

(6) The state fire marshal, a fire chief, or a firefighter in uniform acting under orders and directions of the fire chief may cause fire drills to be held in school houses, school dormitories, and other public buildings as the state fire marshal considers advisable. The state fire marshal may order the installation of other protective apparatus or equipment that conforms to recognized and approved modern practices.

(7) The department of state police emergency management division shall develop a model to be used by a school in conducting, and by a local emergency management coordinator, county sheriff, chief of police, fire chief, or designee of a sheriff, chief of police, or fire chief in coordinating, a drill under subsection (5).

This act is ordered to take immediate effect.

Approved June 16, 2006.

Filed with Secretary of State June 19, 2006.

[No. 188]

(HB 6034)

AN ACT to amend 1995 PA 24, entitled “An act to promote economic growth and job creation within this state; to create and regulate the Michigan economic growth authority; to prescribe the powers and duties of the authority and of state and local officials; to assess and collect a fee; to approve certain plans and the use of certain funds; and to provide qualifications for and determine eligibility for tax credits and other incentives for authorized businesses and for qualified taxpayers,” by amending section 3 (MCL 207.803), as amended by 2006 PA 117.

The People of the State of Michigan enact:

207.803 Definitions.

Sec. 3. As used in this act:

(a) “Affiliated business” means a business that is 100% owned and controlled by an associated business.

(b) “Associated business” means a business that owns at least 50% of and controls, directly or indirectly, an authorized business.

(c) “Authorized business” means 1 of the following:

(i) A single eligible business with a unique federal employer identification number that has met the requirements of section 8 and with which the authority has entered into a written agreement for a tax credit under section 9.

(ii) A single eligible business with a unique federal employer identification number that has met the requirements of section 8, except as provided in this subparagraph, and with which the authority has entered into a written agreement for a tax credit under section 9. An eligible business is not required to create qualified new jobs or maintain retained jobs if qualified new jobs are created or retained jobs are maintained by an associated or affiliated business.

(iii) A single eligible business with a unique federal employer identification number that has met the requirements of section 8, except as provided in this subparagraph, and with which the authority has entered into a written agreement for a tax credit under section 9. An eligible business is not required to create qualified new jobs or maintain retained jobs

if qualified new jobs are created or retained jobs are maintained by a subsidiary business that withholds income and social security taxes, or an employee leasing company or professional employer organization that has entered into a contractual service agreement with the authorized business in which the employee leasing company or professional employer organization withholds income and social security taxes on behalf of the authorized business.

(d) “Authority” means the Michigan economic growth authority created under section 4.

(e) “Business” means proprietorship, joint venture, partnership, limited liability partnership, trust, business trust, syndicate, association, joint stock company, corporation, cooperative, limited liability company, or any other organization.

(f) “Distressed business” means a business that meets all of the following as verified by the Michigan economic growth authority:

(i) Four years immediately preceding the application to the authority under this act, the business had 150 or more full-time jobs in this state.

(ii) Within the immediately preceding 4 years, there has been a reduction of not less than 30% of the number of full-time jobs in this state during any consecutive 3-year period. The highest number of full-time jobs within the consecutive 3-year period shall be used in order to determine the percentage reduction of full-time jobs in this subparagraph.

(iii) Is not a seasonal employer as defined in section 27 of the Michigan employment security act, 1936 (Ex Sess) PA 1, MCL 421.27.

(g) “Eligible business” means a distressed business or business that proposes to maintain retained jobs after December 31, 1999 or to create qualified new jobs in this state after April 18, 1995 in manufacturing, mining, research and development, wholesale and trade, or office operations or a business that is a qualified high-technology business. An eligible business does not include retail establishments, professional sports stadiums, or that portion of an eligible business used exclusively for retail sales. Professional sports stadium does not include a sports stadium in existence on June 6, 2000 that is not used by a professional sports team on the date that an application related to that professional sports stadium is filed under section 8.

(h) “Facility” means a site or sites within this state in which an authorized business or subsidiary businesses maintains retained jobs or creates qualified new jobs.

(i) “Full-time job” means a job performed by an individual who is employed by an authorized business or an employee leasing company or professional employer organization on behalf of the authorized business for consideration for 35 hours or more each week and for which the authorized business or an employee leasing company or professional employer organization on behalf of the authorized business withholds income and social security taxes.

(j) “Local governmental unit” means a county, city, village, or township in this state.

(k) “High-technology activity” means 1 or more of the following:

(i) Advanced computing, which is any technology used in the design and development of any of the following:

(A) Computer hardware and software.

(B) Data communications.

(C) Information technologies.

(ii) Advanced materials, which are materials with engineered properties created through the development of specialized process and synthesis technology.

(iii) Biotechnology, which is any technology that uses living organisms, cells, macromolecules, microorganisms, or substances from living organisms to make or modify a product,

improve plants or animals, or develop microorganisms for useful purposes. Biotechnology does not include human cloning as defined in section 16274 of the public health code, 1978 PA 368, MCL 333.16274, or stem cell research with embryonic tissue.

(iv) Electronic device technology, which is any technology that involves microelectronics, semiconductors, electronic equipment, and instrumentation, radio frequency, microwave, and millimeter electronics, and optical and optic-electrical devices, or data and digital communications and imaging devices.

(v) Engineering or laboratory testing related to the development of a product.

(vi) Technology that assists in the assessment or prevention of threats or damage to human health or the environment, including, but not limited to, environmental cleanup technology, pollution prevention technology, or development of alternative energy sources.

(vii) Medical device technology, which is any technology that involves medical equipment or products other than a pharmaceutical product that has therapeutic or diagnostic value and is regulated.

(viii) Product research and development.

(ix) Advanced vehicles technology, which is any technology that involves electric vehicles, hybrid vehicles, or alternative fuel vehicles, or components used in the construction of electric vehicles, hybrid vehicles, or alternative fuel vehicles. For purposes of this act:

(A) “Electric vehicle” means a road vehicle that draws propulsion energy only from an on-board source of electrical energy.

(B) “Hybrid vehicle” means a road vehicle that can draw propulsion energy from both a consumable fuel and a rechargeable energy storage system.

(x) Tool and die manufacturing.

(l) “New capital investment” means 1 or more of the following:

(i) New construction. As used in this subparagraph:

(A) “New construction” means property not in existence on the date the authorized business enters into a written agreement with the authority and not replacement construction. New construction includes the physical addition of equipment or furnishings, subject to section 27(2)(a) to (o) of the general property tax act, 1893 PA 206, MCL 211.27.

(B) “Replacement construction” means that term as defined in section 34d(1)(b)(v) of the general property tax act, 1893 PA 206, MCL 211.34d.

(ii) The purchase of new personal property. As used in this subparagraph, “new personal property” means personal property that is not subject to or that is exempt from the collection of taxes under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157, on the date the authorized business enters into a written agreement with the authority.

(m) “Qualified high-technology business” means a business or facility that is either of the following:

(i) A business with not less than 25% of the total operating expenses of the business used for research and development in the tax year in which the business files an application under this act as determined under generally accepted accounting principles and verified by the authority.

(ii) A business or facility whose primary business activity is high-technology activity.

(n) “Qualified new job” means 1 of the following:

(i) A full-time job created by an authorized business at a facility that is in excess of the number of full-time jobs the authorized business maintained in this state prior to the expansion or location, as determined by the authority.

(ii) For jobs created after July 1, 2000, a full-time job at a facility created by an eligible business that is in excess of the number of full-time jobs maintained by that eligible business in this state 120 days before the eligible business became an authorized business, as determined by the authority.

(iii) For a distressed business, a full-time job at a facility that is in excess of the number of full-time jobs maintained by that eligible business in this state on the date the eligible business became an authorized business.

(o) “Retained jobs” means the number of full-time jobs at a facility of an authorized business maintained in this state on a specific date as that date and number of jobs is determined by the authority.

(p) “Rural business” means an eligible business located in a county with a population of 90,000 or less.

(q) “Subsidiary business” means a business that is directly or indirectly controlled or at least 80% owned by an authorized business.

(r) “Written agreement” means a written agreement made pursuant to section 8.

This act is ordered to take immediate effect.

Approved June 16, 2006.

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[No. 189]

(SB 1133)

AN ACT to amend 1941 PA 207, entitled “An act to provide for the prevention of fires and the protection of persons and property from exposure to the dangers of fire or explosion; to authorize the investigation of fires and the discovery of crime or other offenses in relation thereto; to require the razing, repair, or alteration of buildings, and the clearing and improvement of premises which constitute a fire hazard or a menace to the peace, security, or safety of persons or property; to control the construction, use, and occupancy of those buildings and premises for fire safety purposes; to provide for the certification of fire inspectors and the delegation of certain powers to those certified fire inspectors; to provide for the regulation of the storage and transportation of hazardous material; to provide for the issuance of certificates; to prohibit the use of certain fire extinguishers and fire extinguishing agents; to provide immunity from liability for certain persons; to provide for the administration of this act and prescribe procedure for the enforcement of its provisions; to fix penalties for violation of this act; to provide for the promulgation of rules; to provide for the assessment of fees; and to repeal certain acts and parts of acts,” by amending sections 1, 2, 2a, 2b, 2c, 3b, 3c, 3e, 4, 5a, 5c, 5d, 5e, 5g, 5h, 5i, 5j, 5n, 5o, 5p, 6, 10, 16, 21b, 21c, 21d, 23, 24, 26, 28, 29, 30, 31, and 32 (MCL 29.1, 29.2, 29.2a, 29.2b, 29.2c, 29.3b, 29.3c, 29.3e, 29.4, 29.5a, 29.5c, 29.5d, 29.5e, 29.5g, 29.5h, 29.5i, 29.5j, 29.5n, 29.5o, 29.5p, 29.6, 29.10, 29.16, 29.21b, 29.21c, 29.21d, 29.23, 29.24, 29.26, 29.28, 29.29, 29.30, 29.31, and 29.32), sections 1, 3b, 3c, 5a, 5c, 5d, 5e, and 31 as amended by 1996 PA 152, sections 2a and 21c as amended and sections 2b, 3e, and 5i as added by 1980 PA 247, section 2c as added by 1996 PA 147, section 4

as amended by 1980 PA 516, section 5g as amended by 1987 PA 70, sections 5j, 5n, and 5o as added by 1981 PA 186, section 5p as added by 1986 PA 67, section 6 as amended by 2001 PA 32, and sections 26, 28, 29, 30, and 32 as added by 1982 PA 144, and by adding sections 1b, 1c, 1d, and 1e; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

29.1 Definitions.

Sec. 1. As used in this act:

- (a) “Bureau” means the bureau of fire services created in section 1b.
- (b) “Director” means the director of the department of labor and economic growth.
- (c) “Department” means the department of labor and economic growth.
- (d) “Building” means a structure, framework, or place for housing 1 or more persons or a tank, receptacle, or container for the storage of commodities or other materials.
- (e) “Premises” means a lot or parcel of land, exclusive of buildings, and includes a parking lot, tourist camp, trailer camp, airport, stockyard, junkyard, wharf, pier, and any other place or enclosure.
- (f) “Fire hazard” means a building, premises, place, or thing that, because of its nature, location, occupancy, condition, or use, may cause loss, damage, or injury to persons or property by fire, explosion, or action of the elements.
- (g) “Person” means an individual, partnership, corporation, or voluntary association.
- (h) “Owner” means a person with an ownership interest in property, and includes a trustee, a board of trustees of property, and a person with a freehold interest in property. Owner does not include a lessee or mortgagee of property.
- (i) “Organized fire department” means a department, authority, or other governmental entity that safeguards life and property from damage from explosion, fire, or disaster and that provides fire suppression and other related services in this state. Organized fire department includes any lawfully organized firefighting force in this state.
- (j) “State fire marshal” means the individual appointed by the director under section 1b.
- (k) “Firm” means a sole proprietorship, partnership, association, or corporation.
- (l) “Vehicle” means a tank vehicle or bulk transportation vehicle, excluding the tractor of a tank vehicle or bulk transportation vehicle.
- (m) “Hazardous material” means explosives, pyrotechnics, flammable gas, flammable compressed gas, nonflammable compressed gas, flammable liquid, combustible liquid, oxidizing material, poisonous gas, poisonous liquid, irritating material, etiologic material, radioactive material, corrosive material, or liquefied petroleum gas.
- (n) “Firefighter” means a member of an organized fire department, including a volunteer member or a member paid on call, who is responsible for, or is in a capacity that includes responsibility for, the extinguishment of fires, the directing of the extinguishment of fires, the prevention and detection of fires, and the enforcement of the general fire laws of this state. Firefighter does not include a person whose job description, duties, or responsibilities do not include direct involvement in fire suppression.
- (o) “Place of public assemblage” means a room or other space in a building if the room or other space can accommodate 50 or more individuals, including connected rooms and spaces

that share a common means of entrance and egress. Place of public assemblage does not include a private 1- or 2-family dwelling.

(p) “Fire chief” or “chief of an organized fire department” means the chief operating officer of an organized fire department.

(q) “Board” means the state fire safety board created in section 3b.

(r) “Terminal” means a location where an aboveground liquid storage tank containing a flammable liquid is located.

(s) “Attended terminal” means a terminal, other than a remote control terminal, where an individual knowledgeable in the aboveground liquid storage tank filling operation is physically in attendance and control during the entire delivery of a flammable liquid and has as his or her primary responsibility supervising the storage tank filling operation.

(t) “Unattended terminal” means a terminal, other than a remote control terminal or an attended terminal, where an individual knowledgeable in the aboveground liquid storage tank filling operation is only in attendance during a portion of the time when a flammable liquid is being delivered or the individual’s primary responsibility is a function other than supervising the storage tank filling operation.

(u) “Remote control terminal” means a terminal where filling an aboveground liquid storage tank with a flammable liquid is controlled at a remote location by the individual who conveyed the flammable liquid to the terminal.

(v) “Pipeline” means a pipeline that conveys a flammable liquid from a crude petroleum wellhead collection site to a refinery or terminal or from a refinery to a terminal. Pipeline does not mean gathering lines that convey a flammable liquid from the wellhead to a crude petroleum collection tank or piping used in a plant operation.

(w) “Fire alarm system” means an assemblage of components that indicates or provides a warning of a fire emergency, installation of which is required by the bureau under rules promulgated under section 3c.

(x) “Fire suppression system” means an integrated combination of a fire alarm system and fire suppression equipment that, as a result of predetermined temperature, rate of temperature rise, products of combustion, flame, or human intervention, will discharge a fire extinguishing substance over a fire area, installation of which is required by the bureau under rules promulgated under section 3c.

(y) “Flammable liquid” means a liquid with a flash point below 100 degrees Fahrenheit and a vapor pressure that does not exceed 40 pounds per square inch absolute at 100 degrees Fahrenheit.

(z) “Combustible liquid” means a liquid with a flash point at or above 100 degrees Fahrenheit and below 200 degrees Fahrenheit.

(aa) “Owner of a vehicle” means 1 or more of the following:

(i) A person who rents or leases the vehicle or has the exclusive use of the vehicle for a period greater than 30 days.

(ii) Subject to subparagraph (iii), a person who holds legal title to the vehicle.

(iii) If the vehicle is the subject of a conditional sale or lease agreement with the right of purchase upon performance of the conditions in the agreement, and if the conditional vendee or lessee has the immediate right of possession, or if a mortgagor of a vehicle is entitled to possession, the conditional vendee or lessee or mortgagor.

(bb) “Noncommercial transportation” means the occasional transportation of personal property by an individual not for compensation or in the furtherance of a commercial enterprise, and transportation not regulated under the motor carrier safety act of 1963, 1963 PA 181, MCL 480.11 to 480.25.

29.1b Bureau of fire services; creation; state fire marshal as head of bureau; membership; powers and duties; financial transactions and records.

Sec. 1b. (1) The bureau of fire services is created in the department.

