

1 **SENATE FLOOR VERSION**

2 February 25, 2021

3 COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL NO. 881

6 By: Jett

7 **[State Fire Marshal - expanding jurisdiction - peace**
8 **officer - violate State Fire Marshal orders -**
9 **administrative hearing officer to hear and propose**
10 **findings - hearing and appeal systems - State Fire**
11 **Marshal Revolving Fund - effective date]**

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

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

15 Section 317. The State Fire Marshal, any assistants to the
16 State Fire Marshal, the chief of the fire department of all the
17 cities and towns where a fire department is established, the mayor
18 of the cities and towns where no fire department exists, the chief
19 of a fire protection district created pursuant to Sections 901.1 et
20 seq. of Title 19 of the Oklahoma Statutes and the sheriff of all
21 counties, upon the complaint of any person having an interest in any
22 building or property adjacent, and without any complaint, shall have
23 the right at all reasonable hours for the purpose of an examination
24 to enter into and upon all buildings and premises within their

1 jurisdiction. The State Fire Marshal shall, at least once each
2 year, make a fire inspection of all correctional facilities under
3 the jurisdiction and control of any state agency, county, city ~~or,~~
4 town, or public trust. The correctional facilities shall include,
5 but not be limited to, institutions within the Department of
6 Corrections as defined by Section 502 of Title 57 of the Oklahoma
7 Statutes, juvenile institutions under the jurisdiction and control
8 of the ~~Department~~ Office of Institutions, ~~Social and Rehabilitative~~
9 ~~Services~~ Juvenile Affairs, as listed in Section 2-7-606 of Title 10A
10 of the Oklahoma Statutes, and jails. The State Fire Marshal shall
11 issue a report containing findings of the inspection as to each
12 facility under the jurisdiction and control of a state agency, to
13 the director of the agency. As to any other correctional facility,
14 the State Fire Marshal shall issue the report to the person
15 immediately responsible for the administration of the facility
16 inspected. Whenever any of the officers shall find any building or
17 other structure which for the want of proper repair, or by reason of
18 age and dilapidated condition, or for any cause is especially liable
19 to fire, and which is so situated as to endanger other buildings or
20 property, or so occupied that a fire would endanger persons and
21 property therein, the officers shall order the building or buildings
22 to be repaired, torn down, demolished, materials removed and all
23 dangerous conditions remedied. Whenever the officers determine that
24 a threat to life is imminent, the officers are permitted to order

1 the evacuation of the occupants of the building or buildings. If
2 the officer finds in a building or upon any premises any combustible
3 or explosive material, rubbish, rags, waste, oils, gasoline or
4 inflammable conditions of any kind, dangerous to the safety of
5 buildings or property, the officer shall order the materials removed
6 or conditions remedied. The order shall be made against the owner,
7 lessee, agent or occupant of the buildings or premises and,
8 thereupon, the order shall be complied with by the owner, lessee,
9 agent or occupant, and within the time fixed in the order. If the
10 owner, lessee, agent or occupant deems itself aggrieved by an order
11 of any of the officers, and desires a hearing, that person may
12 complain or appeal in writing to the State Fire Marshal within ten
13 (10) days from the service of the order, and the State Fire Marshal
14 shall at once investigate the complaint, and shall fix a time in the
15 county where the property is located, when and where the complaint
16 will be heard by the State Fire Marshal. The State Fire Marshal may
17 affirm, modify, revoke or vacate the order at the hearing, and
18 unless the order is revoked or vacated by the State Fire Marshal, it
19 shall remain in force and be complied with by the owner, lessee,
20 agent or occupant within the time fixed in the order, or within the
21 time as may be fixed by the State Fire Marshal at the hearing. If a
22 person is aggrieved by the final order of the State Fire Marshal as
23 made at the hearing, that person may, within ten (10) days
24 thereafter, appeal to the district court of the county in which the

1 property is situated, notifying the State Fire Marshal in writing of
2 the appeal within three (3) days thereafter, which notice shall be
3 delivered personally to the State Fire Marshal or by registered mail
4 to the office of the State Fire Marshal at Oklahoma City, Oklahoma.
5 The party appealing shall, within three (3) days thereafter, file
6 with the clerk of the district court in which the appeal is made, a
7 bond in an amount to be fixed by the court but in no case less than
8 One Hundred Dollars (\$100.00), with at least sufficient sureties to
9 be approved by the court, conditioned to pay all costs on the appeal
10 in case the appellant failed to sustain the same or the appeal be
11 dismissed for any cause. The district court shall hear and
12 determine the appeal de novo, in the same manner as other issues of
13 law and fact are heard and tried in the courts, and the State Fire
14 Marshal shall be plaintiff in the action. The district court shall
15 hear and determine the appeal at the next regular term of district
16 court in the county where the order was issued, and may sustain,
17 modify or annul the order of the State Fire Marshal, and the
18 decision of the district court shall be final. The State Fire
19 Marshal shall execute the final order of the district court, and if
20 the order is adverse to the appellant, the State Fire Marshal is
21 empowered to cause the building or premises to be repaired, torn
22 down, demolished, materials removed and all dangerous conditions
23 remedied, as the case may be, at the expense of the appellant. If
24 the appellant fails, refuses or neglects to comply with the order,

1 or pay the expense incurred by the State Fire Marshal in executing
2 the same within thirty (30) days thereafter, the expense shall be
3 certified by the State Fire Marshal to the county assessor of the
4 county in which the property is situated and the county assessor
5 shall enter the expense on the tax list of the county as a special
6 charge against the real estate on which the building is or was
7 situated, and the same shall be collected as other taxes and, when
8 collected, shall be paid to the county treasurer and credited to the
9 general fund of the county in which the property is located. Any
10 person being the owner, occupant, lessee or agent of buildings or
11 premises, who willfully fails, neglects or refuses to comply with
12 any order of any officer named in this section shall be guilty of a
13 misdemeanor and shall be fined not more than ~~Fifty Dollars (\$50.00)~~
14 One Thousand Dollars (\$1,000.00) nor less than ~~Ten Dollars (\$10.00)~~
15 ~~for each day's neglect~~ One Hundred Dollars (\$100.00) per day of
16 violation. Each day during which such violation occurs or continues
17 shall constitute a separate offense.

