

LEGISLATURE OF NEBRASKA
ONE HUNDRED NINTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 434

FINAL READING

Introduced by Wordekemper, 15.

Read first time January 21, 2025

Committee: Government, Military and Veterans Affairs

- 1 A BILL FOR AN ACT relating to the State Fire Marshal; to amend sections
- 2 28-1239.01, 28-1246, 28-1251, 81-503.01, 81-505.01, 81-5,159,
- 3 81-15,120, and 81-15,121, Reissue Revised Statutes of Nebraska; to
- 4 change fees; to change provisions relating to the adoption of fees;
- 5 to repeal the original sections; and to declare an emergency.
- 6 Be it enacted by the people of the State of Nebraska,

1 **Section 1.** Section 28-1239.01, Reissue Revised Statutes of Nebraska,
2 is amended to read:

3 28-1239.01 (1) No person shall conduct a public exhibition or
4 display of display fireworks without first procuring a display permit
5 from the State Fire Marshal. Such application for a display permit shall
6 be accompanied by a fee of one hundred ~~ten~~ dollars to be remitted to the
7 State Treasurer for credit to ~~deposited in~~ the State Fire Marshal Cash
8 Fund.

9 (2) No display fireworks shall be sold or delivered by a licensed
10 distributor to any person who is not in possession of an approved display
11 permit. Sales of display fireworks to persons without an approved display
12 permit shall be subject to sections 28-1213 to 28-1239.

13 **Sec. 2.** Section 28-1246, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 28-1246 (1) It shall be unlawful for any person to sell, hold for
16 sale, or offer for sale as a distributor, jobber, or retailer any
17 fireworks in this state unless such person has first obtained a license
18 as a distributor, jobber, or retailer. Application for each such license
19 shall be made to the State Fire Marshal on forms prescribed by him or
20 her. Each application shall be accompanied by the required fee, which
21 shall be one thousand ~~five hundred~~ dollars for a distributor's license,
22 four ~~two~~ hundred dollars for a jobber's license, and one hundred ~~twenty-~~
23 ~~five~~ dollars for a retailer's license. Each application for a retailer's
24 license shall be received by the State Fire Marshal at least ten business
25 days prior to the sales period, as set forth in section 28-1249, in which
26 the retailer wishes to sell consumer fireworks. A retailer's license
27 shall be good only for the specific sales period listed on the
28 application and within the calendar year in which issued. The retailer's
29 license shall at all times be displayed at the place of business of the
30 holder thereof.

31 (2) The funds received pursuant to this section shall be remitted to

1 the State Treasurer for credit to the State Fire Marshal Cash Fund.

2 **Sec. 3.** Section 28-1251, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 28-1251 (1) It shall be unlawful for any person, association,
5 partnership, limited liability company, or corporation to conduct fire
6 alarm tests and fire alarm inspections without prior written
7 certification by the State Fire Marshal as to the qualifications of such
8 persons conducting such tests and inspections.

9 (2) The State Fire Marshal shall formulate reasonable guidelines to
10 determine qualifications for fire alarm inspectors and shall administer
11 an examination pursuant to such guidelines prior to certification of
12 applicants.

13 (3) The State Fire Marshal may charge a fee of no more than two one
14 hundred dollars to cover costs of administering such examinations and
15 issuing certifications.

16 (4) Unlawful testing or inspection of fire alarms is a Class III
17 misdemeanor.

