

STATE OF OKLAHOMA

1st Session of the 43rd Legislature (1991)

SENATE BILL NO. 108

BY: HERBERT

AS INTRODUCED

AN ACT RELATING TO STATE GOVERNMENT; CREATING THE
FIRE EXTINGUISHER ACT; PROVIDING SHORT TITLE;
STATING PURPOSE; AUTHORIZING STATE FIRE MARSHAL
COMMISSION TO ADMINISTER PROVISIONS OF THE FIRE
EXTINGUISHER ACT; ALLOWING STATE FIRE MARSHAL
COMMISSION TO ISSUE RULES AND REGULATIONS NECESSARY
FOR ADMINISTRATION OF ACT; CITING CERTAIN FEDERAL
STANDARDS; DEFINING TERMS; SPECIFYING CERTAIN FIRMS
MUST HAVE CERTIFICATE OF REGISTRATION; STATING FEES
FOR VARIOUS CERTIFICATES OF REGISTRATIONS, LICENSES
AND PERMITS; REQUIRING CERTAIN FIRMS HAVE BRANCH
OFFICE REGISTRATION CERTIFICATES; REQUIRING
IDENTIFICATION OF EACH BRANCH OFFICE BY STATE FIRE
MARSHAL; REQUIRING CERTAIN EMPLOYEES OF SAID FIRMS
BE LICENSED BY THE STATE FIRE MARSHAL BEFORE
ENGAGING IN CERTAIN WORK; REQUIRING CERTAIN
EMPLOYEES HAVE AN APPRENTICE PERMIT; STATING
LIMITATIONS OF SERVICE FOR APPRENTICES; REQUIRING
FIRMS PERFORMING CERTAIN TESTING OF FIRE
EXTINGUISHERS TO COMPLY WITH PROCEDURES SPECIFIED
BY UNITED STATES DEPARTMENT OF TRANSPORTATION;

ALLOWING STATE FIRE MARSHAL COMMISSION TO PRESCRIBE CERTAIN FEES; REQUIRING PROOF OF PUBLIC LIABILITY INSURANCE BEFORE ISSUANCE OF A CERTIFICATE OF REGISTRATION; STATING LIMITS OF SUCH INSURANCE; STATING REQUIREMENTS FOR EVIDENCE OF INSURANCE; STATING CONSEQUENCES FOR FAILURE TO MAINTAIN LIABILITY INSURANCE; PROHIBITING CERTAIN FIRE EXTINGUISHER EQUIPMENT FROM USE UNLESS APPROVED BY STATE FIRE MARSHAL; STATING REQUIREMENTS AND EXCEPTIONS FOR PERSONS AUTHORIZED TO SERVICE OR INSTALL FIRE EXTINGUISHER EQUIPMENT; STATING SUCH AUTHORIZED PERSONS MUST BE AN EMPLOYEE, AGENT OR SERVANT OF FIRM THAT HOLDS A CERTIFICATE OF REGISTRATION; STATING SAID CERTIFICATES OF REGISTRATION, LICENSES OR PERMITS ARE NONTRANSFERABLE; STATING EXCEPTIONS TO THE LICENSING PROVISIONS OF SAID ACT; AUTHORIZING THE STATE FIRE MARSHAL COMMISSION TO CONDUCT HEARING OR PROCEEDINGS FOR SUSPENSION, REVOCATION OR REFUSAL OF ISSUANCE OR RENEWAL OF LICENSES, PERMITS OR CERTIFICATES; PROHIBITING APPLICATION BY PERSON DENIED LICENSE OR PERMIT; STATING EXCEPTIONS; REQUIRING RETESTING FOR CERTAIN PERSONS; STATING PROCEDURES AND FEES FOR LICENSE OR REGISTRATION RENEWAL; REQUIRING STATE FIRE MARSHAL SEND WRITTEN NOTICE TO EACH PERSON APPLYING FOR A LICENSE WITH THE RESULT OF HIS EXAMINATION WITHIN CERTAIN TIME LIMITS; AUTHORIZING STATE FIRE MARSHAL COMMISSION ADOPT PROCEDURES FOR CERTIFYING CONTINUING EDUCATION PROGRAMS; STATING PARTICIPATION IN SUCH PROGRAMS BE VOLUNTARY; AUTHORIZING STATE FIRE MARSHAL COMMISSION WAIVE LICENSING REQUIREMENT FOR

