

SHORT TITLE: State government; creating the Fire Extinguisher Act and Fire Extinguisher and Preengineered Systems Advisory Council; expanding the authority of the State Fire Marshal; emergency.

STATE OF OKLAHOMA

2nd Session of the 44th Legislature (1994)

SENATE BILL NO. 757

By: Harrison

AS INTRODUCED

An Act relating to state government; creating the Fire Extinguisher Act; providing short title; stating purpose; stating exception to act; authorizing State Fire Marshal Commission to administer provisions of the Fire Extinguisher Act; allowing State Fire Marshal Commission to issue rules necessary for administration of act; stating certain recognized standards; stating procedure for determining acceptability of installations or procedures, equipment or materials; defining terms; specifying that certain firms must be licensed; stating requirements for license and providing exceptions; requiring display of license; requiring submission of certain approval to State Fire Marshal; requiring submission of certificate of insurance to State Fire Marshal; authorizing State Fire Marshal to require certain firms to have certain license to service certain fire extinguishers and preengineered systems; requiring certain firms to meet certain requirements to service fire extinguishers and preengineered systems; requiring firms that perform certain testing to be in compliance with procedures specified by the United States Department of Transportation; limiting ownership of certain equipment by firms with limited license; requiring certain subcontractor to display certain license

and letter of renewal; requiring certain firms to submit certain letter of approval to perform certain tests; requiring certain firms to submit a certificate of insurance under certain conditions; requiring certain employees or affiliates of certain firms to have certain permit and providing exception thereto; providing for validation for certain permit; requiring certain permits to be produced upon demand; requiring certain individuals to pass certain examination to obtain certain permit; requiring the sale and manufacturing of fire extinguisher and preengineered systems to meet certain standards; requiring certain markings be on fire extinguishers which meet certain standards; requiring State Fire Marshal to issue certain license and stating expiration date; providing for certain penalty for expired license or permit; stating procedure for renewal of certain license; authorizing the State Fire Marshal to assess certain fee for failure to renew certain license; requiring certain forms to be prescribed by State Fire Marshal; specifying condition in which State Fire Marshal may issue certain license or permits; authorizing the State Fire Marshal to promulgate certain rules; stating powers and duties; authorizing the State Fire Marshal to delegate certain powers and duties; creating the Fire Extinguisher and Preengineered System Advisory Council and stating membership thereto; providing for certain disciplinary action under certain conditions by the State Fire Marshal; authorizing the State Fire Marshal Commission to set certain

fees; authorizing passage of certain examination to install certain fire extinguishers and preengineered systems; specifying location and dates of certain examinations; specifying passing rate of certain examinations; requiring certain annual reporting; requiring State Fire Marshal to maintain certain list; providing procedure for renewal of certain license or permits; 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 sale or leasing and servicing of portable fire extinguishers and preengineered systems in the interest of safeguarding lives and property, with the exception that filling or charging portable fire extinguishers or preengineered system bottles prior to their initial sale by their manufacturer shall not be subject to this act.

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 and regulations necessary for the

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 (NFPA), those recognized by federal law or regulation, and those published by any nationally recognized standard-making organization, or the manufacturer's installation manuals. In determining the acceptability of installations or procedures, equipment or materials, the State Fire Marshal may base acceptance on compliance with NFPA or other appropriate standards. In the absence of such standards, the State Fire Marshal may require evidence of proper installation, procedure or use. The State Fire Marshal may also refer to the listings or labeling practices of an organization concerned with product evaluations which is capable of determining compliance with appropriate standards for the current production of listed items.

