

SB 98

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

THE STATE SENATE
Monday, February 26, 2007

Senate Bill No. 98
As Amended

SENATE BILL NO. 98 - By: BARRINGTON of the Senate and RICHARDSON of the House.

[professions and occupations - creating the Fire Extinguisher Licensing Act - codification - effective date]

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 1820.1 of Title 59, unless there is created a duplication in numbering, reads as follows:

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

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

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

1 manufacturer, shall not be subject to the Fire Extinguisher
2 Licensing Act.

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

6 As used in the Fire Extinguisher Licensing Act:

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

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

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

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

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

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

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

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

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

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

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

3 4. One member shall be appointed to a term ending May 31, 2011.
4 Each appointed member shall hold office until his or her successor
5 is appointed and has qualified under the Fire Extinguisher Licensing
6 Act.

7 C. Appointed members may be removed from office by the Board
8 for cause.

9 D. Vacancies shall be filled by appointment by the Board for
10 the unexpired term of the vacancy.

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

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

21 G. A majority of Committee members shall constitute a quorum to
22 transact official business.

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

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

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

11 The Fire Extinguisher Industry Committee shall have the
12 following powers and duties:

13 1. To assist the State Commissioner of Health in licensing and
14 otherwise regulating persons engaged in a fire extinguisher industry
15 business;

16 2. To determine qualifications of applicants pursuant to the
17 Fire Extinguisher Licensing Act;

18 3. To prescribe and adopt forms for license applications and
19 initiate the mailing of the application forms to all persons
20 requesting the applications;

21 4. To assist the Commissioner in the denial, suspension or
22 revocation of licenses as provided by the Fire Extinguisher
23 Licensing Act;

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

3 6. To assist the State Board of Health in establishing and
4 enforcing standards governing the materials, services, and conduct
5 of the licensees and the employees of licensees in regard to the
6 fire extinguisher industry;

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

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

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

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

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

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

4 No person shall engage in a fire extinguisher industry business
5 in this state without first having obtained a license pursuant to
6 the provisions of the Fire Extinguisher Licensing Act. Provided,
7 every person engaged in a fire extinguisher industry business in
8 this state on the effective date of the Fire Extinguisher Licensing
9 Act shall have ninety (90) days in which to apply to the State
10 Commissioner of Health for a license. A person applying for a
11 license within this ninety-day period may continue business pending
12 a final determination by the Commissioner of the application.
13 Additional time beyond the ninety-day period may be granted by the
14 Commissioner.

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

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

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

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

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

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

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

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

22 A. Any person applying for a license to engage in a fire
23 extinguisher industry business pursuant to the Fire Extinguisher

1 Licensing Act shall provide evidence to the Fire Extinguisher
2 Industry Committee that the individual within this state having
3 direct supervision over the function and local operations of the
4 fire extinguisher industry business or a branch thereof has the
5 following qualifications:

6 1. The individual is at least twenty-one (21) years of age;

7 2. The individual has not been declared by any court of
8 competent jurisdiction incompetent by reason of mental defect or
9 disease;

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

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

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

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

18 B. The applicant shall advise the Committee and furnish full
19 information on each individual described in subsection A of this
20 section of any conviction of a felony offense or any crime involving
21 moral turpitude for which a full pardon has not been granted. The
22 applicant shall furnish a recent photograph of a type prescribed by

1 the Committee and two classifiable sets of fingerprints of such
2 individual.

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

6 A. An application for a license shall include:

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

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

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

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

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

21 B. An applicant for an individual license shall provide such
22 documents, statements or other information as may be required by the
23 Board, including two classifiable sets of fingerprints of the

1 applicant. The fingerprints may be used for a national criminal
2 history record check as defined by Section 150.9 of Title 74 of the
3 Oklahoma Statutes.

4 C. Fees for license and license renewal issued pursuant to the
5 Fire Extinguisher Licensing Act shall be adopted by the Board
6 pursuant to Section 1-106.1 of Title 63 of the Oklahoma Statutes.
7 An applicant shall pay the license fee at the time the applicant
8 makes application.

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

12 A. Upon making proper application, payment of the proper
13 license fee and certification of approval by the Fire Extinguisher
14 Industry Committee, the State Commissioner of Health shall issue a
15 license to the applicant. The license shall be valid for a one-year
16 term.