(2) The governor shall appoint a state fire marshal to serve as the head of the bureau. The state fire marshal shall possess not less than 10 years’ experience in 1 or more of the following areas:

(a) Safeguarding life and property from damage from explosion, fire, disaster, or other fire-related emergencies.

(b) Delivery of fire suppression or related fire services or emergency response services.

(c) Fire investigation or the provision of related investigation services to law enforcement or fire service agencies.

(d) Training of firefighters or fire investigators.

(e) Enforcement of the general fire laws of this state.

(3) The bureau shall include the following:

(a) The state fire marshal.

(b) The firefighters training council created under section 3 of the firefighters training council act, 1966 PA 291, MCL 29.363.

(c) The board.

(d) Any other agency, board, or commission designated as a part of the bureau by law.

(4) The bureau shall have all of the authority, powers, duties, functions, and responsibilities transferred from the fire marshal division of the department of state police to the department under Executive Reorganization Order No. 2003-1, MCL 445.2011. The department shall perform the budgeting, procurement, and related management functions of the bureau. The bureau shall administer the authority, powers, duties, functions, and responsibilities vested in the bureau and may make internal organizational changes to ensure efficient administration.

(5) To implement the amendatory act that added this section, the state budget director shall determine and authorize the most efficient methods for the bureau to handle financial transactions and records in the financial management system of this state.

29.1c Bureau of fire services; duties; powers.

Sec. 1c. (1) The bureau shall do all of the following:

(a) Serve as a focal point for matters relating to fire services in this state.

(b) Coordinate with the fire investigation unit of the department of state police activities relating to fire investigations, fire investigator training, and the provision of related assistance to local law enforcement and fire service agencies.

(c) Provide forms that cities, villages, and townships may use to grant permits for fire-works under section 243b of the Michigan penal code, 1931 PA 328, MCL 750.243b.

(2) The bureau may do 1 or more of the following:

(a) Establish a program for the reporting and central compilation of fire service personnel credentials, including, but not limited to, qualifications, tests, examinations, certifications, educational experience, and training.

(b) Participate in the child fire setting and juvenile arson program.

(c) Participate in the national fire incident reporting system.

(d) Operate an accelerant detecting canine program.

(e) All other things necessary to achieve the objectives and purposes of the bureau under this act and other laws that relate to the purposes and responsibilities of the bureau.

(3) The state fire marshal may organize or reorganize the bureau and appoint deputies, assistants, and employees with titles, powers, and duties related to the administration and enforcement of this act.

29.1d State fire marshal; duties.

Sec. 1d. The state fire marshal shall do all of the following:

(a) Oversee and direct fire service programs in this state that are vested in the bureau.

(b) Perform the powers and duties of the state fire marshal under this act in a manner that maximizes the effective administration of the fire service of this state.

(c) Serve as policy advisor to the governor on the development and administration of fire service policies, programs, and procedures.

(d) Participate in the development, review, and implementation of the Michigan hazard mitigation plan.

(e) Provide information for the development and regular updating of the Michigan hazard analysis, including the structural fires element, and the Michigan emergency management plan required under section 7a of the emergency management act, 1976 PA 390, MCL 30.407a.

29.1e Uniforms, equipment, and other articles; prohibited acts; violation; penalty; "facsimile" defined.

Sec. 1e. (1) The bureau shall provide the state fire marshal and any deputy state fire marshals with suitable uniforms, equipment, and other articles necessary to carry out this act. The state fire marshal shall prescribe the uniforms and equipment for the state fire marshal and any deputy state fire marshals.

(2) A person shall not sell, furnish, possess, wear, exhibit, display, or use a badge, patch, uniform, or facsimile of a badge, patch, or uniform of the state fire marshal or a deputy state fire marshal unless 1 or more of the following apply:

(a) The person is authorized to do so by the state fire marshal.

(b) The person is the state fire marshal or a deputy state fire marshal.

(c) The badge is a retirement badge and is in the possession of a retired state fire marshal or deputy state fire marshal.

(d) The badge, patch, or uniform is the badge, patch, or uniform of a deceased state fire marshal or deputy state fire marshal and is in the possession of his or her spouse, child, or next of kin.

(e) The person is a collector of badges, patches, uniforms, or facsimiles. A badge, patch, uniform, or facsimile possessed as part of a collection shall be in a container or display case when being transported.

(f) The person is in the theatrical profession and wears the badge, patch, uniform, or facsimile while actually engaged in following that profession.

(3) A person who violates subsection (2) is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$500.00, or both. A charge under or a conviction or punishment for a violation of this section does not prevent a person from being charged with, convicted of, or punished for any other violation of law arising from the same transaction.

(4) As used in this section, “facsimile” includes both an exact replica of an existing item and a close imitation of an existing item.

29.2 Administration and enforcement of act.

Sec. 2. Except as otherwise provided in this act, the administration and enforcement of this act are the responsibility of the bureau.

29.2a Rules; promulgation; ad hoc committees.

Sec. 2a. (1) Rules promulgated under this act shall be promulgated pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(2) The state fire marshal, after consultation with the board, may appoint ad hoc committees to assist the bureau, including the board and the state fire marshal, in promulgating rules under this act. The committees shall consist of as many members as the state fire marshal considers necessary, but shall include at least 2 persons who are representatives of 1 or more fire associations having a direct interest in the rules and at least 1 person who is representative of the persons owning facilities regulated by this act.

(3) The committees appointed under subsection (2) shall serve during the promulgation of the rules, may make recommendations on the content of the rules, and may recommend revisions in the rules.

(4) The board shall make recommendations on the content of the rules promulgated under this act and may recommend revisions in proposed rules or existing rules.

29.2b Delegation of authority to enforce fire safety rules; certification of individuals; rules; ordinances; fire inspectors; duration, renewal, and revocation of delegated authority; review of decisions.

Sec. 2b. (1) On request by resolution of a governing body of an organized fire department, the bureau may delegate to 1 or more individuals employed as full-time fire inspectors by the organized fire department and certified under subsection (2) the authority to enforce 1 or more of the fire safety rules promulgated under this act.

(2) The bureau shall promulgate rules as provided in this section establishing qualifications for certification of an individual described in subsection (1). The state fire marshal shall certify an individual who meets the qualifications established by the bureau. The delegation of authority under subsection (1) does not prohibit a city, village, or township from adopting fire safety ordinances or a city, village, township, or other governmental entity otherwise authorized from employing persons as fire inspectors.

(3) The authority delegated under subsection (1) may be delegated for not more than 2 years, but may be renewed under subsection (1) for subsequent 2-year periods. The authority shall be revoked by the bureau, if the bureau finds that the employee is not in compliance with subsection (1) or if the governing body of the employing city, village, or township, by resolution, requests the revocation.

(4) The board shall review all decisions of the bureau delegating or revoking authority under subsection (1) and may overrule a decision if it is made contrary to subsection (1).

29.2c Hospital operation and maintenance inspection fees; plan review and construction inspection fees for hospitals and schools; disposition; establishment of fee schedule.

Sec. 2c. (1) To implement and enforce this act, the bureau may charge hospitals operation and maintenance inspection fees and may charge hospitals and schools plan review and construction inspection fees as provided in this section.

(2) Fees charged under subsection (1) shall be deposited in the general fund in a restricted account. The fees collected under this act and placed in the restricted account shall be used only to fund the services for which the fees were collected and shall remain in the restricted account at the end of the fiscal year.

(3) The fees charged under this section shall be established in a fee schedule contained in each fiscal year's appropriations act for the department.

29.3b State fire safety board; creation; appointment, qualifications, terms, and removal of members; quorum; voting; hearing; chairperson; regular and special meetings; conducting business at public meeting; expenses; appropriation; minutes; record; availability of certain writings to public; confidentiality; reports, analyses, or summaries.

Sec. 3b. (1) The state fire safety board is created in the bureau and shall consist of 17 members who are residents of this state. Of the members:

- (a) Three shall be representatives of organized fire departments in the Lower Peninsula.
- (b) One shall be a representative of organized fire departments in the Upper Peninsula.
- (c) One shall be a representative of hospital administration.
- (d) One shall be a registered professional engineer.
- (e) One shall be a registered architect.
- (f) One shall be a representative of the nursing home industry.
- (g) One shall be an individual who meets any of the following criteria:

(i) The individual is a member of the governing board of a school district, public school academy, or intermediate school district.

(ii) The individual is employed by a school district, a public school academy, or an intermediate school district in an administrative capacity.

(iii) The individual is a member of, or is employed by, a statewide association representing school board members or school administrators.

- (h) One shall be a representative of the building trades.
- (i) One shall be a representative of persons who own a place of public assemblage.
- (j) One shall be a representative of the flammable liquids industry.
- (k) One shall be a representative of the liquefied petroleum gas industry or the flammable compressed gases industry.
- (l) One shall be a representative of the chemical manufacturing industry.
- (m) One shall be a licensed electrical contractor or master electrician.
- (n) One shall be a representative of persons who own adult foster care facilities.
- (o) One shall be the state fire marshal or an employee of the bureau designated by the state fire marshal.

(2) Board members, other than the state fire marshal or the state fire marshal's designee, shall be appointed by the governor with the advice and consent of the senate. The members

appointed by the governor shall have the qualifications the governor considers essential to enable them to competently decide matters of fire prevention and fire safety for the establishments or facilities specified in section 3c(1).

(3) Each member appointed by the governor before January 1, 2007 shall be appointed for a term of 3 years. Each member appointed by the governor after December 31, 2006 shall be appointed for a term of 4 years. Continued absence of a member appointed by the governor from regular or special meetings of the board makes the member subject to immediate removal by the governor.

(4) A majority of the members appointed to and serving on the board constitutes a quorum. Affirmative votes of at least a majority of the members appointed to and serving on the board is required to decide any question, action, or business of the board, except that a hearing of a contested case may be conducted before 3 board members who, after hearing the facts and considering the evidence and testimony, shall recommend the action the board should take.

(5) The governor shall designate 1 of the members of the board to serve as chairperson of the board at the pleasure of the governor. Annually, the board may elect from its members a vice-chairperson of the board. Each year, the board shall hold not fewer than 4 regular meetings. Special meetings may be called by the chairperson or upon written request of 5 board members. Meetings shall be held at a location in this state designated by the chairperson.

(6) The business of the board shall be conducted at a public meeting that complies with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(7) Each appointed member of the board is entitled to actual and necessary expenses incurred in the performance of his or her duties as a member of the board, subject to available appropriations.

(8) The board shall keep minutes of its proceedings, showing the vote of each member on each proposition or question, or indicating if a member is absent or fails to vote. A record of board action and business shall be made and maintained.

(9) Except as provided in subsections (10) and (11), a writing prepared, owned, used, in the possession of, or retained by the board, the department, their agents, or others in the performance of an official function under this act is subject to the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(10) A person regulated under this act may designate a report or other information furnished to or obtained by the department, its agents, or others under this act as being only for confidential use by the department, its agents, or others in the performance of an official function. If the department, its agents, or others receive a request under section 5 of the freedom of information act, 1976 PA 442, MCL 15.235, for a public record that includes information designated as confidential or information obtained under section 4, the department, its agents, or others shall notify the person regulated under this act. The person regulated under this act has 30 days after receipt of the notice to demonstrate to the department, its agents, or others, that the information designated as confidential or information obtained under section 4 constitutes a trade secret or confidential business information that, if disclosed, may cause a competitive disadvantage. The department, its agents, or others shall grant the request for the information unless the person regulated under this act makes a satisfactory demonstration to the department, its agents, or others that disclosure of the information may cause a competitive disadvantage. If a dispute occurs between the person regulated under this act and the person requesting the information, the board shall make a final decision to grant or deny the request.

(11) This act does not prevent the use of a record or information by the department to compile or publish reports, analyses, or summaries of general conditions for the prevention of fire, or the use of a record or information to administer or enforce federal, state, or local fire prevention laws. However, a report, analysis, summary, or use shall not directly or indirectly publicly reveal information otherwise confidential under this section.

29.3c Rules; review and consideration; variation of application of rule; board as hearing body; modification of ruling or interpretation; decision; exemption.

Sec. 3c. (1) The bureau shall promulgate rules as provided under section 2a pertaining to fire safety requirements for the construction, operation, or maintenance of all of the following:

(a) Schools and dormitories, including state supported schools, colleges, and universities and school, college, and university dormitories.

(b) Buildings owned or leased by this state.

(c) A health facility or agency as defined in section 20106 of the public health code, 1978 PA 368, MCL 333.20106.

(d) Places of public assemblage.

(e) Penal facilities as described in section 62 of the corrections code of 1953, 1953 PA 232, MCL 791.262.

(f) Mental facilities as described in section 135 of the mental health code, 1974 PA 258, MCL 330.1135.

(2) The bureau shall promulgate other rules as provided in section 2a as necessary to implement this act.

(3) Consistent with Executive Reorganization Order Nos. 1997-2 and 1998-2, MCL 29.451 and 29.461, the department of environmental quality shall promulgate rules pertaining to all of the following:

(a) Fire safety requirements for the construction, operation, and maintenance of dry cleaning establishments that use flammable liquids.

(b) The storage, transportation, and handling of liquefied petroleum gas and for the storage, noncommercial transportation, and handling of other hazardous materials to the extent authorized by federal law.

(4) Rules promulgated under this act shall be consistent with recognized good practice as evidenced by standards adopted by nationally recognized authorities in the field of fire protection. Experiences identified in the fire incident reports received by this state may be considered by the board and the bureau when reviewing rules promulgated or considering promulgation of new rules under this act.

(5) The bureau shall promulgate rules as provided under section 2a for the certification of a firm that does any of the following:

(a) Installs, modifies, or documents the installation or modification of a fire suppression system.

(b) Documents the installation or modification of a fire alarm system.

(c) Performs testing, servicing, inspections, or maintenance that has not been exempted by the rules promulgated by the bureau on fire alarm systems or fire suppression systems.

(d) Submits a drawing, plan, or specification of a fire alarm system or fire suppression system to the bureau for approval under section 29, except an architect or professional engineer licensed under article 20 of the occupational code, 1980 PA 299, MCL 339.2001 to 339.2014.

(6) A person may request a variation of the application of a rule promulgated under this act by applying to the state fire marshal. The state fire marshal may make a variation upon a finding that the variation does not result in a hazard to life or property. The finding shall be transmitted to the person requesting the variation and entered into the records of the bureau. If the variation requested concerns a building, the finding shall also be transmitted to the governing body of the city, village, or township in which the building is located.

(7) The entire board, except as provided in section 3b(4), shall act as a hearing body in accordance with the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, to review and decide a contested case or a ruling of the state fire marshal interpreting or applying the rules. After a hearing, the board may vary the application of a rule or may modify the ruling or interpretation of the state fire marshal if the enforcement of the ruling or interpretation would do manifest injustice and would be contrary to the spirit and purpose of the rules or the public interest.

(8) A decision of the board to vary the application of a rule, or to modify or change a ruling of the state fire marshal, shall specify the variation, modification, or change made, the conditions upon which it is made, and the reasons for the variation, modification, or change.

(9) If a local school board passed a resolution calling for an election on the question of the issuance of bonds for the construction or remodeling of or an addition to a school, if the election was held not later than September 28, 1989 and approved issuance of the bonds, and if construction was reasonably anticipated to begin not later than June 30, 1990, the construction, remodeling, or addition to that school was exempt from the rules promulgated by the fire safety board entitled "schools, colleges, and universities", former R 29.301 to R 29.321 of the Michigan administrative code, filed with the secretary of state on July 14, 1989 and effective on July 29, 1989. The construction, remodeling, or addition to that school was, however, subject to the standards contained in rules promulgated by the board entitled "school fire safety", former R 29.1 to R 29.298 of the Michigan administrative code.

29.3e Rules pertaining to uniform fire safety requirements.

Sec. 3e. (1) The bureau shall promulgate rules as provided under section 2a pertaining to uniform fire safety requirements for the operation and maintenance, but not the construction, of commercial buildings, industrial buildings, and residential buildings, excluding 1- and 2-family dwellings and mobile homes.

