

ENGROSSED LEGISLATIVE BILL 434

Introduced by Wordekemper, 15.

A BILL FOR AN ACT relating to the State Fire Marshal; to amend sections 28-1239.01, 28-1246, 28-1251, 81-503.01, 81-505.01, 81-5,159, 81-15,120, and 81-15,121, Reissue Revised Statutes of Nebraska; to change fees; to change provisions relating to the adoption of fees; to repeal the original sections; and to declare an emergency.

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

Section 1. Section 28-1239.01, Reissue Revised Statutes of Nebraska, is amended to read:

28-1239.01 (1) No person shall conduct a public exhibition or display of display fireworks without first procuring a display permit from the State Fire Marshal. Such application for a display permit shall be accompanied by a fee of one hundred dollars to be remitted to the State Treasurer for credit to the State Fire Marshal Cash Fund.

(2) No display fireworks shall be sold or delivered by a licensed distributor to any person who is not in possession of an approved display permit. Sales of display fireworks to persons without an approved display permit shall be subject to sections 28-1213 to 28-1239.

Sec. 2. Section 28-1246, Reissue Revised Statutes of Nebraska, is amended to read:

28-1246 (1) It shall be unlawful for any person to sell, hold for sale, or offer for sale as a distributor, jobber, or retailer any fireworks in this state unless such person has first obtained a license as a distributor, jobber, or retailer. Application for each such license shall be made to the State Fire Marshal on forms prescribed by him or her. Each application shall be accompanied by the required fee, which shall be one thousand dollars for a distributor's license, four hundred dollars for a jobber's license, and one hundred dollars for a retailer's license. Each application for a retailer's

license shall be received by the State Fire Marshal at least ten business days prior to the sales period, as set forth in section 28-1249, in which the retailer wishes to sell consumer fireworks. A retailer's license shall be good only for the specific sales period listed on the application and within the calendar year in which issued. The retailer's license shall at all times be displayed at the place of business of the holder thereof.

(2) The funds received pursuant to this section shall be remitted to the State Treasurer for credit to the State Fire Marshal Cash Fund.

Sec. 3. Section 28-1251, Reissue Revised Statutes of Nebraska, is amended to read:

28-1251 (1) It shall be unlawful for any person, association, partnership, limited liability company, or corporation to conduct fire alarm tests and fire alarm inspections without prior written certification by the State Fire Marshal as to the qualifications of such persons conducting such tests and inspections.

(2) The State Fire Marshal shall formulate reasonable guidelines to determine qualifications for fire alarm inspectors and shall administer an examination pursuant to such guidelines prior to certification of applicants.

(3) The State Fire Marshal may charge a fee of no more than two hundred dollars to cover costs of administering such examinations and issuing certifications.

(4) Unlawful testing or inspection of fire alarms is a Class III misdemeanor.

Sec. 4. Section 81-503.01, Reissue Revised Statutes of Nebraska, is amended to read:

81-503.01 (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 late submittal fee of an amount equal to one hundred dollars plus fifty percent of the plan

review fee established pursuant to subdivision (4)(a) of section 81-505.01 in addition to such plan review fee.

(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. 5. Section 81-505.01, Reissue Revised Statutes of Nebraska, is amended to read:

81-505.01 (1) The State Fire Marshal shall establish and assess fees not to exceed the actual costs for the performance of services by the State Fire Marshal or by qualified local fire prevention personnel to whom the State Fire Marshal has delegated authority to perform such services. Prior to establishing or altering such fees, the State Fire Marshal shall hold a public hearing on the question of the adoption of or change in fees. Notice of such hearing shall be given at least thirty days prior thereto (a) by publication in a newspaper having general circulation in the state and (b) by notifying in writing the head of any agency or department having jurisdiction over facilities that would be subject to the fees. Fees for services performed by the State Fire Marshal shall be paid to the State Fire Marshal and shall be remitted to the State Treasurer for credit to the State Fire Marshal Cash Fund. Fees for services performed by local fire prevention personnel shall be paid directly to the office of the local fire prevention personnel.

(2) The fee for inspection for fire safety of any premises or facility pursuant to section 81-502 or 81-503.01 shall be not less than fifty nor more than three hundred dollars and shall be paid by the licensee or applicant for a license. The fee for inspection for fire safety of the same premises or facility made within twelve months after the last prior inspection shall be not less than fifty nor more than three hundred dollars and shall be paid by the licensee or applicant for a license. The fees for inspection for fire safety of foster family homes as defined in section 71-1901 may be paid by the Department of Health and Human Services.

(3) The fee for providing investigation reports to insurance companies shall not exceed three dollars for each report provided. The State Fire Marshal may charge an amount not to exceed the actual cost of preparation for any other approved information release.

(4)(a) The State Fire Marshal shall charge a fee for reviewing plans, blueprints, and shop drawings to determine compliance with rules and regulations adopted and promulgated pursuant to section 81-503.01 or 81-5,147. The State Fire Marshal shall establish such fee in rules and regulations adopted and promulgated to be effective on September 1, 2025. Such fee shall meet the costs of administering the plan review requirement found in sections 81-503.01 and 81-5,147 but shall not exceed five thousand dollars. The fee schedule as it existed prior to September 1, 2025, shall be used through August 31, 2025.

(b) The fees established pursuant to subdivision (a) of this subsection shall not be assessed or collected by any political subdivision to which the State Fire Marshal has delegated the authority to conduct such review and which reviews plans, blueprints, or shop drawings to determine compliance with such political subdivision's own fire safety regulations. Nothing in this subdivision shall be construed to prohibit such political subdivision from assessing or collecting a fee set by its governing board for such review.

