

**H B**

**58**

FISCAL NOTE

REQUEST:

Revision Date: 3/14/89  
Title: An act relating to fire protection  
Sponsor: House Judiciary  
Requestor: Senate Judiciary

Agency Affected: Public Safety  
BRU: Fire Prevention  
Component: Fire Prevention Operations

EXPENDITURES/REVENUES: (Thousands of Dollars) (Inflation not included)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE	0	0	0	0	0	0
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

No fiscal impact.

*JM*  
*3/14/89* Prepared by: Gordon E. Brunton  
Division: Fire Prevention

Phone: 465-4331  
Date: March 14, 1989

Approved by Commissioner: G.A.H. for Arthur English  
Agency: Department of Public Safety

Date: March 14, 1989

STEVE COWPER  
GOVERNOR



STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

January 9, 1989

The Honorable Sam Cotten  
Speaker of the House  
Alaska State Legislature  
P.O. Box V  
Juneau, AK 99811

Dear Representative Cotten:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to fire protection laws.

The bill does four things: (1) it assists the division of fire prevention by allowing fire code enforcement to be handled by fire departments "recognized" by the Department of Public Safety, rather than just "city" fire departments; (2) it corrects an oversight that has left violations of hazardous materials laws unenforceable; (3) it requires compliance with a department order unless a motion for a stay has been filed with the court (current law permits noncompliance simply by filing a notice of appeal); and (4) makes enforcement of fireworks regulations more feasible.

Section 1 of the bill amends AS 18.70.090 to allow fire departments that are not city fire departments to be "recognized" under regulations adopted by the Department of Public Safety which provide standards and qualifications for that recognition. Non-city fire departments would then be able to enforce state fire safety regulations. Given the limited resources of the division of fire prevention, this change is needed to provide meaningful enforcement in many areas of the state. City fire departments would, of course, be "recognized" under those regulations and would continue to enforce state fire safety regulations.

Section 1's amendments to AS 18.70.090 also change two section-specific citations to include instead all of AS 18.70. This change will make certain provisions in AS 18.70.090 applicable to AS 18.70.310, regarding hazardous materials and wastes placards.

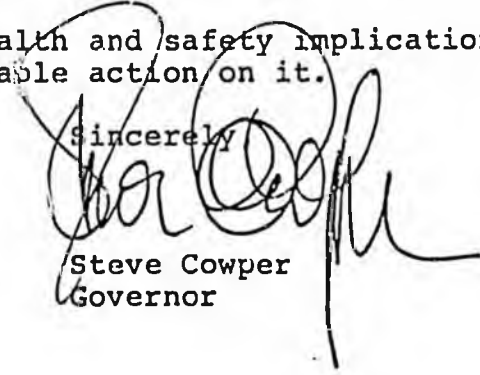
Sections 2 and 3 amend AS 18.70.100(a) and AS 18.70.310, respectively, to apply penalty provisions to violations of AS 18.70.310, regarding hazardous materials and wastes placards. Current law provides no penalty, leaving AS 18.70.310 essentially unenforceable.

Section 2 also amends AS 18.70.100(a) to make it a misdemeanor to be in noncompliance with a department order relating to fire protection, unless a motion for stay has been filed with the court. The existing language of AS 18.70.100(a) permits noncompliance with an order by merely filing a notice of appeal, thus unnecessarily delaying correction of life-threatening situations.

Finally, sec. 4 amends AS 18.72.040 to make prosecution of fireworks violations more feasible by allowing a conviction if the person "recklessly" fails to comply with fireworks laws. This change is consistent with other provisions of law which prohibit reckless creation of risks of injury and which provide that ignorance of the law is no excuse. See AS 11.41.250 (reckless endangerment) and AS 11.81.620(a). The current language of AS 18.72.040 requires proof that the person knew what the law was, and "willfully" violated it, which is often impossible to prove.

This bill has important health and safety implications and I urge your prompt and favorable action on it.

Sincerely,



Steve Cowper  
Governor

STATE OF ALASKA  
1989 LEGISLATIVE SESSION

BILL VERSION: HB 58  
PUBLISH DATE: HOUSE 1/9/89

FISCAL NOTE

REQUEST:

Revision Date: \_\_\_\_\_  
Title: An act relating to fire protection  
Sponsor: Rules Committee  
Requestor: Governor

Agency Affected: Public Safety  
BRU: Fire Prevention  
Component: Fire Prevention Operations

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE	0	0	0	0	0	0
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)  
No fiscal impact.

Prepared by: Gordon F. Brunton  
Division: Fire Prevention

Phone: 465-4331  
Date: 10/28/88

Approved by Commissioner: S.A. English  
Agency: Department of Public Safety

Date: 11-14-88

# AVCP

Association of Village Council Presidents  
P. O. Box 219 • Bethel, Alaska 99559 • Phone 543-3521

March 31, 1989

Senator Jan Faiks  
Senate Judiciary Committee  
P.O. Box V  
Juneau, Ak. 99811

RECEIVED

APR 6 1989

JAN FAIKS  
SENATE OFFICE

Dear Senator Faiks:

The Association of Village Council Presidents goes on record as opposing the passage of committee substitute for House Bill #58 in its present form.

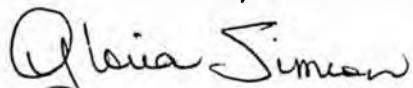
We feel this bill has the potential for causing great conflict between Village Public Safety Officers (VPSO's) and the local government he/she works for. The buildings which house the village local governments would most likely be those found in violation of the state fire codes.

Additionally, what effect would accidental death or injury, due to negligence on the part of the local governments, have on the VPSO's and the regional non-profit corporations who must assume liability for the VPSO's? I might add that this liability insurance is becoming increasingly difficult and expensive to obtain.

Please support us in opposing the passage of this bill.

Sincerely,

ASSOCIATION OF VILLAGE COUNCIL PRESIDENTS  
Willie Kasayulie, Chairman  
Gene Peltola, President



Gloria Simeon  
VPSO Coordinator

cc: Senator Al Adams  
Senator John Binkley  
Representative Lyman Hoffman

# MEMORANDUM

# State of Alaska

MAIL STOP:

TO: *Chris Christensen*  
*Senate Judiciary Committee*  
*Alaska State Senate*

DATE: *3/16/89*

FILE NO:

TELEPHONE NO: *465-4331*

FROM: *Gordon Brunton*  
*Div. of Fire Prevention - DPS*

SUBJECT: *CSHB 58 (JUD)*

*Due to the apparent concerns with HB58 by Senator Adams,  
here is a suggested amendment that we think will  
resolve the issue.*

RECEIVED

MAR 17 1989

JAN FAIKS  
SENATE OFFICE

Amendment No. \_\_\_\_

CSHB 58 (JUD)

Amend Section 1 to read:

Section 1. AS 18.70.090 is amended to read:

Sec. 18.70.090. ENFORCEMENT AUTHORITY [OF REGULATIONS].  
The Department of Public Safety and the chief of each municipal  
[CITY] fire department and their authorized representatives in  
their respective areas may enforce the regulations adopted by  
the Department of Public Safety for the prevention of fire or  
for the protection of life and property against fire or panic.  
All state peace officers may assist the Department of Public  
Safety in the enforcement of AS 18.70.010 - 18.70.100, ~~18.70.300~~  
~~= 18.70.310~~, and the regulations adopted under ~~those sections~~  
[IT]. The authority conferred in AS 18.70.010 - 18.70.100 and  
~~18.70.300 - 18.70.310~~ extends to the enforcement of the  
provisions of AS 11.46.400 - 11.46.430.

IN THE SUPREME COURT FOR THE STATE OF ALASKA

ORDER NO. 957

Amending Appellate Rule  
603(a)(2) concerning Stays in  
Administrative Appeals.

IT IS ORDERED:

Appellate Rule 603(a)(2) is amended to provide:

(2) Stay Upon Appeal - Supersedeas Bond.  
When an appeal is taken, the appellant may obtain a stay of proceedings to enforce the judgment by filing a supersedeas bond with the district court, or with the superior court in administrative appeals, not later than 30 days after the date shown in the clerk's certificate of distribution on the judgment or the date of mailing or delivery of the administrative order appealed from. The bond shall be conditioned for the satisfaction in full of any judgment (including interest and costs) which may be given against the appellant by the superior court, or for satisfaction in full of the judgment (including interest and costs) of the district court if the appeal is dismissed. The bond shall comply with the provisions of Civil Rule 80. This subparagraph does not prohibit the court from considering the public interest in deciding whether to impose or continue a stay on that portion of an administrative judgment which is not limited to monetary relief.

DATED: March 30, 1989

EFFECTIVE DATE: March 30, 1989

\_\_\_\_\_  
Chief Justice Matthews

\_\_\_\_\_  
Justice Rabinowitz

\_\_\_\_\_  
Justice Burke

\_\_\_\_\_  
Justice Compton

\_\_\_\_\_  
Justice Moore

CSHB 105(Jud)am

Representative Goll moved and asked unanimous consent that Amendment No. 9 be adopted.

Objection was heard.

The question being: "Shall Amendment No. 9 be adopted?" The roll was taken with the following result:

## CSHB 105(JUD)AM AN9

Yeas: 17 Boucher, Cato, Davidson,  
Davis, M., Foster, Goll,  
Grussendorf, Hoffman, Hudson,  
Jacko, Koponen, Larson, Leman,  
MacLean, Shultz, Swackhammer,  
Wallis

Nays: 23 Barnes, Boyer, Brown, Collins,  
Cotten, Davis, C., Donley, Ellis,  
Furnace, Gruenberg, Hanley,  
Martin, Menard, Miller, Navarre,  
Phillips, Rieger, Sharp,  
Spohnholz, Taylor, Ulmer, Zawacki

Excused: 1 Pettyjohn

Absent: 0

And so, Amendment No. 9 was not adopted.

Representative Taylor moved and asked unanimous consent that CSHB 105(Jud)am be returned to second reading for the specific purpose of considering Amendment No. 10.

Representative Collins objected.

Amendment No. 10 by Taylor:

Page 2, lines 26 and 27:

Delete "\$15"  
Insert "\$40"

Representative Taylor moved and asked unanimous consent to withdraw his motion to return to second reading. There being no objection, it was so ordered.

CSHB 105(Jud)am

Representative Ulmer placed a call of the House.

The Speaker stated the call was satisfied.

The question to be reconsidered: "Shall CSHB 105(Jud)am pass the House?" The roll was taken with the following result:

## CSHB 105(JUD)AM RECONSIDERATION

Yeas: 27 Boucher, Brown, Cato, Collins,  
Cotten, Davidson, Davis, C.,  
Davis, M., Donley, Ellis, Furnace,  
Gruenberg, Hanley, Hudson,  
Koponen, Larson, Leman, Martin,  
Menard, Navarre, Phillips, Rieger,  
Sharp, Spohnholz, Swackhammer,  
Ulmer, Zawacki

Nays: 12 Barnes, Boyer, Foster, Goll,  
Grussendorf, Hoffman, Jacko,  
MacLean, Miller, Shultz, Taylor,  
Wallis

Excused: 1 Pettyjohn

Absent: 0

Larson changed from 'nay' to 'yea'.

And so, CSHB 105(Jud)am passed the House on reconsideration and was referred to the Chief Clerk for engrossment.

CONSIDERATION OF THE DAILY CALENDARSECOND READING OF HOUSE BILLSHB 58

The following was read the second time:

HOUSE BILL NO. 58  
"An Act relating to fire protection; and providing  
for an effective date."

with the:

Zero fiscal note (Public Safety) page 35  
published 1/9/89  
Community & Regional Affairs Committee  
report with previous zero  
fiscal note page 132

HB 58

Judiciary Committee report with  
previous zero fiscal note

page 389

Representative Navarre moved and asked unanimous consent that the following committee substitute be adopted in lieu of the original bill:

CS FOR HOUSE BILL NO. 58 (Judiciary)  
"An Act relating to the enforcement and penalty provisions of certain laws on fire protection, fireworks, and warning placards for hazardous substances; authorizing the adoption and use of alternative designs for warning placards for hazardous substances; amending Alaska Rule of Appellate Procedure 603(a)(2); and providing for an effective date."

There being no objection, it was so ordered.

Representative Navarre moved and asked unanimous consent that CSHB 58(Jud) be considered engrossed, advanced to third reading and placed on final passage. There being no objection, it was so ordered.

CSHB 58(Jud) was read the third time.

The question being: "Shall CSHB 58(Jud) pass the House?"  
The roll was taken with the following result:

CSHB 58(JUD)

Yeas: 38 Barnes, Boucher, Boyer, Brown,  
Cato, Collins, Cotten, Davidson,  
Davis, C., Davis, M., Donley,  
Ellis, Foster, Goll, Gruenberg,  
Grussendorf, Hanley, Hoffman,  
Hudson, Jacko, Koponen, Larson,  
Leman, MacLean, Martin, Menard,  
Miller, Navarre, Phillips, Rieger,  
Sharp, Shultz, Spohnholz,  
Swackhammer, Taylor, Ulmer,  
Wallis, Zawacki

Nays: 0

Excused: 1 Pettyjohn

Absent: 1 Furnace

And so, CSHB 58 (Jud) passed the House.

CSHB 58(Jud)

Representative Navarre moved and asked unanimous consent that the roll call on the passage of the bill be considered the roll call on the court rule change. There being no objection, it was so ordered.

Representative Navarre moved and asked unanimous consent that the roll call on the passage of the bill be considered the roll call on the effective date clause. There being no objection, it was so ordered.

CSHB 58(Jud) was referred to the Chief Clerk for engrossment.