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. "Code" shall mean a document containing only mandatory provisions using the word "shall" to indicate requirements and in a form generally suitable for adoption into law. Explanatory material may be included only in the form of "fine print" notes, in footnotes or in an appendix;
2. "Firm" shall mean any person, partnership, corporation or association;
3. "Hydrostatic testing" shall mean pressure testing by hydrostatic methods;
4. "Incident" shall mean work performed on an extinguisher or preengineered system by an unlicensed company or technician;
5. "Internal service tag" shall mean an adhesive-backed tag which can be bonded to the siphon tube of pressurized dry chemical

portable fire extinguishers for the purpose of recording service information;

6. "Labeled" shall mean equipment or materials to which has been attached a label, symbol or other identifying mark of an organization acceptable to the State Fire Marshal and concerned with product evaluation, that maintains periodic inspection of production of labeled equipment or materials, and by whose labeling the manufacturer indicates compliance with appropriate standards or performance in a specified manner;

7. "Leased", shall mean a leased fire extinguisher shall be treated the same as an extinguisher which has been sold;

8. "License" shall mean a certificate or document issued to a firm by the State Fire Marshal for the purpose of the sale or leasing or servicing of portable fire extinguishers, preengineered systems and high-pressure testing;

9. "Limited license" shall mean a license issued to a firm engaged in servicing portable fire extinguishers which are wholly owned and operated by that firm. Also included are fire departments which service extinguishers and systems;

10. "Low pressure extinguishers or pressure vessels" shall mean those units having a service pressure of nine hundred (900) psi or less;

11. "Listed" shall mean equipment or materials included in a list published by an organization acceptable to the State Fire Marshal and concerned with product evaluation, that maintains periodic inspection of production of listed equipment or materials and whose listing states either that the equipment or material meets appropriate standards or has been tested and found suitable for use in a specified manner. Note: The means for identifying listed equipment may vary for each organization concerned with product evaluation, some of which do not recognize equipment as listed unless it is also labeled. The State Fire Marshal should utilize

the system employed by the listing organization to identify a listed product;

12. "Permit" shall mean a certificate or document issued by the State Fire Marshal to an individual employed by a licensed firm for the purpose of servicing portable fire extinguishers and preengineered systems;

13. "Portable fire extinguisher" shall mean a portable device containing powder, liquid or gases which can be expelled under pressure for the purpose of suppression or extinguishing a fire;

14. "Service and servicing" shall mean servicing portable fire extinguishers including any or all of the following:

- a. maintenance,
- b. recharging, and
- c. hydrostatic testing;

15. "Licensee" shall mean a firm meeting the minimum equipment and facility requirement applicable to their license and holding a valid license issued by the State Fire Marshal;

16. "Permittee" shall mean a person employed by a licensed firm and holding a valid permit issued by the State Fire Marshal;

17. "Preengineered system" shall mean a system having specific design limitations for particular locations and hazards. Types of hazards protected include commercial cooking equipment, small industrial processes, and paint spray booths. These systems have predetermined flow rates, nozzle pressures, and quantities of extinguishing agent; and

18. "Types of licenses" includes any or all of the following:

- a. portable extinguishers and low-pressure testing,
- b. preengineered systems, and
- c. high-pressure testing.

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 servicing portable fire extinguishers and preengineered systems shall be required to have a license issued by the State Fire Marshal. Any firm to include fire departments engaged in servicing portable fire extinguishers and preengineered systems which are wholly owned and operated by that firm may do so under a limited license issued by the State Fire Marshal.

B. Each firm engaged in the business of servicing portable fire extinguishers and preengineered systems shall meet the following minimum equipment and facilities requirements if applicable to their company's license:

1. CO2 receiver-pump-cascade system for proper filling of CO2 extinguishers;

2. Adequate hydrostatic test equipment for low-pressure cylinders;

3. Approved drying method for high- and low-pressure cylinders after hydrotest;

4. Adequate safety cage (in shop) for hydrostatic testing of low-pressure cylinders;

5. Proper wrenches with nonserrated jaws or valve puller, hydraulic or electric;

6. Adequate inspection light;

7. Low-pressure hydrostatic test labels containing the information described in Section 13 of this act;

8. Halon 1211 supply and filling equipment per current government requirements;

9. Accurate weighing scales for extinguisher inspections and fillings;

10. Accurate weighing scales for cartridge inspection;

11. Adequate vise, for shop use;

12. Facilities for proper storage and adequate supply of extinguishing agents;

13. Equipment for leak testing of pressurized extinguishers;

14. Commercial dry nitrogen supply (-60 degrees Dew Point or less) and pressure regulator with supply and regulated pressure gauges suitable for pressurizing portable fire extinguishers;

