorized thereunder. It is unlawful, unlicensed activity for any person or firm to falsely hold himself or herself out to perform any service, inspection, recharge, repair, or installation except as specifically described in the permit.

(3)(a) Such licenses and permits shall be issued by the State Fire Marshal for each license year beginning January 1 and expiring the following December 31. The failure to renew a license or permit by December 31 will cause the license or permit to become inoperative. The holder of an inoperative license or permit shall not engage in any activities for which a license or permit is required by this section. A license or permit which is inoperative because of the failure to renew it shall be restored upon payment of the applicable fee plus a penalty equal to the applicable fee, if the application for renewal is filed no later than the following March 31. If the application for restoration is not made before the March 31st deadline, the fee for restoration shall be equal to the original application fee and the penalty provided for herein, and, in addition, the State Fire Marshal shall require reexamination of the applicant. Each licensee or permittee shall successfully complete a course or courses of continuing education for fire equipment technicians within 5 years of initial issuance of a license or permit and within every 5-year period thereafter or no such license or permit shall be renewed. The State Fire Marshal shall adopt rules describing the continuing education requirements.

(b) The forms of such licenses and permits and applications therefor shall be prescribed by the State Fire Marshal; in addition to such other information and data as that officer determines is appropriate and required for such forms, there shall be included in such forms the following matters. Each such application shall be in such form as to provide that the data and other information set forth therein shall be sworn to by the applicant or, if a corporation, by an officer thereof. An application for a permit shall include the name of the licensee employing such permittee, and the permit issued in pursuance of such application shall also set forth the name of such licensee. A permit is valid solely for use by the holder thereof in his employment by the licensee named in the permit.

(c) A license of any class shall not be issued or renewed by the State Fire Marshal and a license of any class shall not remain operative unless:

1. The applicant has submitted to the State Fire Marshal evidence of registration as a Florida corporation or evidence of compliance with s. 865.09.

2. The State Fire Marshal or his designee has by inspection determined that the applicant possesses the equipment required for the class of license sought. The State Fire Marshal shall give an applicant a reasonable opportunity to correct any deficiencies discovered by inspection. A fee of \$50, payable to the State Fire Marshal, shall be required for any subsequent reinspection.

3. The applicant has submitted to the State Fire Marshal proof of insurance providing coverage for comprehensive general liability for bodily injury and property damage, products liability, completed operations, and contractual liability. The State Fire Marshal shall adopt rules providing for the amounts of such coverage, but such amounts shall not be less than \$300,000 for Class A or Class D licenses, \$200,000 for Class B licenses, and \$100,000 for Class C licenses; and the total coverage for any class of license held in conjunction with a Class D license shall not be less than \$300,000. The State Fire Marshal may, at any time after the issuance of a license or its renewal, require upon demand, and in no event more than 30 days after notice of such demand, the licensee to provide proof of insurance, on a form provided by the State Fire Marshal, containing confirmation of insurance coverage as required by this chapter. Failure, for any length of time, to provide proof of insurance coverage as required shall result in the immediate suspension of the license until proof of proper insurance is provided to the State Fire Marshal. An insurer which provides such coverage shall notify the State Fire Marshal of any change in coverage or of any termination, cancellation, or nonrenewal of any coverage.

4. The applicant successfully completes a prescribed training course offered by the State Fire College or an equivalent course approved by the State Fire Marshal. This subparagraph does not apply to any holder of or applicant for a permit under paragraph (d) or to a business organization or a governmental entity seeking initial licensure or renewal of an existing license solely for the purpose of inspecting, servicing, repairing, marking, recharging, and maintaining fire extinguishers used and located on the premises of and owned by such organization or entity.

5. The applicant has passed, with a grade of at least 70 percent, a written examination testing his knowledge of the rules and statutes regulating the activities authorized by the license and demonstrating his knowledge and ability to perform those tasks in a competent, lawful, and safe manner. Such examination shall be developed and administered by the State Fire Marshal. An applicant shall pay a nonrefundable examination fee of \$50 for each examination or reexamination scheduled. No reexamination shall be scheduled sooner than 30 days after any administration of an examination to an applicant. No applicant shall be permitted to take an examination for any level of license more than a total of four times during 1 year, regardless of the number of applications submitted. As a prerequisite to taking the examination, the applicant:

- a. Must be at least 18 years of age.
- b. Must have 4 years of proven experience as a fire equipment permittee at a level equal to or greater than the level of license applied for or have a

combination of education and experience determined to be equivalent thereto by the State Fire Marshal. Having held a permit at the appropriate level for the required period constitutes the required experience.