APPLICANT WITH VALID LICENSE FROM ANOTHER STATE WITH CERTAIN REQUIREMENTS; REQUIRING STATE FIRE MARSHAL COMMISSION FORMULATE AND ADMINISTER CERTAIN RULES NECESSARY TO CARRY OUT PROVISIONS OF SAID ACT; ALLOWING STATE FIRE MARSHAL COMMISSION DELEGATE CERTAIN FUNCTIONS, POWERS AND DUTIES TO A FIRE EXTINGUISHER ADVISORY COUNCIL; STATING MEMBERSHIP AND APPOINTMENTS TO SAID COUNCIL; PROHIBITING CERTAIN ACTS; PROVIDING FOR CERTAIN FUNDS COLLECTED BE DEPOSITED IN CERTAIN FUND; AUTHORIZING THE STATE FIRE MARSHAL TO REFUSE OR REVOKE CERTAIN LICENSES OR REGISTRATIONS IF AFTER CERTAIN PROCEDURES FINDS SAID PERSON HAS VIOLATED THIS ACT; STATING CERTAIN OFFENSE SHALL BE A MISDEMEANOR AND PROVIDING PENALTY; PROVIDING FOR CODIFICATION; AND DECLARING AN EMERGENCY.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 325.1 of Title 74, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Fire Extinguisher Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 325.2 of Title 74, unless there is created a duplication in numbering, reads as follows:

The purpose of this act is to regulate the leasing, renting, selling, and servicing of portable fire extinguishers, fixed fire extinguisher systems, and extinguisher equipment not labeled or

listed by a testing laboratory approved by the State Fire Marshal in the interest of safeguarding lives and property.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 325.3 of Title 74, unless there is created a duplication in numbering, reads as follows:

The State Fire Marshal Commission shall administer this act and shall promulgate rules necessary for administration of this act. The Commission, in adopting necessary rules, may use recognized standards such as, but not limited to, those of the National Fire Protection Association, those recognized by federal law or regulation, and those published by any nationally recognized standard-making organization, or the manufacturer's installation manuals.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 325.4 of Title 74, unless there is created a duplication in numbering, reads as follows:

As used in this act:

1. "Firm" means any person, partnership, company, corporation, trust, or association;

2. "Hydrostatic testing" means pressure testing by hydrostatic methods;

3. "Portable fire extinguisher" means any device that contains liquid, powder, or gases for suppressing or extinguishing fires;

4. "Service or servicing" means servicing portable fire extinguishers or fixed fire extinguisher systems by inspecting, charging, filling, maintaining, recharging, refilling, repairing, or testing; and

5. "Fixed fire extinguisher systems" means those assemblies of piping, conduits, or containers that convey liquid, powder, or gases to dispersal openings or devices protecting one or more hazards by suppressing or extinguishing fires.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 325.5 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. Each firm engaged in the business of installing or servicing portable fire extinguishers or planning, certifying, installing, or servicing fixed fire extinguisher systems must have a certificate of registration issued by the State Fire Marshal. The initial fee for the certificate of registration must be in an amount not to exceed Three Hundred Dollars (\$300.00) and the renewal fee for each year thereafter must be in an amount not to exceed Two Hundred Fifty Dollars (\$250.00). Each separate office location of a firm engaged in the business of installing or servicing portable fire extinguishers or planning, certifying, installing, or servicing fixed extinguisher systems, other than the location identified on the certificate of registration, must have a branch office registration certificate issued by the State Fire Marshal. The initial fee for a branch office registration certificate must be in an amount not to exceed One Hundred Dollars (\$100.00) and the renewal fee for each year thereafter must be in an amount not to exceed One Hundred Dollars (\$100.00). The State Fire Marshal shall identify each branch office location as a part of a registered firm before a branch office registration certificate may be issued.

B. A fee in an amount not to exceed Twenty Dollars (\$20.00) shall be charged for a duplicate certificate of registration, license, or apprentice permit issued under this act or for any request requiring changes to a certificate of registration, license, or permit. A new certificate of registration with a new number shall be issued to a registered firm on a change of ownership for a fee in an amount not to exceed Three Hundred Dollars (\$300.00). A fee in an amount not to exceed One Hundred Dollars (\$100.00) shall be charged for a change of ownership of a branch office.

