

LEGISLATURE OF NEBRASKA  
ONE HUNDRED SEVENTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 37**

FINAL READING

Introduced by Lowe, 37.

Read first time January 07, 2021

Committee: Business and Labor

1 A BILL FOR AN ACT relating to the State Fire Marshal; to amend sections  
2 28-1253, 81-538, and 81-551, Reissue Revised Statutes of Nebraska,  
3 and sections 81-503.01, 81-505.01, and 81-5,167, Revised Statutes  
4 Cumulative Supplement, 2020; to change provisions relating to  
5 certain rules and regulations and fees; to eliminate provisions  
6 relating to standpipe requirements for hotels and apartments and  
7 certain definitions; to change qualifications of the state boiler  
8 inspector; to harmonize provisions; to repeal the original sections;  
9 and to outright repeal sections 81-534, 81-5,136, and 81-5,137,  
10 Reissue Revised Statutes of Nebraska.  
11 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 28-1253, Reissue Revised Statutes of Nebraska, is  
2 amended to read:

3 28-1253 (1) The distribution, sale, or use of refrigerants  
4 containing liquefied petroleum gas for use in mobile air conditioning  
5 systems is prohibited.

6 (2) For purposes of this section:

7 (a) Liquefied petroleum gas means material composed predominantly of  
8 any of the following hydrocarbons or mixtures of such hydrocarbons:

9 Propane, propylene, butanes (normal butane or isobutane), and butylenes;

10 (b) Mobile air conditioning system means mechanical vapor  
11 compression equipment which is used to cool the driver or passenger  
12 compartment of any motor vehicle; and

13 (c) Motor vehicle has the same meaning as in section 60-638.

14 (3) Any person violating this section is guilty of a Class IV  
15 misdemeanor.

16 (4) The State Fire Marshal ~~may~~ shall adopt and promulgate rules and  
17 regulations for enforcement of this section and, together with peace  
18 officers of the state and its political subdivisions, is charged with  
19 enforcement of this section.

20 Sec. 2. Section 81-503.01, Revised Statutes Cumulative Supplement,  
21 2020, is amended to read:

22 81-503.01 (1) The State Fire Marshal shall adopt and promulgate  
23 rules and regulations constituting a State Fire Code. At a minimum, the  
24 State Fire Code shall cover:

25 (a) The prevention of fires;

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

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

31 (d) The means and adequacy of exits, in case of fire, in assembly,

1 educational, institutional, residential, mercantile, office, storage, and  
2 industrial-type occupancies as such structures are defined in the State  
3 Fire Code;

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

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

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

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

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

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

25 (3) The State Fire Marshal shall enforce the State Fire Code through  
26 inspections, code compliance, and orders. Plans for compliance with the  
27 State Fire Code shall be reviewed by the State Fire Marshal. Plans  
28 submitted after remodeling or construction has begun shall be accompanied  
29 by a penalty of fifty dollars in addition to the plan review fee  
30 established pursuant to set-out-in subdivision (4)(a) of section  
31 81-505.01.

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

5 Sec. 3. Section 81-505.01, Revised Statutes Cumulative Supplement,  
6 2020, is amended to read:

7 81-505.01 (1) The State Fire Marshal shall establish and assess fees  
8 not to exceed the actual costs for the performance of services by the  
9 State Fire Marshal or by qualified local fire prevention personnel to  
10 whom the State Fire Marshal has delegated authority to perform such  
11 services. Prior to establishing or altering such fees, the State Fire  
12 Marshal shall hold a public hearing on the question of the adoption of or  
13 change in fees. Notice of such hearing shall be given at least thirty  
14 days prior thereto (a) by publication in a newspaper having general  
15 circulation in the state and (b) by notifying in writing the head of any  
16 agency or department having jurisdiction over facilities that would be  
17 subject to the fees. Fees for services performed by the State Fire  
18 Marshal shall be paid to the State Fire Marshal and shall be remitted to  
19 the State Treasurer for credit to the State Fire Marshal Cash Fund. Fees  
20 for services performed by local fire prevention personnel shall be paid  
21 directly to the office of the local fire prevention personnel.

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

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

5 (4)(a) The State Fire Marshal shall charge a fee for reviewing  
6 plans, blueprints, and shop drawings to determine compliance with rules  
7 and regulations adopted and promulgated pursuant to section 81-503.01 or  
8 81-5,147. The State Fire Marshal shall establish such fee in rules and  
9 regulations adopted and promulgated to be effective on January 1, 2022.  
10 Such fee shall meet the costs of administering the plan review  
11 requirement found in sections 81-503.01 and 81-5,147 but shall not exceed  
12 five hundred dollars. The fee schedule as it existed prior to the  
13 effective date of this act shall be used through December 31, 2021.  
14 ~~Except as provided in subdivision (b) of this subsection, the fee for~~  
15 ~~reviewing plans, blueprints, and shop drawings to determine compliance~~  
16 ~~with rules and regulations adopted and promulgated pursuant to section~~  
17 ~~81-503.01 shall be assessed according to the following schedule:~~

