

STATE OF OKLAHOMA

1st Session of the 57th Legislature (2019)

HOUSE BILL 1108

By: West (Kevin)

AS INTRODUCED

An Act relating to the State Fire Marshal; amending 74 O.S. 2011, Sections 324.1, as amended by Section 1, Chapter 268, O.S.L. 2012, 324.2, as amended by Section 17, Chapter 111, O.S.L. 2013, 324.4, 324.7, 324.9 and 324.11a (74 O.S. Supp. 2018, Sections 324.1 and 324.2), which relate to the State Fire Marshal Commission; making Commission an advisory body; transferring duties to the State Fire Marshal; authorizing Governor to appoint State Fire Marshal; modifying powers and duties of the Commission; and providing an effective date.

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

SECTION 1. AMENDATORY 74 O.S. 2011, Section 324.1, as amended by Section 1, Chapter 268, O.S.L. 2012 (74 O.S. Supp. 2018, Section 324.1), is amended to read as follows:

Section 324.1 There is hereby re-created the State Fire Marshal Commission, which shall be an advisory body to the State Fire Marshal. All duties and powers of the Commission shall be transferred to the State Fire Marshal. Any provision in statute that provides to the Commission authority that is not advisory in nature shall be deemed to grant the duty or power to the State Fire

1 Marshal. The Commission shall consist of seven (7) members  
2 appointed by the Governor. The Governor shall appoint initially one  
3 member who shall serve for a term of five (5) years, one member from  
4 a statewide association of career and volunteer firefighters who  
5 shall serve for a term of four (4) years, one member from a  
6 statewide association of municipalities who shall serve for a term  
7 of three (3) years, one member from a statewide association of Fire  
8 Chiefs, both career and volunteer, who shall serve for a term of two  
9 (2) years, one member who shall be a Fire Investigator who shall  
10 serve for a term of one (1) year, one member representing a  
11 statewide association of electrical workers who shall serve a term  
12 of one (1) year, and one member representing a statewide  
13 organization of exclusively professional firefighters who shall  
14 serve a term of two (2) years. The members of the Commission shall  
15 thereafter be appointed for a term of five (5) years and the  
16 appointments shall be subject to Senate confirmation; provided the  
17 associations named shall be represented by at least one member.

18 SECTION 2. AMENDATORY 74 O.S. 2011, Section 324.2, as  
19 amended by Section 17, Chapter 111, O.S.L. 2013 (74 O.S. Supp. 2018,  
20 Section 324.2), is amended to read as follows:

21 Section 324.2 The Commission shall select a chair. The  
22 ~~Commission~~ State Fire Marshal is hereby authorized to adopt rules  
23 necessary for the licensure, regulation and enforcement of the fire  
24 extinguishers pursuant to the Fire Extinguisher Licensing Act and

1 for conducting its proceedings. Any four members shall constitute a  
2 quorum. The Commission shall meet monthly on such date as it may  
3 designate and may meet at such other times as it may deem necessary,  
4 or when called by the ~~chairman or by any four members~~ State Fire  
5 Marshal. Complete minutes of each meeting shall be kept and filed  
6 in the office of the State Fire Marshal and shall be available for  
7 public inspection during reasonable office hours. The ~~Commission~~  
8 State Fire Marshal shall report annually to the Governor and to the  
9 Speaker of the House of Representatives and the President Pro  
10 Tempore of the Senate of the affairs of the Commission and the  
11 office of the State Fire Marshal.

12 SECTION 3. AMENDATORY 74 O.S. 2011, Section 324.4, is  
13 amended to read as follows:

14 Section 324.4 A. The State Fire Marshal ~~Commission~~ shall  
15 ~~appoint a full-time State Fire Marshal~~ be appointed by the Governor,  
16 with the advice and consent of the Senate, and shall serve at the  
17 pleasure of the Governor and may be removed or replaced without  
18 cause. Compensation for the State Fire Marshal shall be determined  
19 pursuant to Section 3601.2 of Title 74 of the Oklahoma Statutes.  
20 The State Fire Marshal shall administer and enforce the provisions  
21 of law pertaining to the Office of the State Fire Marshal to  
22 include, but not be limited to, fire and arson investigations, code  
23 enforcement, and public education ~~under the supervision of the State~~  
24 ~~Fire Marshal Commission and in accordance with Commission policies.~~