(2) The state fire marshal shall consult with the board with respect to developing rules for the delegation of authority to firefighters and fire chiefs.

29.4 Fire incident report; report of fire by fire insurance company; reporting fires where arson suspected; request for release of information relative to fire loss; notice and information where incendiary means suspected; liability for furnishing information; confidentiality; testimony in civil action or administrative hearing; "insurance company" defined.

Sec. 4. (1) The chief of each organized fire department, or the clerk of each city, village, or township that does not have an organized fire department, immediately after the occurrence of fire within the official's jurisdiction resulting in loss of life or property, shall make and file with the bureau a complete fire incident report of the fire. The report shall be made on and according to forms supplied by the bureau.

(2) Each fire insurance company authorized to do business in this state on request shall promptly furnish to the bureau information in the company's possession concerning a fire

occurring in this state. The report shall be in addition to and not in place of any other report required by law to be made by the company to other state agencies.

(3) A fire and casualty insurance company may contact directly the bureau or the chief of an organized fire department to report fires if the company suspects arson.

(4) The state fire marshal, the chief of an organized fire department, a firefighter or an employee of an organized fire department acting under the authority of the chief of the organized fire department, a peace officer, or any other fire prevention or fire department official designated by the state fire marshal may request in writing on a form prescribed and furnished by the state fire marshal that an insurance company or authorized agent of an insurance company investigating a fire loss of real or personal property release all information in possession of the company or an agent of the company relative to that loss. The company or agent shall release the information to and cooperate with each official authorized to request the information under this subsection. The information to be provided shall include all of the following:

(a) Each insurance policy relevant to a fire loss under investigation and each application for the policy.

(b) The policy premium payment records of a policy described in subdivision (a).

(c) A history of previous claims made by the insured for fire loss.

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

(5) If an insurance company has reason to suspect that a fire loss to the real or personal property of a policyholder of the company was caused by incendiary means, the company shall notify the bureau and shall furnish the bureau with all relevant material acquired during its investigation of the fire loss.

(6) In the absence of fraud or malice, an insurance company or a person who furnishes information on behalf of an insurance company is not liable for damages in a civil action or subject to criminal prosecution for an oral or written statement made or other action taken that is necessary to supply the information required under this section.

(7) Officials and other persons receiving information furnished pursuant to subsection (4) shall hold the information in confidence until release of the information is required in the course of or pursuant to a criminal or civil proceeding. A person described in subsection (4) may be required to testify as to information in his or her possession regarding a fire loss of real or personal property in any civil action or administrative hearing held under the insurance code of 1956, 1956 PA 218, MCL 500.100 to 500.8302, in which a person seeks recovery under a policy against an insurance company for the fire loss or files a complaint with the commissioner of the office of financial and insurance services relative to the refusal of an insurance company to pay under a policy for a fire loss sustained by the person.

(8) As used in this section, "insurance company" means an insurer authorized to transact property, fire, or casualty insurance in this state and an agent of the insurer, and includes an insurance association, pool, or facility created and operating under the insurance code of 1956, 1956 PA 218, MCL 500.100 to 500.8302.

29.5a Inspection of vehicle transporting hazardous material; violation; notice of condemnation; allowing vehicle to proceed to make deliveries; return and repair of vehicle; impounding vehicle; temporary release; notice of correction of conditions; reinspection; release upon compliance and payment of expenses; notice; conduct by official.

Sec. 5a. (1) The motor carrier division of the department of state police, the chief of an organized fire department or police department, a peace officer, or a firefighter in uniform

acting under the orders and directions of the local fire chief may inspect a vehicle transporting a hazardous material. Subject to subsection (3), if upon inspection a vehicle is found to be in violation of the rules with respect to safety equipment, the motor carrier division or the inspecting chief, firefighter, or peace officer shall attach to the vehicle a notice identifying the vehicle and stating that it is condemned against further use in the transportation of hazardous material, and listing the violations found. If the vehicle is en route to a destination where its load is to be delivered, the motor carrier division, chief, firefighter, or peace officer, except as otherwise provided in this act, shall allow the vehicle to proceed to make deliveries after which the vehicle shall be returned to its base or customary place of maintenance and repair or taken to a suitable place for repair. If, upon inspection, a vehicle while en route to a delivery destination is found to be in a condition that makes it likely that further operation under normal road and traffic conditions will result in spillage of hazardous material, the motor carrier division, chief, firefighter, or peace officer shall have the vehicle impounded. The vehicle shall be impounded at a suitable place where the hazardous material being transported can be unloaded with reasonable safety, and until the unloading is accomplished and arrangements are made to return the vehicle with reasonable safety to its base or customary place of maintenance and repair, or to move the vehicle to a suitable place of repair. If, upon inspection, the braking, lighting, steering, coupling, sounding, or other devices on a vehicle are found to be in a condition such that the vehicle cannot be operated by a prudent operator without undue risk of accident, the motor carrier division, chief, firefighter, or peace officer shall have the vehicle impounded at a suitable place until the necessary repairs are made.

(2) Except as provided in this act, a vehicle condemned under this act shall not be used in transporting hazardous material until released under this section. Upon being returned to its base or customary place of maintenance and repair, or to a suitable place of repair, the condemned vehicle may be impounded there upon order of the motor carrier division of the department of state police until the conditions for which the condemnation was issued have been corrected. However, the motor carrier division may authorize the temporary release of the condemned vehicle for a reasonable time needed to procure parts or appurtenances necessary to correct the conditions for which the vehicle was condemned. Upon correction of the conditions, the motor carrier division, chief of an organized fire department or police department, a peace officer, or a firefighter in uniform acting under a chief's direction, shall be notified and shall reinspect the vehicle. The motor carrier division, chief, peace officer, or firefighter shall release the vehicle if upon reinspection the vehicle is found to be in compliance with this act and the rules promulgated under this act, and if reasonable impounding expenses have been paid by the owner of the vehicle. A person inspecting a vehicle under this act shall notify the motor carrier division under rules promulgated under this act, of the circumstances and conditions of each violation, condemnation, impounding, and release.

(3) Notwithstanding subsections (1) and (2), an official named in subsection (1) inspecting a commercial motor vehicle under the authority of this section shall attach notices, and place vehicles and drivers out of service, only as provided under the motor carrier safety act of 1963, 1963 PA 181, MCL 480.11 to 480.25, and as provided under the out of service criteria issued under the authority of the commercial vehicle safety alliance. As used in this subsection, "commercial motor vehicle" means that term as defined in the motor carrier safety act of 1963, 1963 PA 181, MCL 480.11 to 480.25.

29.5c Filling or storage locations; certificate; approval of department of environmental quality; exception.

Sec. 5c. (1) A person shall not establish or maintain 1 or more of the following without obtaining a certificate from the department of environmental quality:

- (a) A flammable compressed gas or liquefied petroleum gas container filling location.

(b) An aboveground flammable compressed gas or liquefied petroleum gas storage location that has a tank with a water capacity of more than 2,000 gallons or has 2 or more tanks with an aggregate water capacity of more than 4,000 gallons.

(c) An aboveground storage location for a flammable liquid or combustible liquid that has an individual tank storage capacity of more than 1,100 gallons. Crude petroleum collection tanks that receive crude petroleum directly from a wellhead and are certified by the department of environmental quality may be maintained without further inspection by the department of environmental quality, except as the department of environmental quality considers necessary to assure compliance with this act.

(2) The department of environmental quality may require that a person obtain approval from the department of environmental quality before the installation of an aboveground storage tank for flammable or combustible liquids that has an individual tank storage capacity of 1,100 gallons or less. However, this requirement does not apply to farm location storage tanks of 1,100 gallons or less capacity used for storing motor fuel for noncommercial purposes or heating oil for consumptive use on the premises where stored.

29.5d Issuance of certificates; authorization to conduct inspections; annual fee; revocation of authorization; exemptions; review of procedures; installation application; fee per tank; waiver; payment and amount of fees; certain local ordinance prohibited; collection and disposition of fees; creation of hazardous materials storage tank regulatory enforcement fund.

Sec. 5d. (1) The certificates specified in section 5c shall be issued every 3 years by the department of environmental quality after the department of environmental quality determines by an inspection that the firm location is in satisfactory compliance with this act. The department of environmental quality may authorize a firm specified in section 5c to conduct inspections required in this section after application to the department of environmental quality and payment of an annual fee of \$1,000.00. Upon annual determination by the department of environmental quality that the firm is in satisfactory compliance with this act, the department of environmental quality may grant the authorization. This authorization may be revoked by the department of environmental quality for cause. Firms authorized to conduct inspections required in this section are exempt from the fees provided in subsection (2). The department of environmental quality may review procedures utilized by the firm to assure compliance with this act.

(2) Each firm required to be certified under section 5c shall submit an installation application to the department of environmental quality according to rules promulgated under this act. Each firm shall pay a fee of \$203.00 per tank. This fee shall be submitted with the installation application to the department of environmental quality. The department of environmental quality shall not approve an installation application unless this fee has been paid as required in this subsection. Payment of this fee shall waive the first annual storage tank fee required in this subsection. The owner of a firm specified in section 5c shall pay an annual fee of \$61.50 for each tank located at each storage or filling location specified in section 5c. Fees required by this subsection shall be paid before the issuance of a certificate when storage tanks operated by firms described in section 5c are used and until such tanks are closed or removed, and notification of the closure or removal is received by the department of environmental quality. Owners of firms described in section 5c shall notify the department of environmental quality of the closure or removal of storage tanks within 30 days after closure or removal on a form provided by the department of environmental quality. Storage tanks that receive crude petroleum directly from a wellhead are exempt from fees under this section.

(3) Beginning October 1, 1990, a local unit of government shall not enact or enforce a provision of an ordinance that requires a permit, license, approval, inspection, or the payment of a fee or tax for the installation, use, closure, or removal of an aboveground storage tank system.

(4) The fees specified in subsection (2) shall be collected and deposited into the hazardous materials storage tank regulatory enforcement fund created in subsection (5).

(5) The hazardous materials storage tank regulatory enforcement fund is created in the state treasury. The fund may receive money as provided in this act and as otherwise provided by law. The state treasurer shall direct the investment of the fund. Interest and earnings of the fund shall be credited to the fund. Money in the fund at the close of the fiscal year shall remain in the fund and shall not revert to the general fund. Money in the fund shall be used only by the department of environmental quality to enforce this act and the rules promulgated under this act pertaining to the delivery, dispensing, noncommercial transportation, or storage of hazardous materials. If at the close of any fiscal year the amount of money in the fund exceeds \$1,000,000.00, the department of environmental quality shall not collect a fee for the following year for the fund from existing storage tank systems. After the fee has been suspended under this subsection, it shall only be reinstated if at the close of any succeeding fiscal year, the amount of money in the fund is less than \$250,000.00. The department of treasury shall, before November 1 of each year, notify the department of environmental quality of the balance in the fund at the close of the preceding fiscal year.

29.5e Finding of noncompliance; revoking or denying renewal of certificate; order.

Sec. 5e. Upon a finding of noncompliance with this act, or rules promulgated pursuant to this act, the state fire marshal or the director of the department of environmental quality may revoke or deny the renewal of a certificate obtained under section 5c and order the person or firm required to be certified to cease all or part of its operation until the firm is in compliance.

29.5g Fire, explosion, spill, leak, accident, or related occurrence; notice of details.

Sec. 5g. Immediately following a fire, explosion, spill, leak, accident, or related occurrence that involves the transportation, storage, handling, sale, use, or processing of hazardous material by a firm, person, or vehicle, the owner of the firm or vehicle or the person and the chief of the first police department or organized fire department upon the scene of the incident shall notify the bureau and the organized fire department of the area in which the incident occurred of the known details regarding the incident.

29.5h Bureau of fire services; duties generally.

Sec. 5h. After notification is made pursuant to section 5g, the bureau shall do the following:

(a) Determine, with the organized fire department of the area in which the incident occurred, the emergency measures to be taken.

(b) Notify responsible federal, state, and local authorities and agencies and, if the bureau is notified by a person other than the owner of the firm or vehicle involved, notify the owner of the firm or vehicle involved.

(c) Cause an investigation to be made to determine the cause of the incident and to determine what related factors contributed to the cause of the incident and to any loss of life or property.

(d) Cause a report to be filed containing its findings related to the incident. A record of those reports shall be maintained by the bureau.

29.5i Dry cleaning operation using flammable liquid; certificate required; amount and adjustment of fee; application of section; “class IV installation” defined.

Sec. 5i. (1) A firm that is engaged in a dry cleaning operation that uses a flammable liquid shall not establish or maintain such an operation at a location unless the firm obtains a certificate from the department of environmental quality for that location.

(2) A certificate shall not be issued until payment is made of a fee of \$15.00 for the first dry cleaning machine in the firm’s location and \$6.00 for each additional dry cleaning machine in the firm’s location. Beginning October 1, 1981, the fees imposed by this section shall be adjusted each year by the annual average percentage increase or decrease in the Detroit consumer price index—all items. The adjustment shall be made by multiplying the annual average percentage increase or decrease in the Detroit consumer price index for the prior calendar year by the current fee as adjusted by this subsection. The resultant product shall be added to the current fee as adjusted by this subsection and then rounded off to the nearest half dollar which shall be the new fee.

(3) This section applies when a class IV installation is operated in the same building or establishment as other classes of dry cleaning installations.

(4) As used in this section, “class IV installation” means that term as defined in section 13301 of the public health code, 1978 PA 368, MCL 333.13301.

29.5j Terminal at which tank filled by pipeline; high level alarm system; testing; plans and specifications; final inspection; fire and emergency plan.

Sec. 5j. (1) Each terminal at which a tank filled by pipeline is located shall comply with the following requirements:

(a) Each terminal shall be equipped with a high level alarm system.

(b) The high level alarm system shall be set to activate at a predetermined level in each tank filled by pipeline at the terminal to allow sufficient time for the flow of the flammable liquid to be shut down before the tank overfills. The level shall be determined by the maximum filling rate expected and the time required for personnel to take appropriate action to stop the flow of the flammable liquid.

(c) The high level alarm system shall be maintained in accordance with its manufacturer’s recommendations.

(d) The high level alarm system shall be tested every 3 months by the owner of the terminal and a record of the test shall be maintained.

(2) A device shall not be used in a high level alarm system described in subsection (1) unless the device has been tested for its intended use by a nationally recognized testing laboratory as determined by the director of the department of environmental quality.

(3) Plans and specifications for a high level alarm system described in subsection (1) shall be submitted to the director of the department of environmental quality for approval before the installation of the system.

(4) Upon the completion of the installation of a high level alarm system described in subsection (1), the director of the department of environmental quality shall be notified and a final inspection shall be made to determine if the installation is in compliance with this section.

(5) The owner of a terminal described in subsection (1) shall develop a fire and emergency plan in conjunction with the organized fire department having jurisdiction over the terminal.

29.5n Delivery of flammable liquid into above ground liquid storage tank by pipeline at remote control terminal; conditions.

Sec. 5n. A firm shall not deliver a flammable liquid that has a flash point below 100 degrees Fahrenheit directly into an above ground liquid storage tank by pipeline at a remote control terminal unless the firm does each of the following:

(a) Furnishes to the director of the department of environmental quality, and receives the approval from the director of the department of environmental quality of, a detailed description of the firm's capabilities and procedures to deliver a flammable liquid by remote control to an above ground liquid storage tank.

(b) Furnishes to the director of the department of environmental quality, and receives the approval from the director of the department of environmental quality of, a description of the firm's procedures to be followed if an above ground storage tank is overfilled.

29.5o Additional safety equipment and procedures required by director of department of environmental quality; requesting variation of requirements; local ordinances.

Sec. 5o. (1) The director of the department of environmental quality may, at the request of the organized fire department having jurisdiction over a terminal, require additional safety equipment and procedures when the public safety is endangered.

(2) A person may request a variation of the requirements of section 5j, 5k, 5l, 5m, or 5n, or subsection (1), under the procedures provided in section 3c.

