

1 ENGROSSED SENATE  
2 BILL NO. 98

By: Barrington of the Senate  
and  
Richardson of the House

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6  
7 [ professions and occupations - creating the Fire  
8 Extinguisher Licensing Act - codification -  
9 effective date ]  
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11 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

12 SECTION 1. NEW LAW A new section of law to be codified  
13 in the Oklahoma Statutes as Section 1820.1 of Title 59, unless there  
14 is created a duplication in numbering, reads as follows:

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

17 SECTION 2. NEW LAW A new section of law to be codified  
18 in the Oklahoma Statutes as Section 1820.2 of Title 59, unless there  
19 is created a duplication in numbering, reads as follows:

20 The purpose of the Fire Extinguisher Licensing Act is to  
21 regulate the sale, installation, and servicing of portable fire  
22 extinguishers, including both engineered and preengineered systems,  
23 in the interest of safeguarding lives and property. The filling or  
24 charging of either engineered or preengineered system bottles for

1 portable fire extinguishers, prior to their initial sale by the  
2 manufacturer, shall not be subject to the Fire Extinguisher  
3 Licensing Act.

4 SECTION 3. NEW LAW A new section of law to be codified  
5 in the Oklahoma Statutes as Section 1820.3 of Title 59, unless there  
6 is created a duplication in numbering, reads as follows:

7 As used in the Fire Extinguisher Licensing Act:

- 8 1. "Board" means the State Board of Health;
- 9 2. "Commissioner" means the State Commissioner of Health;
- 10 3. "Committee" means the Fire Extinguisher Industry Committee;
- 11 4. "Fire extinguisher industry" means the sale, installation,  
12 maintenance, inspection, certification, alteration, repair,  
13 replacement, or service of portable fire extinguishers or fire  
14 suppression systems or any combination of the foregoing activities;
- 15 5. "Fire suppression systems" and "handheld portable fire  
16 extinguisher" means any listed or approved fire extinguisher systems  
17 installed in compliance with the installation manuals of the  
18 manufacturer or the applicable National Fire Protection Association  
19 Standard and its reference as outlined in the rules established by  
20 the State Department of Health;
- 21 6. "Licensee" means any person licensed pursuant to the Fire  
22 Extinguisher Licensing Act; and
- 23 7. "Person" means a sole proprietorship, fire partnership,  
24 association, corporation, or other similar entity.

1 SECTION 4. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 1820.4 of Title 59, unless there  
3 is created a duplication in numbering, reads as follows:

4 The Fire Extinguisher Licensing Act shall not apply to:

5 1. An officer or employee of this state, the United States, or  
6 a political subdivision, while the employee or officer is engaged in  
7 the performance of his or her official duties;

8 2. A person who owns and installs fire extinguishing equipment  
9 in his or her own single-family dwelling or, if the person does not  
10 charge for the device or its installation, installs the fire  
11 extinguishing equipment for the protection of his or her personal  
12 property and does not install the fire extinguishing equipment as a  
13 normal business practice in a single-family dwelling of another; or

14 3. The sale of fire extinguishers designed or intended for  
15 customer or user installation.

16 SECTION 5. NEW LAW A new section of law to be codified  
17 in the Oklahoma Statutes as Section 1820.5 of Title 59, unless there  
18 is created a duplication in numbering, reads as follows:

19 The Fire Extinguisher Licensing Act shall apply to all persons  
20 servicing, installing, inspecting, certifying, charging, or testing  
21 any portable fire extinguisher or fire suppression system.

22 SECTION 6. NEW LAW A new section of law to be codified  
23 in the Oklahoma Statutes as Section 1820.6 of Title 59, unless there  
24 is created a duplication in numbering, reads as follows:

1 A. There is hereby created the Fire Extinguisher Industry  
2 Committee which shall consist of the following seven (7) members:

3 1. One member shall be the State Commissioner of Health, or a  
4 designated representative;

5 2. One member shall be the State Fire Marshal, or a designated  
6 representative;

7 3. One member shall be the Assistant State Fire Marshal, or a  
8 designated representative; and

9 4. Four members shall be appointed by the State Board of  
10 Health. The Board shall appoint the four members within thirty (30)  
11 days after the effective date of this act. Three of the appointed  
12 members shall have at least five (5) years of experience in the fire  
13 extinguisher industry. One of the appointed members shall be a lay  
14 member. No member of the Committee shall have any kind of  
15 employment relationship with any other member.

