

LEGISLATIVE BILL 889

Approved by the Governor April 11, 2018

Introduced by Wayne, 13.

A BILL FOR AN ACT relating to fire codes; to amend sections 81-502 and 81-502.04, Reissue Revised Statutes of Nebraska; to provide for a State Fire Code as prescribed; to provide and eliminate duties for the State Fire Marshal; to harmonize provisions; to repeal the original sections; and to outright repeal section 81-541.01, Reissue Revised Statutes of Nebraska.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 81-502, Reissue Revised Statutes of Nebraska, is amended to read:

81-502 (1) It shall be the duty of the State Fire Marshal, under authority of the Governor:

(a) To enforce all laws of the state relating to the suppression of arson and investigation of the cause, origin, and circumstances of fires;

(b) To promote safety and reduce loss by fire; and

(c) To make an investigation for fire safety of the premises and facilities of:

(i) Liquor establishments for which a license or renewal of a license is sought, upon request of the Nebraska Liquor Control Commission, pursuant to section 53-119.01;

(ii) Licensed foster care facilities or applicants for licenses for foster care facilities, upon request by the Department of Health and Human Services, pursuant to section 71-1903;

(iii) Upon request of the Department of Health and Human Services, licensed providers of programs or applicants for licenses to provide such programs pursuant to section 71-1913 and licensed residential child-caring agencies or applicants for such licensure pursuant to section 71-1934. The State Fire Marshal shall report the results of the investigation to the department within thirty days after receipt of the request from the department;

(iv) Licensed hospitals, skilled nursing facilities, intermediate care facilities, or other health care facilities which are licensed under the Health Care Facility Licensure Act or applicants for licenses for such facilities or institutions, upon request by the Department of Health and Human Services, pursuant to section 71-441; and

(v) Mobile home parks for which a license or renewal of a license is sought, upon request of the Department of Health and Human Services, pursuant to section 71-4635. ; and

~~(d) After a careful study and investigation of relevant data, to adopt, promulgate, alter, and enforce, through inspections and code compliance, orders, rules, and regulations covering:~~

~~(i) The prevention of fires;~~

~~(ii) The storage, sale, and use of flammable liquids, combustibles, and fireworks;~~

~~(iii) Electric wiring and heating, protection equipment devices, materials, furnishings, and other safeguards within the structure necessary to promote safety and reduce loss by fire, and the means and adequacy of exits, in case of fire, in assembly, educational, institutional, residential, mercantile, office, storage, and industrial-type occupancies as such structures are defined in the National Fire Protection Association, Pamphlet Number 101, and associated pamphlets, and all other buildings, structures, and enclosures in which numbers of persons congregate from time to time for any purpose whether privately or publicly owned;~~

~~(iv) Design, construction, location, installation, and operation of equipment for storing, handling, and utilization of liquefied petroleum gases, specifying the odorization of such gases and the degree thereof;~~

~~(v) Chemicals, prozylin plastics, X-ray nitrocellulose films, or any other hazardous material that may now or hereafter exist;~~

~~(vi) Tanks used for the storage of regulated substances pursuant to the Petroleum Products and Hazardous Substances Storage and Handling Act; and~~

~~(vii) Accessibility standards and specifications adopted pursuant to section 81-5,147.~~

(2) The State Fire Marshal may enter into contracts with private individuals or other agencies, boards, commissions, or governmental bodies for the purpose of carrying out his or her duties and responsibilities pursuant to the Arson Reporting Immunity Act, the Nebraska Natural Gas Pipeline Safety Act of 1969, and sections 81-502 to 81-538 and section 3 of this act 81-541.01, 81-5,132 to 81-5,146, and 81-5,151 to 81-5,157.

(3) The State Fire Marshal may delegate the authority set forth in this section and section 3 of this act to qualified local fire prevention personnel. The State Fire Marshal may overrule a decision, act, or policy of the local fire prevention personnel. When the State Fire Marshal overrules the local personnel, such local personnel may follow the appeals procedure established by sections 81-502.01 to 81-502.03. Such delegation of authority may be revoked by

the State Fire Marshal for cause upon thirty days' notice after a hearing.

(4) The State Fire Marshal, first assistant fire marshal, and deputies shall have such other powers and perform such other duties as are set forth in sections 81-501.01 to 81-531 and 81-5,151 to 81-5,157 and section 3 of this act and as may be conferred and imposed by law.

