

LEGISLATIVE BILL 180

Approved by the Governor May 10, 1973

Introduced by Johnson, 15

AN ACT to amend section 81-502, Revised Statutes Supplement, 1972, relating to the State Fire Marshal; to repeal the Life Safety Code; to provide for rules and regulations; to provide procedures; and to repeal the original section.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 81-502, Revised Statutes Supplement, 1972, be amended to read as follows:

81-502. It shall be the duty of the State Fire Marshal, under authority of the Governor, (1) to enforce all laws of the state relating to the suppression of arson and investigation of the cause, origin and circumstances of fires; (2) to promote safety and reduce loss by fire; (3) after a careful study and investigation of relevant data bearing thereon, to promulgate, alter and enforce rules and regulations covering: (a) The prevention of fires; (b) the storage, sale and use of flammable liquids, combustibles and explosives; (c) electric wiring and heating, protection equipment devices, materials, furnishings, and other safeguards within the structure necessary to promote safety and reduce loss by fire, and the means and adequacy of exits, in case of fire, from churches, schools, hotels, halls, theatres, amphitheatres, factories, asylums, hospitals in assembly, educational, institutional, residential, mercantile, office, storage, and industrial-type occupancies as such structures are defined in the National Fire Protection Association Pamphlet Number 101 and associated pamphlets, and all other buildings, structures and enclosures in which numbers of persons congregate from time to time for any purpose whether privately or publicly owned; (d) design, construction, location, installation and operation of equipment for storing, handling and utilization of liquefied petroleum gases, specifying the odorization of said gases and the degree thereof; and (e) chemicals, prozolin plastics, X-ray nitrocellulose films, or any other hazardous material that may now or hereafter exist; and (4) to make an investigation for fire safety of all licensed child-care facilities or applicants for licenses for child-care facilities within a reasonable time after request by the Department of Public Welfare. The State

Fire Marshal shall delegate the authority set forth in this section to qualified local fire prevention personnel, which local authority shall prevail, subject to established appeal procedures. Such local authority may be revoked by the State Fire Marshal for cause upon thirty days' notice after hearing. The State Fire Marshal, first assistant fire marshal, and deputies shall have such other powers and perform such other duties as are set forth in sections 81-501.01 to 81-531, and as may be conferred and imposed by law. The rules and regulations adopted pursuant to this section may conform generally to the standards recommended by the National Fire Protection Association, Pamphlet Number 101, known as the Life Safety Code, and associated pamphlets, but not when doing so would impose an unduly severe or costly burden without substantially contributing to safety of persons or property. ~~There is hereby adopted the standards recommended by the National Fire Protection Association, Pamphlet Number 101, known as the Life Safety Code, and associated pamphlets as recommended by the National Fire Protection Association and dated 1967; Provided, any building, structure or enclosure of four stories or less in height used exclusively for dwelling purposes and related activities for which a building permit was issued on or before August 1, 1971, by a governmental subdivision of the state having a local building code shall not be subject to the design, construction or alteration requirements of such Life Safety Code. This code shall have the same force and effect as if set out verbatim in this section.~~

Sec. 2. The enforcement of rules and regulations promulgated by the State Fire Marshal under the provisions of section 81-502 shall be as follows:

(1) Any order of the State Fire Marshal under the authority granted by him by section 81-502 shall be in writing addressed to the owner or person in charge of the premises affected thereby;

(2) If within ten days from the receipt of such order the person or organization affected thereby does not appeal therefrom as provided in this section the order shall become final;

(3) If the affected party or organization does not comply with the final order, the State Fire Marshal shall apply to the district court of the county in which the premises are located to obtain court enforcement of the order. The county attorney of the county in which the action is brought shall represent the State Fire Marshal and the action shall be brought in the name of the State of Nebraska and be tried the same as any action

in equity:

(4) If the affected party or organization feels that the order of the State Fire Marshal is not necessary for the safety and welfare of the persons using or to use the premises regarding which the order is made, the owner may appeal from such order in the manner provided for in sections 81-501.01 to 81-541:

(5) If the district court determines that the rule or regulation from which the appeal has been perfected is necessary for the protection, health, and welfare of persons using or proposing to use the structure, it shall affirm the order appealed from; and

(6) If the district court determines that the rule or regulation from which the appeal has been perfected is not necessary for the protection, health, and welfare of persons using or to use the premises, it may set aside the order or may modify the same.

Sec. 3. That original section 81-502, Revised Statutes Supplement, 1972, is repealed.