16 B. The term of each appointed member shall be four (4) years.  
17 Provided, the terms of the first appointed members of the Committee  
18 shall be as follows:

19 1. One member shall be appointed to a term ending May 31, 2008;

20 2. One member shall be appointed to a term ending May 31, 2009;

21 3. One member shall be appointed to a term ending May 31, 2010;

22 and

23 4. One member shall be appointed to a term ending May 31, 2011.

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1 Each appointed member shall hold office until his or her successor  
2 is appointed and has qualified under the Fire Extinguisher Licensing  
3 Act.

4 C. Appointed members may be removed from office by the Board  
5 for cause.

6 D. Vacancies shall be filled by appointment by the Board for  
7 the unexpired term of the vacancy.

8 E. Members of the Committee shall serve without pay but may be  
9 reimbursed for actual expenses pursuant to the provisions of the  
10 State Travel Reimbursement Act.

11 F. The Committee shall elect from among its membership a chair,  
12 vice-chair, and secretary to serve terms of not more than two (2)  
13 years ending on May 31 of the year designated by the Committee. The  
14 chair or vice-chair shall preside at all meetings. The chair, vice-  
15 chair, and secretary shall perform such duties as may be decided by  
16 the Committee in order to effectively administer the Fire  
17 Extinguisher Licensing Act.

18 G. A majority of Committee members shall constitute a quorum to  
19 transact official business.

20 H. The Committee shall meet within thirty (30) days after the  
21 effective date of this act and shall meet thereafter at such times  
22 as the Committee deems necessary to implement the provisions of the  
23 Fire Extinguisher Licensing Act.

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1 I. The Committee shall assist and advise the Commissioner on  
2 all matters relating to the formulation of rules and standards in  
3 accordance with the Fire Extinguisher Licensing Act.

4 SECTION 7. NEW LAW A new section of law to be codified  
5 in the Oklahoma Statutes as Section 1820.7 of Title 59, unless there  
6 is created a duplication in numbering, reads as follows:

7 The Fire Extinguisher Industry Committee shall have the  
8 following powers and duties:

9 1. To assist the State Commissioner of Health in licensing and  
10 otherwise regulating persons engaged in a fire extinguisher industry  
11 business;

12 2. To determine qualifications of applicants pursuant to the  
13 Fire Extinguisher Licensing Act;

14 3. To prescribe and adopt forms for license applications and  
15 initiate the mailing of the application forms to all persons  
16 requesting the applications;

17 4. To assist the Commissioner in the denial, suspension or  
18 revocation of licenses as provided by the Fire Extinguisher  
19 Licensing Act;

20 5. To charge and collect such fees as are prescribed by the  
21 Fire Extinguisher Licensing Act;

22 6. To assist the State Board of Health in establishing and  
23 enforcing standards governing the materials, services, and conduct  
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1 of the licensees and the employees of licensees in regard to the  
2 fire extinguisher industry;

3 7. To assist the State Board of Health in promulgating rules  
4 necessary to carry out the administration of the Fire Extinguisher  
5 Licensing Act;

6 8. To investigate alleged violations of the provisions of the  
7 Fire Extinguisher Licensing Act and of any rules promulgated by the  
8 Board;

9 9. To assist the Board in establishing categories of licenses  
10 for the Fire Extinguisher Licensing Act and application requirements  
11 for each category including, but not limited to, individual  
12 licenses, experience requirements, fingerprints, photographs,  
13 written examinations, and fees;

14 10. To assist the Commissioner in providing for grievance and  
15 appeal procedures pursuant to the Administrative Procedures Act for  
16 any person whose license is denied, revoked, or suspended; and

17 11. To have such other powers and duties as are necessary to  
18 implement the Fire Extinguisher Licensing Act.

19 SECTION 8. NEW LAW A new section of law to be codified  
20 in the Oklahoma Statutes as Section 1820.8 of Title 59, unless there  
21 is created a duplication in numbering, reads as follows:

22 No person shall engage in a fire extinguisher industry business  
23 in this state without first having obtained a license pursuant to  
24 the provisions of the Fire Extinguisher Licensing Act. Provided,

1 every person engaged in a fire extinguisher industry business in  
2 this state on the effective date of the Fire Extinguisher Licensing  
3 Act shall have ninety (90) days in which to apply to the State  
4 Commissioner of Health for a license. A person applying for a  
5 license within this ninety-day period may continue business pending  
6 a final determination by the Commissioner of the application.  
7 Additional time beyond the ninety-day period may be granted by the  
8 Commissioner.