15. Adaptors, fittings and sufficient tools and equipment for properly servicing and recharging all extinguishers being serviced and recharged;

16. Adequate inventory of spare parts; and

17. Manufacturer's service and maintenance manuals.

The above are minimum equipment and facility requirements for a licensee.

C. If high-pressure hydrostatic testing is performed, the following equipment is required:

1. DOT- and CTC-approved hydrostatic test equipment for high-pressure testing and calibrated cylinders; and

2. Adequate equipment for stamping test date on high pressure cylinders (over 900 psi). Die stamps must be a minimum of one-fourth (1/4) inch.

Firms with limited licenses who do not hydrotest are not required to have low- or high-pressure hydrostatic test equipment. However, if a firm subcontracts its hydrostatic testing, a copy of the subcontractor's state license must be displayed in the firm's place of business with a letter of renewal.

D. A firm which performs hydrostatic tests on high-pressure cylinders must submit a copy of its approval from the United States Department of Transportation to the State Fire Marshal.

E. Licensed firms must submit a certificate of insurance to the State Fire Marshal, indicating the following minimum requirements: Comprehensive general liability and bodily injury and property damages, product liability, completed operations and contractual liability of not less than Three Hundred Thousand Dollars (\$300,000.00).

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. Each employee, or affiliate, of a licensed firm who is engaged in the business of servicing portable fire extinguishers and preengineered systems shall have a permit issued by the State Fire Marshal.

An individual in training, working under the direct supervision of a permit holder may service portable fire extinguishers or preengineered systems without a permit for ninety (90) days or until the next test period.

B. The permit shall bear the license number of the firm that the permit holder is currently employed by or affiliated with in order for the permit to be valid.

C. Permittees must have a valid permit in their possession while engaging in servicing, and all permittees must be able to produce their permit upon demand.

D. A permit will be issued to an individual who, in addition to other requirements, has passed a competency examination administered by the State Fire Marshal, in accordance with Section 13 of this act.

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. It is unlawful for any person, directly or through an agent, to sell, offer for sale or give, any make, type or model of fire extinguisher and preengineered system, either new or used; unless such make, type or model of fire extinguisher and preengineered system is listed and labeled, and meets or exceeds all of the requirements of one of the fire test standards, and one of the appropriate performance standards shown below:

1. Fire test standards: ANSI/UL 711, CAN 4-S508-M83

2. Performance standards:

- a. CO2 types: ANSI/UL 154, CAN 4-S503-M83
- b. dry chemical types: ANSI/UL 299, ULC-S504
- c. water types: ANSI/UL 626, CAN 4-S507-M83
- d. halon types: ANSI/UL 1093, ULC-S512
- e. foam types: ANSI/UL 8

B. The identification of the listing and labeling organization, the fire test and performance standard which the extinguisher meets or exceeds shall be clearly marked on each extinguisher.

C. An organization listing, labeling and marking extinguishers and preengineered systems used to comply with the requirements of this act shall utilize a third-party certification program for portable fire extinguishers and preengineered systems which meets or exceeds Underwriters Standard (UL) 1803.

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:

A. Licenses and permits shall be issued by the State Fire Marshal for each license year beginning January 1 and expiring the following December 31. The failure to renew a license or permit by December 31 will cause the license or permit to become inoperative. A license or permit which is inoperative because of the failure to renew, shall be restored upon payment of the applicable fee plus a penalty equal to the applicable fee, if the application for renewal is filed no later than the following March 31. If the license has not been renewed by March 31, the applicant must submit a new application.

