

1 IN THE HOUSE

BY THE COMMITTEE ON STATE AFFAIRS

2 COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 129

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIRST LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act establishing the office of State  
7 Fire Marshal; prescribing duties and  
8 authority; imposing duties on fire marshals  
9 of political subdivisions of the state; re-  
10 quiring fire reports from insurance com-  
11 panies, authorizing promulgation of state  
12 fire marshal orders and regulations; pro-  
13 viding penalties for violation of such  
14 orders and regulations; and repealing Ch.  
15 66, SLA 1955, as amended by Ch. 113, SLA  
16 1957."

17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

18 Section 1. OFFICE OF FIRE MARSHAL CREATED: APPOINTMENT:  
19 QUALIFICATIONS: COMPENSATION: FUNCTIONS. There is hereby created  
20 within the Department of Public Safety the office of State Fire  
21 Marshal. The fire marshal shall be appointed by the commissioner  
22 of public safety with the approval of the governor. He shall be  
23 under the direct supervision of, and responsible to the commis-  
24 sioner of public safety. He shall be qualified by experience and  
25 training in the examination of buildings and structures for fire  
26 hazards, the detection of arson, criminal negligence, the detec-  
27 tion and elimination of fire hazards, and fire fighting and pre-  
28 vention. He shall receive compensation and have tenure in  
29 accordance with the state personnel classification and merit

1 systems.

2 Sec. 2. DUTIES. It shall be the duty of the state fire  
3 marshal to enforce all laws of the state and its political sub-  
4 divisions including the following:

5 (1) The prevention of fires;

6 (2) The performance of one fire drill each month at  
7 each public or private school in the state;

8 (3) The storage, sale and use of combustibles and  
9 explosives;

10 (4) The installation and maintenance of fire alarm  
11 systems and fire extinguishing equipment;

12 (5) The construction, maintenance and regulation of  
13 fire escapes;

14 (6) The means and adequacy of fire exits in all places  
15 in which numbers of persons work, live or congregate from time to  
16 time for any purpose including, but not limited to, assembly  
17 halls, hospitals, churches, schools, apartment buildings, and  
18 commercial and industrial establishments;

19 (7) The suppression of arson and investigation of the  
20 cause, origin, and circumstances of fires;

21 (8) To foster, promote, and regulate ways and means of  
22 protecting life and property against fire, explosion and panic;

23 (9) Encourage the adoption of fire prevention measures  
24 by educational programs;

25 (10) Prepare or cause to be prepared for dissemination,  
26 information relating to the subject of fire prevention and ex-  
27 tinguishment;

28 (11) To exercise such other powers and perform such  
29 other duties, as are set forth in other sections of this Act, and

1 as may be conferred and imposed from time to time by law.

2 Sec. 3. STATUS OF FIRE MARSHAL: DELEGATION OF FUNCTIONS:  
3 DEPUTIES. The fire marshal shall be an employee of the Department  
4 of Public Safety and shall exercise the functions of a police  
5 officer. He may delegate such functions of the office as may be  
6 necessary for the administration of this Act to other officers of  
7 the Department of Public Safety or municipal fire departments who  
8 shall be designated as deputy fire marshals. The fire marshal  
9 shall aid in the enforcement of all laws and ordinances and any  
10 rules and regulations adopted under the provisions of this Act and  
11 other laws not inconsistent therewith relating to fires or to fire  
12 prevention and protection; and shall encourage the adoption of  
13 fire prevention measures by means of education, and shall prepare  
14 or cause to be prepared for dissemination information relating to  
15 the subject of fire prevention and extinguishment.

16 Sec. 4. INVESTIGATION OF FIRES: REPORTS. If there is reason  
17 to believe that any fire has resulted from crime or that crime has  
18 been committed in connection with any fire, the fire marshal shall  
19 report that fact in writing to the prosecuting attorney of the  
20 judicial district in which the fire occurred. If the fire occurred  
21 in any incorporated city or subdivision having a regularly or-  
22 ganized fire department, such investigations and reports shall be  
23 made in conjunction with the fire official of that area.

24 Every fire insurance company authorized to transact business  
25 in this state is hereby required to report to the state fire  
26 marshal fire losses on all property they insure within the state.  
27 The reports required shall include the initial report of the fire  
28 and a fire report on the adjusted loss. The initial report will  
29 detail the date of the fire, the amount of probable loss, the

1 character of the property destroyed or damaged, and the apparent  
2 cause of the fire. The initial report shall be mailed to the  
3 state fire marshal within three days after the receipt of notice  
4 of loss by the company involved. The final report shall be filed  
5 with the fire marshal ten days after adjustment of the loss. The  
6 initial and final reports required by this Act shall be in addi-  
7 tion to any report or reports such companies may be required to  
8 file with any other state office. Provided, however, the fire  
9 marshal may by rule or regulation establish the minimum loss level  
10 below which a company need not report.