9 SECTION 9. NEW LAW A new section of law to be codified  
10 in the Oklahoma Statutes as Section 1820.9 of Title 59, unless there  
11 is created a duplication in numbering, reads as follows:

12 A. No person shall market, distribute, or sell any portable  
13 fire extinguisher or fire suppression system in this state unless  
14 the following requirements are met:

15 1. The portable fire extinguisher or fire suppression system  
16 complies with standards adopted by the State Board of Health; and

17 2. The portable fire extinguisher or fire suppression system  
18 has been examined by and bears the label of a nationally recognized  
19 testing laboratory approved by the Board as qualified to test  
20 portable fire extinguishers and fire suppression systems.

21 B. The Board may grant reasonable exceptions to the provisions  
22 of this section when the portable fire extinguisher or fire  
23 suppression system is intended for industrial use in places to which  
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1 the public is not invited or admitted. The provisions of this  
2 section apply to the state and any political subdivision thereof.

3 SECTION 10. NEW LAW A new section of law to be codified  
4 in the Oklahoma Statutes as Section 1820.10 of Title 59, unless  
5 there is created a duplication in numbering, reads as follows:

6 Any person who services, installs, inspects, certifies, charges  
7 or tests any portable fire extinguisher or fire suppression system  
8 shall affix a tag to the service unit. The tag shall indicate the  
9 date upon which the service work was performed, and it shall bear  
10 the legible signature and state license number of the person and  
11 other information specified by the State Board of Health.

12 SECTION 11. NEW LAW A new section of law to be codified  
13 in the Oklahoma Statutes as Section 1820.11 of Title 59, unless  
14 there is created a duplication in numbering, reads as follows:

15 A. Any person applying for a license to engage in a fire  
16 extinguisher industry business pursuant to the Fire Extinguisher  
17 Licensing Act shall provide evidence to the Fire Extinguisher  
18 Industry Committee that the individual within this state having  
19 direct supervision over the function and local operations of the  
20 fire extinguisher industry business or a branch thereof has the  
21 following qualifications:

22 1. The individual is at least twenty-one (21) years of age;  
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1           2. The individual has not been declared by any court of  
2 competent jurisdiction incompetent by reason of mental defect or  
3 disease;

4           3. The individual is not a habitual user of intoxicating  
5 liquors or habit-forming drugs;

6           4. The individual has not been discharged from the Armed  
7 Services of the United States under other than honorable conditions;

8           5. The individual is of good moral character; and

9           6. The individual meets such other standards as may be  
10 established by the State Board of Health relating to experience or  
11 knowledge of the fire extinguisher industry.

12           B. The applicant shall advise the Committee and furnish full  
13 information on each individual described in subsection A of this  
14 section of any conviction of a felony offense or any crime involving  
15 moral turpitude for which a full pardon has not been granted. The  
16 applicant shall furnish a recent photograph of a type prescribed by  
17 the Committee and two classifiable sets of fingerprints of such  
18 individual.

19           SECTION 12.           NEW LAW           A new section of law to be codified  
20 in the Oklahoma Statutes as Section 1820.12 of Title 59, unless  
21 there is created a duplication in numbering, reads as follows:

22           A. An application for a license shall include:

23           1. The address of the principal office of the applicant and the  
24 address of each branch office located within this state;

1           2. The name of each business location under which the applicant  
2 intends to do business as a licensee;

3           3. A statement as to the extent and scope of the fire  
4 extinguisher industry business of the applicant and all other  
5 businesses in which the applicant is engaged in this state;

6           4. A recent photograph of the applicant of a type prescribed by  
7 the State Board of Health if the applicant is a sole proprietor, or  
8 a photograph of each officer and of each partner or shareholder who  
9 owns a twenty-five percent (25%) or greater interest in the  
10 applicant, if the applicant is an entity; and

11           5. Such other information, statements, or documents as may be  
12 required by the Board.

13           B. An applicant for an individual license shall provide such  
14 documents, statements or other information as may be required by the  
15 Board, including two classifiable sets of fingerprints of the  
16 applicant. The fingerprints may be used for a national criminal  
17 history record check as defined by Section 150.9 of Title 74 of the  
18 Oklahoma Statutes.

19           C. Fees for license and license renewal issued pursuant to the  
20 Fire Extinguisher Licensing Act shall be adopted by the Board  
21 pursuant to Section 1-106.1 of Title 63 of the Oklahoma Statutes.  
22 An applicant shall pay the license fee at the time the applicant  
23 makes application.