C. Each employee, other than an apprentice, of firms engaged in the business of installing or servicing portable fire extinguishers or installing or servicing fixed fire extinguisher systems, must have a license issued by the State Fire Marshal before engaging in the following:

1. Servicing portable fire extinguishers;
2. Installing, servicing, or certifying pre-engineered fixed fire extinguisher systems; or
3. Planning, supervising, or certifying the installation of fixed fire extinguisher systems other than pre-engineered systems or the servicing of such systems.

The initial fee for the license required by this subsection must be in an amount not to exceed Fifty Dollars (\$50.00) and the license renewal fee for each year thereafter must be in an amount not to exceed Fifty Dollars (\$50.00). A nonrefundable fee for the initial examination must be in an amount not to exceed Thirty Dollars (\$30.00). A nonrefundable fee in an amount not to exceed Twenty Dollars (\$20.00) shall be charged for each re-examination.

D. Each person servicing portable fire extinguishers or fixed fire extinguisher systems as an apprentice shall, before servicing any portable fire extinguisher or servicing any fixed fire extinguisher system, apply to the State Fire Marshal for an apprentice permit. The fee for the apprentice permit must be in an amount not to exceed Thirty Dollars (\$30.00). An apprentice may perform the service only under direct supervision of a person holding a valid license under this act who works for the same firm as the apprentice. An apprentice permit is valid for one (1) year from the date issued.

E. Each firm performing hydrostatic testing of fire extinguishers manufactured in accordance with the specifications and procedures of the United States Department of Transportation shall do so in accordance with the procedures specified by that Department

for compressed gas cylinders and shall be required to have a hydrostatic testing certificate of registration authorizing such testing issued by the State Fire Marshal. Persons qualified to do this work shall be given such authority on their licenses. The initial fee must be in an amount not to exceed Two Hundred Dollars (\$200.00) and the renewal fee for each year thereafter must be in an amount not to exceed One Hundred Fifty Dollars (\$150.00). Hydrostatic testing of fire extinguishers not performed pursuant to the United States Department of Transportation specifications shall be performed as recommended by the National Fire Protection Association or pursuant to other standards adopted by the State Fire Marshal Commission.

F. The State Fire Marshal Commission shall, within the limits fixed by this section, prescribe the fees to be charged under this section.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 325.6 of Title 74, unless there is created a duplication in numbering, reads as follows:

a certificate of registration under this act unless the applicant files with the State Fire Marshal proof of a policy of public liability insurance conditioned to pay on behalf of the insured those sums that the insured becomes legally obligated to pay as damages because of bodily injury and property damage caused by an occurrence involving the insured or the insured's servant, officer, agent, or employee in the conduct of any business registered or licensed under this act.

B. The limits of insurance coverage required by subsection A of this section may not be less than One Hundred Thousand Dollars (\$100,000.00) for bodily injury and property damage for each occurrence and not less than Three Hundred Thousand Dollars (\$300,000.00) aggregate for all occurrences, unless the Commission increases or decreases the limits pursuant to this act.

C. The evidence of insurance required by this section must be in the form of a certificate of insurance executed by an insurer authorized to do business in the State of Oklahoma and countersigned by a local recording agent licensed in this state. Insurance certificates executed and filed with the State Fire Marshal under this section shall remain in force until the insurer has terminated future liability by the notice required by the Commission.

D. Failure to maintain the liability insurance required under this section shall constitute grounds for the denial, suspension, or revocation of a certificate of registration issued under this act after notice and opportunity for hearing.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 325.7 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. No portable fire extinguisher, fixed fire extinguisher system, or extinguisher equipment may be leased, sold, rented, or installed in this state unless it carries a label of approval or listing of a testing laboratory approved by the State Fire Marshal.

B. Except as provided in Section 8 of this act, only the holder of a current and valid license or an apprentice permit issued pursuant to this act may service portable fire extinguishers or install and maintain fixed fire extinguisher systems.

C. A person who has been issued a license pursuant to the provisions of this act to service portable fire extinguishers or install and service fixed fire extinguisher systems must be an employee, agent, or servant of a firm that holds a certificate of registration issued pursuant to this act.