(c) An additional fee equal to fifty percent of the fee charged pursuant to subdivision (a) of this subsection shall be assessed for reviewing plans, blueprints, and shop drawings to determine compliance with the accessibility standards and specifications adopted pursuant to section 81-5,147, except that the additional fee assessed pursuant to this subdivision shall not exceed five thousand dollars.

Sec. 6. Section 81-5,159, Reissue Revised Statutes of Nebraska, is amended to read:

81-5,159 (1) Any water-based fire protection system contractor who installs, repairs, alters, adds to, maintains, or inspects water-based fire protection systems in this state shall first obtain a contractor certificate.

(2) A water-based fire protection system contractor may apply to the State Fire Marshal for a contractor certificate. The application shall be made on a form prescribed by the State Fire Marshal and shall include a certificate fee of up to two hundred dollars. Each applicant must designate a responsible managing employee on the application, and such individual's name shall appear on the certificate with that of the water-based fire protection system contractor upon issuance. Proof of insurance required by section 81-5,160 shall also accompany the application.

(3) Upon receipt of a complete application, proof of insurance, and certificate fee, the State Fire Marshal shall schedule a time for an examination of the responsible managing employee to demonstrate that he or she is familiar with the procedures and rules of the State Fire Marshal relating to water-based fire protection systems. If the responsible managing employee passes the examination, the State Fire Marshal shall issue the certificate to the water-based fire protection system contractor within thirty days.

(4) A certificate shall expire on September 30 of the year following issuance. An application for renewal shall be filed at least ten days prior to expiration and shall be accompanied by a renewal fee of up to two hundred dollars and a sworn affidavit that the responsible managing employee is currently employed by the water-based fire protection system contractor. A water-based fire protection system contractor who fails to apply for renewal within the time stated in this subsection must make a new application for a certificate.

(5) A responsible managing employee may only act as such for one water-based fire protection system contractor at a time. When a responsible managing employee terminates his or her association with a water-based fire protection system contractor, the water-based fire protection system contractor shall notify the State Fire Marshal within thirty days after termination. The responsible managing employee shall not be designated as the responsible managing employee for more than two water-based fire protection system contractors in any twelve-month period. The State Fire Marshal shall revoke the

certificate of a water-based fire protection system contractor whose responsible managing employee has terminated his or her association with the water-based fire protection system contractor unless an application designating a new responsible managing employee is filed within six months after termination or prior to expiration of the current certificate, whichever is earlier.

Sec. 7. Section 81-15,120, Reissue Revised Statutes of Nebraska, is amended to read:

81-15,120 Any farm or residential tank or tank used for storing heating oil as defined in subdivisions (10)(a) and (b) of section 81-15,119 shall be registered with the State Fire Marshal. The registration shall be accompanied by a one-time fee of ten dollars and shall be valid until the State Fire Marshal is notified that a tank so registered has been permanently closed. Such registration shall specify the ownership of, location of, and substance stored in the tank to be registered. The State Fire Marshal shall remit the fee to the State Treasurer for credit to the Petroleum Products and Hazardous Substances Storage and Handling Fund which is hereby created as a cash fund. The fund shall also consist of any money appropriated to the fund by the state. The fund shall be administered by the Department of Environment and Energy to carry out the purposes of the Petroleum Products and Hazardous Substances Storage and Handling Act, including the provision of matching funds required by Public Law 99-499 for actions otherwise authorized by the act. Any money in such fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 8. Section 81-15,121, Reissue Revised Statutes of Nebraska, is amended to read:

81-15,121 (1) A person shall not (a) maintain or use any tank for the storage of regulated substances, (b) install any new tank, or (c) permanently close a tank without first securing a permit from the State Fire Marshal.

(2) A fee shall not be charged for a permit under subdivision (1)(a) or

(c) of this section. The fee for a permit for installation shall be seventy-five dollars. The State Fire Marshal shall remit the fee to the State Treasurer for credit to the Underground Storage Tank Fund.

(3) All owners of operating tanks, except those provided for in subsection (4) of this section, shall annually register each tank. All registration permits shall expire on December 31 of the year for which the permit was issued. The registration fee shall be no more than sixty dollars per tank. The State Fire Marshal shall remit the fee to the State Treasurer for credit to the Underground Storage Tank Fund. Such permits shall contain the information specified in subsection (5) of this section.

(4) In the case of tanks permanently abandoned on or after January 1, 1974, an annual permit shall not be required and an initial registration permit shall be sufficient.

(5) The application for a registration permit shall be provided by and filed with the State Fire Marshal's office and shall require, but not be limited to, the following information:

(a) The date the tank was placed in or taken out of operation;

(b) The age of the tank;

(c) The size, type, and location of the tank; and

(d) The type of substances stored in the tank and the quantity of such substances remaining in the tank if the tank has been permanently closed.

(6) The registration permit fee collected pursuant to this section shall be remitted to the State Treasurer for credit to the Underground Storage Tank Fund which is hereby created as a cash fund. The fund shall also consist of any money appropriated to the fund by the state. The fund shall be administered by the State Fire Marshal to carry out the purposes of the Petroleum Products and Hazardous Substances Storage and Handling Act. Transfers may be made from the fund to the General Fund at the direction of the Legislature. Any money in the Underground Storage Tank Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 9. Original sections 28-1239.01, 28-1246, 28-1251, 81-503.01, 81-505.01, 81-5,159, 81-15,120, and 81-15,121, Reissue Revised Statutes of Nebraska, are repealed.

Sec. 10. Since an emergency exists, this act takes effect when passed and approved according to law.

PRESIDENT OF THE LEGISLATURE

*THIS IS TO CERTIFY that the within LB 434 was passed by the One Hundred Ninth
Legislature of Nebraska at its First Session on the day
of 20.....*

CLERK OF THE LEGISLATURE

Approved:

..... 20....., o'clockM.

GOVERNOR