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

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

1 SECTION 14. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 1820.14 of Title 59, unless
3 there is created a duplication in numbering, reads as follows:
4 A. A license shall not be altered or assigned.
5 B. A license shall be posted in a conspicuous place in each
6 fire extinguisher industry business location of the licensee.
7 C. A licensee shall notify the Fire Extinguisher Industry
8 Committee within fourteen (14) days of any change of information
9 furnished on the application for license or on the license
10 including, but not limited to, change of ownership, address,
11 business activities, or any developments related to the
12 qualifications of the licensee or the individual described in
13 Section 11 of this act. If the licensee for any reason ceases to
14 engage in a fire extinguisher industry business in this state, the
15 licensee shall notify the Committee within fourteen (14) days of
16 such cessation. If the required notice of cessation is not given to
17 the Committee within fourteen (14) days, the license may be
18 suspended or revoked by the State Commissioner of Health on
19 recommendation of the Committee.
20 D. No person shall represent falsely that he or she is licensed
21 or employed by a licensee.

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

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

7 The licensee shall be responsible to the Fire Extinguisher
8 Industry Committee in matters of conduct of business activities
9 covered by the Fire Extinguisher Licensing Act. The licensee shall
10 be responsible for the activities on the part of the employees of
11 the licensee. For purposes of the Fire Extinguisher Licensing Act,
12 improper conduct on the part of such employees which occurs within
13 the scope of employment shall be considered by the Committee as acts
14 of the licensee.

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

18 A. The State Commissioner of Health, on recommendation of the
19 Fire Extinguisher Industry Committee, may suspend any license, upon
20 the conviction of any individual named on the license or on the
21 application for license of a felony, for a period not to exceed
22 thirty (30) days pending a full investigation by the Committee. The
23 investigation shall be initiated within the thirty-day period of

1 suspension. A final determination by the Committee shall result in
2 either removal of the suspension or such sanction as the
3 Commissioner considers appropriate, as provided by the Fire
4 Extinguisher Licensing Act.

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

8 1. The applicant or licensee has violated any provision of the
9 Fire Extinguisher Licensing Act or any rule promulgated under the
10 Fire Extinguisher Licensing Act;

11 2. The applicant or licensee has practiced fraud, deceit, or
12 misrepresentation;

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

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

17 C. The Committee shall, before final action under subsection B
18 of this section, provide thirty (30) days of written notice to the
19 applicant or licensee involved in the action intended and give
20 sufficient opportunity for the person to request a hearing before
21 the Committee and the Commissioner and to be represented by an
22 attorney. A hearing shall be scheduled by the Committee upon
23 request by the applicant or licensee.

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

7 E. Notice of the suspension or revocation of any license by the
8 Commissioner shall be sent by the Committee to law enforcement
9 agencies and fire departments in the principal areas of operation of
10 the licensee.

11 F. A suspended license shall be subject to expiration and may
12 be renewed as provided by the Fire Extinguisher Licensing Act,
13 regardless of suspension; provided, the renewal shall not remove the
14 suspension.

15 G. A revoked license terminates on the date of revocation and
16 cannot be reinstated; provided, the Commissioner may reverse the
17 revocation action. Any licensee whose license is revoked shall
18 apply for a new license and meet all requirements for a license as
19 stated in the Fire Extinguisher Licensing Act prior to engaging in
20 any fire extinguisher industry business activities. The Committee
21 and the Commissioner shall take action on the new application and
22 may require additional safeguards against such acts by the applicant
23 as may have been the cause of the revocation of the prior license.

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

4 There is hereby created in the State Treasury a revolving fund
5 for the State Department of Health, to be designated the "Fire
6 Extinguisher Industry Revolving Fund". The fund shall be a
7 continuing fund, not subject to fiscal year limitations, and shall
8 consist of all monies received by the Department pursuant to the
9 Fire Extinguisher Licensing Act. All monies accruing to the credit
10 of such fund are hereby appropriated and may be budgeted and
11 expended by the Department for the purpose of implementing the Fire
12 Extinguisher Licensing Act. Expenditures from such fund shall be
13 made upon warrants issued by the State Treasurer against claims
14 filed as prescribed by law with the Director of State Finance for
15 approval and payment.

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

19 All costs of administration of the Fire Extinguisher Licensing
20 Act shall be paid from fees, monies and other revenue collected
21 pursuant to the provisions of the Fire Extinguisher Licensing Act.
22 At no time shall a claim for payment be submitted to the Director of
23 State Finance if the revenue deposited in the Fire Extinguisher

1 Industry Revolving Fund to the current date does not equal or exceed
2 the total claims for payments made to that date.

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

6 The State Board of Health is hereby authorized to promulgate,
7 adopt, amend, and repeal rules consistent with the provisions of the
8 Fire Extinguisher Licensing Act for the purpose of governing the
9 establishment and levying of administrative fines and the
10 examination and licensure of fire extinguisher companies, managers,
11 technicians, and salespersons.

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

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

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

9 2. All administrative fines collected pursuant to the
10 provisions of this subsection shall be deposited in the Fire
11 Extinguisher Industry Revolving Fund.

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

13 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS, dated 2-21-07 - DO
14 PASS, As Amended and Coauthored.