1 The State Fire Marshal shall be a person of good moral character and  
2 a resident of Oklahoma at the time of appointment. The State Fire  
3 Marshal must have a minimum of ten (10) years' experience in fire  
4 protection, fire prevention, investigation, or criminal justice,  
5 which may include experience with any state, county, municipal,  
6 federal, military, or industrial fire protection or criminal justice  
7 agency. Successful completion of a degree in fire protection and  
8 prevention, criminal justice or administration from an accredited  
9 college or university, may be substituted for experience on a year-  
10 to-year basis. The State Fire Marshal shall possess administrative  
11 ability and experience. The State Fire Marshal may be required to  
12 obtain certification as a peace officer in the State of Oklahoma  
13 from the Council on Law Enforcement Education and Training, and  
14 shall be subject to an extensive background investigation,  
15 psychological testing, and drug testing. ~~The Commission may also~~  
16 ~~require additional qualifications.~~ The State Fire Marshal must have  
17 or be able to obtain a valid Oklahoma driver license and be a  
18 citizen of the United States.

19 B. ~~The Commission~~ State Fire Marshal shall appoint a full-time  
20 Assistant State Fire Marshal ~~upon recommendation from the State Fire~~  
21 ~~Marshal.~~ The Assistant State Fire Marshal must have a minimum of  
22 seven (7) years experience in fire protection, fire prevention,  
23 investigations or criminal justice, which may include experience  
24 with any state, county, municipal, federal, military, or industrial

1 fire protection or criminal justice agency. Successful completion  
2 of a degree in fire protection and prevention, criminal justice, or  
3 administration from an accredited college or university, may be  
4 substituted for experience on a year-to-year basis. The Assistant  
5 State Fire Marshal shall possess administrative ability and  
6 experience. The Assistant State Fire Marshal may be required to  
7 obtain certification as a peace officer from the Council on Law  
8 Enforcement and Education Training, and shall be subject to an  
9 extensive background investigation, psychological testing, and drug  
10 testing. ~~The Commission may require additional qualifications.~~ The  
11 Assistant State Fire Marshal must have or be able to obtain a valid  
12 Oklahoma driver license and be a citizen of the United States.

13 SECTION 4. AMENDATORY 74 O.S. 2011, Section 324.7, is  
14 amended to read as follows:

15 Section 324.7 A. Except as otherwise specified by subsection B  
16 of this section, the State Fire Marshal ~~Commission~~ shall have the  
17 power and duty to prescribe, adopt, and promulgate, in the manner  
18 set forth in this act, such reasonable rules, regulations, or  
19 specifications on matters relating to the safeguarding of life and  
20 property from the hazards of fire and explosion arising from  
21 storage, handling, and use of flammable and combustible materials,  
22 and from conditions hazardous to life or property in the use or  
23 occupancy of buildings or premises, as are deemed just and  
24 reasonable and in accordance with the codes as last adopted by the

Oklahoma Uniform Building Code Commission, and not inconsistent with this act, and to revoke, amend, or supersede the same. Exceptions to these standards shall be granted to detention and correction facilities in existence on November 1, 1985, when noncompliance would not result in a life-threatening condition to inmates incarcerated in such facilities. All such rules, regulations, and specifications or any revisions or amendments thereto shall not become effective until promulgated in accordance with the provisions of the Administrative Procedures Act.

B. 1. Liquefied petroleum ~~gas~~ gases defined by Section 420.1 of Title 52 of the Oklahoma Statutes shall be regulated by the Oklahoma Liquefied Petroleum Gas Board.

2. Flammable liquids stored in tanks at service stations shall be regulated by the Corporation Commission.

C. For the purpose of this section:

1. "Flammable liquids" means all petroleum products used as motor fuel and all grades of gasoline, kerosene, diesel fuel and aviation fuel having a vapor pressure not exceeding forty (40) pounds per square inch absolute at one hundred (100) degrees Fahrenheit;

2. "Service station" means any facility including but not limited to businesses serving the public, marinas and airports where flammable liquids are stored in aboveground tanks and dispensed for

1 retail sales into the fuel tanks of airplanes, vessels or motor  
2 vehicles of the public; and

3 3. "Aboveground tank" means any stationary vessel at a service  
4 station and is located above the surface of the ground or on the  
5 ground which is designed to contain an accumulation of flammable  
6 liquids and which is constructed of nonearthen materials that  
7 provide structural support.