D. A certificate of registration, license, or permit issued under this act is nontransferable.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 325.8 of Title 74, unless there is created a duplication in numbering, reads as follows:

The licensing provisions of this act do not apply to the following:

1. The filling or charging of a portable fire extinguisher by the manufacturer prior to its initial sale;

2. The servicing by a firm of its own portable fire extinguishers and/or fixed systems by its own personnel specially trained for such servicing;

3. The installation or servicing of water sprinkler systems installed in compliance with the National Fire Protection Association's Standards for the Installation of Sprinkler Systems or other standards adopted by the State Fire Marshal Commission;

4. Firms engaged in the retailing or wholesaling of portable fire extinguishers that carry a label of approval or listing of a testing laboratory approved by the State Fire Marshal, but not engaged in the installation or servicing of them;

5. Fire departments servicing portable fire extinguishers as a public service where no charge is made, provided, however, that the members of the fire department are trained in the proper servicing of the fire extinguishers;

6. A firm that is party to a contract that provides that the installation of a fixed fire extinguisher system will be performed under the direct supervision of a person licensed to install and certify fixed systems and that the licensee assumes full responsibility for the installation; or

7. An Oklahoma registered professional engineer acting solely in his professional capacity.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 325.9 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. Applications and qualifications for licenses, permits, and certificates issued hereunder shall be made pursuant to rules adopted by the State Fire Marshal Commission.

B. The State Fire Marshal Commission may through the State Fire Marshal conduct hearings or proceedings concerning the suspension, revocation, or refusal of the issuance or renewal of licenses, apprentice permits, hydrostatic testing certificates, certificates of registration, or approvals of testing laboratories issued under this act or the application to suspend, revoke, refuse to renew, or refuse to issue the same.

C. An applicant, registrant, licensee, or permit holder whose certificate of registration, license, or permit has been refused or revoked under this act, except for failure to pass a required written examination, may not file another application for a certificate of registration, license, or permit within one (1) year from the effective date of the refusal or revocation. After one (1) year from that date, the applicant may reapply and in a public hearing show good cause why the issuance of his certificate of registration, license, or permit is not against the public safety and welfare.

D. A person whose license to service portable fire extinguishers or to install or service fixed fire extinguisher systems has been revoked must retake and pass the required written examination before a new license may be issued.

E. An unexpired license or registration may be renewed by paying the required renewal fee to the State Fire Marshal before the expiration date of the license or registration. If a license or registration has not been expired longer than ninety (90) days, the license or registration may be renewed by paying to the State Fire Marshal the required renewal fee and a fee that is one-half of the original fee for the license or registration. If a license or registration has been expired longer than ninety (90) days but less than two (2) years, the license or registration may be renewed by paying to the State Fire Marshal all unpaid renewal fees and a fee that is equal to the original fee for the license or registration.

If a license or registration has been expired for two (2) years or longer, the license or registration may not be renewed. A new license or certificate of registration may be obtained by complying with the requirements and procedures for obtaining an original license or registration. At least thirty (30) days before the expiration of a license or registration, the State Fire Marshal shall send written notice of the impending license or registration expiration to the licensee or registrant at their last-known address. This subsection may not be construed to prevent the State Fire Marshal from denying or refusing to renew a license under applicable law or rules of the State Fire Marshal Commission.

F. The State Fire Marshal Commission may adopt a system under which certificates of registration, licenses, and permits expire on various dates during the year. For the year in which the certificate of registration, license, or permit expiration date is less than one (1) year from its issuance or anniversary date, the fee shall be prorated on a monthly basis so that each registrant, licensee, or permittee shall pay only that portion of the fee that is allocable to the number of months during which the certificate of registration, license, or permit is valid. On each subsequent renewal, the total renewal fee is payable.

G. Not later than the thirtieth day after the day on which a licensing examination is administered under this act, the State Fire Marshal shall send written notice to each examinee of the results of the examination. If an examination is conducted, graded, or reviewed by a testing service, the State Fire Marshal shall send notice to the examinees of the results of the examination within two (2) weeks after the date on which the State Fire Marshal receives the results from the testing service. If the notice of the examination results will be delayed for longer than ninety (90) days after the examination date, the State Fire Marshal shall send notice to the examinee of the reason for the delay before the ninetieth

day. If requested in writing by a person who fails the licensing examination administered under this act, the State Fire Marshal shall send to the person analysis of the person's performance on the examination.

H. The State Fire Marshal Commission may adopt procedures for certifying and may certify continuing education programs for persons licensed under this act. Participation in the programs is voluntary.