18 **Sec. 4.** Section 81-503.01, Reissue Revised Statutes of Nebraska, is
19 amended to read:

20 81-503.01 (1) The State Fire Marshal shall adopt and promulgate
21 rules and regulations constituting a State Fire Code. At a minimum, the
22 State Fire Code shall cover:

23 (a) The prevention of fires;

24 (b) The storage, sale, and use of flammable liquids, combustibles,
25 and fireworks;

26 (c) Electrical wiring and heating, protection equipment devices,
27 materials, furnishings, and other safeguards within structures necessary
28 to promote safety and reduce loss by fire;

29 (d) The means and adequacy of exits, in case of fire, in assembly,
30 educational, institutional, residential, mercantile, office, storage, and
31 industrial-type occupancies as such structures are defined in the State

1 Fire Code;

2 (e) All other buildings, structures, and enclosures in which numbers
3 of persons congregate from time to time for any purpose, whether
4 privately or publicly owned;

5 (f) Design, construction, location, installation, and operation of
6 equipment for storing, handling, and utilization of liquefied petroleum
7 gases, specifying the odorization of such gases and the degree thereof;

8 (g) Chemicals, prozylin plastics, X-ray nitrocellulose films, or any
9 other hazardous material that may now or hereafter exist;

10 (h) Tanks used for the storage of regulated substances pursuant to
11 the Petroleum Products and Hazardous Substances Storage and Handling Act;
12 and

13 (i) Accessibility standards and specifications adopted pursuant to
14 section 81-5,147.

15 (2) Not later than July 1, 2019, the rules and regulations adopted
16 and promulgated as part of the State Fire Code shall conform generally to
17 the standards recommended by the National Fire Protection Association,
18 Pamphlet Number 1, known as the Fire Code, 2012 edition, the National
19 Fire Protection Association, Pamphlet Number 101, known as the Life
20 Safety Code, 2012 edition, and associated pamphlets, but not when doing
21 so would impose an unduly severe or costly burden without substantially
22 contributing to the safety of persons or property.

23 (3) The State Fire Marshal shall enforce the State Fire Code through
24 inspections, code compliance, and orders. Plans for compliance with the
25 State Fire Code shall be reviewed by the State Fire Marshal. Plans
26 submitted after remodeling or construction has begun shall be accompanied
27 by a late submittal fee penalty of an amount equal to one hundred dollars
28 plus fifty percent of the fifty dollars in addition to the plan review
29 fee established pursuant to subdivision (4)(a) of section 81-505.01 in
30 addition to such plan review fee.

31 (4) Rules and regulations adopted and promulgated as part of the

1 State Fire Code shall apply to sites or structures in public ownership
2 listed on the National Register of Historic Places but without destroying
3 the historic quality thereof.

4 **Sec. 5.** Section 81-505.01, Reissue Revised Statutes of Nebraska, is
5 amended to read:

6 81-505.01 (1) The State Fire Marshal shall establish and assess fees
7 not to exceed the actual costs for the performance of services by the
8 State Fire Marshal or by qualified local fire prevention personnel to
9 whom the State Fire Marshal has delegated authority to perform such
10 services. Prior to establishing or altering such fees, the State Fire
11 Marshal shall hold a public hearing on the question of the adoption of or
12 change in fees. Notice of such hearing shall be given at least thirty
13 days prior thereto (a) by publication in a newspaper having general
14 circulation in the state and (b) by notifying in writing the head of any
15 agency or department having jurisdiction over facilities that would be
16 subject to the fees. Fees for services performed by the State Fire
17 Marshal shall be paid to the State Fire Marshal and shall be remitted to
18 the State Treasurer for credit to the State Fire Marshal Cash Fund. Fees
19 for services performed by local fire prevention personnel shall be paid
20 directly to the office of the local fire prevention personnel.

21 (2) The fee for inspection for fire safety of any premises or
22 facility pursuant to section 81-502 or 81-503.01 shall be not less than
23 fifty ~~twenty-five~~ nor more than three hundred ~~one hundred fifty~~ dollars
24 and shall be paid by the licensee or applicant for a license. The fee for
25 inspection for fire safety of the same premises or facility made within
26 twelve months after the last prior inspection shall be not less than
27 fifty ~~twenty-five~~ nor more than three ~~one hundred fifty~~ dollars and shall
28 be paid by the licensee or applicant for a license. The fees for
29 inspection for fire safety of foster family homes as defined in section
30 71-1901 may be paid by the Department of Health and Human Services.

