

STATE OF OKLAHOMA

1st Session of the 58th Legislature (2021)

SENATE BILL 881

By: Jett

AS INTRODUCED

An Act relating to State Fire Marshal; amending 74 O.S. 2011, Section 317, which relates to examination of buildings and premises; increasing fine; amending 74 O.S. 2011, Section 324.9, which relates to investigations; deleting requirement for State Fire Marshal to be a peace officer; deleting certain limitation; amending 74 O.S. 2011, Section 324.11, which relates to building permits; updating language; amending 74 O.S. 2011, Section 324.19, which relates to violations; expanding list of who can violate State Fire Marshal orders; allowing for a hearing by those fined for violation; requiring an administrative hearing officer to hear and propose findings to State Fire Marshal Commission for consideration; setting time of consideration; requiring Commission to issue final order; allowing for process to supersede current hearing and appeal systems; directing fines to be deposited into the State Fire Marshal Revolving Fund; amending 74 O.S. 2011, Section 324.20b, as amended by Section 848, Chapter 304, O.S.L. 2012 (74 O.S. Supp. 2020, Section 324.20b), which relates to the State Fire Marshal Revolving Fund; removing cap amount of fund; and providing for an effective date.

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

SECTION 1. AMENDATORY 74 O.S. 2011, Section 317, is amended to read as follows:

1 Section 317. The State Fire Marshal, any assistants to the
2 State Fire Marshal, the chief of the fire department of all the
3 cities and towns where a fire department is established, the mayor
4 of the cities and towns where no fire department exists, the chief
5 of a fire protection district created pursuant to Sections 901.1 et
6 seq. of Title 19 of the Oklahoma Statutes and the sheriff of all
7 counties, upon the complaint of any person having an interest in any
8 building or property adjacent, and without any complaint, shall have
9 the right at all reasonable hours for the purpose of an examination
10 to enter into and upon all buildings and premises within their
11 jurisdiction. The State Fire Marshal shall, at least once each
12 year, make a fire inspection of all correctional facilities under
13 the jurisdiction and control of any state agency, county, city or
14 town. The correctional facilities shall include, but not be limited
15 to, institutions within the Department of Corrections as defined by
16 Section 502 of Title 57 of the Oklahoma Statutes, juvenile
17 institutions under the jurisdiction and control of the Department of
18 Institutions, Social and Rehabilitative Services, as listed in
19 Section 2-7-606 of Title 10A of the Oklahoma Statutes, and jails.
20 The State Fire Marshal shall issue a report containing findings of
21 the inspection as to each facility under the jurisdiction and
22 control of a state agency, to the director of the agency. As to any
23 other correctional facility, the State Fire Marshal shall issue the
24 report to the person immediately responsible for the administration

1 of the facility inspected. Whenever any of the officers shall find
2 any building or other structure which for the want of proper repair,
3 or by reason of age and dilapidated condition, or for any cause is
4 especially liable to fire, and which is so situated as to endanger
5 other buildings or property, or so occupied that a fire would
6 endanger persons and property therein, the officers shall order the
7 building or buildings to be repaired, torn down, demolished,
8 materials removed and all dangerous conditions remedied. Whenever
9 the officers determine that a threat to life is imminent, the
10 officers are permitted to order the evacuation of the occupants of
11 the building or buildings. If the officer finds in a building or
12 upon any premises any combustible or explosive material, rubbish,
13 rags, waste, oils, gasoline or inflammable conditions of any kind,
14 dangerous to the safety of buildings or property, the officer shall
15 order the materials removed or conditions remedied. The order shall
16 be made against the owner, lessee, agent or occupant of the
17 buildings or premises and, thereupon, the order shall be complied
18 with by the owner, lessee, agent or occupant, and within the time
19 fixed in the order. If the owner, lessee, agent or occupant deems
20 itself aggrieved by an order of any of the officers, and desires a
21 hearing, that person may complain or appeal in writing to the State
22 Fire Marshal within ten (10) days from the service of the order, and
23 the State Fire Marshal shall at once investigate the complaint, and
24 shall fix a time in the county where the property is located, when

