

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. All regulations adopted pursuant hereto shall be
21 adopted in accord with the Administrative Procedures Act which
22 shall apply to all procedures and hearings hereunder.

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

1 fire marshal in the enforcement of the provisions of this Act
2 and rules and regulations made and promulgated in accordance with
3 this Act. The authority herein conferred shall, in addition to
4 the provisions of this Act, extend to the enforcement of the pro-
5 visions of Sections 65-5-1 through 65-5-19, Alaska Compiled Laws
6 Annotated, 1949, as amended.

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

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

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

1 provisions of this Act.

2 Sec. 20. ANNUAL REPORT. The state fire marshal shall, on
3 or before the 15th day of January of each year, transmit to the
4 governor a full report of the activities of his office. The
5 report shall include statistics collected and shall recommend any
6 legislation designed to protect the public welfare.

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

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