~~(5) The rules and regulations adopted and promulgated pursuant to subdivision (1)(d) of this section may conform generally to the standards recommended by the National Fire Protection Association, Pamphlet Number 101, known as the Life Safety Code, and associated pamphlets, but not when doing so would impose an unduly severe or costly burden without substantially contributing to the safety of persons or property. This section and the rules and regulations adopted and promulgated pursuant to subdivision (1)(d) of this section shall apply to existing as well as new buildings, structures, and enclosures. Such rules and regulations shall also apply to sites or structures in public ownership listed on the National Register of Historic Places but without destroying the historic quality thereof.~~

~~(6) Plans for compliance with the rules and regulations adopted and promulgated pursuant to subdivision (1)(d) of this section shall be reviewed by the State Fire Marshal. Plans submitted after remodeling or construction has begun shall be accompanied by a penalty of fifty dollars in addition to the plan review fee set out in subdivision (4)(a) of section 81-505.01.~~

Sec. 2. Section 81-502.04, Reissue Revised Statutes of Nebraska, is amended to read:

81-502.04 The enforcement of rules and regulations adopted and promulgated by the State Fire Marshal under section 81-502 and section 3 of this act shall be as follows:

(1) Any order of the State Fire Marshal under the authority granted to him or her by section 81-502 shall be in writing addressed to the owner or person in charge of the premises affected by such order;

(2) If the affected party or organization does not comply with the final order, the State Fire Marshal shall apply to the district court of the county in which the premises are located to obtain court enforcement of the order. The county attorney of the county in which the action is brought shall represent the State Fire Marshal and the action shall be brought in the name of the State of Nebraska and be tried the same as any action in equity; and

(3) If the affected party or organization feels that the order of the State Fire Marshal is not necessary for the safety and welfare of the persons using or to use the premises regarding which the order is made, the party or organization may appeal such order, and the appeal shall be in accordance with the Administrative Procedure Act.

Sec. 3. (1) The State Fire Marshal shall adopt and promulgate rules and regulations constituting a State Fire Code. At a minimum, the State Fire Code shall cover:

(a) The prevention of fires;

(b) The storage, sale, and use of flammable liquids, combustibles, and fireworks;

(c) Electrical wiring and heating, protection equipment devices, materials, furnishings, and other safeguards within structures necessary to promote safety and reduce loss by fire;

(d) The means and adequacy of exits, in case of fire, in assembly, educational, institutional, residential, mercantile, office, storage, and industrial-type occupancies as such structures are defined in the State Fire Code;

(e) All other buildings, structures, and enclosures in which numbers of persons congregate from time to time for any purpose, whether privately or publicly owned;

(f) Design, construction, location, installation, and operation of equipment for storing, handling, and utilization of liquefied petroleum gases, specifying the odorization of such gases and the degree thereof;

(g) Chemicals, prozylin plastics, X-ray nitrocellulose films, or any other hazardous material that may now or hereafter exist;

(h) Tanks used for the storage of regulated substances pursuant to the Petroleum Products and Hazardous Substances Storage and Handling Act; and

(i) Accessibility standards and specifications adopted pursuant to section 81-5,147.

(2) Not later than July 1, 2019, the rules and regulations adopted and promulgated as part of the State Fire Code shall conform generally to the standards recommended by the National Fire Protection Association, Pamphlet Number 1, known as the Fire Code, 2012 edition, the National Fire Protection Association, Pamphlet Number 101, known as the Life Safety Code, 2012 edition, and associated pamphlets, but not when doing so would impose an unduly severe or costly burden without substantially contributing to the safety of persons or property.

(3) The State Fire Marshal shall enforce the State Fire Code through inspections, code compliance, and orders. Plans for compliance with the State Fire Code shall be reviewed by the State Fire Marshal. Plans submitted after remodeling or construction has begun shall be accompanied by a penalty of fifty dollars in addition to the plan review fee set out in subdivision (4)(a) of section 81-505.01.

(4) Rules and regulations adopted and promulgated as part of the State Fire Code shall apply to sites or structures in public ownership listed on the National Register of Historic Places but without destroying the historic quality thereof.

Sec. 4. Original sections 81-502 and 81-502.04, Reissue Revised Statutes of Nebraska, are repealed.

Sec. 5. The following section is outright repealed: Section 81-541.01, Reissue Revised Statutes of Nebraska.