1 and where the complaint will be heard by the State Fire Marshal.
2 The State Fire Marshal may affirm, modify, revoke or vacate the
3 order at the hearing, and unless the order is revoked or vacated by
4 the State Fire Marshal, it shall remain in force and be complied
5 with by the owner, lessee, agent or occupant within the time fixed
6 in the order, or within the time as may be fixed by the State Fire
7 Marshal at the hearing. If a person is aggrieved by the final order
8 of the State Fire Marshal as made at the hearing, that person may,
9 within ten (10) days thereafter, appeal to the district court of the
10 county in which the property is situated, notifying the State Fire
11 Marshal in writing of the appeal within three (3) days thereafter,
12 which notice shall be delivered personally to the State Fire Marshal
13 or by registered mail to the office of the State Fire Marshal at
14 Oklahoma City, Oklahoma. The party appealing shall, within three
15 (3) days thereafter, file with the clerk of the district court in
16 which the appeal is made, a bond in an amount to be fixed by the
17 court but in no case less than One Hundred Dollars (\$100.00), with
18 at least sufficient sureties to be approved by the court,
19 conditioned to pay all costs on the appeal in case the appellant
20 failed to sustain the same or the appeal be dismissed for any cause.
21 The district court shall hear and determine the appeal de novo, in
22 the same manner as other issues of law and fact are heard and tried
23 in the courts, and the State Fire Marshal shall be plaintiff in the
24 action. The district court shall hear and determine the appeal at

1 the next regular term of district court in the county where the
2 order was issued, and may sustain, modify or annul the order of the
3 State Fire Marshal, and the decision of the district court shall be
4 final. The State Fire Marshal shall execute the final order of the
5 district court, and if the order is adverse to the appellant, the
6 State Fire Marshal is empowered to cause the building or premises to
7 be repaired, torn down, demolished, materials removed and all
8 dangerous conditions remedied, as the case may be, at the expense of
9 the appellant. If the appellant fails, refuses or neglects to
10 comply with the order, or pay the expense incurred by the State Fire
11 Marshal in executing the same within thirty (30) days thereafter,
12 the expense shall be certified by the State Fire Marshal to the
13 county assessor of the county in which the property is situated and
14 the county assessor shall enter the expense on the tax list of the
15 county as a special charge against the real estate on which the
16 building is or was situated, and the same shall be collected as
17 other taxes and, when collected, shall be paid to the county
18 treasurer and credited to the general fund of the county in which
19 the property is located. Any person being the owner, occupant,
20 lessee or agent of buildings or premises, who willfully fails,
21 neglects or refuses to comply with any order of any officer named in
22 this section shall be guilty of a misdemeanor and shall be fined not
23 more than ~~Fifty Dollars (\$50.00)~~ One Thousand Dollars (\$1,000.00)
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1 nor less than ~~Ten Dollars (\$10.00)~~ One Hundred Dollars (\$100.00) for
2 each day's neglect.

3 SECTION 2. AMENDATORY 74 O.S. 2011, Section 324.9, is
4 amended to read as follows:

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

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

3 SECTION 3. AMENDATORY 74 O.S. 2011, Section 324.11, is
4 amended to read as follows:

5 Section 324.11. A. No person, firm, corporation, partnership,
6 organization, city, town, school district, county or other
7 subdivision of government shall commence the construction or major
8 alteration of any buildings or structures ~~to be used as schools,~~
9 ~~hospitals, churches, asylums, theaters, meeting halls, hotels,~~
10 ~~motels, apartment houses, rooming houses, rest homes, nursing homes,~~
11 ~~day nurseries, convalescent homes, orphanages, auditoriums, assisted~~
12 ~~living facilities, dormitories, factories, stadiums, or warehouses~~
13 classified in the state-adopted building codes as Assembly (Groups
14 A1 through A5), Business (Group B), Educational (Group E), Factory
15 (Groups F1 and F2), High Hazard (Groups H1 through H5),
16 Institutional (Groups I1 through I4), Mercantile (Group M),
17 Residential (Groups R1 through R4), or Storage (Groups S1 and G2),
18 including all defined occupancies within these groups, or install
19 original equipment for the operation or maintenance thereof without
20 obtaining a permit. ~~Said~~ The permit, for which a charge may be made
21 in conformity with the local ordinance, except as limited herein as
22 to governmental agencies, shall be obtained from the city, town or
23 county in whose jurisdiction the construction or alteration is
24 planned.