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1 SECTION 13. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 1820.13 of Title 59, unless  
3 there is created a duplication in numbering, reads as follows:

4 A. Upon making proper application, payment of the proper  
5 license fee and certification of approval by the Fire Extinguisher  
6 Industry Committee, the State Commissioner of Health shall issue a  
7 license to the applicant. The license shall be valid for a one-year  
8 term.

9 B. Renewal of a license shall not prohibit disciplinary  
10 proceedings for an act committed prior to the renewal.

11 C. The State Board of Health may adopt a system under which  
12 licenses expire on various dates throughout the year. For any  
13 change in such expiration dates, license fees shall be prorated on  
14 an appropriate periodic basis.

15 SECTION 14. NEW LAW A new section of law to be codified  
16 in the Oklahoma Statutes as Section 1820.14 of Title 59, unless  
17 there is created a duplication in numbering, reads as follows:

18 A. A license shall not be altered or assigned.

19 B. A license shall be posted in a conspicuous place in each  
20 fire extinguisher industry business location of the licensee.

21 C. A licensee shall notify the Fire Extinguisher Industry  
22 Committee within fourteen (14) days of any change of information  
23 furnished on the application for license or on the license  
24 including, but not limited to, change of ownership, address,

1 business activities, or any developments related to the  
2 qualifications of the licensee or the individual described in  
3 Section 11 of this act. If the licensee for any reason ceases to  
4 engage in a fire extinguisher industry business in this state, the  
5 licensee shall notify the Committee within fourteen (14) days of  
6 such cessation. If the required notice of cessation is not given to  
7 the Committee within fourteen (14) days, the license may be  
8 suspended or revoked by the State Commissioner of Health on  
9 recommendation of the Committee.

10 D. No person shall represent falsely that he or she is licensed  
11 or employed by a licensee.

12 E. Each licensee shall maintain a record containing such  
13 information relative to his or her employees as may be required by  
14 the State Board of Health.

15 SECTION 15. NEW LAW A new section of law to be codified  
16 in the Oklahoma Statutes as Section 1820.15 of Title 59, unless  
17 there is created a duplication in numbering, reads as follows:

18 The licensee shall be responsible to the Fire Extinguisher  
19 Industry Committee in matters of conduct of business activities  
20 covered by the Fire Extinguisher Licensing Act. The licensee shall  
21 be responsible for the activities on the part of the employees of  
22 the licensee. For purposes of the Fire Extinguisher Licensing Act,  
23 improper conduct on the part of such employees which occurs within  
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1 the scope of employment shall be considered by the Committee as acts  
2 of the licensee.

3 SECTION 16. NEW LAW A new section of law to be codified  
4 in the Oklahoma Statutes as Section 1820.16 of Title 59, unless  
5 there is created a duplication in numbering, reads as follows:

6 A. The State Commissioner of Health, on recommendation of the  
7 Fire Extinguisher Industry Committee, may suspend any license, upon  
8 the conviction of any individual named on the license or on the  
9 application for license of a felony, for a period not to exceed  
10 thirty (30) days pending a full investigation by the Committee. The  
11 investigation shall be initiated within the thirty-day period of  
12 suspension. A final determination by the Committee shall result in  
13 either removal of the suspension or such sanction as the  
14 Commissioner considers appropriate, as provided by the Fire  
15 Extinguisher Licensing Act.

16 B. The Commissioner may revoke or suspend any license,  
17 reprimand any licensee or deny any application for license or  
18 renewal if, in the judgment of the Committee:

19 1. The applicant or licensee has violated any provision of the  
20 Fire Extinguisher Licensing Act or any rule promulgated under the  
21 Fire Extinguisher Licensing Act;

22 2. The applicant or licensee has practiced fraud, deceit, or  
23 misrepresentation;

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1           3. The applicant or licensee has made a material misstatement  
2 in any information required by the State Board of Health; or

3           4. The applicant or licensee has demonstrated incompetence or  
4 untrustworthiness in his or her actions.

5           C. The Committee shall, before final action under subsection B  
6 of this section, provide thirty (30) days of written notice to the  
7 applicant or licensee involved in the action intended and give  
8 sufficient opportunity for the person to request a hearing before  
9 the Committee and the Commissioner and to be represented by an  
10 attorney. A hearing shall be scheduled by the Committee upon  
11 request by the applicant or licensee.

12           D. In the event the Commissioner denies the application for, or  
13 revokes or suspends, any license or imposes any reprimand, a record  
14 of such action shall be in writing and officially signed by the  
15 Commissioner. The original copy shall be filed with the Board and a  
16 copy mailed to the affected applicant or licensee within two (2)  
17 days of the final action taken by the Commissioner.