HB 114

The following was read the second time:

HOUSE BILL NO. 114

"An Act relating to the examination of regulations and of opinions and decisions issued by courts and agencies on the law of the state."

with the:

State Affairs Committee report	page 347
Zero fiscal note with analysis (LAA) published 2/15/89	page 347
Judiciary Committee report with previous zero fiscal note	page 399

Representative Navarre moved and asked unanimous consent that HB 114 be considered engrossed, advanced to third reading and placed on final passage. There being no objection, it was so ordered.

HB 114 was read the third time.

The question being: "Shall HB 114 pass the House?"  
The roll was taken with the following result:

HB 114

Yeas: 37 Barnes, Bo	Boyer, Brown,
Cato, Coll.	Cotten, Davidson,
Davis, C.,	D., M., Donley,
Ellis, Fos	Goll, Gruenberg,
Grussendorf	ley, Hoffman,
Hudson, Jac.	oponen, Larson,
Leman, MacLe	Martin, Miller,
Navarre, Phi	s, Rieger, Sharp,
Shultz, Spohn	.z, Swackhammer,
Taylor, Ulmer.	Wallis, Zawacki

## Chapter 68. Sexual Assault Investigations.

Section	Section
10. Sexual assault examination kit	30. Training in protocols and sexual examination kits
20. Sexual assault investigations protocols	

Legislative history reports. — For legislative letter of intent relating to ch. 168, SLA 1984 (HCS C55551 72(HESS)), see 1984 Senate Journal, p. 2056.

**Sec. 18.68.010. Sexual assault examination kit.** (a) The Department of Public Safety and the Department of Law shall develop a uniform sexual assault examination kit.

(b) Under protocols developed under AS 18.68.020

(1) the Department of Public Safety shall distribute the kits throughout the state; and

(2) peace officers and health care providers shall use the kits for the gathering of evidence in cases of suspected sexual assault.

(c) The appropriate person under the protocols developed under AS 18.68.020 shall provide a sexual assault examination kit at no charge.

(d) This section does not prohibit the introduction in court of evidence obtained without the use of a sexual assault examination kit. (§ 1 ch 168 SLA 1984)

**Sec. 18.68.020. Sexual assault investigations protocols.** (a) The Department of Public Safety and the Department of Law in conjunction with the Department of Health and Social Services shall develop a manual of protocols governing the distribution and use of the sexual assault examination kit developed under AS 18.68.010.

(b) The Department of Public Safety shall distribute copies of the protocol manual developed under this section to the appropriate peace officers and health care providers in the state. (§ 1 ch 168 SLA 1984)

**Sec. 18.68.030. Training in protocols and sexual examination kits.** The Department of Public Safety and the Department of Law shall develop and implement training in the use of the protocols and the sexual assault examination kits for peace officers, district attorneys, and appropriate law enforcement agencies, health care providers, and sexual assault program personnel. (§ 1 ch 168 SLA 1984)

## Chapter 70. Fire Protection.

Article		
1. Prevention and Investigation	(§§ 18.70.010 - 18.70.100)	
2. Mutual Fire Aid Agreements	(§§ 18.70.150 - 18.70.160)	
3. General Provisions	(§§ 18.70.300, 18.70.310)	

### Article 1. Prevention and Investigation.

Section	Section
10. General function of Department of Public Safety with respect to fire protection	70. Abatement of fire hazards
20. Duties of Department of Public Safety	75. Authority of municipal fire department officers and their personnel
30. Investigation of fires resulting from crime	80. Regulations
40. Cooperation with fire insurance companies	81. Approval of fire protection systems
50. Power of department to inspect buildings	82. Remote housing facilities
60. Removal of property from fire	84. Standard fire hose and hydrant threads required
	85. Sale of nonstandard equipment
	90. Enforcement of regulations
	95. Smoke detection devices
	100. Violation

Collateral references. — 13 Am. Jur. 2d, Buildings, §§ 18-28; 35 Am. Jur. 2d, Fires, §§ 1-4.

36A C.J.S., Fires, §§ 15-18; 39A C.J.S., Health and Environment, §§ 28, 29. 47. Fire department as pertaining to the governmental or to the proprietary branch of municipality. 9 ALR 143; 33 ALR 688; 84 ALR 514.

Police power as authorizing statute imposing upon owner or occupant liability for expense of fighting fire starting on his land or property. 90 ALR2d 875.

Liability of one negligently causing fire for injuries sustained by person other than firefighter in attempt to control fire or to save life or property. 91 ALR3d 1202.

Liability of owner or occupant of premises to fireman coming thereon in discharge of his duty. 11 ALR10th 597.

Liability of owner or occupant of premises to police officer coming thereon in discharge of officer's duty. 30 ALR10th 81.

**Sec. 18.70.010. General function of Department of Public Safety with respect to fire protection.** The Department of Public Safety shall foster, promote, regulate, and develop ways and means of protecting life and property against fire, explosion, and panic. (§ 1 ch 66 SLA 1955)

### NOTES TO DECISIONS

**Common-law duty to take action concerning fire hazards after inspection.** — Whether or not the state had a statutory duty to take action concerning hazards discovered at a hotel, where the state fire officials undertook to inspect a hotel for fire hazards, and in doing so they discovered a series of conditions constituting an "extreme life hazard," and there

was evidence that they discussed some of these hazards with the manager of the hotel, promised him a more formal notification of fire code violations, and took no further action, the state fire officials had a duty to proceed further with regard to the recognized hazards, since the state assumed a common-law duty, owed to the victims of the fire, by its affirmative con-

duct. *Adams v. State*, Sup. Ct. Op. No. 1318 (File No. 2326), 555 P.2d 235 (1976).

Where the state had not undertaken to inspect a hotel and eliminate the fire hazards, it did not assume any common-law duty. *State v. Jennings*, Sup. Ct. Op. No. 1319 (File Nos. 2322, 2423), 555 P.2d 248 (1976).

**Duty to exercise reasonable care in conducting inspections.** — Once an inspection has been undertaken the state has a further duty to exercise reasonable

care in conducting fire safety inspections, and liability will attach where there is a negligent failure to discover fire hazards which would be brought to light by an inspection conducted with ordinary care. *Adams v. State*, Sup. Ct. Op. No. 1318 (File No. 2326), 555 P.2d 235 (1976).

What constitutes reasonable care will vary with the circumstances and hazards involved. *Adams v. State*, Sup. Ct. Op. No. 1318 (File No. 2326), 555 P.2d 235 (1976).

**Sec. 18.70.020. Duties of Department of Public Safety.** The Department of Public Safety shall

(1) aid in the enforcement of all laws and ordinances and the regulations adopted under AS 18.70.010 — 18.70.100 and all other laws relating to fires or to fire prevention and protection;

(2) encourage the adoption of fire prevention measures by means of education;

(3) prepare or have prepared for dissemination information relating to the subject of fire prevention and extinguishment; and

(4) administer the state fire-service training program, including the administration of grants for fire-service training. (§ 2 ch 66 SLA 1955; am E.O. No. 62, § 4 (1986))

**Effect of amendments.** — The 1986 amendment designated the existing provisions of the section as present paragraphs (1)-(3) and added paragraph (4).

#### NOTES TO DECISIONS

**Common-law duty to take action concerning fire hazards after inspection.** — See note to AS 18.70.010. *Adams v. State*, Sup. Ct. Op. No. 1318 (File No. 2326), 555 P.2d 235 (1976).

**Sec. 18.70.030. Investigation of fires resulting from crime.** If there is reason to believe that a fire has resulted from crime or that crime has been committed in connection with a fire, the Department of Public Safety shall report that fact in writing to the district attorney of the judicial district in which the fire occurred. If the fire occurred in an incorporated city with a regularly organized fire department, the investigation and report shall be made in conjunction with the fire official of that area. (§ 3 ch 66 SLA 1955)

**Sec. 18.70.040. Cooperation with fire insurance companies.** The Department of Public Safety may assist, receive assistance from, and otherwise cooperate with an investigator or agent employed by a fire insurance company licensed to do business in the state, or with an investigator or agent employed by an association of insurance companies licensed to do business in the state. (§ 4 ch 66 SLA 1955)

**Sec. 18.70.050. Power of department to inspect buildings.** The Department of Public Safety may enter any building subject to regulation under AS 18.70.080 during reasonable hours for the sole purpose of inspecting the property or abating a fire hazard. (§ 5 ch 66 SLA 1955; am § 3 ch 176 SLA 1968)

#### NOTES TO DECISIONS

**Purpose of fire inspection is to protect life and property from fire.** *Adams v. State*, Sup. Ct. Op. No. 1318 (File No. 2326), 555 P.2d 235 (1976).

**Common-law duty to take action concerning fire hazards after inspection.** — See note to AS 18.70.010. *Adams v. State*, Sup. Ct. Op. No. 1318 (File No. 2326), 555 P.2d 235 (1976).

**Fire inspector must obtain warrant.** — Defendant could not be prosecuted for exercising his constitutional right to insist that the fire inspector obtain a warrant authorizing entry upon defendant's locked warehouse. See *v. City of Seattle*, 387 U.S. 641, 87 S. Ct. 1737, 18 L. Ed. 2d 943 (1967).

**Sec. 18.70.060. Removal of property from fire.** During a fire and in the absence of the owner or claimant, the Department of Public Safety may protect personal property affected by removing it. If the owner or claimant does not take charge of the property within 24 hours the Department of Public Safety may store it at the owner's or claimant's expense. (§ 1 ch 66 SLA 1955)

**Sec. 18.70.070. Abatement of fire hazards.** The Department of Public Safety may require the owner of a commercial business or public property to abate a fire hazard that exists in violation of law or regulations, and the Department of Public Safety may take appropriate action to assure abatement. (§ 7 ch 66 SLA 1955)

#### NOTES TO DECISIONS

**Common-law duty to take action concerning fire hazards after inspection.** — See note to AS 18.70.010. *Adams v. State*, Sup. Ct. Op. No. 1318 (File No. 2326), 555 P.2d 235 (1976).

**Sec. 18.70.075. Authority of municipal fire department officers and their personnel.** (a) An officer of a municipal fire department or an authorized representative, while providing fire protection services, has the authority to

(1) control and direct activities at the fire;

(2) order a person to leave a building or place in the vicinity of the fire, for the purpose of protecting the person from injury;

(3) blockade a public highway, street, or private right-of-way temporarily while at a fire;

(4) trespass upon property at or near the scene of a fire at any time of the day or night;

(5) enter a building, including a private dwelling, or upon premises where a fire is in progress, or where there is reasonable cause to believe a fire is in progress, for the purpose of extinguishing the fire;

(6) enter a building, including a private dwelling, or premises near the scene of the fire for the purpose of protecting the building or premises or for the purpose of extinguishing the fire that is in progress in another building or premises;

(7) upon 24-hour notice to the owner or occupant, inspect for preplanning all buildings, structures, or other places within the municipality, except the interior of a private dwelling, where combustible material is or may become dangerous as a fire menace to the building;

(8) direct the removal or destruction of a fence, house, motor vehicle, or other thing that the officer or authorized representative may judge necessary to remove or destroy to prevent the further spread of the fire.

(b) An owner or occupant of a building or place specified in this section or any other person on the site of a fire or other emergency who refuses to obey the order of an officer of a municipal fire department or an authorized representative in the exercise of official duties is guilty of a misdemeanor, and upon conviction, is punishable by imprisonment for one year, or by a fine of not more than \$1,000, or by both.

(c) In this section, "inspect for preplanning" means to conduct limited inspections for purposes of preparing a fire attack plan in the event of a future emergency, but does not include inspections for purposes of determining compliance with statutory or municipal fire code requirements. (~~§ 2 ch 215 SLA 1975~~)

Opinions of attorney general. — The authority vested in an officer of a municipal fire department or his authorized representative under this section is not

undercut by the authority of a state trooper addressed in AS 18.65.080. May 17, 1983 Op. Atty Gen.

**Sec. 18.70.080. Regulations.** (a) The Department of Public Safety shall adopt regulations for the purpose of protecting life and property from fire and explosion by establishing minimum standards for

- (1) fire detection and suppression equipment;
- (2) fire and life safety criteria in commercial, industrial, business, institutional or other public building, and buildings used for residential purposes containing four or more dwelling units;
- (3) any activity in which combustible or explosive materials are stored or handled in commercial quantities;
- (4) conditions or activities carried on outside a building described in (2) or (3) of this section likely to cause injury to persons or property.

(b) The commissioner of public safety may establish by regulation and the department may charge reasonable fees for fire and life safety

plan checks made to determine compliance with regulations adopted under (2)(2) of this section. The commissioner of administration shall separately account for fees collected under this subsection that the Department of Public Safety deposits in the general fund. The annual estimated balance in the account may be used by the legislature to make appropriations to the department to carry out the purposes of this chapter. (~~§ 8 ch 66 SLA 1955; am § 1, 2 ch 176 SLA 1968; am § 1 ch 23 SLA 1971; am § 39 ch 138 SLA 1980~~)

Effect of amendments. — The 1986 amendment added subsection (b).

#### NOTES TO DECISIONS

Common-law duty to take action concerning fire hazards after inspection. — See note to AS 18.70.010. Adams v. State, Sup. Ct. Op. No. 1318 (File No. 2326), 555 P.2d 235 (1976).