11       Sec. 5. COOPERATION: ASSISTANCE. The fire marshal is hereby  
12 authorized to assist, receive assistance from, and otherwise co-  
13 operate with any investigator or agent employed by any fire  
14 insurance company licensed to do business within the State of  
15 Alaska, or with any such investigator or agent employed by any  
16 association of such insurance companies.

17       Sec. 6. INSPECTION OF PROPERTY. The fire marshal may enter  
18 upon or into any commercial, business, or public property during  
19 any reasonable business hours for the sole purpose of making in-  
20 spections of such property, or for the sole purpose of abatement  
21 of fire hazards.

22       Sec. 7. FINDINGS: ORDERS. Whenever any of said officers  
23 shall find any building or other structure which lacks adequate  
24 fire escapes, fire alarm apparatus, fire extinguishing equipment,  
25 or by reason of age, dilapidated condition, or any other cause,  
26 constitutes a fire hazard and which building or structure is so  
27 situated as to endanger other property; and whenever such officer  
28 shall find in any building combustibles, explosive matter or  
29 flammable conditions dangerous to the safety of such buildings,

1 he shall order the same to be removed or remedied, and such order  
2 shall forthwith be complied with by the owner or occupant of such  
3 premises or buildings. Such orders shall be reviewable as pro-  
4 vided in regulations promulgated by the authority of this Act.

5 Sec. 8. FAILURE TO COMPLY. If any person fails to comply  
6 with the orders or regulations promulgated pursuant to this Act,  
7 or with the order as modified on appeal, then such officer as  
8 hereby authorized to cause such building or premises to be  
9 repaired, torn down, or demolished, and the rubble therefrom  
10 removed and all dangerous conditions remedied at the expense of  
11 the owner of the property. If the owner fails, neglects, or  
12 refuses to pay said officer within 30 days of the order, for the  
13 expense thereby incurred by him to remedy the fire hazard, such  
14 officer shall certify said expenses, together with twenty-five  
15 per cent (25%) penalty thereon to the clerk or other officer  
16 exercising similar functions of the city, village, or other  
17 political subdivision in which said property is situated, and  
18 said officer shall enter said expenses on the tax roll of the  
19 political subdivision as a lien against the real estate on which  
20 said building is or was situated, and the amount recovered shall  
21 be collected as other taxes and when collected shall be covered  
22 into the general fund of the State of Alaska.

23 Sec. 9. SERVICE. The service of any order of the state  
24 fire marshal may be made by personal service on the occupant of  
25 the property constituting the fire hazard, by delivering the  
26 same to any person in charge of the premises, by affixing a copy  
27 thereof in a conspicuous place on the door to the entrance of  
28 said premises, and sending such copy by registered mail to the  
29 occupant's last known address. Whenever it may be necessary to

1 serve an order upon the owner of premises, such order may be  
2 served either by personally serving him with a copy of the said  
3 order, or if such owner is absent from the jurisdiction of the  
4 officer making the order, by sending a copy of the order by  
5 registered mail to the owner's last known address.

6       Sec. 10. COMPELLING ATTENDANCE OF WITNESSES: SUBPOENA  
7 POWERS. The state fire marshal and his assistants shall have the  
8 power to conduct public investigation hearings as prescribed by  
9 regulation including the power to summon witnesses and compel them  
10 to attend and to testify in relation to the matter under investi-  
11 gation as set forth in the subpoena; may compel by subpoena the  
12 production of any book, paper or document deemed pertinent or  
13 necessary to the inquiry, and shall have the power to administer  
14 oaths and affirmations to any person appearing as a witness at  
15 such public investigation hearings.

16       Sec. 11. FEES. Each person summoned and testifying before  
17 the state fire marshal, or his assistants, shall be entitled to  
18 witness fees and mileage, as provided for witnesses testifying  
19 in the courts of the state. Officers serving subpoenas and  
20 rendering other services to the state fire marshal, shall be paid  
21 in like manner, and in amounts they would be entitled to for like  
22 service in such courts. Such fees shall be chargeable to the  
23 appropriation for the state fire marshal's office.

24       Sec. 12. WITNESSES: CONTEMPT. Any witness who refuses to  
25 obey a summons or lawful order of the state fire marshal, or his  
26 assistants, in relation to any investigation instituted by him  
27 or them, or who fails or refuses to produce any book, paper or  
28 document touching any matter under investigation or examination,  
29 or who is guilty of any contemptuous act after being summoned to

1 appear before him, or either of them to give testimony in relation  
2 to any matter or subject under examination or investigation as  
3 aforesaid, may be punished as for contempt of court upon applica-  
4 tion to the superior court for an order punishing such contempt.

5       Sec. 13. REMOVAL OF PROPERTY. During the existence of a  
6 fire, the fire marshal may protect by removal or otherwise, any  
7 personal property which is affected thereby until the arrival of  
8 the owner or claimant. If the owner or claimant does not take  
9 charge of said property within 24 hours, the fire marshal may  
10 store it at the owner's or claimant's expense.