18           E. Notice of the suspension or revocation of any license by the  
19 Commissioner shall be sent by the Committee to law enforcement  
20 agencies and fire departments in the principal areas of operation of  
21 the licensee.

22           F. A suspended license shall be subject to expiration and may  
23 be renewed as provided by the Fire Extinguisher Licensing Act,  
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1 regardless of suspension; provided, the renewal shall not remove the  
2 suspension.

3 G. A revoked license terminates on the date of revocation and  
4 cannot be reinstated; provided, the Commissioner may reverse the  
5 revocation action. Any licensee whose license is revoked shall  
6 apply for a new license and meet all requirements for a license as  
7 stated in the Fire Extinguisher Licensing Act prior to engaging in  
8 any fire extinguisher industry business activities. The Committee  
9 and the Commissioner shall take action on the new application and  
10 may require additional safeguards against such acts by the applicant  
11 as may have been the cause of the revocation of the prior license.

12 SECTION 17. NEW LAW A new section of law to be codified  
13 in the Oklahoma Statutes as Section 1820.17 of Title 59, unless  
14 there is created a duplication in numbering, reads as follows:

15 There is hereby created in the State Treasury a revolving fund  
16 for the State Department of Health, to be designated the "Fire  
17 Extinguisher Industry Revolving Fund". The fund shall be a  
18 continuing fund, not subject to fiscal year limitations, and shall  
19 consist of all monies received by the Department pursuant to the  
20 Fire Extinguisher Licensing Act. All monies accruing to the credit  
21 of such fund are hereby appropriated and may be budgeted and  
22 expended by the Department for the purpose of implementing the Fire  
23 Extinguisher Licensing Act. Expenditures from such fund shall be  
24 made upon warrants issued by the State Treasurer against claims

1 filed as prescribed by law with the Director of State Finance for  
2 approval and payment.

3 SECTION 18. NEW LAW A new section of law to be codified  
4 in the Oklahoma Statutes as Section 1820.18 of Title 59, unless  
5 there is created a duplication in numbering, reads as follows:

6 All costs of administration of the Fire Extinguisher Licensing  
7 Act shall be paid from fees, monies and other revenue collected  
8 pursuant to the provisions of the Fire Extinguisher Licensing Act.

9 At no time shall a claim for payment be submitted to the Director of  
10 State Finance if the revenue deposited in the Fire Extinguisher  
11 Industry Revolving Fund to the current date does not equal or exceed  
12 the total claims for payments made to that date.

13 SECTION 19. NEW LAW A new section of law to be codified  
14 in the Oklahoma Statutes as Section 1820.19 of Title 59, unless  
15 there is created a duplication in numbering, reads as follows:

16 The State Board of Health is hereby authorized to promulgate,  
17 adopt, amend, and repeal rules consistent with the provisions of the  
18 Fire Extinguisher Licensing Act for the purpose of governing the  
19 establishment and levying of administrative fines and the  
20 examination and licensure of fire extinguisher companies, managers,  
21 technicians, and salespersons.

22 SECTION 20. NEW LAW A new section of law to be codified  
23 in the Oklahoma Statutes as Section 1820.20 of Title 59, unless  
24 there is created a duplication in numbering, reads as follows:

1       A. Any individual or person who is found to be in violation of  
2 the provisions of the Fire Extinguisher Licensing Act or any rules  
3 adopted by the State Board of Health in the administration of the  
4 Fire Extinguisher Licensing Act shall, upon conviction, be guilty of  
5 a misdemeanor punishable by imprisonment in the county jail for a  
6 period of not more than one (1) year, or by the imposition of a fine  
7 of not more than Five Hundred Dollars (\$500.00), or by both such  
8 imprisonment and fine.

9       B. 1. In addition to any other penalties provided by law, if  
10 after a hearing in accordance with Article II of the Administrative  
11 Procedures Act, the State Commissioner of Health finds any person to  
12 be in violation of any of the provisions of the Fire Extinguisher  
13 Licensing Act or the rules promulgated pursuant thereto, the person  
14 may be subject to an administrative fine of not more than Two  
15 Hundred Dollars (\$200.00) for each violation. Each day a person is  
16 in violation may constitute a separate violation.

17       2. All administrative fines collected pursuant to the  
18 provisions of this subsection shall be deposited in the Fire  
19 Extinguisher Industry Revolving Fund.

20       SECTION 21. This act shall become effective November 1, 2007.

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