

## LEGISLATIVE BILL 37

Approved by the Governor April 7, 2021

Introduced by Lowe, 37.

A BILL FOR AN ACT relating to the State Fire Marshal; to amend sections 28-1253, 81-538, and 81-551, Reissue Revised Statutes of Nebraska, and sections 81-503.01, 81-505.01, and 81-5,167, Revised Statutes Cumulative Supplement, 2020; to change provisions relating to certain rules and regulations and fees; to eliminate provisions relating to standpipe requirements for hotels and apartments and certain definitions; to change qualifications of the state boiler inspector; to harmonize provisions; to repeal the original sections; and to outright repeal sections 81-534, 81-5,136, and 81-5,137, Reissue Revised Statutes of Nebraska.

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

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

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

(2) For purposes of this section:

(a) Liquefied petroleum gas means material composed predominantly of any of the following hydrocarbons or mixtures of such hydrocarbons: Propane, propylene, butanes (normal butane or isobutane), and butylenes;

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

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

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

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

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

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

(a) The prevention of fires;

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

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

(d) The means and adequacy of exits, in case of fire, in assembly, educational, institutional, residential, mercantile, office, storage, and industrial-type occupancies as such structures are defined in the State Fire Code;

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

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

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

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

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

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

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

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

quality thereof.

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

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

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

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

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

~~TOTAL VALUE OF PROPOSED~~

<del>STRUCTURE OR IMPROVEMENT</del>	<del>FEE</del>
<del>\$1 — \$5,000</del>	<del>\$5.00</del>
<del>\$5,001 — \$25,000</del>	<del>\$5.00 for the first \$5,000.00 plus \$2.00 for each additional \$5,000.00 or fraction thereof.</del>
<del>\$25,001 — \$50,000</del>	<del>\$15.00 for the first \$25,000.00 plus \$2.00 for each additional \$5,000.00 or fraction thereof.</del>
<del>\$50,001 — \$100,000</del>	<del>\$25.00 for the first \$50,000.00 plus \$1.00 for each additional \$5,000.00 or fraction thereof.</del>
<del>\$100,001 — \$200,000</del>	<del>\$35.00 for the first \$100,000.00 plus \$1.00 for each additional \$10,000.00 or fraction thereof.</del>
<del>\$200,001 or more</del>	<del>\$50.00 for the first \$200,000.00 plus \$1.00 for each additional \$10,000.00 or fraction thereof, except that the total fee shall not exceed \$500.00.</del>

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

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

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

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

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

81-551 The duties and powers of the State Fire Marshal and of his or her deputies and assistants prescribed in sections 81-509 to 81-523, 81-526, 81-527, 81-531, ~~to~~ 81-538, and 81-5,151 to 81-5,157 and the Petroleum Products and Hazardous Substances Storage and Handling Act shall not be applicable to the Nebraska Natural Gas Pipeline Safety Act of 1969.

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

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

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

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

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

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

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

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

(3) Before entering upon his or her duties under the Boiler Inspection Act, the state boiler inspector and each deputy inspector shall be bonded or insured as required by section 11-201.

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

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