

EHB 2674

THE STATE SENATE
Monday, March 29, 2004

ENGROSSED

House Bill No. 2674

As Amended

ENGROSSED HOUSE BILL NO. 2674 - By: DORMAN of the House and LEFTWICH (Debbe) of the Senate.

[state government - expanding authorized evacuations - effective date - 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

1 the jurisdiction and control of any state agency, county, city or
2 town. ~~Said~~ The correctional facilities shall include, but not be
3 limited to, institutions within the Department of Corrections as
4 defined by Section 502 of Title 57 of the Oklahoma Statutes,
5 juvenile institutions under the jurisdiction and control of the
6 Department of Institutions, Social and Rehabilitative Services, as
7 listed in Section 1401 of Title 10 of the Oklahoma Statutes, and
8 jails. The State Fire Marshal shall issue a report containing
9 findings of ~~his~~ the inspection as to each facility under the
10 jurisdiction and control of a state agency, to the director of ~~such~~
11 the agency. As to any other correctional facility, the State Fire
12 Marshal shall issue ~~his~~ the report to the person immediately
13 responsible for the administration of the facility inspected.
14 Whenever any of ~~said~~ the officers shall find any building or other
15 structure which for the want of proper repair, or by reason of age
16 and dilapidated condition, or for any cause is especially liable to
17 fire, and which is so situated as to endanger other buildings or
18 property, or so occupied that a fire would endanger persons and
19 property therein, ~~such~~ the officers shall order ~~such~~ the building or
20 buildings to be repaired, torn down, demolished, materials removed
21 and all dangerous conditions remedied. Whenever the officers
22 determine that a threat to life is imminent, the officers are
23 permitted to order the evacuation of the occupants of the building

1 or buildings. If ~~such~~ the officer finds in a building or upon any
2 premises any combustible or explosive material, rubbish, rags,
3 waste, oils, gasoline or inflammable conditions of any kind,
4 dangerous to the safety of buildings or property, ~~he~~ the officer
5 shall order ~~such~~ the materials removed or conditions remedied. ~~Such~~
6 The order shall be made against the owner, lessee, agent or occupant
7 of ~~such~~ the buildings or premises and, thereupon, ~~such~~ the order
8 shall be complied with by the owner, lessee, agent or occupant, and
9 within the time fixed in ~~said~~ the order. If the owner, lessee,
10 agent or occupant deems ~~himself~~ itself aggrieved by an order of any
11 of ~~said~~ the officers, and desires a hearing, ~~he~~ that person may
12 complain or appeal in writing to the State Fire Marshal within ten
13 (10) days from the service of the order, and the State Fire Marshal
14 shall at once investigate ~~said~~ the complaint, and ~~he~~ shall fix a
15 time in the county where ~~such~~ the property is located, when and
16 where ~~said~~ the complaint will be heard by the State Fire Marshal.
17 The State Fire Marshal may affirm, modify, revoke or vacate ~~said~~ the
18 order at ~~said~~ the hearing, and unless ~~such~~ the order is revoked or
19 vacated by the State Fire Marshal, it shall remain in force and be
20 complied with by ~~such~~ the owner, lessee, agent or occupant within
21 the time fixed in ~~said~~ the order, or within ~~such~~ the time as may be
22 fixed by the State Fire Marshal at ~~said~~ the hearing. If a person is
23 aggrieved by the final order of the State Fire Marshal as made at

1 the hearing ~~aforsaid~~, ~~such~~ that person may, within ten (10) days
2 thereafter, appeal to the district court of the county in which the
3 property is situated, notifying the State Fire Marshal in writing,
4 of ~~such~~ the appeal, within three (3) days thereafter, which notice
5 shall be ~~in writing and~~ delivered personally to the State Fire
6 Marshal or by registered mail to the office of the State Fire
7 Marshal at Oklahoma City, Oklahoma. The party ~~se~~ appealing shall,
8 within three (3) days thereafter, file with the clerk of the
9 district court in which ~~such~~ the appeal is made, a bond in an amount
10 to be fixed by the court but in no case less than One Hundred
11 Dollars (\$100.00), with at least sufficient sureties to be approved
12 by the court, conditioned to pay all costs on the appeal in case the
13 appellant failed to sustain the same or the appeal be dismissed for
14 any cause. The district court shall hear and determine ~~said~~ the
15 appeal de novo, in the same manner as other issues of law and fact
16 are heard and tried in ~~such~~ the courts, and the State Fire Marshal
17 shall be plaintiff in ~~said~~ the action. The district court shall
18 hear and determine the appeal at the next regular term of district
19 court in the county where the ~~said~~ order was issued, and may
20 sustain, modify or annul the order of the State Fire Marshal, and
21 the decision of the district court shall be final. The State Fire
22 Marshal shall execute the final order of the district court, and if
23 ~~said~~ the order is adverse to ~~said~~ the appellant, the State Fire

1 Marshal is empowered to cause ~~such~~ the building or premises to be
2 repaired, torn down, demolished, materials removed and all dangerous
3 conditions remedied, as the case may be, at the expense of ~~such~~ the
4 appellant. If ~~said~~ the appellant fails, refuses or neglects to
5 comply with ~~said~~ the order, or pay the expense incurred by the State
6 Fire Marshal in executing the same within thirty (30) days
7 thereafter, the ~~said~~ expense shall be certified by the State Fire
8 Marshal to the county assessor of the county in which ~~said~~ the
9 property is situated and the ~~said~~ county assessor shall enter ~~said~~
10 the expense on the tax list of ~~said~~ the county as a special charge
11 against the real estate on which ~~said~~ the building is or was
12 situated, and the same shall be collected as other taxes and, when
13 collected, shall be paid to the county treasurer and credited to the
14 general fund of the county in which the property is located. Any
15 person being the owner, occupant, lessee or agent of buildings or
16 premises, who willfully fails, neglects or refuses to comply with
17 any order of any officer named in this section shall be guilty of a
18 misdemeanor and shall be fined not more than Fifty Dollars (\$50.00)
19 nor less than Ten Dollars (\$10.00) for each day's neglect.

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

22 Section 324.9 A. The State Fire Marshal or ~~his or her~~ deputies
23 of the State Fire Marshal may make investigations to determine the

1 origin and cause of fires, explosions, or suspected arson, and
2 violations of other related laws and codes. The State Fire Marshal
3 and ~~his or her~~ the agents of the State Fire Marshal shall be peace
4 officers and have and exercise all the powers and authority of other
5 peace officers, with responsibility for the enforcement of statutes
6 relating to the State Fire Marshal. This shall include the
7 authority to enforce, issue citations, and make arrests for felony
8 offenses relevant to the duties of the State Fire Marshal. All
9 reports and all results of investigations relevant to the State Fire
10 Marshal statutes shall be available and shall be freely interchanged
11 between the Office of the State Fire Marshal and the Oklahoma State
12 Bureau of Investigation.

13 B. The Office of the State Fire Marshal may establish fines and
14 penalties for violations prescribed in subsection A of this section,
15 subject to the approval of the legislature.

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

17 SECTION 4. It being immediately necessary for the preservation
18 of the public peace, health and safety, an emergency is hereby
19 declared to exist, by reason whereof this act shall take effect and
20 be in full force from and after its passage and approval.

21 COMMITTEE REPORT BY: COMMITTEE ON VETERANS, MILITARY AFFAIRS &
22 PUBLIC SAFETY, dated 3-22-04 - DO PASS, As Amended.