18	<del>TOTAL VALUE OF PROPOSED</del>	
19	<del>STRUCTURE OR IMPROVEMENT</del>	<del>FEE</del>
20	<del>\$1 — \$5,000</del>	<del>\$5.00</del>
21	<del>\$5,001 — \$25,000</del>	<del>\$5.00 for the first \$5,000.00 plus</del>
22		<del>\$2.00 for each additional \$5,000.00</del>
23		<del>or fraction thereof.</del>
24	<del>\$25,001 — \$50,000</del>	<del>\$15.00 for the first \$25,000.00 plus</del>
25		<del>\$2.00 for each additional \$5,000.00</del>
26		<del>or fraction thereof.</del>
27	<del>\$50,001 — \$100,000</del>	<del>\$25.00 for the first \$50,000.00 plus</del>
28		<del>\$1.00 for each additional \$5,000.00</del>
29		<del>or fraction thereof.</del>
30	<del>\$100,001 — \$200,000</del>	<del>\$35.00 for the first \$100,000.00 plus</del>
31		<del>\$1.00 for each additional \$10,000.00</del>

1 ~~or fraction thereof.~~  
2 ~~\$200,001 or more \$50.00 for the first \$200,000.00 plus~~  
3 ~~\$1.00 for each additional \$10,000.00~~  
4 ~~or fraction thereof, except that the~~  
5 ~~total fee shall not exceed \$500.00.~~

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

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

20 Sec. 4. Section 81-538, Reissue Revised Statutes of Nebraska, is  
21 amended to read:

22 81-538 Anyone violating any of the provisions of sections 81-501.01  
23 to 81-531 ~~81-534~~, for which no other specific penalty is provided, shall  
24 be deemed guilty of a Class V misdemeanor, and each day's noncompliance  
25 shall constitute a separate offense.

26 Sec. 5. Section 81-551, Reissue Revised Statutes of Nebraska, is  
27 amended to read:

28 81-551 The duties and powers of the State Fire Marshal and of his or  
29 her deputies and assistants prescribed in sections 81-509 to 81-523,  
30 81-526, 81-527, 81-531, ~~to~~ 81-538, and 81-5,151 to 81-5,157 and the  
31 Petroleum Products and Hazardous Substances Storage and Handling Act

1 shall not be applicable to the Nebraska Natural Gas Pipeline Safety Act  
2 of 1969.

3 Sec. 6. Section 81-5,167, Revised Statutes Cumulative Supplement,  
4 2020, is amended to read:

5 81-5,167 (1) The State Fire Marshal shall employ a state boiler  
6 inspector who shall work under the direct supervision of the State Fire  
7 Marshal or his or her designee. The state boiler inspector shall:

8 (a) Be a practical boilermaker, technical engineer, operating  
9 engineer, or boiler inspector;

10 (b) Hold an "AI" or "IS" Commission from the National Board of  
11 Boiler and Pressure Vessel Inspectors. ~~The state boiler inspector shall~~  
12 ~~also either hold "B" and "R" endorsements to his or her commission at the~~  
13 ~~time of hire or acquire such endorsements within eighteen months of~~  
14 ~~employment;~~

15 (c) Be qualified by not less than ten years' experience in the  
16 construction, installation, repair, inspection, or operation of boilers,  
17 steam generators, and superheaters;

18 (d) Have a knowledge of the operation and use of boilers, steam  
19 generators, and superheaters for the generating of steam for power,  
20 heating, or other purposes; and

21 (e) Neither directly nor indirectly be interested in the  
22 manufacture, ownership, or agency of boilers, steam generators, and  
23 superheaters.

24 (2) The State Fire Marshal may hire deputy inspectors as necessary  
25 to carry out the Boiler Inspection Act. Deputy inspectors shall hold an  
26 "IS" Commission from the National Board of Boiler and Pressure Vessel  
27 Inspectors or acquire the same within twelve months of hire. Such deputy  
28 inspectors shall otherwise be subject to and governed by the same rules  
29 and regulations applicable to and governing the acts and conduct of the  
30 state boiler inspector.

31 (3) Before entering upon his or her duties under the Boiler

1 Inspection Act, the state boiler inspector and each deputy inspector  
2 shall be bonded or insured as required by section 11-201.

3       Sec. 7.   Original sections 28-1253, 81-538, and 81-551, Reissue  
4 Revised Statutes of Nebraska, and sections 81-503.01, 81-505.01, and  
5 81-5,167, Revised Statutes Cumulative Supplement, 2020, are repealed.

6       Sec. 8.   The following sections are outright repealed: Sections  
7 81-534, 81-5,136, and 81-5,137, Reissue Revised Statutes of Nebraska.