1 B. All such construction or alteration so planned shall conform
2 to the applicable provisions of the building code, as last adopted
3 by the Oklahoma Uniform Building Code Commission.

4 C. Application for such building permit shall be made to, and
5 such building permit shall be issued by, any city, town or county in
6 whose jurisdiction the construction or alteration is planned. The
7 city, town or county may require the submission of plans and
8 specifications covering the proposed construction or alteration and
9 may refuse to issue such permit unless the work so planned is in
10 accordance with the applicable provisions of the city, town or
11 county's building code. In all geographical areas wherein no such
12 permit is required by local authorities such permit must be obtained
13 from the State Fire Marshal, who may require the submission of plans
14 and specifications covering the proposed construction or alteration,
15 and shall refuse to issue such permit unless the work so planned is
16 in accordance with the applicable provisions of the building code,
17 as last adopted by the Oklahoma Uniform Building Code Commission;
18 provided, that the foregoing provisions of this sentence shall not
19 apply to locations in any geographical area that are owned or
20 operated by a state beneficiary public trust or have been purchased
21 or leased from a state beneficiary public trust.

22 D. Nothing in ~~this act~~ Section 324.1 et seq. of this title
23 shall be construed as repealing any ordinance of any city, town or
24 county requiring the submission to the local authorities of plans
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1 and specifications and the obtaining of permits, but the power or
2 authority of any such city, town or county to levy or assess any
3 charge for such permit or to make and enforce requirements
4 prerequisite to the issuance of such permit, other than requiring
5 compliance with such building code, shall, as to governmental
6 agencies, be limited as hereinafter set forth.

7 E. No city, town or county requested to issue any such permit
8 to any city, town, school district, county or other subdivision of
9 government shall charge, assess or collect any fee or other charge
10 for such permit except the regular and customary inspection fees
11 fixed by ordinance for inspection of the work to be done under such
12 permit, and no other charge, fee or other conditions of any kind
13 under the authority of this title shall be made a condition of or
14 prerequisite to the obtaining of such permit by any such
15 governmental agency.

16 F. No bids may be let for the construction or major alteration
17 of any correctional facility as defined by Section 317 of this title
18 until plans and specifications for such construction or alteration
19 have been submitted to the State Fire Marshal for approval. The
20 State Fire Marshal shall approve ~~said~~ the plans and specifications
21 if the work so planned conforms with the applicable provisions of
22 the building code, as last adopted by the Oklahoma Uniform Building
23 Code Commission.

1 G. 1. Notwithstanding anything to the contrary in the fire
2 code and/or building code, as last adopted by the Oklahoma Uniform
3 Building Code Commission, all facilities to be licensed as assisted
4 living facilities, or additions to existing assisted living
5 facilities, constructed after November 1, 2008, shall be constructed
6 with the guidelines of the I-II building occupancies if at any time
7 in their operation they house residents who are not capable of
8 responding to emergency situations without physical assistance from
9 staff of the facility or are not capable of self preservation.

10 2. Assisted living facilities licensed prior to July 1, 2008,
11 may house residents who are not capable of responding to emergency
12 situations without physical assistance from the staff or are not
13 capable of self preservation under the following conditions: As
14 part of the annual licensure renewal process, the facility shall
15 disclose if any residents who reside in the facility are not capable
16 of responding to emergency situations without physical assistance
17 from staff or are not capable of self preservation, and the facility
18 shall be required to install fire sprinkler protection and an alarm
19 system within the facility in accordance with the building
20 guidelines set forth in the building code for I-II facilities.