**Sec. 18.70.081. Approval of fire protection systems.** Before October 30 of each year the Department of Public Safety shall prepare and make available a list of approved fire protection systems to the Department of Community and Regional Affairs, the Department of Commerce and Economic Development, and the public. (~~§ 1 ch 45 SLA 1980~~)

**Sec. 18.70.082. Remote housing facilities.** Any construction camp, logging camp, cannery, or oil or mining camp that has buildings not in a fire department service area in which persons are housed in dormitories or similar facilities shall be equipped with an automatic fire detection system in that portion of the building used for living or sleeping purposes. In this chapter an automatic fire detection system means a type of automatic fire detection system approved by the state fire marshal. (~~§ 1 ch 65 SLA 1970~~)

**Sec. 18.70.084. Standard fire hose and hydrant threads required.** All fire protection equipment to be purchased by state and municipal authorities, or any other authority having charge of public property, shall be equipped with national standard fire hose threads for fire hose couplings and hydrant fittings as adopted by the state fire marshal under AS 18.70.080. (~~§ 1 ch 48 SLA 1970~~)

**Sec. 18.70.085. Sale of nonstandard equipment.** A person may not sell or offer for sale in Alaska any fire engine, fire hose, hydrant, or other equipment for fire protection purposes unless the equipment is fitted and equipped according to minimum standards adopted by the state fire marshal under AS 18.70.080. Fire equipment for special

purposes or research programs, or special features of fire protection equipment found appropriate for uniformity within a particular protection area, may be exempted from this requirement by the state fire marshal. (§ 1 ch 48 SLA 1970)

**Sec. 18.70.090. Enforcement of regulations.** The Department of Public Safety and the chief of each city fire department and their authorized representatives in their respective areas may enforce the regulations adopted by the Department of Public Safety for the prevention of fire or for the protection of life and property against fire or panic. All state peace officers may assist the Department of Public Safety in the enforcement of AS 18.70.010 — 18.70.100 and the regulations adopted under it. The authority conferred in AS 18.70.010 — 18.70.100 extends to the enforcement of the provisions of AS 11.46.400 — 11.46.430. (§ 9 ch 66 SLA 1955; am § 8 ch 117 SLA 1968; am § 20 ch 166 SLA 1978)

NOTES TO DECISIONS

**City fire chief can enforce standards without delegation by state fire marshal.** — The language of this section would indicate that the fire chief in each city can enforce state fire standards independently of any delegation by the state fire marshal's office. *State v. Jennings*, Sup. Ct. Op. No. 1319 (File Nos. 2322, 2423), 555 P.2d 248 (1976).

**State not liable for city's negligence.** — Where the state fire marshal's office, in accordance with its policy, had deferred to the city's fire prevention agency for the purposes of fire prevention and inspection within the city limits, and, thus, the state

fire marshal referred complaints about a hotel to the city fire marshal for action; and the city conducted inspection and initiated enforcement, there is no principal-agent relationship between the state and the city which would justify holding the state vicariously liable for the city's negligence. *State v. Jennings*, Sup. Ct. Op. No. 1319 (File Nos. 2322, 2423), 555 P.2d 248 (1976).

**Common-law duty to take action concerning fire hazards after inspection.** — See note to AS 18.70.010. *Adams v. State*, Sup. Ct. Op. No. 1318 (File No. 2326), 555 P.2d 235 (1976).

**Destruction of building in emergency.** 14 ALR2d 78.

**Collateral references.** — Power to require closing of place of amusement or other place of public assembly because of fire hazard or unsanitary conditions. 140 ALR 1048.

**Sec. 18.70.095. Smoke detection devices.** Smoke detection devices shall be installed in all living units built, manufactured or sold in the state. The devices shall be of a type approved by the state fire marshal. (ch 148 SLA 1975)

NOTES TO DECISIONS

Applied in *Northern Lights Motel, Inc. v. Sweeney*, Sup. Ct. Op. No. 1369 (File No. 2476), 561 P.2d 1176, aff'd on rehearing, 563 P.2d 256 (1977).

**Sec. 18.70.100. Violation.** (a) A person who violates any provision of AS 18.70.010 — 18.70.100 or the published regulations or orders adopted under it from which no appeal has been taken within 30 days after the issuance of a final order is, severally, for each violation, guilty of a misdemeanor, and is punishable by a fine of not more than \$500, or by imprisonment for not more than six months, or by both. A person aggrieved by a final order of the Department of Public Safety may appeal to the superior court within 30 days after the issuance of the order. The imposition of one penalty for a violation does not excuse the violation and a person guilty of a violation shall correct the violation within a reasonable time. When not otherwise specified, each 10 days that a prohibited condition is maintained is a separate offense.

(b) The application of the penalty prescribed in (a) of this section does not prevent the Department of Public Safety from enforcing the removal of the prohibited conditions. (§ 10 ch 66 SLA 1955; added by § 1 ch 113 SLA 1957)

**Collateral references.** — Giving false fire alarm by telephone as minor criminal offense. 97 ALR2d 510

**Secs. 18.70.110 — 18.70.140. Fire Escapes.** (Repealed by § 2 ch 23 SLA 1971.)

Article 2. Mutual Fire Aid Agreements.

<p><b>Section</b> 150. Adoption of mutual fire aid agreements</p>	<p><b>Section</b> 160. Agreement not to affect insurance rates or liability</p>
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**Collateral references.** — 35 Am. Jur. 2d, Fires, § 1-4.

36A C.J.S., Fires, §§ 15, 16.

Constitutionality of statute or ordinance requiring proprietor of place of amusement to furnish fire or police protection at his own expense. 8 ALR 1628.

Fire department as pertaining to the governmental or to the proprietary

branch of municipality. 9 ALR 143; 33 ALR 688; 84 ALR 514.

Statute relating to municipal fire departments as interference with local self-government. 100 ALR 1078; 141 ALR 903.

Police power as authorizing statute imposing upon owner or occupant liability for expense of fighting fire starting on his land or property. 90 ALR2d 875.

**Sec. 18.70.150. Adoption of mutual fire aid agreements.** A city, other incorporated entity, and other fire protection groups may organize a mutual-aid program by adopting an ordinance or resolution authorizing and permitting their fire department, fire company, emergency relief squad, fire police squad or fire patrol to go to the aid of another city, incorporated entity, or fire protection group, or territory outside of it. While extending aid under AS 18.70.150 and 18.70.160 the fire department, company, squad, or patrol has the same privileges and immunities it possesses when it performs the same functions in its own area. The ordinance or resolution may authorize the heads of the fire department to extend aid, subject to conditions and restrictions prescribed in the ordinance or resolution. (§ 1 ch 92 SLA 1957)

#### NOTES TO DECISIONS

This section represents an erroneous belief that cities are not liable in tort for negligence connected with fire-fighting activities. *City of Fairbanks v. Schuble*, Sup. Ct. Op. No. 97 (File No. 112, 113), 375 P.2d 201 (1962), overruled on other grounds, *Scheele v. City of Anchorage*, Sup. Ct. Op. No. 167 (File No. 307), 385 P.2d 582 (1963).

A municipality which maintains a fire department may be held liable for injuries resulting from negligence con-

nected with the department's firefighting activities. *City of Fairbanks v. Schuble*, Sup. Ct. Op. No. 97 (File No. 112, 113), 375 P.2d 201 (1962), overruled on other grounds, *Scheele v. City of Anchorage*, Sup. Ct. Op. No. 167 (File No. 307), 385 P.2d 582 (1963). But see *City of Fairbanks v. Gilbertson*, 16 Alaska 690 (1957), aff'd, 262 F.2d 734 (9th Cir. 1959), where § 56-2-2 ACIA 1949 (now AS 09.65.070) was ignored by both the district court and the Court of Appeals.

Collateral references. — Fire departments as pertaining to the governmental

or to the proprietary branch of municipality. 9 ALR 143; 33 ALR 688; 84 ALR 514.

**Sec. 18.70.160. Agreement not to affect insurance rates or liability.** An agreement made under AS 18.70.150 and 18.70.160 shall be carried out in a manner that does not raise insurance rates. An agreement may not reduce the liability of an insurance company in case of loss during the absence of men and equipment. (§ 1 ch 92 SLA 1957)

#### Article 3. General Provisions.

Section  
300. Definition of building

Section  
310. Hazardous materials and wastes placards

**Sec. 18.70.300. Definition of building.** In this chapter "building" means a structure, installation, facility, or edifice erected or in the process of being erected and that is used or intended for use as a commercial, industrial, business, institutional, other public building, or residential building containing four or more dwelling units. (§ 4 ch 176 SLA 1968; am § 27 ch 32 SLA 1971)

Revisor's notes. — Enacted as AS 18.70.165. Renumbered in 1968.

**Sec. 18.70.310. Hazardous materials and wastes placards.** (a) A business or government agency that handles hazardous materials or hazardous wastes shall post placards, provided by the Department of Public Safety, division of fire prevention, in accordance with regulations adopted by the department under this section.

(b) The Department of Public Safety, division of fire prevention, shall adopt the United States Department of Transportation warning placards for hazardous materials and hazardous wastes. A municipality that establishes a program for the reporting of hazardous materials and hazardous wastes may, with the approval of the Department of Public Safety, division of fire prevention, adopt and use an alternative design for warning placards.

(c) The Department of Public Safety shall adopt regulations for the posting of placards that will give adequate warning to the public and to emergency response personnel of the type of hazardous materials and hazardous wastes.

(d) The Department of Public Safety shall establish a fee schedule to fully compensate for the costs of enforcement of, and placards provided under, this section. Fees collected under this subsection shall be deposited in the general fund. The commissioner of administration shall account separately for fees collected and deposited under this subsection. The annual estimated balance in the account may be appropriated by the legislature to the Department of Public Safety to carry out the purposes of this section.

(e) In this section, "handles," "hazardous material," and "hazardous waste" have the meanings given in AS 29.35.590. (§ 2 ch 108 SLA 1986)

Cross references. — For legislative intent in enacting this section, see § 1, ch. 108, SLA 1986, in the Temporary and Special Acts.

Effective dates. — Section 5, ch. 108, SLA 1986, provides: "This Act takes effect January 1, 1987."

Chapter 67. Violent Crimes Compensation Board.

Section

101. Incidents and offenses to which AS 18.67.010 — 18.67.180 apply

Sec. 18.67.101. Incidents and offenses to which AS 18.67.010 — 18.67.180 apply. The board may order the payment of compensation in accordance with the provisions of this chapter for personal injury or death that resulted from

(1) an attempt on the part of the applicant to prevent the commission of crime, or to apprehend a suspected criminal, or aiding or attempting to aid a police officer to do so, or aiding a victim of crime; or

(2) the commission or attempt on the part of one other than the applicant to commit any of the following offenses: murder in any degree, manslaughter, criminally negligent homicide, assault in the first or second degree, kidnapping, sexual assault in any degree, sexual abuse of a minor, robbery in any degree, threats to do bodily harm, or driving while intoxicated or another crime resulting from the operation of a motor vehicle, boat, or airplane when the offender is intoxicated. (§ 2 ch 35 SLA 1979; am § 2 ch 96 SLA 1983; am § 40 ch 14 SLA 1987)

Effect of amendments. — The 1987 amendment deleted "contributing to the delinquency of a minor under AS 11.51.130(m)(4)" following "robbery in any degree" in paragraph (2).

Chapter 70. Fire Protection.

Article

- 1. Prevention and Investigation (§§ 18.70.075, 18.70.095)
3. General Provisions (§ 18.70.310)

Article 1. Prevention and Investigation.

Section

- 75. Authority of fire department officers
95. Smoke detection devices

Sec. 18.70.075. Authority of fire department officers. (a) A fire officer of a municipal fire department or a fire department registered under AS 29.60.130, while providing fire protection or other emergency services, has the authority to

- (1) control and direct activities at the scene of a fire or emergency;
(2) order a person to leave a building or place in the vicinity of a fire or emergency, for the purpose of protecting the person from injury;
(3) blockade a public highway, street, or private right-of-way temporarily while at the scene of a fire or emergency;

(4) trespass upon property at or near the scene of a fire or emergency at any time of the day or night;

(5) enter a building, including a private dwelling, or premises where a fire is in progress, or where there is reasonable cause to believe a fire is in progress, to extinguish the fire;

(6) enter a building, including a private dwelling, or premises near the scene of a fire for the purpose of protecting the building or premises or for the purpose of extinguishing the fire that is in progress in another building or premises;

(7) upon 24-hour notice to the owner or occupant, conduct a prefire planning survey in all buildings, structures, or other places within the municipality or the registered fire department's district, except the interior of a private dwelling, where combustible material is or may become dangerous as a fire menace to the building;

(8) direct the removal or destruction of a fence, house, motor vehicle, or other thing judged necessary to prevent the further spread of a fire.

(b) An owner or occupant of a building or place specified in this section or any other person on the site of a fire or other fire department emergency who refuses to obey the order of a fire officer of a municipal or registered fire department in the exercise of official duties is guilty of a misdemeanor, and upon conviction, is punishable by imprisonment for one year, or by a fine of not more than \$1,000, or by both.

(c) In this section

(1) "emergency" means a situation in which the services of fire department personnel are necessary or appropriate to protect life, property, or public health;

(2) "prefire planning survey" means a limited inspection for the purpose of preparing a fire attack plan in the event of a future emergency. (§ 2 ch 215 SLA 1975; am § 1 ch 4 SLA 1987)

Effect of amendments. — The 1987 amendment rewrote this section to the extent that a detailed comparison is impracticable.

Sec. 18.70.095. Smoke detection devices. (a) Smoke detection devices shall be installed and maintained in all dwelling units in the state. The devices shall be of a type and installed in a manner approved by the state fire marshal.

(b) In a dwelling unit occupied under the terms of a rental agreement or under a month-to-month tenancy,

(1) at the time of each occupancy the landlord shall provide smoke detection devices in working condition and, after notification by the tenant, shall be responsible for replacement; and

(2) the tenant shall keep the devices in working condition by keeping charged batteries in battery-operated devices, if possible, by test-

ing the devices periodically, if possible, and by refraining from permanently disabling the devices.

(c) If a landlord did not know and had not been notified of the need to repair or replace a smoke detection device, the landlord's failure to repair or replace the device may not be considered as evidence of negligence in a subsequent civil action arising from death, property loss, or personal injury.