(3) A local unit of government shall not enact an ordinance or ordinances more restrictive than the requirements included in sections 5j to 5n.

29.5p Information regarding hazardous chemicals in workplace; request; list; material safety data sheet; description of quantity and location of hazardous chemical; time extension; availability of information; rules; update of information; limitation.

Sec. 5p. (1) A person who is an employer under the Michigan occupational safety and health act, 1974 PA 154, MCL 408.1001 to 408.1094, shall provide the information described in this section upon written request by the fire chief for the jurisdiction where the person is located.

(2) A person subject to this section shall, subject to subsection (1), provide a copy of a list required to be developed by the standard incorporated by reference in section 14a of the Michigan occupational safety and health act, 1974 PA 154, MCL 408.1014a, and a material safety data sheet for each hazardous chemical identified on the list within 10 working days after receipt of the request.

(3) Except as provided in subsection (4), a person subject to this section shall provide a description of the quantity and location of any hazardous chemical specified by the fire chief for the jurisdiction where the person is located within 10 working days after receipt of a written request made by the fire chief after review of a list provided under subsection (2). Upon request, the fire chief may extend the time to provide the information described in this subsection by 5 working days. The information obtained by a fire chief under this subsection may be made available to a public official, agency, or employee, but is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(4) The department of environmental quality may promulgate rules to exempt from the application of subsection (3) de minimis and portable quantities of hazardous chemicals.

(5) A person subject to this section shall provide to the fire chief for the jurisdiction where the person is located a written update of information required by this section when there is a significant change relating to fire hazards in the quantity, location, or presence of hazardous chemicals in the person's workplace.

(6) An ordinance, law, rule, regulation, policy, or practice of a city, township, village, county, governmental authority created by statute, or other political subdivision of the state shall not require that a person who is an employer under the Michigan occupational safety and health act, 1974 PA 154, MCL 408.1001 to 408.1094, provide to a fire chief information regarding hazardous chemicals in the workplace in any other manner or to any greater extent than is required by this section or rules authorized by this section.

29.6 Investigation and inquiry into cause or origin of fire; entering and inspecting building or premises; demonstration fire resulting in death or injury; "injury" defined.

Sec. 6. (1) The state fire marshal may investigate and inquire into the cause or origin of a fire occurring in this state that results in the loss of life or damage to property and for those purposes may enter, without restraint or liability for trespass, a building or premises and inspect the building or premises and the contents and occupancies of the building or premises.

(2) The state fire marshal shall investigate, and prepare a report of the investigation, if a demonstration fire results in the injury or death of an individual who is not a firefighter. As used in this subsection, "demonstration fire" means a fire intentionally set by a fire department for training or other legitimate purposes.

(3) The chief of a fire department shall immediately report to the state fire marshal any injury to or death of a person who is not a firefighter resulting from a demonstration fire.

(4) If a firefighter dies or suffers a reportable injury as defined under the Michigan occupational safety and health act, 1974 PA 154, MCL 408.1001 to 408.1094, resulting from a demonstration fire, the department shall provide a copy of any report of the death or reportable injury to the state fire marshal.

(5) As used in this section, "injury" means an injury that requires prompt medical attention by trained medical personnel.

29.10 Service of orders.

Sec. 10. Service of an order of the state fire marshal under section 9, or of any other order made by the state fire marshal under this act, may be made in 1 or more of the following ways:

(a) By personally delivering a copy of the order to the person or persons to whom it is directed within this state.

(b) By delivering a copy of the order by registered mail, addressed to the last known post-office address of the addressee, and deliverable to the addressee only, with return receipt requested. Service under this subdivision is personal and not substituted service.

(c) If a person to whom the order is directed cannot be found, does not have a known post-office address, or is not a resident of this state, by publication in a newspaper published or circulating in the county in which the property or premises described in the order is situated, once in each week for 3 successive weeks, the last publication to be made at least 10 days before the date of performance specified in the order.

29.16 Noncompliance with order or direction of court as contempt; citation; execution of order and directions; cost and expense of executing order; use of salvaged materials; disposition of surplus.

Sec. 16. (1) The refusal or failure of a defendant to comply with an order or direction of the court issued under section 13, within the time limited for compliance, is contempt of court for which the respondent may be ordered to appear and answer in the same manner as in other cases of contempt of court. Upon the refusal or failure, the court may order the state fire marshal to execute the order and directions and abate the fire hazard and, for the purpose of executing the order and directions, to enter upon the premises and employ or contract for labor, tools, implements, or other assistance as is necessary for the performance of the work. The amount of the cost and expense of executing the order is a lien upon the land and premises enforceable and collectible in the same manner as a construction lien under the construction lien act, 1980 PA 497, MCL 570.1101 to 570.1305.

(2) Salvage of materials made in the abatement of the fire hazard may be used by the bureau to defray the cost and expense of executing the order or directions of the court to the extent of the cost and expense and the discharge of the lien. A surplus over and above the cost and expense belongs to the owner of the premises.

29.21b Fire extinguishers; liquefied compressed gas, toxicity.

Sec. 21b. Notwithstanding section 21a, a liquefied compressed gas extinguishing agent that meets both of the following conditions of toxicity and use may be used in properly engineered fire extinguishing or fire control systems:

(a) The agent in its normal state is not a prohibited agent or propellant under section 21a(1).

(b) The agent is used only under conditions approved by the national fire protection association and a nationally recognized independent testing laboratory that has considered the hazard of the thermal decomposition products and use approved by the bureau.

29.21c Place of public assemblage; inspection; certificate required.

Sec. 21c. (1) The bureau or, upon written request of the governing body of a city, village, township, or county and the approval of the bureau, a fire chief, or a firefighter in uniform acting under the orders and directions of a fire chief shall at least annually inspect each place of public assemblage to determine whether it is being maintained in compliance with this act.

(2) A place of public assemblage shall not be established or operated without obtaining a certificate from the bureau indicating its maximum capacity and that it is in compliance with this act.

29.21d Place of public assemblage; issuance; display; revocation or denial; order to cease operation.

Sec. 21d. (1) The certificate required in section 21c(2) shall be issued annually by the bureau and shall be displayed in a conspicuous location in the place of public assemblage.

(2) If a place of public assemblage is not being maintained in compliance with this act, the bureau may revoke or deny the certificate required by section 21c(2) and may order the place of public assemblage to cease operation until it is in compliance.

29.23 Fire hazard as nuisance; abatement; action; procedure; order or decree; condition; injunction; jurisdiction; cost and expense of abatement; continuance of hearing.

Sec. 23. The existence of a fire hazard, of any nature, origin, or cause, is a nuisance and the nuisance may be abated, removed, corrected, and its continuance enjoined in the manner

provided by law for the abatement of nuisances. If the state fire marshal determines that a fire hazard is imminently dangerous or menacing to human life and the public safety requires its immediate abatement, removal, correction, or discontinuance, the state fire marshal may bring, or cause to be brought, in the circuit court of the county in which the fire hazard is located, an action to abate, remove, correct, or discontinue the fire hazard. Sections 3801 to 3840 of the revised judicature act of 1961, 1961 PA 236, MCL 600.3801 to 600.3840, apply to the action. The court, in addition to the powers conferred by that act, may make any order it determines is necessary or expedient to ensure the safety and security of human life, and may direct that a building described in the complaint be razed and removed and all rubbish and debris removed, or that the building be repaired and in what manner and to what extent. The court may order the removal of occupancies of a building and the discontinuance of any use of the building that constitute a fire hazard or menace to human life, and may order the clearing and improvement of premises described in the complaint. The court may issue an injunction restraining the defendant from continuing the existence of a fire hazard, may include specific directions to the defendant, and may retain jurisdiction to compel complete performance of the order, writ, or other determination of the court. The court may direct that the abatement of the fire hazard be done by the department under the court's instructions, and with provision for defraying the cost and expense of the abatement as the court determines equitable and authorized by this act. A continuance of a hearing under this act shall not be granted except upon a clear showing of unavoidable circumstances. Jurisdiction of the court under this act does not depend upon the amount of money, or value of property, involved.

29.24 Annual report to governor; contents.

Sec. 24. The state fire marshal shall include in the bureau's annual report to the governor as required by law, a detailed account of the bureau's administration of this act and of the receipts and disbursements made under this act, together with recommendations for changes in this act as the state fire marshal considers expedient.

29.26 Firm; prohibited acts; certification requirements; subsections (1)(d) and (2) inapplicable to licensed architect or professional engineer.

Sec. 26. (1) Except as provided in subsection (3), a firm located or operating in this state, unless certified under this section, shall not do any of the following:

(a) Install, modify, or document the installation or modification of a fire suppression system.

(b) Document the installation or modification of a fire alarm system.

(c) Perform a test, service, inspection, or item of maintenance that has not been exempted by the rules promulgated by the bureau on a fire alarm system or fire suppression system.

(d) Submit a drawing, plan, or specification of a fire alarm system or fire suppression system to the bureau for approval under section 29.

(2) The bureau shall certify a firm that submits a drawing, plan, or specification of a fire alarm system or a fire suppression system or that installs, modifies, tests, services, inspects, maintains, or documents the installation or modification of a fire alarm system or a fire suppression system if the firm does both of the following:

(a) Meets the requirements established by rules promulgated under section 3c.

(b) Pays a fee of \$150.00 to the bureau.

(3) Subsections (1)(d) and (2) do not apply to an architect or professional engineer licensed under article 20 of the occupational code, 1980 PA 299, MCL 339.2001 to 339.2014.

29.28 Display of certificate; maintenance and inspection of records; recertification; fees.

Sec. 28. (1) A firm certified under section 26 shall display the certificate issued by the bureau or a duplicate of that certificate at each location where the firm conducts business.

(2) A firm certified under section 26 shall maintain a record of the installation, testing, service, inspection, maintenance, modification, and documentation of each fire alarm system or fire suppression system the firm installed, tested, modified, inspected, serviced, maintained, or documented, pursuant to rules promulgated by the bureau. A copy of the record shall be kept in the building or other location acceptable to the bureau in which the system has been installed. The owner, operator, or a designated representative of the owner or operator of the building shall make the record available for inspection by the bureau during normal business hours.

(3) A firm required to be certified under section 26 shall secure recertification every 3 years and pay a fee of \$150.00 for the recertification.

(4) The fees specified in this section and sections 26 and 29 shall be paid to the bureau for implementation of sections 26 to 33.

29.29 Installation or modification of required fire alarm system or fire suppression system; plans and specifications; approval; documentation; fee; form; testing, servicing, inspection, or maintenance of system; drawing; certification of firm.

Sec. 29. (1) Except as provided in subsection (7), a firm shall not install or modify a fire alarm system or fire suppression system, before the firm submits detailed plans and specifications of the system to the bureau for approval.

(2) A firm that installs or modifies a fire suppression system shall submit written documentation of the installation or modification of the system and a fee of \$40.00 to the bureau.

(3) A firm that documents the installation or modification of a fire alarm system shall submit written documentation of installation or modification of the system and a fee of \$40.00 to the bureau.

(4) The documentation required by this section shall be on a form provided by the bureau and shall state both of the following:

(a) That the system has been installed or modified pursuant to the specifications of the manufacturer for each of the components of the fire alarm system or fire suppression system and in compliance with all applicable state law.

(b) That the system has been tested and placed in proper operating condition under the supervision of an architect or professional engineer licensed under article 20 of the occupational code, 1980 PA 299, MCL 339.2001 to 339.2014, or by an employee of a firm certified under section 26.

(5) Fire alarm system or fire suppression system testing, servicing, inspection, or maintenance that is not exempt under rules promulgated by the bureau shall be performed by a firm certified under section 26. The testing, servicing, inspection, or maintenance of the fire alarm system or fire suppression system shall be noted and displayed at the location of the main control or other location acceptable to the bureau and filed with the owner, operator, or a designated representative of the owner or operator of the building in which the fire alarm system or fire suppression system is installed.

(6) A drawing that depicts the completed installation of the fire alarm system or fire suppression system shall be available to the bureau or the fire safety inspector of the city,

village, or township in which the building is located for use during an inspection of a fire alarm system or fire suppression system.

(7) A firm that installs, modifies, tests, services, inspects, or maintains a fire suppression system or a fire alarm system on its own premises shall be certified under section 26, but shall only be required to provide detailed plans and specifications or documentation of the system if requested by the state fire marshal under rules promulgated by the bureau.

29.30 Discovery of system believed in violation of state law; report; acknowledgment of notice.

Sec. 30. (1) If a firm certified under section 26 discovers a fire alarm system or fire suppression system that the firm believes was installed, serviced, modified, tested, or maintained in violation of state law, the firm immediately shall report the alleged violation to the bureau on a form provided by the bureau and to the owner, operator, or a designated representative of the owner or operator of the building in which the fire alarm system or fire suppression system is installed.

(2) Upon notification under subsection (1) that a fire alarm system or fire suppression system is installed, serviced, modified, tested, or maintained in a manner that a firm believes to be in violation of state law, the owner, operator, or a designated representative of the owner or operator of the building in which the fire alarm system or fire suppression system is installed shall provide the bureau with a written acknowledgment of the notice of the alleged violations and the action taken by the owner, operator, or designated representative of the owner or operator on a form provided by the bureau.

29.31 Township, city, village, or county ordinance or resolution; rules; fee; “inconsistent” defined.

Sec. 31. (1) A township, city, village, or county shall not adopt or enforce an ordinance or resolution that is inconsistent with this act or any rule promulgated under this act.

(2) A state agency shall not promulgate rules inconsistent with this act. This subsection does not apply to the motor carrier safety act of 1963, 1963 PA 181, MCL 480.11 to 480.21, or rules promulgated under that act by the motor carrier division of the department of state police.

(3) An organized fire department shall not charge a fee for conducting an inspection of a farm operation under title III of the superfund amendments and reauthorization act of 1986, Public Law 99-499, unless the fee is specifically provided by law.

(4) As used in this section, “inconsistent” means a rule or ordinance that is more permissive than the provisions of this act, or is more restrictive, or requires more action, equipment, or permits, or prevents or obstructs compliance with the provisions of this act.

29.32 Suspension of certification; hearing; affirming, reversing, or modifying decision to suspend certification; revocation of certification; recertification; accepting plans and specifications for approval.

Sec. 32. (1) The certification of a firm under section 26 may be suspended by the bureau pending a hearing by the board as specified in section 3c, if the firm documents the installation or modification of a fire alarm system or fire suppression system and the system does not comply with applicable state law or if the firm installs, tests, services, inspects, or maintains a fire alarm system or a fire suppression system in a manner not in compliance with applicable state law. After the hearing, the board may affirm, reverse, or modify the decision of the bureau to suspend a firm's certification or may revoke the firm's certification. A firm whose certification is revoked under this section may be recertified only after an additional hearing before the board.

(2) The bureau shall not accept for approval under section 29(1) plans or specifications submitted by an architect or professional engineer who has failed to provide corrected plans and specifications before the installation of a fire alarm system or fire suppression system for which previous plans and specifications have been disapproved. The bureau may accept for approval under section 29(1) plans and specifications submitted by that architect or engineer only after a hearing before the board.

Transfer of powers and duties.

Enacting section 1. This amendatory act does not affect the transfer of authority, powers, duties, functions, and responsibilities under this act to the department of environmental quality under Executive Reorganization Order Nos. 1997-2 and 1998-2, MCL 29.451 and 29.461, or to the department of state police and the director of the department of state police under Executive Reorganization Order No. 2003-1, MCL 445.2011.

Repeal of MCL 29.3d, 29.27, and 29.34

Enacting section 2. Sections 3d, 27, and 34 of the fire prevention code, 1941 PA 207, MCL 29.3d, 29.27, and 29.34, are repealed.

Conditional effective date.

Enacting section 3. This amendatory act does not take effect unless House Bill No. 5860 of the 93rd Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved June 16, 2006.

Filed with Secretary of State June 19, 2006.