B. The form of such licenses, permits and applications shall be prescribed by the State Fire Marshal, in addition to such other information and data as the State Fire Marshal determines is appropriate and required for such forms. There shall be included in such forms the following: Each application shall be in such form

that the data and other information set forth therein shall be sworn to by the applicant or, if a corporation, by an officer thereof.

C. Licenses may not be issued by the State Fire Marshal until:

1. The applicant has submitted to the State Fire Marshal evidence of registration as a state corporation or evidence of compliance with Section 804 of Title 18 of the Oklahoma Statutes;

2. The State Fire Marshal, or a person designated by him, has by inspection determined that the applicant possesses the equipment required for the license sought. The State Fire Marshal shall give an applicant a reasonable opportunity to correct any deficiencies discovered by inspection; and

3. The applicant has submitted to the State Fire Marshal proof of insurance providing coverage for comprehensive general liability for bodily injury and property damage, product liability, completed operations and contractual liability. The State Fire Marshal Commission shall adopt rules providing for the amount of such coverage, but such amounts shall not be less than Three Hundred Thousand Dollars (\$300,000.00). A license firm which has such coverage shall notify the State Fire Marshal in writing of any change in coverage.

D. Permits may not be issued by the State Fire Marshal until the following procedures have been completed:

1. An application has been received, including the name and number of licensees employing or affiliated with such permittee, and the permit issued pursuant to such application shall also set forth the name and number of such licensees. A permit is valid solely for use by the holder thereof in his employment by the licensees named in the permit; and

2. The person who signed the application has passed, with a grade of at least eighty percent (80%), a written and practical examination testing his or her knowledge to service portable fire extinguishers and demonstrating his or her ability to perform those

tasks in a competent, lawful and safe manner. The examination shall be developed based upon the information contained in NFPA 10 (latest edition) or applicable NFPA codes, and the requirements of this act. The examination shall be administered by the State Fire Marshal. When filing an application for an examination, an applicant shall pay a nonrefundable filing fee of Ten Dollars (\$10.00).

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. The State Fire Marshal shall promulgate, administer and enforce rules as he or she may deem necessary and shall exercise the following functions, powers and duties:

1. The licensing of firms engaged in the business of servicing portable fire extinguishers and preengineered systems;

2. The inspection of firms engaged in the business of hydrostatically testing U.S. Department of Transportation or CTC specifications gas cylinders used for portable fire extinguishers and preengineered systems;

3. The examination of persons applying for a permit to service portable fire extinguishers and preengineered systems;

4. The issuance of permits to persons to service portable fire extinguishers and preengineered systems;

5. The requirements for selection, installation, inspection and servicing of portable fire extinguishers and preengineered systems. The minimum and uniform requirements must meet NFPA 10 or applicable NFPA standards except as revised by the Fire Extinguisher Advisory Council as set forth herein;

6. To evaluate the qualifications of firms for a license to engage in the business of servicing portable fire extinguishers and preengineered systems;

7. To conduct examinations to ascertain the qualifications and fitness of applicants for a permit to service portable fire extinguishers and preengineered systems;

8. To issue licenses for those firms that qualify under these regulations to engage in the business of servicing portable fire extinguishers and preengineered systems; and

9. To evaluate the qualifications of firms seeking approval as testing laboratories for portable extinguishers and preengineered systems.

B. The State Fire Marshal shall have the authority to conduct hearings and proceedings concerning the suspension, revocation or refusal to issue or renew licenses and permits, or renewal or approval of testing laboratories under this act or application thereof; and to suspend, refuse to renew, or refuse to issue the same.

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:

A. A Fire Extinguisher and Preengineered Systems Advisory Council is hereby created to act in an advisory capacity to the State Fire Marshal and shall meet regularly as the need presents itself. Members shall be appointed by the State Fire Marshal Commission.

B. Members of the Fire Extinguisher and Preengineered Systems Advisory Council shall consist of a minimum of four members from licensed firms, one representative from the State Fire Marshal's office, one from the insurance industry and one from the state's fire service. All members shall have at least five (5) consecutive years' experience within their respective industry, agency or department.