8 SECTION 5. AMENDATORY 74 O.S. 2011, Section 324.9, is  
9 amended to read as follows:

10 Section 324.9 A. The State Fire Marshal or deputies of the  
11 State Fire Marshal may make investigations to determine the origin  
12 and cause of fires, explosions, or suspected arson, and violations  
13 of other related laws and codes. The State Fire Marshal and the  
14 agents of the State Fire Marshal shall be peace officers and have  
15 and exercise all the powers and authority of other peace officers,  
16 with responsibility for the enforcement of statutes relating to the  
17 State Fire Marshal. This shall include the authority to enforce,  
18 issue citations for violations of state and city-adopted codes, and  
19 make arrests for felony offenses relevant to the duties of the State  
20 Fire Marshal. All reports and all results of investigations  
21 relevant to the State Fire Marshal statutes shall be available and  
22 shall be freely interchanged between the Office of the State Fire  
23 Marshal and the Oklahoma State Bureau of Investigation.

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

8 SECTION 6. AMENDATORY 74 O.S. 2011, Section 324.11a, is  
9 amended to read as follows:

10 Section 324.11a A. Any person, partnership, corporation,  
11 organization, the state, or city, town, county, or other subdivision  
12 of this state, owning a building or structure used as a hospital,  
13 church, theater, hotel, motel, apartment house, rooming house,  
14 dormitory, rest home, nursing home, day nursery, convalescent home,  
15 auditorium, or child care institution, existing or constructed in  
16 the State of Oklahoma, shall install in such building or structure a  
17 smoke detector or detectors in accordance with the nationally  
18 recognized codes, standards, or practices adopted by the State Fire  
19 Marshal ~~Commission~~ to safeguard life and property from the hazards  
20 of smoke and fire.

21 B. For the purpose of this section, the term smoke detector  
22 means a device which is:

23 1. Designed to detect visible or invisible products of  
24 combustion;



1        2. Designed with an alarm audible to the rooms it serves;

2        3. Powered by either battery, alternating current, or other  
3 power source; and

4        4. Tested and listed for use as a smoke detector by a  
5 recognized testing laboratory.

6        C. Any person, partnership, corporation, state, municipality,  
7 county, or other subdivision of this state who is a lessor of a  
8 residential rental property shall explain to the lessee or tenant  
9 the method of testing the smoke detector to ensure that it is in  
10 working order. The responsibility for checking a smoke detector to  
11 find out whether such detector is in working order is with the  
12 tenant or lessee leasing or renting a one- or two-family dwelling,  
13 including an apartment in each apartment house, and not with the  
14 person, partnership, corporation, state, municipality, county, or  
15 other subdivision of this state who is a lessor of the residential  
16 rental property to the lessee or tenant.

17        D. Beginning November 1, 1997, all new construction or  
18 remodeling of residential dwellings which require a building permit  
19 shall include the installment of smoke detectors or the electrical  
20 wiring necessary for the installment of electrical smoke detectors.

21        E. Any person who violates any provision of subsection A of  
22 this section or any person who tampers with, removes, destroys,  
23 disconnects or removes power from any installed smoke detector,  
24 except in the course of inspection, maintenance or replacement of

1 the detector, upon conviction, is guilty of a misdemeanor and may be  
2 fined not less than Fifty Dollars (\$50.00) nor more than One Hundred  
3 Dollars (\$100.00).

4 F. Nothing in this section shall be construed to allow any  
5 political subdivision in this state to enact laws imposing upon  
6 owners of any dwelling described in subsection A of this section a  
7 greater duty with regard to the installation, testing, repair and  
8 replacement of smoke detectors than is required by this section.

9 G. The State Fire Marshal ~~Commission~~ shall prescribe, adopt,  
10 and promulgate the rules necessary to effectuate the provisions of  
11 this section which shall include a practical time table for  
12 compliance with the provisions of this ~~act~~ section.

13 H. Municipalities may enact ordinances in order to enforce the  
14 rules of the State Fire Marshal ~~Commission~~ as provided by this  
15 section.

16 SECTION 7. This act shall become effective November 1, 2019.

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