Compiler's note: House Bill No. 5860, referred to in enacting section 3, was filed with the Secretary of State June 19, 2006, and became 2006 PA 213, Imd. Eff. June 19, 2006.

[No. 190]

(HB 5861)

AN ACT to amend 1935 PA 59, entitled "An act to provide for the public safety; to create the Michigan state police, and provide for the organization thereof; to transfer thereto the offices, duties and powers of the state fire marshal, the state oil inspector, the department of the Michigan state police as heretofore organized, and the department of public safety; to create the office of commissioner of the Michigan state police; to provide for an acting commissioner and for the appointment of the officers and members of said department; to prescribe their powers, duties, and immunities; to provide the manner of fixing their compensation; to provide for their removal from office; and to repeal Act No. 26 of the Public Acts of 1919, being sections 556 to 562, inclusive, of the Compiled Laws of 1929, and Act No. 123 of the Public Acts of 1921, as amended, being sections 545 to 555, inclusive, of the Compiled Laws of 1929," by repealing section 5 (MCL 28.5).

The People of the State of Michigan enact:

Repeal of MCL 28.5.

Enacting section 1. Section 5 of 1935 PA 59, MCL 28.5, is repealed.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless all of the following bills of the 93rd Legislature are enacted into law:

- (a) Senate Bill No. 1133.
- (b) House Bill No. 5860.

This act is ordered to take immediate effect.
 Approved June 16, 2006.
 Filed with Secretary of State June 19, 2006.

Compiler's note: Senate Bill No. 1133, referred to in enacting section 2, was filed with the Secretary of State June 19, 2006, and became 2006 PA 189, Imd. Eff. June 19, 2006.

House Bill No. 5860, also referred to in enacting section 2, was filed with the Secretary of State June 19, 2006, and became 2006 PA 213, Imd. Eff. June 19, 2006.

[No. 191]

(SB 1134)

AN ACT to amend 1978 PA 170, entitled "An act to provide for a state arson strike force unit and to prescribe the powers and duties of the strike force unit and the department of state police," by amending section 2 (MCL 28.72).

The People of the State of Michigan enact:

28.72 State arson strike force; creation; personnel; powers.

Sec. 2. (1) A state arson strike force unit is created within the department of state police to be comprised of personnel assigned by the director of the department of state police.

(2) The strike force unit is authorized to investigate each case involving a conspiracy to commit arson, a fire which was perpetrated to defraud a person, or any other fire which may involve the act of arson.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 93rd Legislature are enacted into law:

- (a) Senate Bill No. 1133.
- (b) House Bill No. 5860.

This act is ordered to take immediate effect.
 Approved June 16, 2006.
 Filed with Secretary of State June 19, 2006.

Compiler's note: Senate Bill No. 1133, referred to in enacting section 1, was filed with the Secretary of State June 19, 2006, and became 2006 PA 189, Imd. Eff. June 19, 2006.

House Bill No. 5860, also referred to in enacting section 1, was filed with the Secretary of State June 19, 2006, and became 2006 PA 213, Imd. Eff. June 19, 2006.

[No. 192]**(HB 5862)**

AN ACT to amend 1972 PA 230, entitled “An act to create a construction code commission and prescribe its functions; to authorize the director to promulgate rules with recommendations from each affected board relating to the construction, alteration, demolition, occupancy, and use of buildings and structures; to prescribe energy conservation standards for the construction of certain buildings; to provide for statewide approval of premanufactured units; to provide for the testing of new devices, materials, and techniques for the construction of buildings and structures; to define the classes of buildings and structures affected by the act; to provide for administration and enforcement of the act; to create a state construction code fund; to prohibit certain conduct; to establish penalties, remedies, and sanctions for violations of the act; to repeal acts and parts of acts; and to provide an appropriation,” by amending sections 3a and 8b (MCL 125.1503a and 125.1508b), as added by 1999 PA 245.

The People of the State of Michigan enact:

125.1503a State construction code commission; creation; membership; quorum; meetings; designation of chairperson; exercise of authority; rules; compliance with open meetings act and freedom of information act.

Sec. 3a. (1) The state construction code commission is created and consists of the state fire marshal or an employee of the bureau of fire services created in section 1b of the fire prevention code, 1941 PA 207, MCL 29.1b, designated by the state fire marshal and a designee of the chairpersons of the barrier free design board, the electrical administrative board, the state plumbing board, and the board of mechanical rules, who shall be permanent members, and 12 residents of the state to be appointed by the governor with the advice and consent of the senate. Appointed members of the commission shall include 1 person from each of the fields of industrial management, architecture, professional engineering, building contracting, organized labor, premanufactured building, and 3 members representing municipal building inspection; 2 persons from the general public; and a licensed residential builder. A member of the commission appointed by the governor before January 1, 2007 shall be appointed for a term of 2 years, except that a vacancy shall be filled for the unexpired portion of the term. A member of the commission appointed by the governor after December 31, 2006 shall be appointed for a term of 4 years, except that a vacancy shall be filled for the unexpired portion of the term. A member of the commission may be removed from office by the governor for inefficiency, neglect of duty, or misconduct or malfeasance in office. A member of the commission who has a pecuniary interest in a matter before the commission shall disclose the interest before the commission takes action in the matter, which disclosures shall be made a matter of record in its official proceedings. Each member of the commission, except the state fire marshal or the state fire marshal’s designee, shall receive reimbursement for actual expenses incurred by the member in the performance of the duties as a member of the commission, subject to available appropriations.

(2) Nine members of the commission constitute a quorum. Except as otherwise provided in the commission’s bylaws, action may be taken by the commission by vote of a majority of the members present at a meeting. Meetings of the commission may be called by the chairperson or by 3 members on 10 days’ written notice. Not less than 1 meeting shall be held each calendar quarter. A meeting of the commission may be held anywhere in this state.

(3) The commission may elect 1 member as vice-chairperson, and other officers as it determines appropriate, for the terms and with the duties and powers as the commission determines. The vice-chairperson and other officers of the commission shall be elected from those members appointed to the commission by the governor. After December 31, 2006, the governor shall designate a member of the commission to serve as chairperson at the pleasure of the governor.

(4) The commission is within the department but shall exercise its statutory functions independently of the director, except that budgeting, personnel, and procurement functions of the commission shall be performed under the direction and supervision of the director. The director has the sole statutory authority to promulgate rules.

(5) The business that the commission may perform shall be conducted at a public meeting of the commission held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. Public notice of the time, date, and place of the meeting shall be given in the manner required by the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(6) A writing prepared, owned, used, in the possession of, or retained by the commission in the performance of an official function shall be made available to the public in compliance with the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

125.1508b Administration and enforcement of act and state construction code.

Sec. 8b. (1) Except as otherwise provided in this section, the director is responsible for administration and enforcement of this act and the code. A governmental subdivision may by ordinance assume responsibility for administration and enforcement of this act within its political boundary. A county ordinance adopted pursuant to this act shall be adopted by the county board of commissioners and shall be signed by the chairperson of the county board of commissioners and certified by the county clerk.

(2) A governmental subdivision that has assumed the responsibility for administering and enforcing this act and the code may, through its chief legal officer, issue a complaint and obtain a warrant for a violation of this act or the code and prosecute the violation with the same power and authority it possesses in prosecuting a local ordinance violation. If pursuant to section 23, a governmental subdivision has by ordinance designated a violation of the act or code as a municipal civil infraction, the governmental subdivision may issue a citation or municipal ordinance violation notice pursuant to chapter 87 of the revised judicature act of 1961, 1961 PA 236, MCL 600.8701 to 600.8735, for a violation of the act or code. Unless otherwise provided by local law or ordinance, the legislative body of a governmental subdivision responsible for administration and enforcement of this act and the code shall designate an enforcing agency that shall discharge the responsibilities of the governmental subdivision under this act. Governmental subdivisions may provide by agreement for joint enforcement of this act.

(3) Subject to the other provisions of this act, an enforcing agency is any official or agent of a governmental subdivision that is registered under the building officials and inspectors registration act, 1986 PA 54, MCL 338.2301 to 338.2313, qualified by experience or training to perform the duties associated with construction code administration and enforcement.

(4) Before December 28, 1999, the director shall provide each governmental subdivision administering and enforcing this act and the code with a notice of intent form. This form shall set forth the date return receipt is required, which date shall not be less than 60 days. The chief elected official of the governmental subdivision that receives this notice shall indicate on the form the intention of the governmental subdivision as to whether it shall continue to administer and enforce this act and the code and transmit this notice to the

director within the prescribed period. If a governmental subdivision fails to submit a notice of intent to continue to administer and enforce this act and the code within the date set forth in the notice, the director shall send a notice by registered mail to the clerk of that governmental subdivision. This notice shall indicate that the governmental subdivision has 15 additional days in which to submit a notice of intent to continue to administer and enforce this act and the code. If the governmental subdivision does not respond by the end of the 15 additional days, it shall be conclusively presumed that the governmental subdivision does not intend to continue to administer and enforce this act and the code and the director shall assume the responsibility for administering and enforcing this act and the code in that governmental subdivision, unless the county within which the governmental subdivision is located submits a notice of intent to continue to administer and enforce this act and the code.

(5) A county that is administering and enforcing this act and the code on December 28, 1999 and that submits a notice of intent to continue to administer and enforce this act and the code pursuant to subsection (4) is responsible for the administration and enforcement of this act and the code for each governmental subdivision within the county that does not submit a notice of intent to continue to administer and enforce this act and the code. The director shall notify the county of those governmental subdivisions that do not submit a notice of intent.

(6) A governmental subdivision that, before December 28, 1999, did not administer and enforce this act and the code may elect to assume the responsibility for the administration and enforcement of this act and the code pursuant to subsection (1) by the passage of an ordinance to that effect. A governmental subdivision that makes this election after December 28, 1999 shall submit, in addition to the ordinance, an application to the commission for approval to administer and enforce this act and the code within its jurisdiction. This application shall be made on the proper form to be provided by the commission. The standards for approval shall include, but not be limited to, the certification by the governmental subdivision that the enforcing agency is qualified by experience or training to administer and enforce this act and the code and all related acts and rules, that agency personnel are provided as necessary, that administrative services are provided, that plan review services are provided, and that timely field inspection services will be provided. The director shall seek additional information if the director considers it necessary. The commission shall render a decision on the application for approval to administer and enforce this act and the code and transmit its findings to the governmental subdivision within 90 days of receipt of the application. The commission shall document its reasons, if the commission disapproves an application. A governmental subdivision that receives a disapproval may resubmit its application for approval. Upon receipt of approval from the commission for the administration and enforcement of this act and the code, the governmental subdivision shall administer and enforce this act and the code within its jurisdiction pursuant to the provisions of this act and the application.

(7) A governmental subdivision that elects to administer and enforce this act and the code within its jurisdiction by the adoption of an ordinance may rescind that ordinance and transfer the responsibility for the administration and enforcement of this act and the code to the director. The director shall assume the responsibility for administering and enforcing this act and the code in that governmental subdivision, unless the county within which that governmental subdivision is located has submitted a notice of intent to continue to administer and enforce the code. However, that action shall not take effect until 12 months after the passage of an ordinance to that effect. A structure commenced under an effective code shall be completed under that code.

(8) The director is responsible for administration and enforcement of this act and the code for buildings and structures that are not under the responsibility of an enforcing agency

in those governmental subdivisions that elect to administer and enforce this act and the code. A building or structure owned by the state shall not be erected, remodeled, or reconstructed in the state, except school buildings or facilities or institutions of higher education as described in section 4 of article VIII of the state constitution of 1963, until written approval of the plans and specifications has been obtained from the bureau of construction codes and safety located within the department indicating that the state owned facilities shall be designed and constructed in conformance with the state construction code. The bureau of construction codes and safety shall be the lead agency in the coordination and implementation of this subsection. The bureau of construction codes and safety shall perform required plan reviews and inspections as required by the state construction code. Each department shall secure required plan approvals and permits from the bureau. Fees charged by the bureau for permits shall be in accordance with the commission's approved schedule of fees. State departments and institutions may allow local inspectors to inspect the construction of state owned facilities. However, an inspection conducted by a local inspector shall be of an advisory nature only.

(9) This section does not affect the responsibilities of the commission for administration and enforcement of this act under other sections of this act, or responsibilities under the fire prevention code, 1941 PA 207, MCL 29.1 to 29.33; 1937 PA 306, MCL 388.851 to 388.855a; the firefighters training council act of 1966, 1966 PA 291, MCL 29.361 to 29.377; 1942 (1st Ex Sess) PA 9, MCL 419.201 to 419.205; parts 215 and 217 of the public health code, 1978 PA 368, MCL 333.21501 to 333.21799e; and section 58 of the social welfare act, 1939 PA 280, MCL 400.58.

(10) Pursuant to parts 215 and 217 of the public health code, 1978 PA 368, MCL 333.21501 to 333.21799e, the director shall develop consistent construction standards for hospitals and nursing homes. These standards shall ensure that consistent, uniform, and equitable construction requirements and state supervision of the requirements are achieved. This subsection does not preclude a state agency or a governmental subdivision from conducting plan reviews or inspections necessary to ensure compliance with approved construction plans.

(11) Except as otherwise provided in this act, this act does not limit or restrict existing powers or authority of governmental subdivisions, and this act shall be enforced by governmental subdivisions in the manner prescribed by local law or ordinance. To the extent not inconsistent with this act, local laws and ordinances relating to administration and enforcement of construction regulations enacted before the effective date of the code by or for a governmental subdivision are applicable to administration and enforcement of the code in that governmental subdivision.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 93rd Legislature are enacted into law:

- (a) Senate Bill No. 1133.
- (b) House Bill No. 5860.

This act is ordered to take immediate effect.

Approved June 16, 2006.

Filed with Secretary of State June 19, 2006.

Compiler's note: Senate Bill No. 1133, referred to in enacting section 1, was filed with the Secretary of State June 19, 2006, and became 2006 PA 189, Imd. Eff. June 19, 2006.

House Bill No. 5860, also referred to in enacting section 1, was filed with the Secretary of State June 19, 2006, and became 2006 PA 213, Imd. Eff. June 19, 2006.

[No. 193]**(SB 1135)**

AN ACT to amend 1945 PA 327, entitled “An act relating to aeronautics in this state; providing for the development and regulation thereof; creating a state aeronautics commission; prescribing powers and duties; providing for the licensing, or registration, or supervision and control of all aircraft, airports and landing fields, schools of aviation, flying clubs, airmen, aviation instructors, airport managers, manufacturers, dealers, and commercial operation in intrastate commerce; providing for rules pertaining thereto; prescribing a privilege tax for the use of the aeronautical facilities on the lands and waters of this state; providing for the acquisition, development, and operation of airports, landing fields, and other aeronautical facilities by the state, by political subdivisions, or by public airport authorities; providing for the incorporation of public airport authorities and providing for the powers, duties, and obligations of public airport authorities; providing for the transfer of airport management to public airport authorities, including the transfer of airport liabilities, employees, and operational jurisdiction; providing jurisdiction of crimes, torts, and contracts; providing police powers for those entrusted to enforce this act; providing for civil liability of owners, operators, and others; making hunting from aircraft unlawful; providing for repair station operators lien; providing for appeals from rules or orders issued by the commission; providing for the transfer from the Michigan board of aeronautics to the aeronautics commission all properties and funds held by the board of aeronautics; providing for a state aeronautics fund and making an appropriation therefor; prescribing penalties; and making uniform the law with reference to state development and regulation of aeronautics,” by amending section 204 (MCL 259.204).

The People of the State of Michigan enact:

259.204 Aircraft fuels; storing, dispensing, and selling; rules and regulations; violation as misdemeanor.

Sec. 204. Every person dealing at wholesale or retail in aircraft fuels shall acquire and dispense the fuels in accordance with the laws of this state and the rules and regulations of the bureau of fire services created in section 1b of the fire prevention code, 1941 PA 207, MCL 29.1b, or the department of environmental quality pertaining to storing, dispensing, and selling volatile fuels. Violation of this section is a misdemeanor.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 93rd Legislature are enacted into law:

- (a) Senate Bill No. 1133.
- (b) House Bill No. 5860.