21 3. Assisted living facilities licensed to house six or fewer
22 residents prior to July 1, 2008, shall be permitted to install 13D
23 or 13R fire sprinkler protection in lieu of meeting I-II sprinkler
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1 requirements, with approval of the municipal fire marshal or
2 compliance with local codes.

3 4. For purposes of this subsection:

4 a. the term "assisted living center" shall include an
5 assisted living center licensed as such by the State
6 Department of Health and the assisted living center
7 component of a continuum care facility licensed by the
8 State Department of Health, and

9 b. the terms "fire code" and "building code" shall be
10 deemed to include:

11 (1) any and all appendices, commentary, amendments
12 and supplements to, and replacements or
13 restatements of the Codes, and

14 (2) any and all other laws, ordinances, regulations,
15 codes or standards pertaining to assisted living
16 center construction, occupancy and maintenance
17 for the protection of lives and property from
18 fire.

19 SECTION 4. AMENDATORY 74 O.S. 2011, Section 324.19, is
20 amended to read as follows:

21 Section 324.19. Any person, firm ~~or~~, corporation, partnership,
22 organization, city, town, school district, county or other
23 subdivision of government who fails to comply with ~~the provisions of~~
24 ~~Section 1 of this act~~ any lawful order of the State Fire Marshal

1 shall be subject to payment of a fine, the amount to be determined
2 by the State Fire Marshal, of not more than One Thousand Dollars
3 (\$1,000.00) for each day's failure to comply with ~~this act~~ the
4 order; provided, that any person fined shall have the right to a
5 hearing. The hearing request must be submitted in writing to the
6 State Fire Marshal within ten (10) days of the fine notice and shall
7 be heard by an Administrative Hearing Officer at a date and time set
8 by the Officer. After the hearing, the Officer shall issue a
9 proposed order containing proposed findings of fact and conclusion
10 of law which shall be presented to the State Fire Marshal Commission
11 at the next scheduled meeting at least ten (10) days after issuance
12 of the proposed order. The State Fire Marshal Commission may adopt,
13 modify, or deny, in whole or in part, the proposal from the Officer,
14 and the Commission shall issue a final order containing findings of
15 fact and conclusion of law and give notice to the parties involved
16 as soon as practical after issuance. The process supersedes any
17 hearing or appeal section in the state adopted building and fire
18 codes. Fine collections shall be deposited in the State Fire
19 Marshal Revolving Fund created in Section 324.20b of this title.

20 SECTION 5. AMENDATORY 74 O.S. 2011, Section 324.20b, as
21 amended by Section 848, Chapter 304, O.S.L. 2012 (74 O.S. Supp.
22 2020, Section 324.20b), is amended to read as follows:

23 Section 324.20b. There is hereby created in the State Treasury
24 a revolving fund for the State Fire Marshal to be designated the
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1 "State Fire Marshal Revolving Fund". The fund shall be a continuing
2 fund, not subject to fiscal year limitations, and shall consist of
3 monies received from the sale of surplus property, fees and receipts
4 collected pursuant to the Oklahoma Open Records Act, fines,
5 forfeitures, fees, charges, receipts, donations, gifts, bequests,
6 contributions, devises, interagency reimbursements, federal funds
7 unless otherwise provided by federal law or regulation, or any other
8 source. ~~The fund shall consist of no more than Five Hundred Fifty~~
9 ~~Thousand Dollars (\$550,000.00).~~ All monies accruing to the credit
10 of the fund are hereby appropriated and may be budgeted and expended
11 by the State Fire Marshal for authorized purposes. Expenditures
12 from the fund shall be made upon warrants issued by the State
13 Treasurer against claims filed as prescribed by law with the
14 Director of the Office of Management and Enterprise Services for
15 approval and payment.

16 SECTION 6. This act shall become effective November 1, 2021.

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