

1 **SENATE FLOOR VERSION**

2 February 7, 2019

3 SENATE BILL NO. 411

By: Paxton of the Senate

4 and

5 Steagall of the House

6  
7  
8 An Act relating to Fire Extinguisher Licensing Act;  
9 amending 59 O.S. 2011, Sections 1820.3, as amended by  
10 Section 2, Chapter 111, O.S.L. 2013, 1820.7, as last  
11 amended by Section 4, Chapter 111, O.S.L. 2013,  
12 1820.11, as amended by Section 8, Chapter 111, O.S.L.  
13 2013, 1820.13, as amended by Section 10, Chapter 111,  
14 O.S.L. 2013, 1820.14, as amended by Section 11,  
15 Chapter 111, O.S.L. 2013, 1820.15, 1820.16, as  
16 amended by Section 12, Chapter 111, O.S.L. 2013 (59  
17 O.S. Supp. 2018, Sections 1820.3, 1820.7, 1820.11,  
18 1820.13, 1820.14 and 1820.16), which relate to the  
19 Fire Extinguisher Licensing Act; replacing the Fire  
20 Extinguisher Industry Committee with the State Fire  
21 Marshal; providing certain authority, duties and  
22 power to the State Fire Marshal over the Fire  
23 Extinguisher Act; modifying language; repealing 59  
24 O.S. 2011, Section 1820.6, as last amended by Section  
1, Chapter 115, O.S.L. 2018 (59 O.S. Supp. 2018,  
Section 1820.6), which relates to the Fire  
Extinguisher Industry Committee; providing an  
effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 59 O.S. 2011, Section 1820.3, as  
amended by Section 2, Chapter 111, O.S.L. 2013 (59 O.S. Supp. 2018,  
Section 1820.3), is amended to read as follows:

1 Section 1820.3. As used in the Fire Extinguisher Licensing Act:

2 1. ~~"Committee" means the Fire Extinguisher Industry Committee;~~

3 ~~2.~~ "Fire extinguisher industry" means the sale, installation,  
4 maintenance, inspection, certification, alteration, repair,  
5 replacement, or service of portable fire extinguishers or fire  
6 suppression systems or any combination of the foregoing activities;

7 ~~3.~~ 2. "Fire suppression systems" and "handheld portable fire  
8 extinguisher" means any listed or approved fire extinguisher systems  
9 installed in compliance with the installation manuals of the  
10 manufacturer or the applicable National Fire Protection Association  
11 Standard and its reference as outlined in the rules established by  
12 the State Department of Health;

13 ~~4.~~ 3. "Licensee" means any person licensed pursuant to the Fire  
14 Extinguisher Licensing Act; and

15 ~~5.~~ 4. "Person" means a sole proprietorship, fire partnership,  
16 association, corporation, or other similar entity.

17 SECTION 2. AMENDATORY 59 O.S. 2011, Section 1820.7, as  
18 last amended by Section 4, Chapter 111, O.S.L. 2013 (59 O.S. Supp.  
19 2018, Section 1820.7), is amended to read as follows:

20 Section 1820.7. The State Fire ~~Extinguisher Industry Committee~~  
21 Marshal shall have the following powers and duties:

22 1. To ~~assist the State Fire Marshal in licensing and otherwise~~  
23 regulating license and otherwise regulate persons engaged in a fire  
24 extinguisher industry business;

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

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

6           4. To ~~assist the State Fire Marshal in the denial, suspension~~  
7 ~~or revocation of~~ deny, suspend or revoke licenses as provided by the  
8 Fire Extinguisher Licensing Act;

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

11           6. To ~~assist the State Fire Marshal Commission in establishing~~  
12 ~~and enforcing~~ establish and enforce standards governing the  
13 materials, services, and conduct of the licensees and the employees  
14 of licensees in regard to the fire extinguisher industry;

15           7. To ~~assist the State Fire Marshal Commission in promulgating~~  
16 promulgate rules necessary to carry out the administration of the  
17 Fire Extinguisher Licensing Act;

18           8. To investigate alleged violations of the provisions of the  
19 Fire Extinguisher Licensing Act and of any rules promulgated by the  
20 State Fire Marshal Commission;

21           9. To ~~assist the State Fire Marshal Commission in establishing~~  
22 establish categories of licenses for the Fire Extinguisher Licensing  
23 Act and application requirements for each category including, but  
24

1 not limited to, individual licenses, experience requirements,  
2 fingerprints, photographs, written examinations, and fees;

3 10. To ~~assist the State Fire Marshal in providing for~~ provide  
4 for grievance and appeal procedures pursuant to the Administrative  
5 Procedures Act for any person whose license is denied, revoked, or  
6 suspended; and

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

9 SECTION 3. AMENDATORY 59 O.S. 2011, Section 1820.11, as  
10 amended by Section 8, Chapter 111, O.S.L. 2013 (59 O.S. Supp. 2018,  
11 Section 1820.11), is amended to read as follows:

12 Section 1820.11. A. Any person applying for a license to  
13 engage in a fire extinguisher industry business pursuant to the Fire  
14 Extinguisher Licensing Act shall provide evidence to the State Fire  
15 ~~Extinguisher Industry Committee~~ Marshal that the individual within  
16 this state having direct supervision over the function and local  
17 operations of the fire extinguisher industry business or a branch  
18 thereof has the following qualifications:

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

20 2. The individual has not been declared by any court of  
21 competent jurisdiction incompetent by reason of mental defect or  
22 disease;

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

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

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

4 6. The individual meets such other standards as may be  
5 established by the State Fire Marshal Commission relating to  
6 experience or knowledge of the fire extinguisher industry.