(d) In this section "dwelling unit," "landlord," "rental agreement," and "tenant" have the meanings given in AS 34.03.360. (§ 1 ch 148 SLA 1975; am §§ 1, 2 ch 129 SLA 1988)

**Effect of amendments.** — The 1988 amendment, in subsection (a), substituted "and maintained in all dwelling units" for "in all living units built, manufactured or sold" in the first sentence and "installed" for "deployed" in the second sentence; and added subsections (b)-(d).

### Article 3. General Provisions.

#### Section

310. Hazardous chemicals, materials, and wastes placards

**Sec. 18.70.310. Hazardous chemicals, materials, and wastes placards.** (a) A business or government agency that handles hazardous chemicals, hazardous materials, or hazardous wastes shall post placards in accordance with regulations adopted under this section. A business or agency located in a municipality shall use placards specified by the municipality. Any other business or agency shall use placards provided by the Department of Public Safety, division of fire prevention.

(b) The Department of Public Safety, division of fire prevention shall adopt the National Fire Protection Association 704M system of warning placards for hazardous chemicals, hazardous materials, and hazardous wastes. A municipality may, with the approval of the Department of Public Safety, division of fire prevention, adopt and use an alternative design for warning placards that gives adequate warning to the public and emergency response personnel, if the 704M system placards are inappropriate.

(c) The Department of Public Safety shall adopt regulations for the posting of placards that will give adequate warning to the public and to emergency response personnel of the type of hazardous chemicals, hazardous materials, and hazardous wastes. A municipality that adopts placarding regulations shall adopt the Department of Public Safety regulations or regulations that are more stringent.

(d) The Department of Public Safety shall establish a fee schedule to fully compensate for the costs of enforcement of, and placards provided under, this section. Fees collected under this subsection shall be

deposited in the general fund. The commissioner of administration shall account separately for fees collected and deposited under this subsection. The annual estimated balance in the account may be appropriated by the legislature to the Department of Public Safety to carry out the purposes of this section.

(e) In this section,

(1) "handles," "hazardous chemical," "hazardous material," and "hazardous waste" have the meanings given in AS 29.35.590;

(2) "municipality" means a municipality that establishes a program for the reporting and placarding of hazardous chemicals, hazardous materials, and hazardous wastes. (§ 2 ch 108 SLA 1986; am §§ 1 — 4 ch 143 SLA 1988)

**Effect of amendments.** — The 1988 amendment repealed and reenacted subsection (a), which formerly related to the same subject matter; rewrote subsection (b); in subsection (c), added the second sentence and, in the first sentence, inserted "hazardous chemicals" and made a minor punctuation change; and, in subsection (e), divided the formerly undivided language into an introductory paragraph and paragraph (1), inserted "hazardous chemical" in paragraph (1), and added paragraph (2).

### Chapter 86. State Commission for Human Rights.

#### Article

1. Creation and Organization of Commission (§§ 18.80.050, 18.80.060)
4. Discriminatory Practices Prohibited (§§ 18.80.200, 18.80.310, 18.80.220 — 18.80.255)
5. General Provisions (§ 18.80.300)

#### NOTES TO DECISIONS

Alaska's civil rights statute should be broadly construed to further the goal of eradication of discrimination. Alaska Sup. Ct. Op. No. 2478 (File No. 5230), 642 P.2d 804 (1982). *USA Fed. Credit Union v. Fridriksson*.

### Article 1. Creation and Organization of Commission.

#### Section

50. Regulations
60. Powers and duties of the commission

**Sec. 18.80.050. Regulations.** (a) The commission shall adopt procedural and substantive regulations necessary to implement this chapter.

(b) The commission shall adopt regulations relating to discrimination because of physical and mental disability. The regulations shall furnish guidance concerning the circumstances under which it is necessary to make a reasonable accommodation for a physically or mentally disabled person when providing employment, financing or credit, public accommodations, the sale or rental of real property, or other

cluding but not limited to ditch digging apparatus, well boring apparatus, construction and maintenance machinery such as asphalt spreaders, bituminous mixers, bucket loaders, tractors other than truck tractors, ditchers, leveling graders, finishing machines, motor graders, road rollers, rollers, earthmoving cranes and scrapers, power shovels and drag lines, and self-propelled cranes and earthmoving equipment; it does not include home trailers, mobile homes, off-highway vehicles, dump trucks, truck-mounted transit mixers, cranes, or shovels, or other vehicles designed for the transportation of persons or property to which machinery has been attached;

(63) "stand" or "standing" means the halting of a vehicle, whether occupied or not, except temporarily for the purpose of and while actually engaged in receiving or discharging passengers;

(64) "stop" or "stopping" means a complete cessation from movement, or the halting, even momentarily, of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic-control sign or signal;

(65) "street" means a highway as defined in AS 28;

(66) "through highway" means a highway or portion of highway on which vehicular traffic has preferential right-of-way, the entrances to which vehicular traffic from intersecting highways is required by law to yield the right-of-way to vehicles on the highway in obedience to a stop sign, yield sign, or other official traffic-control device;

(67) "tow car" means a motor vehicle which is equipped for towing vehicles by means of a crane, hoist, tow bar, tow line or dolly, and is used primarily for towing or otherwise rendering assistance to other vehicles;

(68) "trailer" means a vehicle, with or without motive power, designed for carrying persons or property and for being drawn by a motor vehicle; it includes semitrailers and pole trailers;

(69) "transporter" means a person in the business of delivering vehicles which are required to be registered under AS 28.10 when the delivery is from a manufacturing, assembling, or distributing plant to a dealer or sales agent of a manufacturer;

(70) "truck" means every motor vehicle designed, used or maintained primarily for the transportation of property;

(71) "truck-camper" means a structure designed, used or maintained primarily to be loaded on, or affixed to, a motor vehicle to provide a mobile dwelling, sleeping place, office or commercial space;

(72) "truck-tractor" means a motor vehicle designed and used primarily for drawing other vehicles, which is not designed or con-

structed to carry a load other than a part of the weight of the vehicle and load being drawn;

(63) "urban district" means the territory contiguous to and including a street with structures devoted to business, industry or dwelling houses situated at intervals of less than 100 feet for a distance of at least a quarter of a mile;

(64) "vehicle identification number" means the numbers and letters or other distinguishing marks designated by the department for the purpose of identifying a vehicle or its parts, placed on an engine, transmission, or other equipment by its manufacturer or by authority of the department, or in accordance with the laws of another jurisdiction;

(65) "wrecked vehicle" means a vehicle which is so disabled that the whole vehicle cannot be used for its primary function without substantial repair or reconstruction. (Eff. 6/28/79, Register 70)

Authority: AS 28.05.011

## PART 2. FIRE PREVENTION

### Chapter

50. Codes and Standards (13 AAC 50.010—13 AAC 50.080)

51. Fireworks (13 AAC 51.010—13 AAC 51.060)

52. Fire Service Operations (13 AAC 52.010—13 AAC 52.040)

55. General Provisions for 13 AAC 50—13 AAC 55 (13 AAC 55.010—13 AAC 55.150)

## CHAPTER 50. CODES AND STANDARDS

### Section

10. Occupancy classifications

20. Building codes

25. Fire codes

27. Plan check, approval and stop orders

30. Fire protection systems (installed and portable)

### Section

40. (Repealed)

50. (Repealed)

60. Occupancy standards

70. Inspections, orders, and appeals

75. Deferring to local authorities

80. Fire chief defined

**13 AAC 50.010. OCCUPANCY CLASSIFICATIONS.** All buildings or areas of a building are classified as to their occupancy according to the occupancy classifications defined in the Uniform Building Code (U.B.C.). (In effect before 7/26/59; am 6/25/69, Register 30; am 2/21/71, Register 37; am 1/14/81, Register 77)

Authority: AS 18.70.080

Editor's notes. — Copies of the U.B.C. may be obtained from the International Conference of Building Officials, 5360

South Workman Mill Road, Whittier, California 90601.

**13 AAC 50.020. BUILDING CODES.** (a) The U.B.C. chs. 1, Table 3-A except for "other inspections and fees;" 4-12, 17-22, Sec. 2516(f), 30, 32-34, 36-40, 42, 43, 47, 50-52, 54, Appendix chapters 1, 7, and 65, and the U.B.C. Standards chapters 4, 6, 17, 18, 24-28, 32, 33, 37, 38, 42, 43, 47, 52, 54, and 55, are adopted to regulate all occupancies and buildings with the following revisions:

(1) sections 106, 510, 511, 1211 are deleted; sec. 1807 (b) is revised to read: "All mechanical and electrical equipment and other required life safety systems must be installed in accordance with plans and specifications in accordance with this section, and must be tested and proved to be in proper working condition"; such systems must be maintained in accordance with the Fire Codes described in 13 AAC 50.026;

(2) sanitation and water closet requirements contained in the U.B.C. chs. 6 — 10 and 12 are deleted;

(3) section 608 of the U.B.C. is revised by amending the "EXCEPTION" as follows: "EXCEPTION: Boilers, central heating plants or hot-water supply boilers if the combined pieces of fuel equipment do not exceed 400,000 Btu per hour input";

(4) section 708 of the U.B.C. is revised by amending the "EXCEPTION" as follows: "EXCEPTION: Boilers, central heating plants or hot-water supply boilers if the combined pieces of fuel equipment do not exceed 400,000 Btu per hour input";

(5) section 808 of the U.B.C. is revised by the deletion of "EXCEPTION: Boilers, central heating plants or hot-water supply boilers if the largest piece of fuel equipment does not exceed 400,000 Btu per hour input";

(6) section 1008 of the U.B.C. is revised by amending the "EXCEPTION" as follows: "EXCEPTION: Boilers, central heating plants or hot-water supply boilers if the combined pieces of fuel equipment do not exceed 400,000 Btu per hour input";

(7) section 1204 of the U.B.C. is revised to provide that windows used for egress or rescue must have a finished sill height of not more than 48 inches above the floor;

(8) repealed 8/2/86;

(9) repealed 8/2/86;

(10) U.B.C. Section 403 is revised to read: "'BUILDING EXISTING,' is a building that, before August 2, 1986;

(A) was erected;

(B) received a building permit from the authority having jurisdiction, granted under the provisions of 13 AAC 50.075; or

(C) has received a plan check approval under 13 AAC 50.027(a);"

(11) U.B.C. Section 3322(a) is revised by the deletion of the sentence: "When oil-fired boilers are used, a 6-inch noncombustible sill (dike) shall be provided";

(12) appendix chapter 1 of the U.B.C. is revised by the deletion of sections 110(h), 122, 123 and 124.

(b) The Uniform Mechanical Code (U.M.C.) sections referred to in the Uniform Building Code are adopted by reference, except for the following:

(1) repealed 8/2/86;

(2) section 1404(f), "EXCEPTIONS: 1," of the U.M.C. is revised to read, "Boilers, central heating plants, or hot-water supply boilers if the combined pieces of fuel equipment do not exceed 400,000 Btu per hour input";

(3) repealed 8/2/86;

(c) The electrical systems of all occupancies must meet the standards of the National Electrical Code (N.E.C.) as adopted by AS 18.60.580.

(d) All new buildings that are classified or that contain group A, division 1, 2, 2.1, or 3; group B, division 2; group E, division 1, 2, or 3; or group R, division 1, occupancies and that have floors used for human occupancy over 35 feet above the lowest level of fire department vehicle access, must be equipped throughout the building with an automatic sprinkler system that complies with U.B.C. Chapter 38.

(e) Repealed 8/2/86.

(f) Repealed 8/2/86.

(Enf. 6/25/69, Register 30; am 2/21/71, Register 37; am 6/15/79, Register 71; am 1/14/81, Register 77; am 8/2/86, Register 99)

Authority: AS 18.70.080

Editor's notes. — (1) Copies of the N.E.C. may be obtained from the National Fire Protection Association, Batterymarch Park, Quincy, Massachusetts 02269.

(2) Copies of the U.B.C., U.B.C. Stan-

dards, U.M.C. and the Uniform Fire Code may be obtained from the International Conference of Building Officials, 5360 South Workman Mill Road, Whittier, California, 90601.