This act is ordered to take immediate effect.

Approved June 16, 2006.

Filed with Secretary of State June 19, 2006.

Compiler's note: Senate Bill No. 1133, referred to in enacting section 1, was filed with the Secretary of State June 19, 2006, and became 2006 PA 189, Imd. Eff. June 19, 2006.

House Bill No. 5860, also referred to in enacting section 1, was filed with the Secretary of State June 19, 2006, and became 2006 PA 213, Imd. Eff. June 19, 2006.

[No. 194]**(HB 5863)**

AN ACT to amend 1994 PA 451, entitled “An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, assessments, and donations; to provide certain appropriations; to prescribe penalties and provide remedies; and to repeal acts and parts of acts,” by amending section 77101 (MCL 324.77101), as added by 1995 PA 58.

The People of the State of Michigan enact:

324.77101 Mackinac Island state park commission; contract for fire protection.

Sec. 77101. The Mackinac Island state park commission and the city of Mackinac Island by its governing body are authorized to enter into a continuing contract for fire protection to be furnished by the city of Mackinac Island for property under the control and management of the Mackinac Island state park commission. The fire protection service and apparatus to be furnished shall meet with the approval of the bureau of fire services created in section 1b of the fire prevention code, 1941 PA 207, MCL 29.1b. The contract shall be signed by the chief executive and clerk of the city of Mackinac Island and by the chairperson and secretary of the Mackinac Island state park commission.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 93rd Legislature are enacted into law:

- (a) Senate Bill No. 1133.
- (b) House Bill No. 5860.

This act is ordered to take immediate effect.

Approved June 16, 2006.

Filed with Secretary of State June 19, 2006.

Compiler's note: Senate Bill No. 1133, referred to in enacting section 1, was filed with the Secretary of State June 19, 2006, and became 2006 PA 189, Imd. Eff. June 19, 2006.

House Bill No. 5860, also referred to in enacting section 1, was filed with the Secretary of State June 19, 2006, and became 2006 PA 213, Imd. Eff. June 19, 2006.

[No. 195]**(SB 1136)**

AN ACT to amend 1978 PA 368, entitled “An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classi-

fication, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to provide for the levy of taxes against certain health facilities or agencies; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to provide for an appropriation and supplements; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates,” by amending sections 20155, 20156, and 22210 (MCL 333.20155, 333.20156, and 333.22210), section 20155 as amended by 2001 PA 218, section 20156 as amended by 1990 PA 179, and section 22210 as amended by 1993 PA 88; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

333.20155 Visits to health facilities and agencies, clinical laboratories, nursing homes, hospices, and hospitals; purposes; waiver; confidentiality of accreditation information; limitation and effect; consultation engineering survey; summary of substantial noncompliance or deficiencies and hospital response; investigations or inspections; prior notice; misdemeanor; consultation visits; record; periodic reports; access to documents; confidentiality; disclosure; delegation of functions; voluntary inspections; forwarding evidence of violation to licensing agency; reports; clarification of terms; clinical process guidelines; clinical advisory committee; definitions.

Sec. 20155. (1) Except as otherwise provided in this section, the department shall make annual and other visits to each health facility or agency licensed under this article for the purposes of survey, evaluation, and consultation. A visit made pursuant to a complaint shall be unannounced. Except for a county medical care facility, a home for the aged, a nursing home, or a hospice residence, the department shall determine whether the visits that are not made pursuant to a complaint are announced or unannounced. Beginning June 20, 2001, the department shall assure that each newly hired nursing home surveyor, as part of his or her basic training, is assigned full-time to a licensed nursing home for at least 10 days within a 14-day period to observe actual operations outside of the survey process before the trainee begins oversight responsibilities. A member of a survey team shall not be employed by a licensed nursing home or a nursing home management company doing business in this state at the time of conducting a survey under this section. The department shall not assign an individual to be a member of a survey team for purposes of a survey, evaluation, or consultation visit at a nursing home in which he or she was an employee within the preceding 5 years.

(2) The department shall make at least a biennial visit to each licensed clinical laboratory, each nursing home, and each hospice residence for the purposes of survey, evaluation, and

consultation. The department shall semiannually provide for joint training with nursing home surveyors and providers on at least 1 of the 10 most frequently issued federal citations in this state during the past calendar year. The department shall develop a protocol for the review of citation patterns compared to regional outcomes and standards and complaints regarding the nursing home survey process. The review will result in a report provided to the legislature. Except as otherwise provided in this subsection, beginning with his or her first full relicensure period after June 20, 2000, each member of a department nursing home survey team who is a health professional licensee under article 15 shall earn not less than 50% of his or her required continuing education credits, if any, in geriatric care. If a member of a nursing home survey team is a pharmacist licensed under article 15, he or she shall earn not less than 30% of his or her required continuing education credits in geriatric care.

(3) The department shall make a biennial visit to each hospital for survey and evaluation for the purpose of licensure. Subject to subsection (6), the department may waive the biennial visit required by this subsection if a hospital, as part of a timely application for license renewal, requests a waiver and submits both of the following and if all of the requirements of subsection (5) are met:

(a) Evidence that it is currently fully accredited by a body with expertise in hospital accreditation whose hospital accreditations are accepted by the United States department of health and human services for purposes of section 1865 of part C of title XVIII of the social security act, 42 USC 1395bb.

(b) A copy of the most recent accreditation report for the hospital issued by a body described in subdivision (a), and the hospital's responses to the accreditation report.

(4) Except as provided in subsection (8), accreditation information provided to the department under subsection (3) is confidential, is not a public record, and is not subject to court subpoena. The department shall use the accreditation information only as provided in this section and shall return the accreditation information to the hospital within a reasonable time after a decision on the waiver request is made.

(5) The department shall grant a waiver under subsection (3) if the accreditation report submitted under subsection (3)(b) is less than 2 years old and there is no indication of substantial noncompliance with licensure standards or of deficiencies that represent a threat to public safety or patient care in the report, in complaints involving the hospital, or in any other information available to the department. If the accreditation report is 2 or more years old, the department may do 1 of the following:

(a) Grant an extension of the hospital's current license until the next accreditation survey is completed by the body described in subsection (3)(a).

(b) Grant a waiver under subsection (3) based on the accreditation report that is 2 or more years old, on condition that the hospital promptly submit the next accreditation report to the department.

(c) Deny the waiver request and conduct the visits required under subsection (3).

(6) This section does not prohibit the department from citing a violation of this part during a survey, conducting investigations or inspections pursuant to section 20156, or conducting surveys of health facilities or agencies for the purpose of complaint investigations or federal certification. This section does not prohibit the bureau of fire services created in section 1b of the fire prevention code, 1941 PA 207, MCL 29.1b, from conducting annual surveys of hospitals, nursing homes, and county medical care facilities.

(7) At the request of a health facility or agency, the department may conduct a consultation engineering survey of a health facility and provide professional advice and consultation regarding health facility construction and design. A health facility or agency may request a voluntary consultation survey under this subsection at any time between licensure surveys. The fees for a consultation engineering survey are the same as the fees established for waivers under section 20161(10).

(8) If the department determines that substantial noncompliance with licensure standards exists or that deficiencies that represent a threat to public safety or patient care exist based on a review of an accreditation report submitted pursuant to subsection (3)(b), the department shall prepare a written summary of the substantial noncompliance or deficiencies and the hospital's response to the department's determination. The department's written summary and the hospital's response are public documents.

(9) The department or a local health department shall conduct investigations or inspections, other than inspections of financial records, of a county medical care facility, home for the aged, nursing home, or hospice residence without prior notice to the health facility or agency. An employee of a state agency charged with investigating or inspecting the health facility or agency or an employee of a local health department who directly or indirectly gives prior notice regarding an investigation or an inspection, other than an inspection of the financial records, to the health facility or agency or to an employee of the health facility or agency, is guilty of a misdemeanor. Consultation visits that are not for the purpose of annual or follow-up inspection or survey may be announced.

(10) The department shall maintain a record indicating whether a visit and inspection is announced or unannounced. Information gathered at each visit and inspection, whether announced or unannounced, shall be taken into account in licensure decisions.

(11) The department shall require periodic reports and a health facility or agency shall give the department access to books, records, and other documents maintained by a health facility or agency to the extent necessary to carry out the purpose of this article and the rules promulgated under this article. The department shall respect the confidentiality of a patient's clinical record and shall not divulge or disclose the contents of the records in a manner that identifies an individual except under court order. The department may copy health facility or agency records as required to document findings.

(12) The department may delegate survey, evaluation, or consultation functions to another state agency or to a local health department qualified to perform those functions. However, the department shall not delegate survey, evaluation, or consultation functions to a local health department that owns or operates a hospice or hospice residence licensed under this article. The delegation shall be by cost reimbursement contract between the department and the state agency or local health department. Survey, evaluation, or consultation functions shall not be delegated to nongovernmental agencies, except as provided in this section. The department may accept voluntary inspections performed by an accrediting body with expertise in clinical laboratory accreditation under part 205 if the accrediting body utilizes forms acceptable to the department, applies the same licensing standards as applied to other clinical laboratories, and provides the same information and data usually filed by the department's own employees when engaged in similar inspections or surveys. The voluntary inspection described in this subsection shall be agreed upon by both the licensee and the department.

(13) If, upon investigation, the department or a state agency determines that an individual licensed to practice a profession in this state has violated the applicable licensure statute or the rules promulgated under that statute, the department, state agency, or local health department shall forward the evidence it has to the appropriate licensing agency.

(14) The department shall report to the appropriations subcommittees, the senate and house of representatives standing committees having jurisdiction over issues involving senior citizens, and the fiscal agencies on March 1 of each year on the initial and follow-up surveys conducted on all nursing homes in this state. The report shall include all of the following information:

- (a) The number of surveys conducted.
- (b) The number requiring follow-up surveys.
- (c) The number referred to the Michigan public health institute for remediation.
- (d) The number of citations per nursing home.
- (e) The number of night and weekend complaints filed.
- (f) The number of night and weekend responses to complaints conducted by the department.
- (g) The average length of time for the department to respond to a complaint filed against a nursing home.

(h) The number and percentage of citations appealed.

(i) The number and percentage of citations overturned or modified, or both.

(15) The department shall report annually to the standing committees on appropriations and the standing committees having jurisdiction over issues involving senior citizens in the senate and the house of representatives on the percentage of nursing home citations that are appealed and the percentage of nursing home citations that are appealed and amended through the informal deficiency dispute resolution process.

(16) Subject to subsection (17), a clarification work group comprised of the department in consultation with a nursing home resident or a member of a nursing home resident's family, nursing home provider groups, the American medical directors association, the state long-term care ombudsman, and the federal centers for medicare and medicaid services shall clarify the following terms as those terms are used in title XVIII and title XIX and applied by the department to provide more consistent regulation of nursing homes in Michigan:

(a) Immediate jeopardy.

(b) Harm.

(c) Potential harm.

(d) Avoidable.

(e) Unavoidable.

(17) All of the following clarifications developed under subsection (16) apply for purposes of subsection (16):

(a) Specifically, the term "immediate jeopardy" means a situation in which immediate corrective action is necessary because the nursing home's noncompliance with 1 or more requirements of participation has caused or is likely to cause serious injury, harm, impairment, or death to a resident receiving care in a nursing home.

(b) The likelihood of immediate jeopardy is reasonably higher if there is evidence of a flagrant failure by the nursing home to comply with a clinical process guideline adopted under subsection (18) than if the nursing home has substantially and continuously complied with those guidelines. If federal regulations and guidelines are not clear, and if the clinical process guidelines have been recognized, a process failure giving rise to an immediate jeopardy may involve an egregious widespread or repeated process failure and the absence of reasonable efforts to detect and prevent the process failure.

(c) In determining whether or not there is immediate jeopardy, the survey agency should consider at least all of the following:

(i) Whether the nursing home could reasonably have been expected to know about the deficient practice and to stop it, but did not stop the deficient practice.

(ii) Whether the nursing home could reasonably have been expected to identify the deficient practice and to correct it, but did not correct the deficient practice.

(iii) Whether the nursing home could reasonably have been expected to anticipate that serious injury, serious harm, impairment, or death might result from continuing the deficient practice, but did not so anticipate.

(iv) Whether the nursing home could reasonably have been expected to know that a widely accepted high-risk practice is or could be problematic, but did not know.

(v) Whether the nursing home could reasonably have been expected to detect the process problem in a more timely fashion, but did not so detect.

(d) The existence of 1 or more of the factors described in subdivision (c), and especially the existence of 3 or more of those factors simultaneously, may lead to a conclusion that the situation is one in which the nursing home's practice makes adverse events likely to occur if immediate intervention is not undertaken, and therefore constitutes immediate jeopardy. If none of the factors described in subdivision (c) is present, the situation may involve harm or potential harm that is not immediate jeopardy.

(e) Specifically, "actual harm" means a negative outcome to a resident that has compromised the resident's ability to maintain or reach, or both, his or her highest practicable physical, mental, and psychosocial well-being as defined by an accurate and comprehensive resident assessment, plan of care, and provision of services. Harm does not include a deficient practice that only may cause or has caused limited consequences to the resident.

(f) For purposes of subdivision (e), in determining whether a negative outcome is of limited consequence, if the "state operations manual" or "the guidance to surveyors" published by the federal centers for medicare and medicaid services does not provide specific guidance, the department may consider whether most people in similar circumstances would feel that the damage was of such short duration or impact as to be inconsequential or trivial. In such a case, the consequence of a negative outcome may be considered more limited if it occurs in the context of overall procedural consistency with an accepted clinical process guideline adopted pursuant to subsection (18), as compared to a substantial inconsistency with or variance from the guideline.

(g) For purposes of subdivision (e), if the publications described in subdivision (f) do not provide specific guidance, the department may consider the degree of a nursing home's adherence to a clinical process guideline adopted pursuant to subsection (18) in considering whether the degree of compromise and future risk to the resident constitutes actual harm. The risk of significant compromise to the resident may be considered greater in the context of substantial deviation from the guidelines than in the case of overall adherence.

(h) To improve consistency and to avoid disputes over avoidable and unavoidable negative outcomes, nursing homes and survey agencies must have a common understanding of accepted process guidelines and of the circumstances under which it can reasonably be said that certain actions or inactions will lead to avoidable negative outcomes. If the "state operations manual" or "the guidance to surveyors" published by the federal centers for medicare and medicaid services is not specific, a nursing home's overall documentation of adherence to a clinical process guideline with a process indicator adopted pursuant to subsection (18) is relevant information in considering whether a negative outcome was avoidable or unavoidable and may be considered in the application of that term.

(18) Subject to subsection (19), the department, in consultation with the clarification work group appointed under subsection (16), shall develop and adopt clinical process guidelines that shall be used in applying the terms set forth in subsection (16). The department shall establish and adopt clinical process guidelines and compliance protocols with outcome measures for all of the following areas and for other topics where the department determines that clarification will benefit providers and consumers of long-term care:

- (a) Bed rails.
- (b) Adverse drug effects.
- (c) Falls.
- (d) Pressure sores.
- (e) Nutrition and hydration including, but not limited to, heat-related stress.
- (f) Pain management.
- (g) Depression and depression pharmacotherapy.
- (h) Heart failure.
- (i) Urinary incontinence.
- (j) Dementia.
- (k) Osteoporosis.
- (l) Altered mental states.
- (m) Physical and chemical restraints.

(19) The department shall create a clinical advisory committee to review and make recommendations regarding the clinical process guidelines with outcome measures adopted under subsection (18). The department shall appoint physicians, registered professional nurses, and licensed practical nurses to the clinical advisory committee, along with professionals who have expertise in long-term care services, some of whom may be employed by long-term care facilities. The clarification work group created under subsection (16) shall review the clinical process guidelines and outcome measures after the clinical advisory committee and shall make the final recommendations to the department before the clinical process guidelines are adopted.