31 (3) The fee for providing investigation reports to insurance

companies shall not exceed three dollars for each report provided. The State Fire Marshal may charge an amount not to exceed the actual cost of preparation for any other approved information release.

(4)(a) The State Fire Marshal shall charge a fee for reviewing plans, blueprints, and shop drawings to determine compliance with rules and regulations adopted and promulgated pursuant to section 81-503.01 or 81-5,147. The State Fire Marshal shall establish such fee in rules and regulations adopted and promulgated to be effective on September 1, 2025 ~~January 1, 2022~~. Such fee shall meet the costs of administering the plan review requirement found in sections 81-503.01 and 81-5,147 but shall not exceed five thousand five hundred ~~five hundred~~ dollars. The fee schedule as it existed prior to September 1, 2025 ~~August 28, 2021~~, shall be used through August 31, 2025 ~~December 31, 2021~~.

(b) The fees established pursuant to subdivision (a) of this subsection shall not be assessed or collected by any political subdivision to which the State Fire Marshal has delegated the authority to conduct such review and which reviews plans, blueprints, or shop drawings to determine compliance with such political subdivision's own fire safety regulations. Nothing in this subdivision shall be construed to prohibit such political subdivision from assessing or collecting a fee set by its governing board for such review.

(c) An additional fee equal to fifty percent of the fee charged pursuant to subdivision (a) of this subsection shall be assessed for reviewing plans, blueprints, and shop drawings to determine compliance with the accessibility standards and specifications adopted pursuant to section 81-5,147, except that the additional fee assessed pursuant to this subdivision shall not exceed five thousand two hundred fifty ~~two hundred fifty~~ dollars.

Sec. 6. Section 81-5,159, Reissue Revised Statutes of Nebraska, is amended to read:

81-5,159 (1) Any water-based fire protection system contractor who

1 installs, repairs, alters, adds to, maintains, or inspects water-based
2 fire protection systems in this state shall first obtain a contractor
3 certificate.

4 (2) A water-based fire protection system contractor may apply to the
5 State Fire Marshal for a contractor certificate. The application shall be
6 made on a form prescribed by the State Fire Marshal and shall include a
7 certificate fee of up to two ~~one~~ hundred dollars. Each applicant must
8 designate a responsible managing employee on the application, and such
9 individual's name shall appear on the certificate with that of the water-
10 based fire protection system contractor upon issuance. Proof of insurance
11 required by section 81-5,160 shall also accompany the application.

12 (3) Upon receipt of a complete application, proof of insurance, and
13 certificate fee, the State Fire Marshal shall schedule a time for an
14 examination of the responsible managing employee to demonstrate that he
15 or she is familiar with the procedures and rules of the State Fire
16 Marshal relating to water-based fire protection systems. If the
17 responsible managing employee passes the examination, the State Fire
18 Marshal shall issue the certificate to the water-based fire protection
19 system contractor within thirty days.

20 (4) A certificate shall expire on September 30 of the year following
21 issuance. An application for renewal shall be filed at least ten days
22 prior to expiration and shall be accompanied by a renewal fee of up to
23 two ~~one~~ hundred dollars and a sworn affidavit that the responsible
24 managing employee is currently employed by the water-based fire
25 protection system contractor. A water-based fire protection system
26 contractor who fails to apply for renewal within the time stated in this
27 subsection must make a new application for a certificate.

28 (5) A responsible managing employee may only act as such for one
29 water-based fire protection system contractor at a time. When a
30 responsible managing employee terminates his or her association with a
31 water-based fire protection system contractor, the water-based fire

1 protection system contractor shall notify the State Fire Marshal within
2 thirty days after termination. The responsible managing employee shall
3 not be designated as the responsible managing employee for more than two
4 water-based fire protection system contractors in any twelve-month
5 period. The State Fire Marshal shall revoke the certificate of a water-
6 based fire protection system contractor whose responsible managing
7 employee has terminated his or her association with the water-based fire
8 protection system contractor unless an application designating a new
9 responsible managing employee is filed within six months after
10 termination or prior to expiration of the current certificate, whichever
11 is earlier.