I. The State Fire Marshal Commission may waive any license requirement, not including applicable fees, for an applicant with a valid license from another state having license requirements substantially equivalent to those of this state.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 325.10 of Title 74, unless there is created a duplication in numbering, reads as follows:

The State Fire Marshal Commission shall:

1. Formulate and administer such rules for the protection and preservation of life and property, in controlling:
 - a. the registration of firms engaging in the business of servicing portable fire extinguishers or planning, certifying, installing, or servicing fixed fire extinguisher systems,
 - b. the registration of firms engaged in the business of hydrostatic testing of fire extinguisher cylinders,
 - c. the examination of persons applying for a license,
 - d. the licensing of persons to service portable fire extinguishers and to plan, certify, install, or service fixed fire extinguisher systems, and
 - e. the requirements for the servicing of portable fire extinguishers and the planning, certifying, installing, or servicing of fixed fire extinguisher systems;

2. Evaluate the qualifications of firms or individuals for a certificate of registration to engage in the business of servicing portable fire extinguishers or planning, certifying, installing, or servicing fixed fire extinguisher systems;

3. Conduct examinations to ascertain the qualifications and fitness of applicants for a license to service portable fire extinguishers or to plan, certify, install, or service fixed fire extinguisher systems;

4. Issue certificates of registration for those firms that qualify under the rules to engage in the business of servicing portable fire extinguishers or planning, certifying, installing, or servicing fixed fire extinguisher systems, and issue licenses, apprentice permits, and authorizations to perform hydrostatic testing to the firms or individuals who qualify;

5. Evaluate the qualifications of firms seeking approval as testing laboratories; and

6. Have authority to increase or decrease the limits of insurance coverage and authorize acceptance of surplus lines coverage if the board determines that due to loss experience, market conditions, or other good reason the liability insurance coverage required by Section 5 of this act is unavailable to applicants for or holders of certificates of registration.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 325.11 of Title 74, unless there is created a duplication in numbering, reads as follows:

The State Fire Marshal Commission may delegate the exercise of all or part of its functions, powers, and duties under this act, except for the issuance of licenses, certificates, and permits, and the promulgation of rules, to a Fire Extinguisher Advisory Council whose members shall be appointed by the State Fire Marshal Commission. The members shall be experienced and knowledgeable in one or more of the following areas: Fire services, fire

extinguisher manufacturing, fire insurance inspection or underwriting, fire extinguisher servicing, or be a member of a fire protection association or industrial safety association.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 325.12 of Title 74, unless there is created a duplication in numbering, reads as follows:

No person or firm may do any of the following:

1. Engage in the business of servicing portable fire extinguishers without a valid certificate of registration;
2. Engage in the business of planning, certifying, installing, or servicing fixed fire extinguisher systems without a valid certificate of registration;
3. Service portable fire extinguishers or plan, certify, service, or install fixed fire extinguisher systems without a valid license;
4. Perform hydrostatic testing of fire extinguisher cylinders manufactured in accordance with the specifications and requirements of the United States Department of Transportation without a valid hydrostatic testing certificate of registration;
5. Obtain or attempt to obtain a certificate of registration or license by fraudulent representation;
6. Service portable fire extinguishers or plan, certify, service, or install fixed fire extinguisher systems contrary to the provisions of this act or the rules formulated and administered under the authority of this act;
7. Service or hydrostatic test a fire extinguisher that does not have the proper identifying labels;
8. Sell, service, or recharge a carbon tetrachloride fire extinguisher; or
9. Lease, sell, rent or install a portable fire extinguisher, fixed fire extinguisher system, or extinguisher equipment without a label of approval or listing of an approved testing laboratory.

SECTION 13. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 325.13 of Title 74, unless there is created a duplication in numbering, reads as follows:

All funds collected through the licensing and other provisions of this act, excepting penalties and monetary forfeitures, shall be paid to the State Fire Marshal and be deposited in the State Treasury to the credit of the State Fire Marshal operating fund for use in carrying out the administration of this act.

SECTION 14. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 325.14 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. The State Fire Marshal may refuse the issuance or renewal of, suspend, or revoke a certificate of registration, license, or permit if, after notice and hearing, he finds that the applicant, registrant, licensee, or permit holder has violated this act.

B. A person knowingly or intentionally violating Section 12 of this act shall, upon conviction, be guilty of a misdemeanor which shall be punishable by a fine of not more than One Hundred Dollars (\$100.00), or imprisonment not to exceed one (1) year.

SECTION 15. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

43-1-637

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