

STATE OF OKLAHOMA

2nd Session of the 49th Legislature (2004)

CONFERENCE COMMITTEE
SUBSTITUTE
FOR ENGROSSED
HOUSE BILL NO. 2674

By: Dorman of the House

and

Leftwich (Debbe) of the
Senate

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to state government; amending 74 O.S. 2001, Sections 317 and 324.9, which relate to the Office of State Fire Marshal; expanding officers authorized to order evacuation under certain circumstances; clarifying issuance of certain citations; authorizing establishment of fees, fines, and certain penalties by the State Fire Marshal Commission; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 74 O.S. 2001, Section 317, is amended to read as follows:

Section 317. The State Fire Marshal, ~~his~~ any assistants to the State Fire Marshal, the chief of the fire department of all the cities and towns where a fire department is established, the mayor of the cities and towns where no fire department exists, the chief of a fire protection district created pursuant to Sections 901.1 et seq. of Title 19 of the Oklahoma Statutes and the sheriff of all counties, upon the complaint of any person having an interest in any building or property adjacent, and without any complaint, shall have the right at all reasonable hours for the purpose of an examination to enter into and upon all buildings and premises within their jurisdiction. The State Fire Marshal shall, at least once each

year, make a fire inspection of all correctional facilities under the jurisdiction and control of any state agency, county, city or town. ~~Said~~ The correctional facilities shall include, but not be limited to, institutions within the Department of Corrections as defined by Section 502 of Title 57 of the Oklahoma Statutes, juvenile institutions under the jurisdiction and control of the Department of Institutions, Social and Rehabilitative Services, as listed in Section 1401 of Title 10 of the Oklahoma Statutes, and jails. The State Fire Marshal shall issue a report containing findings of ~~his~~ the inspection as to each facility under the jurisdiction and control of a state agency, to the director of ~~such~~ the agency. As to any other correctional facility, the State Fire Marshal shall issue ~~his~~ the report to the person immediately responsible for the administration of the facility inspected. Whenever any of ~~said~~ the officers shall find any building or other structure which for the want of proper repair, or by reason of age and dilapidated condition, or for any cause is especially liable to fire, and which is so situated as to endanger other buildings or property, or so occupied that a fire would endanger persons and property therein, ~~such~~ the officers shall order ~~such~~ the building or buildings to be repaired, torn down, demolished, materials removed and all dangerous conditions remedied. Whenever the officers determine that a threat to life is imminent, the officers are permitted to order the evacuation of the occupants of the building or buildings. If ~~such~~ the officer finds in a building or upon any premises any combustible or explosive material, rubbish, rags, waste, oils, gasoline or inflammable conditions of any kind, dangerous to the safety of buildings or property, ~~he~~ the officer shall order ~~such~~ the materials removed or conditions remedied. ~~Such~~ The order shall be made against the owner, lessee, agent or occupant of ~~such~~ the buildings or premises and, thereupon, ~~such~~ the order shall be complied with by the owner, lessee, agent or occupant, and

within the time fixed in ~~said~~ the order. If the owner, lessee, agent or occupant deems ~~himself~~ itself aggrieved by an order of any of ~~said~~ the officers, and desires a hearing, ~~he~~ that person may complain or appeal in writing to the State Fire Marshal within ten (10) days from the service of the order, and the State Fire Marshal shall at once investigate ~~said~~ the complaint, and ~~he~~ shall fix a time in the county where ~~such~~ the property is located, when and where ~~said~~ the complaint will be heard by the State Fire Marshal. The State Fire Marshal may affirm, modify, revoke or vacate ~~said~~ the order at ~~said~~ the hearing, and unless ~~such~~ the order is revoked or vacated by the State Fire Marshal, it shall remain in force and be complied with by ~~such~~ the owner, lessee, agent or occupant within the time fixed in ~~said~~ the order, or within ~~such~~ the time as may be fixed by the State Fire Marshal at ~~said~~ the hearing. If a person is aggrieved by the final order of the State Fire Marshal as made at the hearing ~~aforsaid~~, ~~such~~ that person may, within ten (10) days thereafter, appeal to the district court of the county in which the property is situated, notifying the State Fire Marshal in writing, of ~~such~~ the appeal, within three (3) days thereafter, which notice shall be ~~in writing and~~ delivered personally to the State Fire Marshal or by registered mail to the office of the State Fire Marshal at Oklahoma City, Oklahoma. The party ~~so~~ appealing shall, within three (3) days thereafter, file with the clerk of the district court in which ~~such~~ the appeal is made, a bond in an amount to be fixed by the court but in no case less than One Hundred Dollars (\$100.00), with at least sufficient sureties to be approved by the court, conditioned to pay all costs on the appeal in case the appellant failed to sustain the same or the appeal be dismissed for any cause. The district court shall hear and determine ~~said~~ the appeal de novo, in the same manner as other issues of law and fact are heard and tried in ~~such~~ the courts, and the State Fire Marshal shall be plaintiff in ~~said~~ the action. The district court shall

hear and determine the appeal at the next regular term of district court in the county where the ~~said~~ order was issued, and may sustain, modify or annul the order of the State Fire Marshal, and the decision of the district court shall be final. The State Fire Marshal shall execute the final order of the district court, and if ~~said~~ the order is adverse to ~~said~~ the appellant, the State Fire Marshal is empowered to cause ~~such~~ the building or premises to be repaired, torn down, demolished, materials removed and all dangerous conditions remedied, as the case may be, at the expense of ~~such~~ the appellant. If ~~said~~ the appellant fails, refuses or neglects to comply with ~~said~~ the order, or pay the expense incurred by the State Fire Marshal in executing the same within thirty (30) days thereafter, the ~~said~~ expense shall be certified by the State Fire Marshal to the county assessor of the county in which ~~said~~ the property is situated and the ~~said~~ county assessor shall enter ~~said~~ the expense on the tax list of ~~said~~ the county as a special charge against the real estate on which ~~said~~ the building is or was situated, and the same shall be collected as other taxes and, when collected, shall be paid to the county treasurer and credited to the general fund of the county in which the property is located. Any person being the owner, occupant, lessee or agent of buildings or premises, who willfully fails, neglects or refuses to comply with any order of any officer named in this section shall be guilty of a misdemeanor and shall be fined not more than Fifty Dollars (\$50.00) nor less than Ten Dollars (\$10.00) for each day's neglect.

SECTION 2. AMENDATORY 74 O.S. 2001, Section 324.9, is amended to read as follows:

Section 324.9 A. The State Fire Marshal or ~~his or her~~ deputies of the State Fire Marshal may make investigations to determine the origin and cause of fires, explosions, or suspected arson, and violations of other related laws and codes. The State Fire Marshal and ~~his or her~~ the agents of the State Fire Marshal shall be peace

officers and have and exercise all the powers and authority of other peace officers, with responsibility for the enforcement of statutes relating to the State Fire Marshal. This shall include the authority to enforce, issue citations for violations of city-adopted codes, and make arrests for felony offenses relevant to the duties of the State Fire Marshal. All reports and all results of investigations relevant to the State Fire Marshal statutes shall be available and shall be freely interchanged between the Office of the State Fire Marshal and the Oklahoma State Bureau of Investigation.

B. The State Fire Marshal Commission may establish fees, fines, and administrative penalties for inspections, plan reviews, and permits as provided in the adopted codes of the Commission, as long as the fees, fines, and administrative penalties do not conflict with any applicable state law. All fees, fines, and administrative penalties shall be adopted in accordance with the Administrative Procedures Act.

SECTION 3. This act shall become effective July 1, 2004.

SECTION 4. 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.

49-2-9180

MD

05/19/04