12 **Sec. 7.** Section 81-15,120, Reissue Revised Statutes of Nebraska, is
13 amended to read:

14 81-15,120 Any farm or residential tank or tank used for storing
15 heating oil as defined in subdivisions (10)(a) and (b) of section
16 81-15,119 shall be registered with the State Fire Marshal. The
17 registration shall be accompanied by a one-time fee of ten ~~five~~ dollars
18 and shall be valid until the State Fire Marshal is notified that a tank
19 so registered has been permanently closed. Such registration shall
20 specify the ownership of, location of, and substance stored in the tank
21 to be registered. The State Fire Marshal shall remit the fee to the State
22 Treasurer for credit to the Petroleum Products and Hazardous Substances
23 Storage and Handling Fund which is hereby created as a cash fund. The
24 fund shall also consist of any money appropriated to the fund by the
25 state. The fund shall be administered by the Department of Environment
26 and Energy to carry out the purposes of the Petroleum Products and
27 Hazardous Substances Storage and Handling Act, including the provision of
28 matching funds required by Public Law 99-499 for actions otherwise
29 authorized by the act. Any money in such fund available for investment
30 shall be invested by the state investment officer pursuant to the
31 Nebraska Capital Expansion Act and the Nebraska State Funds Investment

1 Act.

2 **Sec. 8.** Section 81-15,121, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 81-15,121 (1) A person shall not (a) maintain or use any tank for
5 the storage of regulated substances, (b) install any new tank, or (c)
6 permanently close a tank without first securing a permit from the State
7 Fire Marshal.

8 (2) A fee shall not be charged for a permit under subdivision (1)(a)
9 or (c) of this section. The fee for a permit for installation shall be
10 seventy-five ~~fifty~~ dollars. The State Fire Marshal shall remit the fee to
11 the State Treasurer for credit to the Underground Storage Tank Fund.

12 (3) All owners of operating tanks, except those provided for in
13 subsection (4) of this section, shall annually register each tank. All
14 registration permits shall expire on December 31 of the year for which
15 the permit was issued. The registration fee shall be no more than sixty
16 ~~thirty~~ dollars per tank. The State Fire Marshal shall remit the fee to
17 the State Treasurer for credit to the Underground Storage Tank Fund. Such
18 permits shall contain the information specified in subsection (5) of this
19 section.

20 (4) In the case of tanks permanently abandoned on or after January
21 1, 1974, an annual permit shall not be required and an initial
22 registration permit shall be sufficient.

23 (5) The application for a registration permit shall be provided by
24 and filed with the State Fire Marshal's office and shall require, but not
25 be limited to, the following information:

26 (a) The date the tank was placed in or taken out of operation;

27 (b) The age of the tank;

28 (c) The size, type, and location of the tank; and

29 (d) The type of substances stored in the tank and the quantity of
30 such substances remaining in the tank if the tank has been permanently
31 closed.

1 (6) The registration permit fee collected pursuant to this section
2 shall be remitted to the State Treasurer for credit to ~~deposited in~~ the
3 Underground Storage Tank Fund which is hereby created as a cash fund. The
4 fund shall also consist of any money appropriated to the fund by the
5 state. The fund shall be administered by the State Fire Marshal to carry
6 out the purposes of the Petroleum Products and Hazardous Substances
7 Storage and Handling Act. Transfers may be made from the fund to the
8 General Fund at the direction of the Legislature. Any money in the
9 Underground Storage Tank Fund available for investment shall be invested
10 by the state investment officer pursuant to the Nebraska Capital
11 Expansion Act and the Nebraska State Funds Investment Act.

12 **Sec. 9.** Original sections 28-1239.01, 28-1246, 28-1251, 81-503.01,
13 81-505.01, 81-5,159, 81-15,120, and 81-15,121, Reissue Revised Statutes
14 of Nebraska, are repealed.

15 **Sec. 10.** Since an emergency exists, this act takes effect when
16 passed and approved according to law.