**13 AAC 50.025. FIRE CODES.** (a) The Uniform Fire Code (U.F.C.) articles 1, 2, 9-13, 24-34, 35, 36, 45, 47-51, 61-63, 74-76, 79-87, appendices Divisions I; II-A, B, C; III-A, C; IV-A and the U.F.C. Standards articles 9, 10, 24, 62, 74, 79, 81, 82, U.B.C. Standards (as printed in the U.F.C. Standards) Sections 9-1, 9-3, U.M.C. Standards (as printed in the U.F.C. Standards) 5-1 are adopted for the safeguarding of life and property from the hazards of fire and explosion arising from the storage, handling, and use of hazardous substances, materials and devices, and from other conditions hazardous to life and property, with the following revisions:

(1) article 1 of the U.F.C. is revised by the deletion of section 1.102(h);

(2) article 2 of the U.F.C. is revised by the deletion of Division I, "Organization and Authority";

- (3) article 2 of the U.F.C. is revised by the deletion of Division II, "Duties and Procedures";
- (4) article 2, Division III of the U.F.C. is revised by the deletion of section 2.301(a);
- (5) article 2, Division III of the U.F.C. is revised by the deletion of section 2.302;
- (6) article 2, Division III of the U.F.C. is revised by the deletion of section 2.303(b);
- (7) permit requirements under the U.F.C. are deleted;
- (8) article 10 of the U.F.C. is revised by the deletion of Division I;
- (9) article 10, Division II of the U.F.C. is revised by the deletion of section 10.205;
- (10) article 10, Division II of the U.F.C. is revised by the deletion of section 10.207;
- (11) article 10, Division II of the U.F.C. is revised by the deletion of section 10.208 and 10.209;
- (12) article 10, Division III of the U.F.C. is revised by the deletion of section 10.301(c) and (d);
- (13) article 10, Division III of the U.F.C. is revised by the deletion of sections 10.303 — 10.306 and 10.313;
- (14) article 11, Division I of the U.F.C. is revised by the deletion of sections 11.101(a), 11.105(a), (c), (e), 11.106 — 11.115;
- (15) article 11, Division II of the U.F.C. is revised by the deletion of section 11.201(c);
- (16) article 11 of the U.F.C. is revised by the deletion of Division III "Fire Reporting and False Alarms";
- (17) article 11, Division IV of the U.F.C. is revised by the deletion of 11.401, 11.402, 11.409 — 11.412;
- (18) article 12, section 12.101 of the U.F.C. is revised by the deletion of paragraph 2;
- (19) article 13 of the U.F.C. is revised by the deletion of section 12.102;
- (20) article 25, Division I of the U.F.C. is revised by the deletion of section 25.115; section 25.116, paragraph (a); and the last sentence in article 25.117;
- (21) article 28 of the U.F.C. is revised by the deletion of section 28.105;
- (22) article 30 of the U.F.C. is revised by the deletion of section 30.102(a);
- (23) repealed 8/2/86;
- (24) article 47 of the U.F.C. is revised by the deletion of sections 47.104 and 47.105;
- (25) repealed 8/2/86;
- (26) repealed 8/2/86;
- (27) article 79 of the U.F.C. is revised by the deletion of section 79.1102(a) and (b);

- (28) article 79 of the U.F.C. is revised by the deletion of Division XVII;
- (29) article 82 of the U.F.C. is revised by the deletion of section 82.103;
- (30) appendix I-A of the U.F.C. is revised by the deletion of section 1.0(b);
- (31) appendix I-B of the U.F.C. is revised by the deletion of sections 2.1(c) and (e);
- (32) appendix III-A, 1-(a) of the U.F.C. is revised by the deletion of the words "five years" and amended to read "year."
- (b) If no specific standards or requirements are set out in the U.F.C. or in this chapter, compliance with the National Fire Protection Association (N.F.P.A.) or other nationally recognized fire safety standards will be considered compliance with requirements of this chapter. (E.F. 1/14/81, Register 77; am 8/2/86, Register 99)

Authority: AS 18.70.080

Editor's notes. — (1) Copies of the N.F.P.A. Standards may be obtained from the National Fire Protection Association, Batterymarch Park, Quincy, Massachusetts 02269.

Standards and the Uniform Fire Code and the U.F.C. Standards may be obtained from the Western Fire Chiefs Association, 5360 South Workman Mill Road, Whittier, California 90601.

(2) Copies of the U.B.C., U.R.C. Stan-

**13 AAC 50.027. PLAN CHECK, APPROVAL AND STOP ORDERS.** (a) Before beginning construction of all occupancies and buildings regulated by the state fire marshal, plans and specifications regarding location on property, area, height, number of stories, type of construction, fire-resistive construction, interior finish, exit facilities, electrical systems, mechanical systems, automatic fire-extinguishing systems and fire alarm systems must be submitted to the state fire marshal for examination and approval. A copy of the approval must be posted as required in 13 AAC 55.100(b). It is prohibited to occupy a building for which plans have not been examined and approved if construction began on or after August 2, 1986. The following procedures apply to plan checks:

- (1) Upon application for a plan check, a plan check fee must be paid to the state fire marshal if the value of the proposed construction exceeds \$25,000; the value of the proposed construction will be determined by the state fire marshal.
- (2) The plan check fee is 40 percent of the building permit fee schedule set out in Table No. 3-A of the U.B.C.
- (3) If plans are altered so as to require additional plan checking, an additional plan check fee will be charged; the additional plan check fee rate will be at \$25 per hour, or part of an hour.
- (4) If plans are revised to an extent that requires a new plan check, the charge will be the same as for new plans.

(5) If the state fire marshal determines that it is advisable because of the complexity of plans submitted, the marshal will submit the plans to the International Conference of Building Officials (I.C.B.O.) for plan checking by that agency; the person submitting the plans to the state fire marshal is responsible for the fee of the I.C.B.O.

(6) The state fire marshal will, in the marshal's discretion, require plans for sprinkler systems to be submitted to the Insurance Services Office (I.S.O.) for examination.

(b) If, in the opinion of the state fire marshal, a municipality has enacted ordinances for the review and approval of plans and specifications, the marshal will, in the marshal's discretion, exempt the area from compliance with the requirements of (a) and (c) of this section. The state fire marshal may cancel this exemption following 30 days written notice if the marshal finds the city or borough plan review regulations and procedures do not provide adequate fire protection. An application for an exemption under this subsection must be made on forms provided by the state fire marshal.

(c) If work is being done contrary to the provisions of this section, the state fire marshal will, in the marshal's discretion, order the work stopped by notice in writing served on any persons engaged in or causing the work to be done. The persons doing the work shall immediately stop the work until authorized by the fire marshal to proceed. (AS 15/79, Register 71; am 8/2/86, Register 99)

Authority: AS 18.70.050  
AS 18.70.090

Editor's notes. — International Conference of Building Officials, 5360 South Workman Mill Road, Whittier, California 90601. The I.C.B.O. regular plan check fee is 55 percent of the building permit fee schedule set out in Table No. 3-A of the U.B.C. The fire and life safety plan check fee is 75 percent of the regular plan check fee.

Insurance Services Office, Sprinklered Risk Section, 10 United Nations Plaza, San Francisco, California 94102. The I.S.O. does not charge for examination of sprinkler system plans for risks insured through one of their member companies.

**13 AAC 50.030. FIRE PROTECTION SYSTEMS (INSTALLED AND PORTABLE).** (a) Fire-extinguishing systems including automatic sprinkler systems must be installed as required by the U.B.C., U.F.C., and 13 AAC 50.020, and must meet the requirements of the U.B.C. Standards 38-1, 38-2; N.F.P.A. Volume 1, Standards 11, 11A, 11C, 12, 12A, 12B, 13, 15-18, 20, 22, and 24; and N.F.P.A. Volume 4, Standards 96.

(b) Fire detection systems must be installed as required by the U.B.C., U.F.C., and Table No. 1 set out in (c) of this section, and must meet the requirements of the standards of the U.B.C. Standard 18-1;

U.F.C. Standard 10 2; and N.F.P.A. Volume 3, Standards 71, 72A, 72B, 72C, 72D and 72E.

(c) Single-station smoke detection devices must be installed as required by AS 18.70.095 and Table No. 1 set out in (c) of this section.

(d) Smoke detection devices required by AS 18.70.095 must comply with U.B.C. Standard 43-6.

(e) Fire alarm systems must be installed as required by the U.B.C., U.F.C. and Table No. 1 of this subsection, and must meet the requirements of the U.B.C. Standard 18-1; U.F.C. Standard 10 2; and N.F.P.A. Standards 71, 72B, 72C, 72D and 74.

Table No. 1

Requirements for the Installation of Detection and Alarm Systems

OCCUPANCY GROUPS	TYPE SYSTEMS					
	Manual Fire Alarm System		Supervised Smoke Detection	Single Station Detectors		
	Class	Type	Through Out	Corridors Stairways	Dwelling Sleeping/Living Units	Other Areas
1. All buildings that are classified or contain Group A Occupancies having an occupant load of 100 or more.	IV	A				
2. Group E Occupancies having more than 50 occupants.	I	A				
Group E, Division 3.	I	A		X(1)	X(2)	
3. Group I, Div. 1 & 2 occupancies and mental hospitals.	III	A, B, C, or D				X
4. Group I, Div. 3 occupancies other than mental hospitals.	IV	A, B, C or D				X
5. Groups B-2 and R-1 greater than 75' in height.	III	A, B, C or D		X(1)	X(2)	X(3)
6. Group R-1 (except those in #5 above).						

## OCCUPANCY GROUPS

## TYPE SYSTEMS

	Manual Fire Alarm System		Supervised Smoke Detection		Single Station Detectors	
	Class	Type	Through Out	Corridors Stairways	Dwelling/Sleeping/Living Units	Other Areas
a. Apartment houses three or more stories in height or containing more than 15 apartments.	II(7)	A, B, C or D		X(1)	X(2)	X(1,3)
b. Hotels either three or more stories in height or containing 20 or more guest rooms.	II	A, B, C or D		X(1)	X(2)	X(1, 3)
c. Apartment houses and hotels smaller than those in a & b.					X(2)	
7. Group II, Div. 1 manufacturing organic coatings.	II(4)	A, B, C or D				
8. Group II, Div. 3 dwellings and lodging houses.					X(2,8)	
9. Group R, Div. 1 remote housing facilities	I	A, B, C or D		X(10)	X(10)	

## NOTES TO TABLE NO. 1:

1. See UFC Appendix III-C, Section 9(c)
2. See UBC Section 1210(a) for power source requirements
3. See UBC Section 1210(a) for basement coverages
4. See UFC Article 50, Section 50.113(a)
5. See UBC Section 1807(d)
6. See UBC Section 1807(e)
7. See exception, UFC Appendix III-C, Section 9(c)
8. See AS 18.70.095
9. Group E Occupancies having more than 50 occupants that are equipped throughout with an approved fire extinguishing system are exempt from this requirement.
10. See AS 18.70.082

(f) Portable and manual fire control equipment must be installed and maintained as required in 13 AAC 50.025 and must meet the requirements of U.F.C. Standard 10-1, N.F.P.A. Volume 1, Standards 14, and Volume 6, Standards 1961, 1962, and 1963

(g) Automatic fire-extinguishing systems must be maintained as required in 13 AAC 50.025 and must meet the requirements of U.B.C. Standard 38-1; 38-2; U.F.C. Standards 79-1 and 79-2; N.F.P.A. Volume 1, Standards 11, 11A, 11C, 12A, 12B, 13, and 17; Volume 1, Standards 15 through 18, 20, 22 and 24, and Volume 7, Standard 26

(h) A person may not commercially inspect, service, repair, recharge, install, or hydrostatic test portable fire extinguishers unless a permit from the state fire marshal has been issued. The following apply to permits under this subsection:

(1) each applicant for a fire extinguisher permit must pass a written examination given by the state fire marshal in order to qualify for a permit;

(2) a permit endorsed with the type of qualification will be issued to each qualified person;

(3) a permit issued under this section is presumed to contain the requirement that the applicant carry out the permitted activity in compliance with all the requirements of state statute and this chapter; a permit is nontransferable; an infraction of this chapter or prescribed manuals may be cause for revocation of the permit; a person now holding a permit from the state fire marshal has three years after August 2, 1986, to comply with (1) of this subsection

(4) permits are classified and defined as follows:

(A) Class I — inspection of portable fire extinguishers;

(B) Class II — inspect, recharge, distribute, and maintain portable fire extinguishers;

(C) Class III — hydrostatic testing;

(D) Class IV — recharge, maintain, and hydrostatic test extinguishers;

(E) Class V — inspect, recharge, distribute, maintain and hydrostatic test extinguishers.

(i) No person, directly or through an agent, may sell or offer for sale in the state a fire extinguisher or extinguishing system, either new or used, unless it has been tested, approved, and labeled by the Factory Mutual Laboratories, Underwriters Laboratories, Inc., or other testing laboratory recognized by the state fire marshal.

(j) No portable fire extinguisher or fixed fire extinguishing system may be sold, leased, or installed in the state if the extinguisher or system uses as an extinguishing agent carbon tetrachloride, methyl bromide, or other halogenated hydrocarbon that is toxic or has not been accepted by a recognized laboratory as specified in (i) of this section; a halon extinguishing system must be reviewed by the state fire marshal before installation.

(k) No person may sell or offer for sale any compound, powder, or liquid used as a fire retardant, or for flameproofing or for fire-extinguisher refilling purposes unless the product has been approved by the Underwriters Laboratories, Inc., Factory Mutual Laboratories, or other testing laboratory recognized by the state fire marshal.

(l) For the recharging of any dry chemical fire extinguisher to be valid, the person must date and initial an approved self-sticking internal maintenance tag with the date and initials corresponding to the exterior service tag. The internal maintenance tag must be placed securely on the top, most exposed portion of the pick-up tube before reassembly and recharging. Failure to initial, date, and place an internal maintenance tag is grounds for suspension or revocation of a person's permit. The tag must be an uncoated litho-gum-backed label (tag) approved by the state fire marshal. The minimum size acceptable is one-half inch by three inches; however, when in place, it must overlap itself on the pick-up tube by at least one-quarter inch. The tube must be clean and dry before tag application. (Eff. 6/25/69, Register 30; am 2/21/71, Register 37; am 1/14/81, Register 77; am 8/2/86, Register 99)

Authority: AS 18.70.010  
AS 18.70.080  
AS 18.70.095

13 AAC 50.040. HAZARDOUS SUBSTANCES. Repealed 1/14/81.

13 AAC 50.050. HAZARDOUS PROCESSES. Repealed 1/14/81.

13 AAC 50.060. OCCUPANCY STANDARDS. (a) Fire-retardant paints or solutions, if required in an occupancy, must be renewed as often as necessary to maintain the required flame-retardant properties.

(b) Emergency evacuation drills must be conducted in the following occupancies, and a record of each drill must be kept. The person in charge of the occupancy shall make the records available for inspection by the state fire marshal or the marshal's authorized representative:

- (1) in educational (group E of the U.B.C.) and institutional occupancies, emergency evacuation drills must be conducted monthly;
- (2) in educational (group B, division 2 of the U.B.C.) occupancies, emergency evacuation drills must be conducted quarterly;
- (3) in hospital and nursing home occupancies, emergency evacuation drills must be conducted quarterly on each shift to familiarize employees with signals and emergency action required under varied

conditions; the movement of infirm or bedridden patients to safe areas or to the exterior of the building is not required.

(4) emergency evacuation drills in (1), (2), and (3) of this subsection may be postponed during severe weather.

(c) Furnishings and decorations in assembly, educational, and institutional occupancies must be flame-retardant, and must meet the standards of the large and small scale tests of N.F.P.A. Standard 701, Standard Method of Fire Tests for Flame Resistant Textiles and Films.