(20) The department shall create a process by which the director of the division of nursing home monitoring or his or her designee or the director of the division of operations or his or her designee reviews and authorizes the issuance of a citation for immediate jeopardy or substandard quality of care before the statement of deficiencies is made final. The review shall be to assure that the applicable concepts, clinical process guidelines, and other tools contained in subsections (17) to (19) are being used consistently, accurately, and effectively. As used in this subsection, “immediate jeopardy” and “substandard quality of care” mean those terms as defined by the federal centers for medicare and medicaid services.

(21) The department may give grants, awards, or other recognition to nursing homes to encourage the rapid implementation of the clinical process guidelines adopted under subsection (18).

(22) The department shall assess the effectiveness of 2001 PA 218. The department shall file an annual report on the implementation of the clinical process guidelines and the impact of the guidelines on resident care with the standing committee in the legislature with jurisdiction over matters pertaining to nursing homes. The first report shall be filed on July 1, 2002.

(23) The department shall instruct and train the surveyors in the use of the clarifications described in subsection (17) and the clinical process guidelines adopted under subsection (18) in citing deficiencies.

(24) A nursing home shall post the nursing home's survey report in a conspicuous place within the nursing home for public review.

(25) Nothing in this amendatory act shall be construed to limit the requirements of related state and federal law.

(26) As used in this section:

(a) "Title XVIII" means title XVIII of the social security act, 42 USC 1395 to 1395hhh.

(b) "Title XIX" means title XIX of the social security act, chapter 531, 42 USC 1396 to 1396v.

333.20156 Entering premises of applicant or licensee; enforcement of rules; certificate of approval from bureau of fire services; applicability of subsections (2) and (3).

Sec. 20156. (1) A representative of the department or the bureau of fire services created in section 1b of the fire prevention code, 1941 PA 207, MCL 29.1b, upon presentation of proper identification, may enter the premises of an applicant or licensee at any reasonable time to determine whether the applicant or licensee meets the requirements of this article and the rules promulgated under this article. The director; the director of the department of human services; the bureau of fire services; the director of the office of services to the aging; or the director of a local health department; or an authorized representative of the director, the director of the department of human services, the bureau of fire services, the director of the office of services to the aging, or the director of a local health department may enter on the premises of an applicant or licensee under part 217 at any time in the course of carrying out program responsibilities.

(2) The bureau of fire services created in section 1b of the fire prevention code, 1941 PA 207, MCL 29.1b, shall enforce rules promulgated by the bureau of fire services for health facilities and agencies to assure that physical facilities owned, maintained, or operated by a health facility or agency are planned, constructed, and maintained in a manner to protect the health, safety, and welfare of patients.

(3) The department shall not issue a license or certificate to a health facility or agency until it receives an appropriate certificate of approval from the bureau of fire services. For purposes of this section, a decision of the bureau of fire services to issue a certificate controls over that of a local fire department.

(4) Subsections (2) and (3) do not apply to a health facility or an agency licensed under part 205 or 209.

333.22210 Certificate of need for short-term nursing care program; application; criteria; modification; fee prohibited; compliance; discrimination prohibited; exercise of rights; written acknowledgment; forms; additional rights; variation; rules; violation; penalty; certificate required.

Sec. 22210. (1) A hospital that applies to the department for a certificate of need and meets all of the following criteria shall be granted a certificate of need for a short-term nursing care program with up to 10 licensed hospital beds:

(a) Is eligible to apply for certification as a provider of swing-bed services under section 1883 of title XVIII, 42 USC 1395tt.

(b) Subject to subsection (2), has fewer than 100 licensed beds not counting beds excluded under section 1883 of title XVIII, 42 USC 1395tt.

(c) Does not have uncorrected licensing, certification, or safety deficiencies for which the department or the bureau of fire services created in section 1b of the fire prevention code, 1941 PA 207, MCL 29.1b, or both, has not accepted a plan of correction.

(d) Provides evidence satisfactory to the department that the hospital has had difficulty in placing patients in skilled nursing home beds during the 12 months immediately preceding the date of the application.

(2) After October 1, 1990, the criteria set forth in subsection (1)(b) may be modified by the commission, using the procedure set forth in section 22215(3). The department shall not charge a fee for processing a certificate of need application to initiate a short-term nursing care program.

(3) A hospital that is granted a certificate of need for a short-term nursing care program under subsection (1) shall comply with all of the following:

(a) Not charge for or otherwise attempt to recover the cost of a length of stay for a patient in the short-term nursing care program that exceeds the length of time allowed for post-hospital extended care under title XVIII.

(b) Admit patients to the short-term nursing care program only pursuant to an admissions contract approved by the department.

(c) Not discharge or transfer a patient from a licensed hospital bed other than a hospital long-term care unit bed and admit that patient to the short-term nursing care program unless the discharge or transfer and admission is determined medically appropriate by the attending physician.

(d) Permit access to a representative of an organization approved under section 21764 to patients admitted to the short-term nursing care program, for all of the purposes described in section 21763.

(e) Subject to subsection (8), not allow the number of patient days for the short-term nursing care program to exceed the equivalent of 1,825 patient days for a single state fiscal year.

(f) Transfer a patient in the short-term nursing care program to an appropriately certified nursing home bed, county medical care facility bed, or hospital long-term care unit bed located within a 50-mile radius of the patient's residence within 5 business days after the hospital has been notified, either orally or in writing, that a bed has become available.

(g) Not charge or collect from a patient admitted to the short-term nursing care program, for services rendered as part of the short-term nursing care program, an amount in excess of the reasonable charge for the services as determined by the United States secretary of health and human services under title XVIII.

(h) Assist a patient who has been denied coverage for services received in a short-term nursing care program under title XVIII to file an appeal with the medicare recovery project operated by the office of services to the aging.

(i) Operate the short-term nursing care program in accordance with this section and the requirements of the swing bed provisions of section 1883 of title XVIII, 42 USC 1395tt.

(j) Provide data to the department considered necessary by the department to evaluate the short-term nursing care program. The data shall include, but is not limited to, all of the following:

(i) The total number of patients admitted to the hospital's short-term nursing care program during the period specified by the department.

(ii) The total number of short-term nursing care patient days for the period specified by the department.

(iii) Information identifying the type of care to which patients in the short-term care nursing program are released.

(k) As part of the hospital's policy describing the rights and responsibilities of patients admitted to the hospital, as required under section 20201, incorporate all of the following additional rights and responsibilities for patients in the short-term nursing care program:

(i) A copy of the hospital's policy shall be provided to each short-term nursing care patient upon admission, and the staff of the hospital shall be trained and involved in the implementation of the policy.

(ii) Each short-term nursing care patient may associate and communicate privately with persons of his or her choice. Reasonable, regular visiting hours, which shall take into consideration the special circumstances of each visitor, shall be established for short-term nursing care patients to receive visitors. A short-term nursing care patient may be visited by the patient's attorney or by representatives of the departments named in section 20156 during other than established visiting hours. Reasonable privacy shall be afforded for visitation of a short-term nursing care patient who shares a room with another short-term nursing care patient. Each short-term nursing care patient shall have reasonable access to a telephone.

(iii) A short-term nursing care patient is entitled to retain and use personal clothing and possessions as space permits, unless medically contraindicated, as documented by the attending physician in the medical record.

(iv) A short-term nursing care patient is entitled to the opportunity to participate in the planning of his or her medical treatment. A short-term nursing care patient shall be fully informed by the attending physician of the short-term nursing care patient's medical condition, unless medically contraindicated, as documented by a physician in the medical record. Each short-term nursing care patient shall be afforded the opportunity to discharge himself or herself from the short-term nursing care program.

(v) A short-term nursing care patient is entitled to be fully informed either before or at the time of admission, and during his or her stay, of services available in the hospital and of the related charges for those services. The statement of services provided by the hospital shall be in writing and shall include those services required to be offered on an as needed basis.

(vi) A patient in a short-term nursing care program or a person authorized in writing by the patient may, upon submission to the hospital of a written request, inspect and copy the patient's personal or medical records. The hospital shall make the records available for inspection and copying within a reasonable time, not exceeding 7 days, after the receipt of the written request.

(vii) A short-term nursing care patient has the right to have his or her parents, if the short-term nursing care patient is a minor, or his or her spouse, next of kin, or patient's representative, if the short-term nursing care patient is an adult, stay at the facility 24 hours a day if the short-term nursing care patient is considered terminally ill by the physician responsible for the short-term nursing care patient's care.

(viii) Each short-term nursing care patient shall be provided with meals that meet the recommended dietary allowances for that patient's age and sex and that may be modified according to special dietary needs or ability to chew.

(ix) Each short-term nursing care patient has the right to receive a representative of an organization approved under section 21764, for all of the purposes described in section 21763.

(l) Achieve and maintain medicare certification under title XVIII.

(4) A hospital or the owner, administrator, an employee, or a representative of the hospital shall not discharge, harass, or retaliate or discriminate against a short-term nursing care patient because the short-term nursing care patient has exercised a right described in subsection (3)(k).

(5) In the case of a short-term nursing care patient, the rights described in subsection (3)(k)(iv) may be exercised by the patient's representative, as defined in section 21703(2).

(6) A short-term nursing care patient shall be fully informed, as evidenced by the short-term nursing care patient's written acknowledgment, before or at the time of admission and during stay, of the rights described in subsection (3)(k). The written acknowledgment shall provide that if a short-term nursing care patient is adjudicated incompetent and not restored to legal capacity, the rights and responsibilities set forth in subsection (3)(k) shall be exercised by a person designated by the short-term nursing care patient. The hospital shall provide proper forms for the short-term nursing care patient to provide for the designation of this person at the time of admission.

(7) Subsection (3)(k) does not prohibit a hospital from establishing and recognizing additional rights for short-term nursing care patients.

(8) Upon application, the department may grant a variation from the maximum number of patient days established under subsection (3)(e), to an applicant hospital that demonstrates to the satisfaction of the department that there is an immediate need for skilled nursing beds within a 100-mile radius of the hospital. A variation granted under this subsection shall be valid for not more than 1 year after the date the variation is granted. The department shall promulgate rules to implement this subsection including, at a minimum, a definition of immediate need and the procedure for applying for a variation.

(9) A hospital that violates subsection (3) is subject to the penalty provisions of section 20165.

(10) A person shall not initiate a short-term nursing care program without first obtaining a certificate of need under this section.

Repeal of MCL 333.13310.

Enacting section 1. Section 13310 of the public health code, 1978 PA 368, MCL 333.13310, is repealed.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless all of the following bills of the 93rd Legislature are enacted into law:

(a) Senate Bill No. 1133.

(b) House Bill No. 5860.

This act is ordered to take immediate effect.

Approved June 16, 2006.

Filed with Secretary of State June 19, 2006.

Compiler's note: Senate Bill No. 1133, referred to in enacting section 2, was filed with the Secretary of State June 19, 2006, and became 2006 PA 189, Imd. Eff. June 19, 2006.

House Bill No. 5860, also referred to in enacting section 2, was filed with the Secretary of State June 19, 2006, and became 2006 PA 213, Imd. Eff. June 19, 2006.

[No. 196]**(HB 5864)**

AN ACT to amend 1956 PA 217, entitled “An act to safeguard persons and property; to provide for licensing and regulation of electricians and electrical contractors concerning the construction, alteration, installation of electrical wiring and equipment and for the inspection of electrical wiring; to create an electrical administrative board; to create certain committees for certain purposes; to provide certain powers and duties for certain departments; to provide for the assessment of certain fees and for the promulgation of rules; and to prescribe penalties for violations of this act,” by amending section 2 (MCL 338.882), as amended by 1992 PA 130.

The People of the State of Michigan enact:

338.882 Electrical administrative board; appointment; qualifications and terms of members; ex officio member; designation of chairperson; meetings; industry advisory committees; public meeting; expenses; inspections; fees; appointment of electrical inspectors.

Sec. 2. (1) The board shall consist of the state fire marshal or his or her representative and 9 other members who are residents of this state, appointed by the governor with the advice and consent of the senate. Of the 9 members appointed by the governor, 1 shall be a representative of an insurance inspection bureau operating in this state, 1 shall be a representative of an electrical energy supply agency operating in this state, 1 shall be an electrical contractor operating in this state, 1 shall be a master electrician serving as a supervisor, 1 shall be an electrical journeyman, 1 shall be a chief electrical inspector of a municipality, 1 shall be a representative of distributors of electrical apparatus and supplies, 1 shall be a representative of manufacturers primarily and actively engaged in producing material fittings, devices, appliances, fixtures, apparatus, and similar products, used as a part of, or in connection with, an electrical installation, and 1 shall be representative of the general public. The director of the department of labor and economic growth, or the authorized representative of the director, shall be an ex officio member of the board without vote. Each appointment made before January 1, 2007 shall be for a term of 3 years. Each appointment made after December 31, 2006 shall be for 4 years. The members of the board shall hold regular meetings 4 times a year. Before January 1, 2007, the members of the board annually shall elect a chairperson. After December 31, 2006, the governor shall designate a member of the board to serve as its chairperson at the pleasure of the governor and the members of the board may annually elect a vice-chairperson. A special meeting may be called by the chairperson or upon written request of 4 members.

(2) The board may establish industry advisory committees as the board deems advisable to consider issues and prepare recommendations to the board regarding policy, regulation, and implementation of this act.

(3) The business that the board may perform shall be conducted at a public meeting of the board held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. Public notice of the time, date, and place of the meeting shall be given in the manner required by the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(4) Each of the 9 members of the board appointed by the governor shall be entitled to actual and necessary expenses incurred in the performance of his or her duties as a member of the board, subject to available appropriations.

(5) In a political subdivision where this act applies, the board may inspect electrical wiring and its installation, and shall fix the fees for the inspection at rates not higher than

the average rates for similar inspections charged by the 3 highest populated cities in this state. The director of the department of labor and economic growth shall appoint electrical inspectors from the state civil service commission's eligible register.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 93rd Legislature are enacted into law:

- (a) Senate Bill No. 1133.
- (b) House Bill No. 5860.

This act is ordered to take immediate effect.

Approved June 16, 2006.

Filed with Secretary of State June 19, 2006.

Compiler's note: Senate Bill No. 1133, referred to in enacting section 1, was filed with the Secretary of State June 19, 2006, and became 2006 PA 189, Imd. Eff. June 19, 2006.

House Bill No. 5860, also referred to in enacting section 1, was filed with the Secretary of State June 19, 2006, and became 2006 PA 213, Imd. Eff. June 19, 2006.

[No. 197]

(SB 1137)

AN ACT to amend 1984 PA 192, entitled "An act to regulate the use, installation, alteration, and servicing of specified heating, cooling, ventilating, and refrigerating equipment and systems; to create a board of mechanical rules; to provide for the licensing of installing contractors and of servicing contractors of heating, cooling, ventilating, and refrigerating equipment and systems; to prescribe fees; to provide for the promulgation of rules; and to prescribe penalties," by amending section 3 (MCL 338.973).

The People of the State of Michigan enact:

338.973 Board of mechanical rules; creation; appointment, qualifications, and terms of members; vacancy; removal; disclosure of pecuniary interest; reimbursement; election of vice-chairperson and secretary; designation of chairperson.

