

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 1039

Introduced by Fulton, 29.

Read first time January 21, 2010

Committee: Government, Military and Veterans Affairs

A BILL

1 FOR AN ACT relating to the State Fire Marshal; to amend section
2 81-502, Reissue Revised Statutes of Nebraska; to adopt
3 the Fire Extinguishing Certification Act; to provide a
4 duty for the State Fire Marshal; and to repeal the
5 original section.
6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 5 of this act shall be known and
2 may be cited as the Fire Extinguishing Certification Act.

3 Sec. 2. For purposes of the Fire Extinguishing
4 Certification Act:

5 (1) Acceptance test means a comprehensive test of a newly
6 installed pre-engineered fire-extinguishing system;

7 (2) Portable fire extinguisher means a portable device
8 carried or on wheels and operated by hand, containing an
9 extinguishing agent that can be expelled under pressure for the
10 purpose of suppressing or extinguishing a fire;

11 (3) Portable fire extinguisher servicing means
12 maintenance, recharging, or hydrostatic testing of a portable fire
13 extinguisher and does not include monthly inspection;

14 (4) Pre-engineered fire-extinguishing system means a
15 system designed and manufactured for the protection of grease
16 removal devices, hood, duct systems, cooking equipment, paint spray
17 systems, paint mix rooms, or other dry chemical operation and
18 listed for such use; and

19 (5) Pre-engineered fire-extinguishing system servicing
20 means a manual inspection of all actuation components of the
21 pre-engineered fire-extinguishing system in accordance with (a)
22 applicable National Fire Protection Association codes as adopted by
23 the State Fire Marshal and (b) the manufacturer's recommendations.

24 Sec. 3. (1) It shall be unlawful for a person to
25 engage in the servicing of a portable fire extinguisher or a

1 pre-engineered fire-extinguishing system in any type of occupancy
2 regulated by the State Fire Marshal without prior certification by
3 the State Fire Marshal.

4 (2) Any person who violates this section is guilty of a
5 Class V misdemeanor.

6 Sec. 4. (1) Application for certification to service
7 portable fire extinguishers or pre-engineered fire-extinguishing
8 systems shall be made in writing to the State Fire Marshal on
9 forms provided by the State Fire Marshal. Each applicant shall
10 submit proof of manufacturer certification or other recognized
11 certification as a portable fire extinguisher or pre-engineered
12 fire-extinguishing system technician and proof of a sufficient
13 amount of general liability insurance as determined by the
14 State Fire Marshal. Each applicant shall complete an application
15 accompanied by a certification fee of up to one hundred dollars
16 as determined by the State Fire Marshal. Certificates issued by
17 the State Fire Marshal shall not be transferable and shall be
18 valid for one year from the date on the face of the certificate.
19 Each applicant for renewal of such certification shall present the
20 required proof of certification and a renewal fee of up to one
21 hundred dollars as determined by the State Fire Marshal.

22 (2) The State Fire Marshal may refuse to renew, revoke,
23 or suspend the certification for negligence in the servicing of a
24 portable fire extinguisher or a pre-engineered fire-extinguishing
25 system or for material misrepresentation on the part of the

1 applicant during the course of the application for certification or
2 renewal.

3 Sec. 5. (1) Portable fire extinguishers and
4 pre-engineered fire-extinguishing systems shall be serviced
5 so as to be in proper working order following the requirements of
6 the National Fire Protection Association codes as adopted by the
7 State Fire Marshal. An approved service tag shall be affixed to
8 the portable fire extinguisher or pre-engineered fire-extinguishing
9 system following each inspection.

10 (2) A copy of the most recent inspection report for a
11 portable fire extinguisher or a pre-engineered fire-extinguishing
12 system shall be provided to the State Fire Marshal. Shop drawings
13 for pre-engineered fire-extinguishing systems shall be submitted
14 to the State Fire Marshal. Acceptance tests of newly installed
15 pre-engineered fire-extinguishing systems shall be witnessed by the
16 authority having jurisdiction over such systems.

17 Sec. 6. Section 81-502, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 81-502 (1) It shall be the duty of the State Fire
20 Marshal, under authority of the Governor:

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

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

25 (c) To make an investigation for fire safety of the

1 premises and facilities of:

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

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

8 (iii) Licensed providers of programs or applicants for
9 licenses to provide such programs, upon request of the Department
10 of Health and Human Services, pursuant to section 71-1913. The
11 State Fire Marshal shall report the results of the investigation to
12 the department within thirty days after receipt of the request from
13 the department;

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

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

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

- 1 (i) The prevention of fires;
- 2 (ii) The storage, sale, and use of flammable liquids,
3 combustibles, and fireworks;
- 4 (iii) Electric wiring and heating, protection equipment
5 devices, materials, furnishings, and other safeguards within
6 the structure necessary to promote safety and reduce loss by
7 fire, and the means and adequacy of exits, in case of fire,
8 in assembly, educational, institutional, residential, mercantile,
9 office, storage, and industrial-type occupancies as such structures
10 are defined in the National Fire Protection Association, Pamphlet
11 Number 101, and associated pamphlets, and all other buildings,
12 structures, and enclosures in which numbers of persons congregate
13 from time to time for any purpose whether privately or publicly
14 owned;
- 15 (iv) Design, construction, location, installation, and
16 operation of equipment for storing, handling, and utilization of
17 liquefied petroleum gases, specifying the odorization of such gases
18 and the degree thereof;
- 19 (v) Chemicals, prozylin plastics, X-ray nitrocellulose
20 films, or any other hazardous material that may now or hereafter
21 exist;
- 22 (vi) Tanks used for the storage of regulated substances
23 pursuant to the Petroleum Products and Hazardous Substances Storage
24 and Handling Act; and
- 25 (vii) Accessibility standards and specifications adopted

1 pursuant to section 81-5,147; ~~and-~~

2 (viii) Certification of portable fire extinguisher
3 servicing and pre-engineered fire-extinguishing system servicing
4 under the Fire Extinguishing Certification Act.

5 (2) The State Fire Marshal may enter into contracts
6 with private individuals or other agencies, boards, commissions,
7 or governmental bodies for the purpose of carrying out his or
8 her duties and responsibilities pursuant to the Arson Reporting
9 Immunity Act, the Nebraska Natural Gas Pipeline Safety Act of
10 1969, and sections 81-502 to 81-541.01, 81-5,132 to 81-5,146, and
11 81-5,151 to 81-5,157.

12 (3) The State Fire Marshal may delegate the authority set
13 forth in this section to qualified local fire prevention personnel.
14 The State Fire Marshal may overrule a decision, act, or policy of
15 the local fire prevention personnel. When the State Fire Marshal
16 overrules the local personnel, such local personnel may follow the
17 appeals procedure established by sections 81-502.01 to 81-502.03.
18 Such delegation of authority may be revoked by the State Fire
19 Marshal for cause upon thirty days' notice after a hearing.

20 (4) The State Fire Marshal, first assistant fire marshal,
21 and deputies shall have such other powers and perform such other
22 duties as are set forth in sections 81-501.01 to 81-531 and
23 81-5,151 to 81-5,157 and as may be conferred and imposed by law.

24 (5) The rules and regulations adopted and promulgated
25 pursuant to subdivision (1)(d) of this section may conform

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

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

18 Sec. 7. Original section 81-502, Reissue Revised Statutes
19 of Nebraska, is repealed.