7 B. The applicant shall ~~advise the Committee and~~ furnish full  
8 information on each individual described in subsection A of this  
9 section of any conviction of a felony offense or any crime involving  
10 moral turpitude for which a full pardon has not been granted. The  
11 applicant shall furnish a recent photograph of a type prescribed by  
12 the ~~Committee~~ State Fire Marshal Commission and two classifiable  
13 sets of fingerprints of such individual.

14 SECTION 4. AMENDATORY 59 O.S. 2011, Section 1820.13, as  
15 amended by Section 10, Chapter 111, O.S.L. 2013 (59 O.S. Supp. 2018,  
16 Section 1820.13), is amended to read as follows:

17 Section 1820.13. A. Upon making proper application, payment of  
18 the proper license fee and certification of approval by the ~~Fire~~  
19 ~~Extinguisher Industry Committee, the State Fire Marshal,~~ the State  
20 Fire Marshal shall issue a license to the applicant. The license  
21 shall be valid for a one-year term.

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

1 C. The State Fire Marshal Commission may adopt a system under  
2 which licenses expire on various dates throughout the year. For any  
3 change in such expiration dates, license fees shall be prorated on  
4 an appropriate periodic basis.

5 SECTION 5. AMENDATORY 59 O.S. 2011, Section 1820.14, as  
6 amended by Section 11, Chapter 111, O.S.L. 2013 (59 O.S. Supp. 2018,  
7 Section 1820.14), is amended to read as follows:

8 Section 1820.14. A. A license shall not be altered or  
9 assigned.

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

12 C. A licensee shall notify the State Fire ~~Extinguisher Industry~~  
13 ~~Committee~~ Marshal within fourteen (14) days of any change of  
14 information furnished on the application for license or on the  
15 license including, but not limited to, change of ownership, address,  
16 business activities, or any developments related to the  
17 qualifications of the licensee or the individual described in  
18 Section 11 of this act. If the licensee for any reason ceases to  
19 engage in a fire extinguisher industry business in this state, the  
20 licensee shall notify the ~~Committee~~ State Fire Marshal within  
21 fourteen (14) days of such cessation. If the required notice of  
22 cessation is not given to the ~~Committee~~ State Fire Marshal within  
23 fourteen (14) days, the license may be suspended or revoked by the  
24 State Fire Marshal ~~on recommendation of the Committee.~~

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

3 E. Each licensee shall maintain a record containing such  
4 information relative to his or her employees as may be required by  
5 the State Fire Marshal Commission.

6 SECTION 6. AMENDATORY 59 O.S. 2011, Section 1820.15, is  
7 amended to read as follows:

8 Section 1820.15. The licensee shall be responsible to the State  
9 Fire ~~Extinguisher Industry Committee~~ Marshal in matters of conduct  
10 of business activities covered by the Fire Extinguisher Licensing  
11 Act. The licensee shall be responsible for the activities on the  
12 part of the employees of the licensee. For purposes of the Fire  
13 Extinguisher Licensing Act, improper conduct on the part of such  
14 employees which occurs within the scope of employment shall be  
15 considered by the ~~Committee~~ State Fire Marshal as acts of the  
16 licensee.

17 SECTION 7. AMENDATORY 59 O.S. 2011, Section 1820.16, as  
18 amended by Section 12, Chapter 111, O.S.L. 2013 (59 O.S. Supp. 2018,  
19 Section 1820.16), is amended to read as follows:

20 Section 1820.16. A. The State Fire Marshal, ~~on recommendation~~  
21 ~~of the Fire Extinguisher Industry Committee,~~ may suspend any  
22 license, upon the conviction of any individual named on the license  
23 or on the application for license of a felony, for a period not to  
24 exceed thirty (30) days pending a full investigation ~~by the~~

1 ~~Committee~~. The investigation shall be initiated within the thirty-  
2 day period of suspension. A final determination by the ~~Committee~~  
3 State Fire Marshal shall result in either removal of the suspension  
4 or such sanction as the State Fire Marshal considers appropriate, as  
5 provided by the Fire Extinguisher Licensing Act.

6 B. The State Fire Marshal may revoke or suspend any license,  
7 reprimand any licensee or deny any application for license or  
8 renewal if, in ~~the~~ his or her judgment ~~of the Committee~~:

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

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

14 3. The applicant or licensee has made a material misstatement  
15 in any information required by the State Fire Marshal Commission; or

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

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



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

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

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

16 G. A revoked license terminates on the date of revocation and  
17 cannot be reinstated; provided, the State Fire Marshal may reverse  
18 the revocation action. Any licensee whose license is revoked shall  
19 apply for a new license and meet all requirements for a license as  
20 stated in the Fire Extinguisher Licensing Act prior to engaging in  
21 any fire extinguisher industry business activities. The ~~Committee~~  
22 ~~and the~~ State Fire Marshal shall take action on the new application  
23 and may require additional safeguards against such acts by the  
24

1 applicant as may have been the cause of the revocation of the prior  
2 license.

3 SECTION 8. REPEALER 59 O.S. 2011, Section 1820.6, as  
4 last amended by Section 1, Chapter 115, O.S.L. 2018 (59 O.S. Supp.  
5 2018, Section 1820.6), is hereby repealed.

6 SECTION 9. This act shall become effective July 1, 2019.

7 SECTION 10. It being immediately necessary for the preservation  
8 of the public peace, health or safety, an emergency is hereby  
9 declared to exist, by reason whereof this act shall take effect and  
10 be in full force from and after its passage and approval.

11 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS, COMMERCE AND TOURISM  
12 February 7, 2019 - DO PASS

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