11       Sec. 14. ABATEMENT OF FIRE HAZARDS. The fire marshal may  
12 abate fire hazards existing on any commercial, business or public  
13 property which exists in violation of law or regulations made in  
14 compliance with law, the abatement shall be by the owner, and the  
15 fire marshal may take appropriate action to assure such abatement.

16       Sec. 15. EVIDENCE OF CRIMINAL ACT. If an investigation  
17 indicates a crime has been committed, the testimony taken on such  
18 examination together with any other data in his possession shall  
19 be presented to the prosecuting attorney of the judicial district  
20 where the fire occurred with a request for institution of criminal  
21 proceedings.

22       Sec. 16. POWER TO ISSUE REGULATIONS: VIOLATIONS. The fire  
23 marshal, with the advice and approval of the commissioner of  
24 public safety shall prepare and adopt rules and regulations estab-  
25 lishing minimum standards for the prevention of fire and for the  
26 protection of life and property against fire and panic in any  
27 building or structure used or intended for use as an asylum, jail,  
28 mental hospital, hospital, sanitarium, home for aged, children's  
29 nursery, children's home or institution, school, or any similar

1 occupancy of any capacity, and in any theater, dance hall, skating  
2 rink, auditorium, roadhouse, hotel, motor court, assembly hall,  
3 meeting hall, night club, fair building, or similar place of assem-  
4 blage of any capacity. Rules and regulations adopted pursuant to  
5 this section shall establish minimum standards relating to the  
6 means of egress and the adequacy of exits from the installation  
7 and maintenance of fire extinguishing and fire alarm systems in,  
8 the storage and handling of combustible or explosive materials or  
9 substances, and the installation and maintenance of appliances,  
10 equipment, decorations, and furnishings that present a fire,  
11 explosion or panic hazard, and such minimum standards shall be  
12 predicated on the height and fire resistive qualities of the  
13 building or structure and the type of occupancy for which it is  
14 used. The rules and regulations shall apply to auxiliary or  
15 accessory buildings used or intended for use with any of the  
16 occupancies mentioned in this section. Violation of any rule or  
17 regulation shall be deemed a violation of this Act. In preparing  
18 and adopting rules and regulations affecting public schools, the  
19 fire marshal shall also secure the advice of the Department of  
20 Education.

21       Sec. 17. ENFORCEMENT OF REGULATIONS. The fire marshal and  
22 the chiefs of any city fire department and their authorized repre-  
23 sentatives in their respective areas, may enforce rules and  
24 regulations that have been formally adopted by the fire marshal  
25 for the prevention of fire or for the protection of life and  
26 property against fire or panic. All police officers of the  
27 Department of Public Safety are hereby authorized to assist the  
28 fire marshal in the enforcement of the provisions of this Act  
29 and rules and regulations made and promulgated in accordance with

1 this Act. The authority herein conferred shall, in addition to  
2 the provisions of this Act, extend to the enforcement of the pro-  
3 visions of Sections 65-5-1 through 65-5-19, Alaska Compiled Laws  
4 Annotated, 1949, as amended.

5       Sec. 18. VIOLATIONS. Any person who shall violate any of the  
6 provisions of this Act or the published rules and regulations or  
7 orders, promulgated thereunder and from which no appeal has been  
8 taken within thirty (30) days after the issuance of a final order,  
9 shall severally for each and every such violation, be guilty of  
10 a misdemeanor, punishable by a fine of not more than \$500.00 or  
11 by imprisonment for not more than six (6) months or by both such  
12 fine and imprisonment. Any person aggrieved by the fire marshal's  
13 issuance of a final order may appeal to the district court within  
14 thirty (30) days after the issuance of such an order. The imposi-  
15 tion of one penalty for any violation shall not excuse the violation  
16 or permit it to continue; and all such persons shall be required  
17 to correct or remedy such violations or defects within a reasonable  
18 time and when not otherwise specified, each ten (10) days that  
19 prohibited conditions are maintained shall constitute a separate  
20 offense.

21       The application of the above penalty shall not be held to  
22 prevent the enforced removal of prohibited conditions.

23       Sec. 19. RECORDS. The state fire marshal shall keep a  
24 record of all fires including statistics as to the extent of such  
25 fires and the damage caused thereby, and whether such losses were  
26 covered by insurance, and if so, in what amount. Such record shall  
27 be compiled weekly from the reports made to his office under the  
28 provisions of this Act.

29       Sec. 20. ANNUAL REPORT. The state fire marshal shall, on

1 or before the 15th day of January of each year, transmit to the  
2 governor a full report of the activities of his office. The  
3 report shall include statistics collected and shall recommend any  
4 legislation designed to protect the public welfare.

5 Sec. 21. REPEALER. Ch. 66, SLA 1955, as amended by Ch. 113,  
6 SLA 1957, is hereby repealed.

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