(d) In institutional occupancies, window draperies and curtains for decorative and acoustical purposes must be flame-retardant; and cubicle curtains must be noncombustible or flame retardant. Window draperies, curtains, and cubicle curtains must meet the standards of the large and small scale tests of N.F.P.A. Standard 701, Standard Method of Fire Tests for Flame-Resistant Textiles and Films.

(e) Wastebaskets and other waste containers in educational and institutional occupancies must be of noncombustible material or approved for intended use by Underwriters Laboratories, Inc., Factory Mutual Laboratories or other testing laboratory approved by the state fire marshal.

(f) Repealed 8/2/86.  
(In effect before 7/28/59; am 6/25/69, Register 30; am 2/21/71, Register 37; am 1/14/81, Register 77; am 8/2/86, Register 99)

Authority: AS 18.70.010  
AS 18.70.090

13 AAC 50.070. INSPECTIONS, ORDERS, AND APPEALS.

(a) If an officer of the state fire marshal's office finds a building or premises in which the following dangerous conditions or materials exist, the officer shall order the conditions or materials to be remedied or removed as directed by the state fire marshal:

- (1) dangerous amounts of combustible, explosive, or otherwise hazardous materials;
- (2) hazardous conditions arising from defective or improperly installed equipment for handling or using combustible, flammable, explosive, or otherwise hazardous materials;
- (3) dangerous accumulations of rubbish, waste paper, boxes, shavings, or combustible or flammable liquids or materials;
- (4) accumulations of dust or waste materials in air conditioning or ventilating systems or of grease in kitchen or other exhaust ducts;
- (5) obstructions to or on fire escapes, stairs, passageways, doors, or windows, which will interfere with operations of the fire department or egress of occupants in case of fire or explosion;

(6) ineffective fire assembly, exit door, attic separation, area separation, fire separation, or occupancy separation;

(7) a chimney, smokestack, stove, oven, incinerator, furnace or other heating device, or electric fixture found to be defective or unsafe so as to create a fire danger;

(8) a building or structure which because of a lack of repairs, adequate exit facilities, automatic or other fire-alarm apparatus or fire-extinguishing equipment, or any other cause including age, is hazardous; or

(9) any other condition that violates this chapter, and which the state fire marshal finds is hazardous.

(b) If an order is issued to eliminate a dangerous or hazardous condition described in (a) of this section and the condition is not corrected within the time specified in the order, the state fire marshal will, in the marshal's discretion, post at the entrance to the building or premises a notice to read "DO NOT ENTER, UNSAFE TO OCCUPY. DEPARTMENT OF PUBLIC SAFETY, DIVISION OF FIRE PREVENTION." The notice must remain posted until the required repair, demolition or removal is completed, and may not be removed without written permission of the state fire marshal. No person may enter a posted building unless the person does so to make required repairs or to demolish or remove the hazardous condition.

(c) The service of an order for the correction of a violation of (a) of this section must be made upon the owner, occupant, or other persons responsible for the condition by

(1) delivering a copy to the person responsible for the condition or to the person in charge of the premises;

(2) affixing a copy in a conspicuous place on the door to the entrance of the premises; or

(3) mailing a copy of the report to the responsible person by certified mail at his or her last known address.

(d) If a building or other premises is owned by one person and occupied by another under lease or similar agreement, orders issued under (a) of this section apply to the occupant unless the rule or order requires additions to or changes in the premises which would become the real property of the owner of the premises. In which case, the rule or order must be sent to the owner.

(e) If an order is made by the state fire marshal or the marshal's authorized representative, the owner or occupant may, within seven days after receiving the order, file a written appeal to the state fire marshal who will, within 10 days after receiving the appeal, review the order and issue a written decision. The order must be complied with within the time specified in the order unless the state fire marshal revokes the order. The state fire marshal's decision on an appeal under this subsection is a final order of the Department of Public Safety for purposes of AS 18.70.100. (In effect before 7/28/59; am

6/25/69, Register 30; am 2/21/71, Register 37; am 1/14/81, Register 77; am 8/2/86, Register 99)

Authority: AS 18.70.070  
AS 18.70.080  
AS 18.70.090

**13 AAC 50.075. DEFERRING TO LOCAL AUTHORITIES.** (a) If the state fire marshal determines that a municipality has the expertise to conduct fire safety inspections and to enforce state fire safety regulations, the state fire marshal will, in the marshal's discretion, defer to the local authorities for fire safety inspection and enforcement activities; the deferral is effective upon acceptance by the local governing body of the municipality.

(b) The state fire marshal will, in the marshal's discretion cancel a deferral under (a) of this section after 30 days' written notice if the marshal finds the fire safety inspection and enforcement activities of the local political subdivision do not adequately enforce state statutes and regulations. (Eff. 1/14/81, Register 77; am 8/2/86, Register 99)

Authority: AS 18.70.090

**13 AAC 50.080. FIRE CHIEF DEFINED.** In this chapter "chief," or "chief of fire department," "chief of the bureau of fire prevention," or "chief engineer," where used in the Uniform Fire Code, means the state fire marshal or the chief of an organized municipal fire department. (Eff. 6/25/69, Register 30; am 2/21/71, Register 37; am 1/14/81, Register 77)

Authority: AS 18.70.080

## CHAPTER 51. FIREWORKS

Section	Section
10. Use of dangerous fireworks	40. Discharge of fireworks
20. Permits for the sale of salable fireworks	50. Revocation of licenses and permits
30. Storage of dangerous and salable fireworks	60. Seizure

**13 AAC 51.010. USE OF DANGEROUS FIREWORKS.** (a) A pyrotechnic operator's permit under AS 18.72.010(b) is required for the use or display of dangerous fireworks. The permit will be granted upon verified application on forms provided by the state fire marshal.

(b) There must be attached to the application for a permit under this section a policy or certified true copy of a policy of public liability insurance coverage and products liability insurance coverage, including both accident and occurrence insurance for not less than \$500,000

for bodily injury and death and not less than \$300,000 for property damage. The insurance must be provided by the applicant or his or her employer.

(c) An applicant for a pyrotechnic operator's permit must take and pass a written examination administered by the state fire marshal and must provide verification of at least six public displays as an assistant. (EFF. 6/25/69, Register 30; am 2/21/71, Register 37; am 1/14/81, Register 77; am 8/2/86, Register 99)

Authority: AS 18.70.010  
AS 18.72.010

**13 AAC 51.020. PERMITS FOR THE SALE OF SALABLE FIREWORKS.** (a) A permit is required for the sale of salable fireworks under AS 18.72.020(a) and will be granted upon verified application to the state fire marshal on forms provided by him or her.

(b) A permit will not be granted to a person who plans to sell fireworks at retail within 250 feet of any place of habitation or public assembly. (EFF. 6/25/69, Register 30; am 2/21/71, Register 37; am 1/14/81, Register 77)

Authority: AS 18.70.010  
AS 18.72.020  
AS 18.72.030

**13 AAC 51.030. STORAGE OF DANGEROUS AND SALABLE FIREWORKS.** (a) N.F.P.A. Standard 1124, chapters 3 and 4, is adopted for regulating the storage of dangerous and salable fireworks.

(b) The license of a wholesaler of either dangerous or salable fireworks, issued under AS 18.72, who fails to comply with this section is subject to revocation under 13 AAC 51.050. (EFF. 6/25/69, Register 30; am 1/14/81, Register 77; am 8/2/86, Register 99)

Authority: AS 18.70.010

Editor's notes. — Copies of the N.F.P.A. Standards may be obtained from the National Fire Protection Association, Batterymarch Park, Quincy, Massachusetts 02269.

**13 AAC 51.040. DISCHARGE OF FIREWORKS.** (a) No fireworks of any kind may be discharged in the state within 250 feet of an establishment that sells fireworks at retail or wholesale.

(b) The discharge of dangerous fireworks in the state, unless for a purpose authorized by a permit under AS 18.72.010 and this chapter, is prohibited. (EFF. 6/25/69, Register 30; am 1/14/81, Register 77)

Authority: AS 18.70.080  
AS 18.72.010

**13 AAC 51.050. REVOCATION OF LICENSES AND PERMITS.** The state fire marshal will, in the marshal's discretion, revoke a permit or license if the permittee or licensee fails to comply with the requirements of this chapter or with AS 18.72, or if the permittee or licensee conducts business in a way that is hazardous to life and property. (EFF. 6/25/69, Register 30; am 1/14/81, Register 77; am 8/2/86, Register 99)

Authority: AS 18.70.010 AS 18.72.010  
AS 18.70.080 AS 18.72.020  
AS 18.70.090 AS 18.72.030

**13 AAC 51.060. SEIZURE.** The state fire marshal will seize, at the expense of the owner of the fireworks, dangerous or salable fireworks from persons who do not have a valid permit or license to possess those fireworks under AS 18.72 of this chapter. (EFF. 6/25/69, Register 30; am 1/14/81, Register 77)

Authority: AS 18.70.070

## CHAPTER 52. FIRE SERVICE OPERATIONS

Section	Section
10. Investigation of fires	40. Workers' compensation for volunteer firefighters
20. Fire records	
30. Standards of organization and services of a fire department	

**13 AAC 52.010. INVESTIGATION OF FIRES.** (a) The state fire marshal, or the marshal's authorized representative, will investigate, or cause to be investigated, the origin, cause, and circumstances of each fire occurring in the state which is of suspicious nature or which involves loss of life, or injury to a person, or by which property is destroyed or substantially damaged. The investigation will begin immediately upon the occurrence of the fire, and if it appears that the fire is of suspicious origin, the fire marshal must be immediately notified of the facts. The marshal's authorized representative will immediately take charge of the physical evidence and if there is reason to believe that a fire resulted from crime or that a crime has been committed in connection with a fire, the state fire marshal or the marshal's authorized representative will report the fact in writing to the district attorney of the judicial district in which the fire occurred.

(b) At any time during the course of a fire investigation, the state fire marshal will, in the marshal's discretion, post at the entrance to a building or premises, a notice to read "KEEP OUT. BY ORDER OF THE STATE FIRE MARSHAL." After the sign is posted, it is unlawful for persons other than those authorized by the state fire marshal to

enter the premises so posted. (In effect before 7/28/59; am 6/25/69, Register 30; am 2/21/71, Register 37; am 8/2/86, Register 99)

Authority: AS 18.70.030  
AS 43.17.030

**13 AAC 52.020. FIRE RECORDS.** (a) Every fire or other related incident must be reported in writing to the state fire marshal within the first 10 days of the month following the month in which the fire occurred, by the fire official in whose jurisdiction the fire occurred, or, lacking such an official, the investigating officer. The report must be as prescribed by the fire marshal and must contain the statement of facts relating to the cause, origin, and circumstances of the fire, injury to persons, extent of the damage, and the insurance upon the property.

(b) The state fire marshal will keep a record of all fires and of all the facts concerning them, including statistics as to the extent of fires and the damage caused, and whether the losses were covered by insurance and, if so, in what amount. The record will be compiled from the reports made by fire department officers and inspectors. All the records are public, except when a criminal matter is pending.

(c) Each fire insurance company authorized to transact business in this state, or its authorized agent or adjustor, shall report to the state fire marshal all fire losses on property insured, giving the name and address of the insured, the date of the fire, the amount of probable loss, the character of the property destroyed or damaged and the probable cause of the fire. The loss must be reported to the state fire marshal within three days after the final adjustment is made. (In effect before 7/28/59; am 7/25/60, Register 30; am 2/21/71, Register 37; am 8/2/86, Register 99)

Authority: AS 18.70.030  
AS 44.17.030

**13 AAC 52.030. STANDARDS OF ORGANIZATION AND SERVICES OF A FIRE DEPARTMENT.** (a) The state fire marshal will recognize a fire department which is authorized to perform its duties by municipal ordinance. The state fire marshal may recognize a volunteer fire department outside a municipality.

(b) A fire department must have operating regulations which

- (1) define the boundaries of the area served;
- (2) provide for the appointment of chiefs of the department;
- (3) provide for programs of inspection, training and fire prevention;
- (4) provide for the investigation and determination of the cause of each fire occurring within its boundaries and a report of each fire to the state fire marshal;

(5) provide for a liaison with a water authority on matters of importance to the fire department;

(6) provide for regular meetings of fire department personnel for business and training purposes. (Eff. 2/21/71, Register 37; am 1/14/81, Register 77)

Authority: AS 18.70.010  
AS 43.18.010(a)

**13 AAC 52.040. WORKERS' COMPENSATION FOR VOLUNTEER FIREFIGHTERS.** (a) A fire department of any political subdivision or service area recognized by the state fire marshal under 13 AAC 52.030 may also be eligible under AS 23.30.220(a)(4) and AS 23.30.243 regarding workers' compensation if a complete list of members is submitted annually to the state fire marshal. The list must include the name, age, and rank or office of each member.

(b) Each addition or deletion from the membership list must be forwarded to the state fire marshal within 10 days after the addition or deletion. (Eff. 2/21/71, Register 37; am 8/2/86, Register 99)

Authority: AS 18.70.010  
AS 23.30.243

## CHAPTER 55. GENERAL PROVISIONS FOR 13 AAC 50 — 13 AAC 55

Section	Section
10. Intent	90. (Repealed)
20. (Repealed)	100. Permits
30. Application	110. (Repealed)
40. (Repealed)	120. (Repealed)
50. (Repealed)	130. Modifications and waivers
60. (Repealed)	140. Liability for damages
70. (Repealed)	150. Definitions
80. (Repealed)	

**13 AAC 55.010. INTENT.** It is the intent of 13 AAC 50 — 13 AAC 55 to prescribe regulations consistent with nationally recognized good practices for the safeguarding of life and property from fire and explosion arising from the storage, handling and use of hazardous substances, materials, and devices, and from conditions hazardous to life and property in the use or occupancy of buildings or premises. (In effect before 7/28/59; am 6/25/69, Register 30; am 2/21/71, Register 37)

Authority: AS 18.70.020  
AS 18.72.010

**13 AAC 55.020. PRIMA FACIE EVIDENCE.** Repealed 1/14/81.

**13 AAC 55.030. APPLICATION.** (a) Chs. 13 AAC 50 — 13 AAC 55 apply equally to new and existing conditions except that existing conditions not in strict compliance with the terms of those chapters are permitted to continue where the exceptions do not constitute a distinct hazard to life and property in the opinion of the state fire marshal.