This subparagraph does not apply to any holder of or applicant for a permit under paragraph (d) or to a business organization or a governmental entity seeking initial licensure or renewal of an existing license solely for the purpose of inspecting, servicing, repairing, marking, recharging, and maintaining fire extinguishers used and located on the premises of and owned by such organization or entity.

6. An applicant who fails the examination may take it three more times during the 1-year period after he originally filed an application for the examination. If the applicant fails the examination within 1 year after the application date and seeks to retake the examination, he must file a new application, pay the application and examination fees, and successfully complete a prescribed training course approved by the State Fire College or an equivalent course approved by the State Fire Marshal. An applicant may not submit a new application within 6 months after the date of his last reexamination.

(d) No permit of any class shall be issued or renewed to a person by the State Fire Marshal, and no permit of any class shall remain operative, unless the person has:

1. Submitted a nonrefundable examination fee in the amount of \$50;
2. Successfully completed a training course offered by the State Fire College or an equivalent course approved by the State Fire Marshal; and
3. Passed, with a grade of at least 70 percent, a written examination testing his knowledge of the rules and statutes regulating the activities authorized by the permit and demonstrating his knowledge and ability to perform those tasks in a competent, lawful, and safe manner. Such examination shall be developed and administered by the State Fire Marshal. An examination fee shall be paid for each examination scheduled. No reexamination shall be scheduled sooner than 30 days after any administration of an examination to an applicant. No applicant shall be permitted to take an examination for any level of permit more than four times during 1 year, regardless of the number of applications submitted. As a prerequisite to taking the permit examination, the applicant must be at least 16 years of age.

(e)4. An applicant who fails the examination may take it three more times during the 1-year period after he originally filed an application for the examination. If the applicant fails the examination within 1 year after the application date and he seeks to retake the examination, he must file a new application, pay the application and examination fees, and successfully complete a prescribed training course offered by the State Fire College or an equivalent course approved by the State Fire Marshal. The applicant may not submit a new application within 6 months after the date of his last reexamination.

(4)(a) It is unlawful for a fire equipment dealer to engage in training an individual to perform the work of installing, testing, recharging, repairing, or inspecting portable extinguishers or preengineered systems except in conformity with this section. Each individual engaging in such training activity must be registered with the State Fire Marshal. The dealer must register the trainee prior to the trainee performing any work. The dealer must submit training criteria to the State Fire Marshal for review and approval.

(b) No trainee shall perform work requiring a permit unless an individual possessing a valid and current fire equipment permit for the type of work performed is physically present. The trainee's registration shall be valid for a 90-day period from the date of issuance and is nontransferable and nonrenewable. The initial training period may be extended for an additional 90 days of training if the applicant has filed an application for permit and enrolled in the 40-hour course at the State Fire College within 60 days after the date of registration as a trainee and either the training course at the State Fire College was unavailable to the applicant within the initial training period, at no fault of the applicant, or the applicant attends and fails the 40-hour training course or the competency examination. At no time will an individual be registered as a trainee for more than two 90-day periods as provided in this paragraph. The trainee must:

1. Be 18 years of age.
2. Possess on his person at all times a valid Florida driver's license or a valid state identification card, issued by the Department of Highway Safety and Motor Vehicles. A trainee must produce identification to the State Fire Marshal or his designated representative upon demand.
3. Pay a fee for registration of \$10 per trainee for a 90-day period.

(c) No more than two trainees shall be under the supervision of a single trainer, who shall be directly responsible for all work performed by any trainee while under his or her supervision. No trainee shall perform any work not within the scope of the license or permit held by the fire equipment dealer or permittee directly supervising his or her work.

(d) Upon completion of a training period, an individual must comply with the provisions of this section to obtain a permit.

(5) The State Fire Marshal shall adopt rules providing for the approval of the time, place, and curriculum of each training course required by this section.

(6) Every permittee must have a valid and subsisting permit upon his person at all times while engaging in the servicing, recharging, repairing, testing, inspecting, or installing of fire extinguishers and preengineered systems, and every licensee or permittee must be able to produce such license or permit upon demand. In addition, every permittee shall at all times carry an identification card containing his photograph and other identifying information as prescribed by the State Fire Marshal or the State Fire Marshal's designee, which shall be produced on demand. The State Fire

Marshal shall supply this card at a fee which shall be related to the cost of producing the card.