Sec. 3. (1) There is created within the department a board of mechanical rules that consists of the state fire marshal or the state fire marshal's designee, who shall be a permanent member, and 14 residents of the state to be appointed by the governor with the advice and consent of the senate. Appointed members shall be not less than 18 years of age and qualified in their respective fields. Appointed members of the board shall include 1 person from the general public; a member of organized labor representing the mechanical trades; a professional mechanical engineer registered in this state; a representative of an energy-producing public utility of the state; a representative from each of the work classifications set forth in section 6(3); and 2 chief mechanical inspectors of governmental subdivisions, 1 of whom enforces the building officials and code administrators building code, and 1 of whom enforces the international conference of building officials building code. A member of the board appointed by the governor before January 1, 2007 shall be appointed for a term of 2 years, except that a vacancy shall be filled for the unexpired portion of the term. A member of the board appointed by the governor after December 31, 2006 shall be appointed for a term of 4 years, except that a vacancy shall be filled for the unexpired portion of the term. A member of the board may be removed from office by the governor in accordance

with section 10 of article V of the state constitution of 1963. A member of the board who has a pecuniary interest in a matter shall disclose that interest before the board takes action in the matter, which disclosure shall be made a matter of record in the board's official proceedings. Each member of the board, except the state fire marshal or the state fire marshal's designee, shall receive reimbursement for actual expenses incurred by the member in the performance of his or her duties as a member of the board, subject to available appropriations. Travel or other expenses incurred by a member of a board in the performance of an official function shall be payable by the department pursuant to the standardized travel regulations of the department of management and budget, subject to available appropriations. A member of the board shall not serve more than 2 consecutive terms.

(2) At the first meeting of each year, the board shall elect from its membership a vice-chairperson and secretary. The vice-chairperson and secretary shall be elected from those members appointed to the board by the governor, except that the board members who are chief mechanical inspectors are not eligible for election as vice-chairperson of the board. After December 31, 2006, the governor shall designate 1 member of the board to serve as chairperson at the pleasure of the governor.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 93rd Legislature are enacted into law:

- (a) Senate Bill No. 1133.
- (b) House Bill No. 5860.

This act is ordered to take immediate effect.

Approved June 16, 2006.

Filed with Secretary of State June 19, 2006.

Compiler's note: Senate Bill No. 1133, referred to in enacting section 1, was filed with the Secretary of State June 16, 2006, and became 2006 PA 189, Imd. Eff. June 19, 2006.

House Bill No. 5860, also referred to in enacting section 1, was filed with the Secretary of State June 16, 2006, and became 2006 PA 213, Imd. Eff. June 19, 2006.

[No. 198]

(HB 5865)

AN ACT to amend 1976 PA 451, entitled "An act to provide a system of public instruction and elementary and secondary schools; to revise, consolidate, and clarify the laws relating to elementary and secondary education; to provide for the organization, regulation, and maintenance of schools, school districts, public school academies, intermediate school districts, and other public school entities; to prescribe rights, powers, duties, and privileges of schools, school districts, public school academies, intermediate school districts, and other public school entities; to provide for the regulation of school teachers and certain other school employees; to provide for school elections and to prescribe powers and duties with respect thereto; to provide for the levy and collection of taxes; to provide for the borrowing of money and issuance of bonds and other evidences of indebtedness; to establish a fund and provide for expenditures from that fund; to provide for and prescribe the powers and duties of certain state departments, the state board of education, and certain other boards and officials; to provide for licensure of boarding schools; to prescribe penalties; and to repeal acts and parts of acts," by amending section 1285a (MCL 380.1285a), as amended by 2002 PA 695.

The People of the State of Michigan enact:

380.1285a Child care center subject to fire prevention or fire safety requirements; requirements for operation of before- or after-school program.

Sec. 1285a. (1) If a school district or intermediate school district operates a child care center, as defined in section 1 of 1973 PA 116, MCL 722.111, then, except as provided in this subsection, the child care center is subject to the requirements of 1973 PA 116, MCL 722.111 to 722.128. If a child care center established and operated by a school district or intermediate school district is located in a school building that is approved and inspected by the bureau of fire services created in section 1b of the fire prevention code, 1941 PA 207, MCL 29.1b, or other similar authority as provided in section 3 of 1937 PA 306, MCL 388.853, for school purposes and is in compliance with school fire safety rules, as determined by the bureau of fire services or a fire inspector certified pursuant to section 2b of the fire prevention code, 1941 PA 207, MCL 29.2b, the child care center is not subject to any fire prevention or fire safety requirements under 1973 PA 116, MCL 722.111 to 722.128. Beginning July 1, 2003, as used in this subsection, "child care center" does not include a program described in subsection (2) that has been granted an exemption from child care center approval by the department of human services as provided under section 1(2) of 1973 PA 116, MCL 722.111.

(2) Beginning July 1, 2003, if a school district, public school academy, or intermediate school district operates or contracts for the operation of a before- or after-school program for children in grades K to 8, and if the program is exempt from child care center approval as provided under section 1(2) of 1973 PA 116, MCL 722.111, all of the following apply to the operation of the program:

(a) The program shall meet all of the following staffing requirements:

(i) Shall have at least 2 adult program staff members present at all times when children are present.

(ii) Shall have a child to adult program staff member ratio that meets the following:

(A) For children in grades K to 3, is no greater than the lesser of either 20 children to 1 adult program staff member or the average pupil to teacher ratio during school hours in that school district, public school academy, or intermediate school district in regular K to 3 classrooms.

(B) For children in grades 4 to 8, is no greater than the lesser of either 25 children to 1 adult program staff member or the average pupil to teacher ratio during school hours in that school district, public school academy, or intermediate school district in regular grade 4 to 8 classrooms.

(iii) Within 3 months after he or she begins to work in the program, each adult program staff member shall hold valid certification in cardiopulmonary resuscitation and basic first aid issued by the American red cross, American heart association, or a comparable organization or institution approved by the department.

(b) The program shall be located at school in facilities comparable to rooms used by pupils during the regular school day.

(c) The program shall provide daily activities and relationships that offer each child in the program opportunities for physical development; social development, including positive self-concept; and intellectual development.

(d) If food is served, the food service shall comply with the same nutrition requirements that apply to food service by the school district, public school academy, or intermediate school district during the regular school day.

(e) If the school district, public school academy, or intermediate school district uses its employees to staff the program, before assigning a staff member to work in the program, the school district, public school academy, or intermediate school district shall comply with sections 1230 and 1230a with respect to that individual to the same extent as if the individual were being hired as a teacher. If the school district, public school academy, or intermediate school district contracts for the operation or staffing of the program, the contract shall contain assurance that the contracting person or entity, before assigning an individual to work in the program, will comply with sections 1230 and 1230a with respect to that individual to the same extent as if the person or entity were a school district employing the individual as a teacher. The department of state police shall provide information to a school district, public school academy, intermediate school district, or contracting person or entity requesting information under this subdivision to the same extent as if the school district, public school academy, intermediate school district, or person or entity were a school district making the request under section 1230 or 1230a.

(f) The board of the school district or intermediate school district or board of directors of the public school academy, in consultation with the director of the program and the principal of the school at which the program is operated, shall develop, adopt, and annually review a policy concerning the program that, at a minimum, addresses safety procedures for the program, including first aid, food safety, discipline, dispensing and storage of medication, and access to student emergency information and telephones.

(g) Not later than September 1 of each school year, the board of the school district or intermediate school district or board of directors of the public school academy shall adopt and submit to the secretary of the intermediate school board a resolution affirming that the program and the corresponding policies comply with this section. This submission shall include a copy of the policy under subdivision (f).

(h) The board of the school district or intermediate school district or board of directors of the public school academy shall make copies of the policy under subdivision (f), and of any annual reviews or revisions, available to the public.

(3) Not later than April 1, 2003, the department, in consultation with the department of human services, shall develop and make available to the public model standards for before- or after-school programs operated under subsection (2) that address human relationships; indoor environment; outdoor environment; activities; safety, health, and nutrition; and administration. In developing these model standards, the department shall give substantial consideration to similar factors in the requirements placed on child care centers under 1973 PA 116, MCL 722.111 to 722.128. A school district, public school academy, or intermediate school district is not required to follow these model standards.

(4) Beginning July 1, 2003, the board of a school district or intermediate school district or board of directors of a public school academy shall ensure that any written information published or distributed by the school district, public school academy, or intermediate school district concerning a before- or after-school program it operates under subsection (2) includes a statement in at least 10-point type notifying the public whether the program follows or deviates from the model standards developed under subsection (3).

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 93rd Legislature are enacted into law:

- (a) Senate Bill No. 1133.

(b) House Bill No. 5860.

This act is ordered to take immediate effect.

Approved June 16, 2006.

Filed with Secretary of State June 19, 2006.

Compiler's note: Senate Bill No. 1133, referred to in enacting section 1, was filed with the Secretary of State June 19, 2006, and became 2006 PA 189, Imd. Eff. June 19, 2006.

House Bill No. 5860, also referred to in enacting section 1, was filed with the Secretary of State June 19, 2006, and became 2006 PA 213, Imd. Eff. June 19, 2006.

[No. 199]

(SB 1138)

AN ACT to amend 1937 PA 306, entitled “An act to promote the safety, welfare, and educational interests of the people of the state of Michigan by regulating the construction, reconstruction, and remodeling of certain public or private school buildings or additions to such buildings, by regulating the construction, reconstruction, and remodeling of buildings leased or acquired for school purposes, and to define the class of buildings affected by this act; to prescribe the powers and duties of certain state agencies and officials; to prescribe penalties for the violation of this act; and to repeal acts and parts of acts,” by amending sections 1b, 3, 4, and 5a (MCL 388.851b, 388.853, 388.854, and 388.855a), section 1b as added by 2002 PA 628.

The People of the State of Michigan enact:

388.851b School buildings; administration and enforcement of act; inspection; methods; plan reviews; delegation of responsibilities; approval under fire prevention code; scope of act; definitions.

Sec. 1b. (1) Except as otherwise provided in this act, the department is responsible for the administration and enforcement of this act and the Stille-DeRossett-Hale single state construction code act, 1972 PA 230, MCL 125.1501 to 125.1531, in each school building in this state.

(2) Except as provided in subsection (5), a school building covered by bond issues that were approved by the department of treasury after July 1, 2003 shall not be constructed, remodeled, or reconstructed in this state until written approval of the plans and specifications is obtained from the department indicating that the school building will be designed and constructed in conformance with the code. This subsection does not apply to any school building for which construction is covered by bond issues that were approved by the department of treasury before July 1, 2003.

(3) Responsibility for inspections of school buildings shall be determined by 1 of the following methods:

(a) By an independent third party designated in the contract governing the construction, remodeling, or reconstruction of a school building. The independent third party shall be responsible for all inspections required to insure compliance with the code. The school authority shall verify that the independent third party named is knowledgeable about construction practices and codes and is otherwise qualified to conduct the inspections. The name of the independent third party to be responsible for conducting inspections shall be submitted to the department with the plans and specifications required by subsection (2). If the department determines that the independent third party is not qualified to conduct

the inspections or is not an independent third party, it shall disapprove of the designation and notify the school authority. All inspection reports prepared by the person designated by the school authority under this subdivision shall be sent to the department upon completion of the inspection. The department may return the report for further work if there are questions relating to the scope of the inspection or whether the construction, remodeling, or reconstruction meets the requirements of the code.

(b) If a designation of an independent third party is not made as required under subdivision (a), the inspections required to insure compliance with the code will be performed by the department or as provided under subsection (5).

(4) Except as provided in subsection (5), the department shall perform for school buildings all plan reviews within 60 days from the date the plans are filed or considered approved and inspections within 5 business days as required by the code and shall be the enforcing agency for this act.

(5) The department shall delegate the responsibility for the administration and enforcement of this act to the applicable agency if both the school board and the governing body of the governmental subdivision have annually certified to the department, in a manner prescribed by the department, that full-time code officials, inspectors, and plan reviewers registered under the building officials and inspectors registration act, 1986 PA 54, MCL 338.2301 to 338.2313, will conduct plan reviews and inspections of school buildings.

(6) This section does not affect the responsibilities of the bureau of fire services under the fire prevention code, 1941 PA 207, MCL 29.1 to 29.34. The bureau of construction codes and safety and the bureau of fire services in the department shall jointly develop procedures to use the plans and specifications submitted in carrying out the requirements of this act and the fire prevention code, 1941 PA 207, MCL 29.1 to 29.34. A certificate of occupancy shall not be issued by the appropriate code enforcement agency until a certificate of approval has been issued under the fire prevention code, 1941 PA 207, MCL 29.1 to 29.34.

(7) This section applies to construction, remodeling, or reconstruction of school buildings that are covered by bond issues that were approved by the department of treasury after July 1, 2003. Construction, remodeling, or reconstruction of school buildings that are covered by bond issues approved before July 1, 2003 shall submit the plans and specifications to the department for approval under section 1. The department shall not grant approval until it has received the certification described in section 3 relative to fire safety and from the appropriate health department relative to water supply, sanitation, and food handling.

(8) As used in this section:

(a) “Code” means the state construction code provided for in the Stille-DeRossett-Hale single state construction code act, 1972 PA 230, MCL 125.1501 to 125.1531.

(b) “Construction” means that term as defined in section 2a of the Stille-DeRossett-Hale single state construction code act, 1972 PA 230, MCL 125.1502a.

(c) “Department” means the department of labor and economic growth.

388.853 Inspection by bureau of fire services; notice; exception.

Sec. 3. (1) Except as provided in subsection (2), the bureau of fire services created in section 1b of the fire prevention code, 1941 PA 207, MCL 29.1b, shall inspect a school building to determine whether its construction complies with this act. The bureau of fire services shall inspect each building at least twice during construction, once to inspect the framework of the building before plastering and once on the completion of the building. The person supervising construction of the school building shall notify the bureau of fire

services when the building is ready for inspection. In making an inspection under this subsection, the bureau of fire services has the powers set forth in the fire prevention code, 1941 PA 207, MCL 29.1 to 29.34.

(2) The bureau of fire services is not required to inspect or make a determination of fire safety in an existing school building in relation to operation, maintenance, remodeling, or repairs, or to inspect a school building to determine whether its construction complies with this act, if the school building is located in a municipality where both the school board and the governing body of the municipality have certified to the superintendent of public instruction, in a manner prescribed by the superintendent, that the fire safety inspections and fire safety measures for the schools located in the municipality are provided for by a municipal code or ordinance administered and enforced by a full-time fire prevention and safety department, division, or bureau maintained by the municipality and are satisfactory to both the school board and the governing body. Either the school board or the governing body may rescind the certification. A certification under this subsection shall not be submitted to or accepted by the superintendent of public instruction unless the municipality has received from the bureau of fire services written attestation that the municipality has an ordinance or code for fire protection in schools equal to the minimum state requirements and has a full-time fire prevention inspection service with a qualified program of school plan review and inspection. The state fire safety board shall hear and decide an appeal from a decision made under this section as a contested case under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. After a hearing, the board, acting in accordance with its statutory authority and provisions, may vary the application of any school fire safety rule or may modify the ruling or interpretation of the municipal enforcing authority if the board decides that the enforcement would do manifest injustice and would be contrary to the public interest. A decision of the board to vary the application of any fire safety rule, or to modify or change a ruling of the municipal enforcing authority, shall specify in what manner the variation, modification, or change is made, the conditions upon which it is made, and the reasons for the variation, modification, or change.

388.854 Violation of act; penalty; injunction proceedings.

Sec. 4. The license or registration of an architect or engineer convicted of violating this act shall be revoked. A school officer, member of a school board, or other person who neglects or refuses to do or perform any act required by this act, or who violates or knowingly permits or consents to any violation of this act, is guilty of a misdemeanor punishable by a fine of not more than \$500.00 or imprisonment for not more than 3 months, or both. Any violation of this act may be enjoined in an action brought by the bureau of fire services created in section 1b of the fire prevention code, 1941 PA 207, MCL 29.1b, in the circuit court for the county in which the school buildings are or will be situated.

388.855a Applicability of act; exemptions.

Sec. 5a. (1) Except as provided in this section, this act does not apply to 1-story school buildings, to 1-story additions to school buildings, or to the construction, reconstruction, or remodeling of a school building if the total cost of construction, reconstruction, or remodeling is less than \$15,000.00.

(2) Section 1(a) applies to the construction of all school buildings and additions to school buildings regardless of the number of stories of the buildings or additions if the total cost of construction exceeds \$15,000.00.

(3) Section 1(d) applies to the construction of all school buildings and additions to school buildings of 1 or more stories regardless of the cost of construction.