(b) Nothing contained in 13 AAC 50 — 13 AAC 55 may be construed to apply to the transportation of an article or thing shipped under the jurisdiction of and in compliance with the regulations prescribed by the United States Department of Transportation, or as applying to the military forces of the United States.

(c) No local political subdivision may set minimum standards that are less stringent than those set out in 13 AAC 50 — 13 AAC 55 unless that action is approved in writing by the state fire marshal after receipt of justification from the local jurisdiction. (In effect before 7/28/59; am 6/25/69, Register 30; am 8/2/86, Register 99)

Authority: AS 18.70.080

**13 AAC 55.040. AUTHORITY TO ENTER PREMISES.** Repealed 2/21/71.

**13 AAC 55.050. INSPECTION OF BUILDINGS AND PREMISES.** Repealed 2/21/71.

**13 AAC 55.060. ORDERS TO ELIMINATE DANGEROUS OR HAZARDOUS CONDITIONS.** Repealed 2/21/71.

**13 AAC 55.070. SERVICE OF ORDERS.** Repealed 2/21/71.

**13 AAC 55.080. INVESTIGATION OF FIRES.** Repealed 2/21/71.

**13 AAC 55.090. FIRE RECORDS.** Repealed 2/21/71.

**13 AAC 55.100. PERMITS.** (a) Application for a permit or approval, if required by 13 AAC 50 — 13 AAC 55, must be made in such form and detail as the state fire marshal prescribes. An application for a permit or approval must be accompanied by such plans as are required by the state fire marshal.

(b) Permits or approvals must, at all times, be kept on the premises designated in the permit or approval, and are subject to inspection by the state fire marshal.

(c) The state fire marshal will revoke a permit or approval if a violation of 13 AAC 50 — 13 AAC 55 is found upon inspection or if a false statement or misrepresentation as to a material fact was made in

(the application or plans on which the permit or approval was based. (In effect before 7/28/59; am 6/25/69, Register 30; am 2/21/71, Register 37; am 8/2/86, Register 99)

Authority: AS 18.70.080  
AS 18.72.010

**13 AAC 55.110. FIRE DRILLS.** Repealed 2/21/71.

**13 AAC 55.120. DEPUTY FIRE MARSHALS.** Repealed 2/21/71.

**13 AAC 55.130. MODIFICATIONS AND WAIVERS.** The state fire marshal may modify or waive 13 AAC 50 — 13 AAC 55 if there are practical difficulties which make strict compliance with these requirements difficult. However, modifications or waivers will be granted only when the intent as provided in 13 AAC 55.010 is met and public safety is secured. Applications for modifications or waivers must be made in writing and include reasons why the regulatory provisions cannot be followed, including the applicant's reasons why any proposed alternative method meets the intent of 13 AAC 50 — 13 AAC 55 as provided in 13 AAC 55.010. All requests will be answered in writing and a record maintained in the fire marshal's office. (In effect before 7/28/59; am 6/25/69, Register 30; am 2/21/71, Register 37; am 1/14/81, Register 77)

Authority: AS 18.70.080

**13 AAC 55.140. LIABILITY FOR DAMAGES.** 13 AAC 50 — 13 AAC 55 may not be construed to hold the state responsible for any damage to persons or property by reason of the inspection or reinspection authorized in these chapters or failure to inspect or reinspect or by reason of a permit issued as provided in these chapters or by reason of the approval or disapproval of any equipment authorized in these chapters. (In effect before 7/28/59; am 6/25/69, Register 30; am 2/21/71, Register 37)

Authority: AS 18.70.080

**13 AAC 55.150. DEFINITIONS.** (a) In 13 AAC 50 — 13 AAC 55, unless the context indicates otherwise

(1) "U.B.C." means the Uniform Building Code and Uniform Building Code Standards published by the International Conference of Building Officials, 1985 Edition;

(2) "U.M.C." means the Uniform Mechanical Code and Uniform Mechanical Code Standards published by the International Conference of Building Officials, 1985 Edition;

(3) "U.F.C." means the Uniform Fire Code and Uniform Fire Code Standards published by the International Conference of Building Officials and Western Fire Chiefs Association, 1985 Edition;

(4) repealed 8/2/86;

(5) "N.E.C." means the National Electrical Code, published by the National Fire Protection Association and approved by the American Standards Association, as described in AS 18.60.580;

(6) "I.C.B.O." means the International Conference of Building Officials;

(7) "N.F.P.A." means the National Fire Protection Association, National Fire Codes Volumes 1 through 8, (Except NFPA Pamphlet #70 or "N.E.C."), 1985 Edition;

(8) "I.S.O." means Insurance Services Office, Sprinklered Risk Section, 10 United Nations Plaza, San Francisco, California 94102;

(9) repealed 8/2/86;

(10) "approved by the state fire marshal" means approved after investigation or testing conducted by the state fire marshal;

(11) "bureau of fire prevention" means the State Division of Fire Prevention or the fire prevention division of an organized fire department;

(12) repealed 8/2/86;

(13) repealed 8/2/86;

(14) "furnishings" means window draperies and curtains, cubicle curtains, stage and platform draperies and curtains, and fixed seating that is permanently attached within a building; "furnishings" does not include upholstered furniture, mattresses, or floor coverings;

(15) repealed 8/2/86;

(16) "municipality" means a borough or city of any class;

(17) "manual fire alarm system" means a local manual alarm system installed in conformance with U.B.C. Standard 18-1; U.F.C. Standard 10-2; N.F.P.A. Standard 72A; and approved by the state fire marshal;

(18) "occupancy" means the purpose for which a building or part of a building is used or intended to be used, and includes the building or room housing the use; "change of occupancy" does not include change of tenants or proprietors;

(19) "organized fire department" means a fire department or fire protection group that has filed a certificate of existence with the state fire marshal and has received official recognition;

(20) repealed 8/2/86;

(21) "rural or rural areas" means areas where there is no organized fire department with a recognized water system;

(22) "sleeping area" means one or more habitable rooms, including guest rooms and bedrooms, which are occupied or intended to be occupied for sleeping purposes;

(23) "state fire marshal, fire marshal, or marshal" means the chief officer of the division of fire prevention in the Department of Public Safety.

(b) In 13 AAC 59 - 13 AAC 55, the definitions in the U.F.C., U.F.C., and the N.F.P.A. standards are adopted as modified by (a) of this section. (In effect before 7/28/59; am 6/25/69, Register 30; am 2/21/71, Register 37; am 1/14/81, Register 77; am 8/2/86, Register 99)

Authority: AS 18.70.080

Editor's notes. — (1) Copies of the N.F.P.A. Standards may be obtained from the National Fire Protection Association, Batterymarch Park, Quincy, Massachusetts 02269.

(2) Copies of the U.B.C., U.F.C. Standards and the Uniform Fire Code and the U.F.C. Standards may be obtained from the Western Fire Chiefs Association, 5360

South Workman Mill Road, Whittier, California 90601

(3) Copies of the codes adopted in 13 AAC 59 - 13 AAC 55 may be examined in offices of the State Fire Marshal in Anchorage, Fairbanks, and other offices of 13 AAC 59 - 13 AAC 55 may be obtained from these offices.

## PART 3. OFFICE OF THE COMMISSIONER

### Chapter

60. Licensing of Security Guards and Security Guard Agencies (13 AAC 60.010 - 13 AAC 60.900)

65. Appearance (13 AAC 65.010)

## CHAPTER 60. LICENSING OF SECURITY GUARDS AND SECURITY GUARD AGENCIES

### Article

1. Security Guard Agencies (13 AAC 60.010 - 13 AAC 60.040)
2. Security Guards (13 AAC 60.050 - 13 AAC 60.080)
3. General Provisions (13 AAC 60.090 - 13 AAC 60.900)

### Article 1. Security Guard Agencies

#### Section

10. Agency license qualifications
20. Application for agency license

#### Section

30. Agency license
40. Agency license renewal applications

**13 AAC 60.010. AGENCY LICENSE QUALIFICATIONS.** (a) In order to be eligible to receive a license as a security guard agency, each applicant or each partner of a partnership and the qualified agent employed by an agency must be


- (1) a United States citizen or resident alien with work permit;
- (2) a resident of the State of Alaska for at least 30 days before application;

**Article 6. Definitions.****Section  
900. Definitions**

**Sec. 11.81.900. Definitions.** (a) For purposes of this title, unless the context requires otherwise,

(1) a person acts "intentionally" with respect to a result described by a provision of law defining an offense when the person's conscious objective is to cause that result; when intentionally causing a particular result is an element of an offense, that intent need not be the person's only objective;

(2) a person acts "knowingly" with respect to conduct or to a circumstance described by a provision of law defining an offense when the person is aware that the conduct is of that nature or that the circumstance exists; when knowledge of the existence of a particular fact is an element of an offense, that knowledge is established if a person is aware of a substantial probability of its existence, unless the person actually believes it does not exist; a person who is unaware of conduct or a circumstance of which the person would have been aware had that person not been intoxicated acts knowingly with respect to that conduct or circumstance;

 (3) a person acts "recklessly" with respect to a result or to a circumstance described by a provision of law defining an offense when the person is aware of and consciously disregards a substantial and unjustifiable risk that the result will occur or that the circumstance exists; the risk must be of such a nature and degree that disregard of it constitutes a gross deviation from the standard of conduct that a reasonable person would observe in the situation; a person who is unaware of a risk of which the person would have been aware had that person not been intoxicated acts recklessly with respect to that risk;

(4) a person acts with "criminal negligence" with respect to a result or to a circumstance described by a provision of law defining an offense when the person fails to perceive a substantial and unjustifiable risk that the result will occur or that the circumstance exists; the risk must be of such a nature and degree that the failure to perceive it constitutes a gross deviation from the standard of care that a reasonable person would observe in the situation.

(b) In this title, unless otherwise specified or unless the context requires otherwise,

(1) "affirmative defense" means that

(A) some evidence must be admitted which places in issue the defense; and

(B) the defendant has the burden of establishing the defense by a preponderance of the evidence;

Rule 603 (a), a bond for costs on appeal shall be filed with the notice of appeal. The amount of the bond, if any, shall be fixed by the superior court and it shall be regulated by the terms of Rule 204 (c) and Civil Rule 80. The bond shall be filed with the superior court.

(2) Notwithstanding subparagraph (1), a bond for costs on appeal shall not be required of the claimant in an appeal from the Alaska Workers' Compensation Board or in an appeal from a denial of a claim for benefits under the Employment Security Act.

(d) Failure to File or Insufficiency of Bond. If a cost bond on appeal is not filed within the time specified by paragraph (c), application for leave to file any such bond must be made to the superior court.

(SCO 439 effective November 15, 1980; amended by SCO 460 effective June 1, 1981; by SCO 495 effective January 4, 1982; by SCO 510 effective August 30, 1982; by SCO 514 effective October 1, 1982; by SCO 554 effective April 4, 1983; by SCO 575 effective February 1, 1984; by SCO 847 effective January 15, 1988; and by SCO 888 effective July 15, 1988)

#### Annotations

##### Cases

Thirty-day limit for appeal from administrative agency does not apply when administrative process is not adjudicatory. *Moore v. State*, Op. No. 1284, 553 P2d 8 (Alaska 1976).

Where dismissed tenured teacher first knew of need to appeal in April, was served with decision in June, and did not attempt to appeal until August, it was not abuse of discretion to refuse to relax rules to permit appeal. *Jerrel v. Kenai Peninsula Borough School District*, Op. No. 1458, 567 P2d 760 (Alaska 1977).

Time for appeal begins to run with service of written findings, conclusions, and decision. *Jerrel v. Lenai Peninsula Borough School District*, Op. No. 1458, 567 P2d 760 (Alaska 1977).

Time period for appeal of property tax assessment was not tolled by action of borough assembly on an ordinance that would have mooted the appeal. *North Star, Inc. v. Fairbanks North Star Borough*, Op. No. 2258, 621 P2d 1335 (Alaska 1981).

A claim for damages resulting from an administrative order and an action for injunctive relief which seeks the same review by the superior court as could be had in an appeal from the administrative order are to be treated as administrative appeals, but a request for declaratory judgment on the constitutionality of statutes and regulations governing the administrative agency is an independent action. *Owsichek v. Alaska Guide Licensing and Control Board*, Op. No. 2328, 627 P2d 616 (Alaska 1981).

The essential question in determining whether a case before the superior court is an administrative appeal is whether the claim challenges a prior administrative decision. *Ballard v. Stich*, Op. No. 2363, 628 P2d 918 (Alaska 1981).

Considerations to be balanced in deciding whether to relax the appellate time limit rules include the right to appellate review, the willfulness and extent of the rules violation and the possible injustice that might result from a dismissal. *Estate of Smith v. State*, Op. No. 2428, 635 P2d 465 (Alaska 1981).

Trial court abused its discretion in failing to relax the thirty-day appeal period of this rule in situation where late filing was due to appellant's mistaken but not unreasonable belief that he was entitled to reconsideration of an agency decision denying his

request for an administrative hearing. *Anderson v. State Commercial Fisheries Entry Comm.*, Op. No. 2588, 654 P2d 1320 (Alaska 1982).