(7) The fees collected for any such licenses and permits and the filing fees for license and permit examination are hereby appropriated for the use of the State Fire Marshal in the administration of this chapter and shall be deposited in the Insurance Commissioner's Regulatory Trust Fund.

(8) The provisions of this chapter do not apply to inspections by fire chiefs, fire inspectors, fire marshals, or insurance company inspectors.

(9) All fire extinguishers and preengineered systems which are required by statute or by rule must be serviced, recharged, repaired, tested, inspected, and installed in compliance with this chapter and with the rules adopted by the State Fire Marshal. The State Fire Marshal may adopt by rule the standards of the National Fire Protection Association and of other reputable national organizations.

(10) If the licensee leaves the business organization or dies, the business organization shall immediately notify the State Fire Marshal of the licensee's departure, shall return the license to the State Fire Marshal, and shall have a grace period of 60 days in which to license another person under the provisions of this chapter, failing which the business shall no longer perform those activities for which a license under this section is required.

Section 2. Subsection (1) of section 633.071, Florida Statutes, is amended to read:

633.071 Standard service tag required on all fire extinguishers and pre-engineered systems; serial number required on all portable fire extinguishers.—

(1) The State Fire Marshal shall adopt by rule specifications as to the size, shape, color, and information and data contained thereon of service tags to be attached to all fire extinguishers and preengineered systems required by statute or by rule, whether they be portable, stationary, or on wheels when they are placed in service, installed, serviced, repaired, tested, recharged, or inspected. Fire extinguishers may be tagged only after meeting all standards as set forth by this chapter, the standards of the National Fire Protection Association, and all manufacturer's requirements. Preengineered systems may be tagged only after a system has been inspected, serviced, installed, repaired, tested, and recharged in compliance with this chapter, the standards of the National Fire Protection Association, and the manufacturer's specifications, and after a report, as specified by rule, has been completed in detail, indicating any and all deficiencies or deviations from the manufacturer's specifications and the requirements of the National Fire Protection Association. A copy of the inspection report shall be provided to the owner at the time of inspection, and, if a system is found to be in violation of this chapter, the manufacturer's specifications, or the standards of the National Fire Protection Association, a copy shall be forwarded to the state or local authority having jurisdiction within 30 days from the date of service. It shall be unlawful to place in service, service, test, repair, inspect, install, or recharge any fire extinguisher or preengineered system without

attaching one of these tags completed in detail, including the actual month work was performed, or to use a tag not meeting the specifications set forth by the State Fire Marshal.

Section 3. Section 633.175, Florida Statutes, 1996 Supplement, is amended to read:

633.175 Investigation of fraudulent insurance claims and crimes; immunity of insurance companies supplying information.—

(1) The State Fire Marshal or an agent appointed pursuant to s. 633.02, any law enforcement officer as defined in s. 111.065, any law enforcement officer of a federal agency, or any fire department official who is engaged in the investigation of a fire loss may request any insurance company or its agent, adjuster, employee, or attorney, investigating a claim under an insurance policy or contract with respect to ~~a~~ the fire loss of any real or personal property to release any information whatsoever in the possession of the insurance company or its agent, adjuster, employee, or attorney relative to ~~a that loss from that fire~~. The insurance company shall release the available information to and cooperate with any official authorized to request such information pursuant to this section. ~~The insurance company or its agent, adjuster, employee, or attorney, shall also cooperate with and release any available information to a law enforcement officer, as defined under s. 111.065(1), who is engaged in the investigation of that fire loss.~~ The information shall include, but shall not be limited to:

(a) Any insurance policy relevant to a loss under investigation and any application for such a policy.

(b) Any policy premium payment records.

(c) The records, reports, and all material pertaining to history of any previous claims made by the insured with the reporting company.

(d) Material relating to the investigation of the loss, including statements of any person, proof of loss, and other relevant evidence.

(e) Memoranda, notes, and correspondence relating to the investigation of the loss in the possession of the insurance company or its agents, adjusters, employees, or attorneys.

(2) If an insurance company has reason to suspect that a fire loss to its insured's real or personal property was caused by incendiary means, the company shall notify the State Fire Marshal and shall furnish him with all material acquired by the company during the course of its investigation.

(3) In the absence of fraud, bad faith, or malice, no representative of investigator employed by an insurance company or of the National Insurance Crime Bureau employed to adjust or investigate losses caused by fire shall be liable for damages in a civil action for furnishing information concerning fires suspected to be other than accidental to investigators employed by other insurance companies or the National Insurance Crime Bureau.