C. All members of the Fire Extinguisher and Preengineered Systems Advisory Council shall be appointed for a three-year term.

Prior to the effective date of this act, two members from licensed firms and the member from the State Fire Marshal's office shall be appointed for a three-year term. One member from the licensed firms and the member from the state's fire service shall be appointed to a two-year term. One member from the licensed firms and the member from the insurance industry shall be appointed for a one-year term. As soon as practical after the effective date of this act, the Council shall meet to elect a chair and a vice-chair from its membership, whose terms shall expire on July 31, 1995. The majority for the Council shall constitute a quorum.

D. The State Fire Marshal may delegate the exercise of part or all of his functions, powers and duties under this act, except for the issuance of licenses and permits, to the Fire Extinguisher and Preengineered Systems Advisory Council.

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:

A. Whoever shall intentionally do any of the following shall be subject to disciplinary action by the State Fire Marshal:

1. Engage in the business of servicing portable fire extinguishers and preengineered systems without a current license;

2. Service portable fire extinguishers and preengineered systems without a current permit;

3. Perform hydrostatic testing of high-pressure fire extinguisher cylinders and preengineered system bottles without current approval from the United States Department of Transportation;

4. Obtain or attempt to obtain a license or permit by fraudulent misrepresentation;

5. Service or sell portable fire extinguishers and preengineered systems contrary to the provisions of this act or the rules formulated and administered by the State Fire Marshal; or

6. Advertise fire extinguisher and preengineered systems sales or servicing by means of knowingly false or deceptive statements.

B. The State Fire Marshal is authorized to take the following disciplinary action when required:

1. Impose an administrative fine not to exceed One Thousand Dollars (\$1,000.00) for each offense; or

2. Suspend or revoke a license or permit for a fixed period of time.

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:

A. The fees for any license or permit shall be determined by the State Fire Marshal Commission to properly fund the enforcement of these regulations. Fees should be charged as follows:

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|-------------------------------|----------|
| 1. License Filing Application | \$10.00  |
| 2. Permit Filing Application  | \$10.00  |
| 3. Annual Renewal of License  |          |
| First license                 | \$100.00 |
| For each additional license   | \$50.00  |
| 4. Annual Renewal of Permit   | \$25.00  |
| 5. Transfer of Permit         | \$10.00  |
| 6. Examination Fee            | \$10.00  |
| 7. Branch Office              | \$50.00  |

B. All monies collected by the State Fire Marshal pursuant to this act shall be deposited in the Fire Marshal Fund, created in Section 50001 of Title 68 of the Oklahoma Statutes, and shall be used by the State Fire Marshal in administering this act.

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:

A. The State Fire Marshal shall require applicants for permits to pass a written examination. This examination shall determine the

applicant's knowledge and ability to select, install, inspect and service portable fire extinguishers and preengineered systems, according to the information contained in NFPA 10 or applicable NFPA Codes and provisions of this act. Notice of time and place of examination shall be given at least thirty (30) days prior to examination.

B. Examinations shall be held at such places and at such times as the State Fire Marshal shall determine. At least six (6) examinations shall be conducted per year.

C. Issuance of permits. A passing examination rate of eighty percent (80%) will indicate successful completion of the examination.

D. The holder of a license shall report annually the name, address, license number and permit number of each permittee in his employ.

E. If a permittee shall leave the employment of the licensee, the licensee shall notify the State Fire Marshal within thirty (30) days.

F. The State Fire Marshal shall keep a list of the names, addresses, and the number of the licenses and permits of each firm and permittees working for said firm.

G. A license or permit which is inoperative because of failure to renew shall be restored upon payment of the proper renewal fee if the application for this restoration is made within thirty (30) days. If the application for restoration is not made within such period, the fee for restoration shall be equal to the original application and, in addition for permits, the State Fire Marshal shall require reexamination of the applicant.

SECTION 14. 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.

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