Reconsideration decision by Commercial Fisheries Entry Commission reversing hearing officer's recommended decision to grant appellant's entry permit application constituted a final administrative determination which could be appealed to superior court within 30 days. *Ostman v. State, Commercial Fisheries Entry*, Op. No. 2792, 678 P2d 1323 (Alaska 1984).

Although a final determination denying appellant's application for an entry permit was made more than 3 years prior to his request that the case be reopened due to administrative error, entry commission's letter to applicant rejecting his claim of administrative error on the merits was a final administrative determination subject to judicial review. *Moore v. State, Commercial Fisheries*, Op. No. 2870, 688 P2d 582 (Alaska 1984).

Superior court order which would have exempted all administrative appeals from the bond requirements of the appellate rules was invalid. *State, Dept. of Public Safety v. Wilkinson*, Op. No. 2875, 688 P2d 939 (Alaska 1984).

An appeal to superior court from a decision of a state administrative agency requires service of notice upon the attorney general. *Vincent v. State, Commercial Fish. Entry*, Op. No. 3041, 717 P2d 391 (Alaska 1986).

Failure of applicant to serve attorney general's office with a notice of appeal from state administrative agency's denial of permit application did not deprive superior court of jurisdiction over the appeal, thus court, after allowing late service of notice upon the attorney general, could hear the appeal, absent proof of prejudice to the state from the late notification. *Vincent v. State, Commercial Fish. Entry Commission*, Op. No. 3041, 717 P2d 391 (Alaska 1986).

Civil Rule 210, which places the ultimate responsibility on the appellant for preparation of a record within 40 days from the date of filing the notice of appeal from an agency decision and provides for dismissal as a sanction for noncompliance, did not relieve the agency of its obligation to prepare the record on appeal and did not excuse the superior court clerk's failure to notify the agency of the date by which the record had to be prepared. *King v. State Dept. of Natural Resources*, Op. No. 3226, 742 P2d 253 (Alaska 1987).

In light of the fact that superior court order holding appellant's appeal from an administrative agency decision in abeyance was never vacated, that the agency did not furnish the superior court clerk with a copy of its decision on reconsideration, that the agency did not prepare and certify the record on appeal; and that the clerk of the superior court never notified the agency of the date by which it was to complete the record on appeal; appellant's counsel reasonably could have been in doubt as to how to proceed with the administrative appeal, thus superior court erred in dismissing the appeal for lack of prosecution. *King v. State Dept. of Natural Resources*, Op. No. 3226, 742 P2d 253 (Alaska 1987).

Administrative appeals, even when they are labeled independent actions, must be taken within 30 days. *Haynes v. State Comm. Fisheries Entry*, Op. No. 3254, 746 P2d 892 (Alaska 1987).

However denominated, a claim is functionally an administrative appeal if it requires the court to consider the propriety of an agency determination; accordingly, appellant's claim for injunctive relief had to be considered an administrative appeal since the relief sought — a remand of his fishing application to the Commercial Fisheries Entry Commission — could only be granted if the court determined that the commission's prior decision denying the application was erroneous. *Haynes v. State Comm. Fisheries Entry*, Op. No. 3254, 746 P2d 892 (Alaska 1987).

## Rule 603. Stays.

### (a) Civil Appeals.

(1) *Automatic Stay*. Stays of execution or enforcement of district court judgments shall be as set forth in District Court Civil Rule 24(a).

(2) *Stay Upon Appeal — Supersedeas Bond.* When an appeal is taken, the appellant may obtain a stay of proceedings to enforce the judgment by filing a supersedeas bond with the district court, or with the superior court in administrative appeals, not later than 30 days after the date shown in the clerk's certificate of distribution on the judgment or the date of mailing or delivery of the administrative order appealed from. The bond shall be conditioned for the satisfaction in full of any judgment (including interest and costs) which may be given against the appellant by the superior court, or for satisfaction in full of the judgment (including interest and costs) of the district court if the appeal is dismissed. The bond shall comply with the provisions of Civil Rule 80.

(3) *Proceedings on Stay.* When an appeal is taken, the district court judge or magistrate shall enter a written order indicating whether or not the proceedings to enforce a judgment have been stayed. If the proceedings are stayed, and process has been issued to enforce the judgment, the judge or magistrate must recall the same by written notice to the officer holding the process. Thereupon the process must be returned to the magistrate, and all property seized or levied upon by virtue of such process must be released if it has not been sold, and in cases of civil arrest, the person arrested must be released from custody. This subdivision of this rule shall not be construed as making any stay retroactive or as invalidating any proceedings or levies prior to the time the stay becomes effective.

(b) *Criminal Appeals.* If a sentence of imprisonment is imposed, admission to bail shall be allowed and the sentence stayed, pending appeal. A sentence to pay a fine or a fine and costs may be stayed, if an appeal is taken, by the district judge or magistrate or by the superior court upon such terms as the court deems proper. During appeal the court may require the defendant to deposit the whole or any part of the fine and costs in the registry of the superior court, or to give bond for the payment thereof, or to submit to an examination of assets, and it may make an appropriate order to restrain the defendant from dissipating his assets. An order placing the defendant on probation shall be stayed if an appeal is taken.

(SCO 439 effective November 15, 1980; amended by SCO 554 effective April 4, 1983)

#### Annotations

##### Cases

An employer must make a showing of irreparable damage as well as filing a supersedeas bond in order to obtain a stay of a disability award in worker's compensation cases. *Wise Mechanical Contractors v. Bignell*, Op. No. 2329, 626 P2d 1085 (Alaska 1981).

A monetary enforcement judgment on an administrative order may be stayed as a matter of right upon the posting of an appropriate supersedeas bond under this rule. *Pipeline Union v. Alaska State Commission*, Op. No. 2820, 681 P2d 330 (Alaska 1984).

In a consolidated review and enforcement proceeding pertaining to an order of the Alaska State Commission for Human Rights,

the court could enter an enforcement judgment before entering a judgment on the appeal. *Pipeline Union v. Alaska State Commission*, Op. No. 2820, 681 P2d 330 (Alaska 1984).

Superior court improperly stayed the payment of taxes during its review of administrative agency's order where the supersedeas bond filed with the court for the principal amount of taxes due did not include costs and interest. *City of Nome v. Catholic Bishop of Northern Alaska*, Op. No. 2986, 707 P2d 870 (Alaska 1985).

Even if AS 29.53.390(a), which authorizes judicial review of a disputed tax assessment, were interpreted to require payment of taxes before appeal, this rule supersedes it. *City of Nome v. Catholic Bishop of Nome Alaska*, Op. No. 2986, 707 P2d 870 (Alaska 1985).

## Rule 604. Record.

(a) *Preparation of Record.* The original papers and exhibits filed in the district court or with the administrative agency, and the record of proceedings before the district court or agency, shall constitute the record on appeal unless otherwise ordered by the court or unless the parties designate an abbreviated record. A party is not required to submit a designation of the record unless the court so requires. The record of proceedings before the district court will include cassette tapes rather than transcripts unless the superior court orders the submission of transcripts. Otherwise, the record on appeal must be prepared and certified in conformity with Appellate Rule 210. The clerk of the trial courts shall prepare the record on appeal in an appeal of district court judgments. The administrative agency shall prepare the record on appeal in an appeal of an administrative decision. All reasonable costs incurred in connection with preparing the record on appeal shall be borne by the appellant; in the instance of a cross-appeal, the costs may be apportioned. The preparing agency may require in advance the costs as reasonably estimated by the agency.

(b) *Time.* The time for certification of the record on appeal shall run from service of the notice required by Rule 602 (b)(1) on the person who is to prepare the record. If the record is to be prepared by the clerk with whom the notice of appeal was initially filed, the time for certification of the record shall run from the date of filing of the notice of appeal.

(c) *Power of Court to Correct or Modify Record of District Court.* If any differences arise as to whether the record on appeal truly discloses what occurred in the district court, the difference shall be submitted to and settled by the superior court and the record made to conform to it. If anything material to either party is omitted from the record on appeal by error or accident or is misstated therein, the parties by stipulation, or the superior court on motion or of its own initiative may direct that the omission or misstatement shall be corrected, and if necessary that a supplemental record shall be certified and transmitted by the district court.

(SCO 439 effective November 15, 1980 as amended)

**Cross references.** — For definition of terms used in this title, see AS 11.81.900.  
**Effect of amendments.** — The 1982

amendment added paragraph (b) to subsection (a).

**Article 3. Arson, Criminal Mischief, and Related Offenses.**

**Section**

- 400 Arson in the first degree
- 410 Arson in the second degree
- 430 Criminally negligent burning
- 450 Failure to control or report a dangerous fire
- 480 Criminal mischief in the first degree

**Section**

- 482 Criminal mischief in the second degree
- 484 Criminal mischief in the third degree
- 486 Criminal mischief in the fourth degree
- 490 Definitions

**Collateral references.** — 5 Am. Jur. 2d, Arson and Related Offenses, § 1 et seq.; 62 Am. Jur. 2d, Malignous Mischief, § 1 et seq.

4A C.J.S., Arson, § 1 et seq.; 51 C.J.S., Malignous Mischief, § 1 et seq.

Burning and element of offense of arson, 1 ALR 1163.

Evidence of other offenses in prosecution for arson, 3 ALR 1544; 22 ALR 1016; 27 ALR 357; 63 ALR 602.

Criminal responsibility of one cooperating in offense of arson which he is incapable of committing personally, 5 ALR 783; 74 ALR 1110; 131 ALR 1322.

Ownership of property as affecting criminal liability for burning thereof, 17 ALR 1168.

Intent as essential element of crime of burning property to defraud insurer, 17 ALR 1180.

Retification or sanction by owner of property of interest therein as affecting criminal liability of person burning same, 54 ALR 1230.

Death resulting from arson as within contemplation of statute which makes homicide in perpetration of felony murder in first degree, 87 ALR 414.

Sufficiency of evidence on issue of negligence in action for spread of fire purposely and lawfully kindled, 24 ALR2d 241.

Vacancy or nonoccupancy of building as affecting its character as "dwelling" as regards arson, 44 ALR2d 1456.

Burning of building by mortgagee as burning property of another as to constitute arson, 76 ALR2d 524.

Single act affecting multiple victims as constituting multiple assaults or homicides, 8 ALR4th 960.

**Sec. 11.46.400. Arson in the first degree.** (a) A person commits the crime of arson in the first degree if the person intentionally damages any property by starting a fire or causing an explosion and by that act recklessly places another person in danger of serious physical injury. For purposes of this section, "another person" includes but is not limited to fire and police service personnel or other public employees who respond to emergencies, regardless of rank, functions, or duties being performed.

(b) Arson in the first degree is a class A felony. (§ 4 ch 166 SLA 1978; am § 1 ch 39 SLA 1983)

**Effect of amendments.** — The 1983 amendment removed a personal pronoun in the first sentence and added the second sentence.

**Legislative history reports.** — For

Senate letter of intent relating to ch. 39, SLA 1983, see 1983 Senate Journal, pp. 106 and 171; for House letter of intent on that Act, see 1983 House Journal, p. 1250; see also 1983 House Journal, p. 1699.

NOTES TO DECISIONS

For cases construing former first degree arson statute, see *Salinas v. United States*, 277 F.2d 914 (9th Cir. 1960); *Bank v. State*, Sup. Ct. Op. No. 92 (File No. 167), 373 P.2d 744 (1962), overruled on another point in *Shuler v. State*, Sup. Ct. Op. No. 563 (File No. 1034), 456 P.2d 466 (1969); *Standaugh v. State*, Sup. Ct. Op. No. 1919 (File No. 3037), 599 P.2d 166 (1979); *Williams v. State*, Sup.

Ct. Op. No. 2147 (File No. 3991), 614 P.2d 1384 (1980).

Sentences upheld. See *Faulkenberry v. State*, Ct. App. Op. No. 116 (File No. 6231, 6235), 619 P.2d 951 (1982).

Cited in *Williams v. State*, Sup. Ct. Op. No. 2147 (File No. 3991), 614 P.2d 1384 (1980); *Putnam v. State*, Sup. Ct. Op. No. 2251 (File No. 3475), 629 P.2d 95 (1980).

**Sec. 11.46.410. Arson in the second degree.** (a) A person commits the crime of arson in the second degree if the person intentionally damages a building by starting a fire or causing an explosion.

(b) In a prosecution under this section, it is an affirmative defense

(1) that no person other than the defendant had a possessory, proprietary, or security interest in the building or that all persons having such an interest consented to the defendant's conduct; and

(2) that the sole intent of the defendant was to damage or destroy the building for a lawful purpose.

(c) Arson in the second degree is a class B felony. (§ 4 ch 166 SLA 1978)

NOTES TO DECISIONS

For cases construing former second degree arson statute, see *Salinas v. United States*, 277 F.2d 914 (9th Cir. 1960); *Tarney v. State*, Sup. Ct. Op. No. 911

(File No. 1486), 512 P.2d 923 (1974); *Jacynth v. State*, Sup. Ct. Op. No. 1829 (File No. 3567), 593 P.2d 263 (1979).

**Sec. 11.46.430. Criminally negligent burning.** (a) A person commits the crime of criminally negligent burning if with criminal negligence the person damages property of another by fire or explosion.

(b) Criminally negligent burning is a class A misdemeanor. (§ 4 ch 166 SLA 1978)

**Sec. 11.46.450. Failure to control or report a dangerous fire.** (a) A person commits the crime of failure to control or report a dangerous fire if the person knows that a fire is endangering life or a substantial amount of property of another and fails to take reasonable measures to put out or control the fire, when the person can do so without substantial personal risk, or to give a prompt fire alarm if

(1) the person knows that the person is under an official, contractual, or other legal duty to prevent or combat the fire; or

(2) the fire was started by the person, with the person's consent, or on property in the person's custody or control.