(4) No insurance company or person who furnishes information on its behalf shall be liable for damages in a civil action or subject to criminal prosecution for any oral or written statement made or any other action taken that is necessary and required by the provisions of this section.

(5) At such time as the release of the investigative records is required by law pursuant to s. 633.111, the official or agency in possession of such records ~~department~~ shall provide written due notice to the insurance company providing the information and to all parties, at least 10 days prior to releasing such records. Official, departmental, or agency personnel may discuss such matters with other official, departmental, or agency personnel, and any insurance company complying with this section, and may share such information, if such discussion is necessary to enable the orderly and efficient conduct of the investigation. These discussions are confidential and exempt from the provisions of s. 286.011.

(6) The actions of an insurance company or of its agents, employees, adjusters, or attorneys, in complying with the statutory obligation of this section shall in no way be construed by a court as a waiver or abandonment of any privilege or confidentiality of attorney work product, attorney-client communication, or such other privilege or immunity as is provided by law.

(7) Any official described in subsection (1) may be required to testify as to any information in his possession regarding an insurance loss in any civil action in which any person seeks recovery under a policy against an insurance company for an insurance loss, subject to the provisions of subsection ~~(6)~~ (5).

(8) No person may intentionally refuse to release any information requested pursuant to this section.

(9) Any person who willfully violates the provisions of this section is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 4. Subsection (2) of section 633.35, Florida Statutes, is amended to read:

633.35 Firefighter and forestry firefighter training and certification program.—

(2) The division shall issue a certificate of compliance to any person satisfactorily complying with the training program established in subsection (1), who has successfully passed an examination as prescribed by the division, and who possesses the qualifications for employment in s. 633.34, except s. 633.34(5). No person may be employed as a regular or permanent firefighter by an the employing agency, or by a private entity under contract with the state or any political subdivision of the state, including authorities and special districts, for a period of time in excess of 1 year from the date of initial employment until he or she has obtained such certificate of compliance. A person who does not hold a certificate of compliance and is employed under this section may not directly engage in hazardous operations, such as

interior structural firefighting and hazardous-materials-incident mitigation, requiring the knowledge and skills taught in a training program established in subsection (1). However, a person who has served as a volunteer firefighter with the state or any political subdivision of the state, including authorities and special districts, who is then employed as a regular or permanent firefighter may function, during this period, in the same capacity in which he or she acted as a volunteer firefighter, provided that he or she has completed all training required by the volunteer organization.

Section 5. Subsection (2) of section 633.511, Florida Statutes, is amended to read:

633.511 Florida Fire Safety Board; membership.—

(2)(a) To be eligible for appointment, each contractor shall personally hold a current certificate of competency and a current license issued by the State Fire Marshal, together with an unexpired occupational license to operate as a contractor issued by an incorporated municipality or a county; be actively engaged in such business and have been so engaged for a period of not less than 5 consecutive years before the date of his appointment; and be a citizen and resident of the state.

(b) To be eligible for appointment, each fire equipment dealer shall personally hold a current Class A, B, or C 4 and Class D 4 fire equipment dealer license issued by the State Fire Marshal, together with an unexpired occupational license to operate as a fire equipment dealer issued by an incorporated municipality or a county; shall be actively engaged in such business and have been so engaged for a period of not less than 5 consecutive years before the date of appointment; and shall be a citizen and resident of this state.

Section 6. Subsection (1) of section 633.514, Florida Statutes, is amended to read:

633.514 Board duties; meetings; officers; quorum; compensation; seal.—

(1) The board shall act in an advisory capacity to the State Fire Marshal and shall meet regularly as the need presents itself. The board shall have the authority to review complaints and disputed administrative action and make recommendations for disciplinary action to the division at the request of the licenseholder, permitholder, or certificateholder. The board will serve in an advisory capacity to the division regarding rules, codes, standards, interpretations, and training. As soon as practicable after the effective date of this act, the board shall meet to elect officers from its membership, whose terms shall expire on June 30 and annually thereafter. A majority of the board shall constitute a quorum. No member of the advisory board shall be paid a salary as such member, but each shall receive necessary expenses while attending advisory board meetings and reimbursement, including travel in performance of his duties, as provided in s. 112.061.

Section 7. This act shall take effect October 1, 1997.

Became a law without the Governor's approval May 24, 1997.

Filed in Office Secretary of State May 23, 1997.