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

20 Section 324.9. A. The State Fire Marshal or deputies of the
21 State Fire Marshal may make investigations to determine the origin
22 and cause of fires, explosions, or suspected arson, and violations
23 of other related laws and codes. ~~The State Fire Marshal and the~~
24 ~~agents~~ Agents of the State Fire Marshal shall be peace officers and

1 have and exercise all the powers and authority of other peace
2 officers, with responsibility for the enforcement of statutes
3 relating to the State Fire Marshal. This shall include the
4 authority to enforce, issue citations for violations of state and
5 city-adopted codes, and make arrests for ~~felony~~ offenses relevant to
6 the duties of the State Fire Marshal. All reports and all results
7 of investigations relevant to the State Fire Marshal statutes shall
8 be available and shall be freely interchanged between the Office of
9 the State Fire Marshal and the Oklahoma State Bureau of
10 Investigation.

11 B. The State Fire Marshal Commission may establish fees, fines,
12 and administrative penalties for inspections, plan reviews, and
13 permits as provided in the adopted codes of the Commission, as long
14 as the fees, fines, and administrative penalties do not conflict
15 with any applicable state law. All fees, fines, and administrative
16 penalties shall be adopted in accordance with the Administrative
17 Procedures Act.

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

20 Section 324.11. A. No person, firm, corporation, partnership,
21 organization, city, town, school district, county or other
22 subdivision of government shall commence the construction or major
23 alteration of any buildings or structures ~~to be used as schools,~~
24 ~~hospitals, churches, asylums, theaters, meeting halls, hotels,~~

1 ~~motels, apartment houses, rooming houses, rest homes, nursing homes,~~
2 ~~day nurseries, convalescent homes, orphanages, auditoriums, assisted~~
3 ~~living facilities, dormitories, factories, stadiums, or warehouses,~~
4 classified in the state-adopted building codes as Assembly (Groups
5 A1 through A5), Business (Group B), Educational (Group E), Factory
6 (Groups F1 and F2), High Hazard (Groups H1 through H5),
7 Institutional (Groups I1 through I4), Mercantile (Group M),
8 Residential (Groups R1 through R4), or Storage (Groups S1 and G2)
9 including all defined occupancies within these groups, or install
10 original equipment for the operation or maintenance thereof without
11 obtaining a permit. ~~Said~~ The permit, for which a charge may be made
12 in conformity with the local ordinance, except as limited herein as
13 to governmental agencies, shall be obtained from the city, town or
14 county in whose jurisdiction the construction or alteration is
15 planned.

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

19 C. Application for such building permit shall be made to, and
20 such building permit shall be issued by, any city, town or county in
21 whose jurisdiction the construction or alteration is planned. The
22 city, town or county may require the submission of plans and
23 specifications covering the proposed construction or alteration and
24 may refuse to issue such permit unless the work so planned is in

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

13 D. Nothing in ~~this act~~ Section 324.1 et seq. of this title
14 shall be construed as repealing any ordinance of any city, or town
15 or any order of any county requiring the submission to the local
16 authorities of plans and specifications and the obtaining of
17 permits, but the power or authority of any such city, town or county
18 to levy or assess any charge for such permit or to make and enforce
19 requirements prerequisite to the issuance of such permit, other than
20 requiring compliance with such building code, shall, as to
21 governmental agencies, be limited as hereinafter set forth.

22 E. No city, town or county requested to issue any such permit
23 to any city, town, school district, county or other subdivision of
24 government shall charge, assess or collect any fee or other charge

1 for such permit except the regular and customary inspection fees
2 fixed by ordinance for inspection of the work to be done under such
3 permit, and no other charge, fee or other conditions of any kind
4 under the authority of this title shall be made a condition of or
5 prerequisite to the obtaining of such permit by any such
6 governmental agency.

7 F. No bids may be let for the construction or major alteration
8 of any correctional facility as defined by Section 317 of this title
9 until plans and specifications for such construction or alteration
10 have been submitted to the State Fire Marshal for approval. The
11 State Fire Marshal shall approve ~~said~~ the plans and specifications
12 if the work so planned conforms with the applicable provisions of
13 the building code, as last adopted by the Oklahoma Uniform Building
14 Code Commission.

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

24

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

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

17 4. For purposes of this subsection:

18 a. the term "assisted living center" shall include an
19 assisted living center licensed as such by the State
20 Department of Health and the assisted living center
21 component of a continuum care facility licensed by the
22 State Department of Health, and

23 b. the terms "fire code" and "building code" shall be
24 deemed to include:

1 (1) any and all appendices, commentary, amendments
2 and supplements to, and replacements or
3 restatements of the Codes, and

4 (2) any and all other laws, ordinances, regulations,
5 codes or standards pertaining to assisted living
6 center construction, occupancy and maintenance
7 for the protection of lives and property from
8 fire.

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

11 Section 324.19. Any person, firm ~~or~~, corporation, partnership,
12 organization, city, town, school district, county or other
13 subdivision of government who fails to comply with the provisions of
14 Section ~~1 of this act~~ 324.11 of this title or any lawful order of
15 the State Fire Marshal shall be subject to payment of a fine, the
16 amount to be determined by the State Fire Marshal, of not more than
17 One Thousand Dollars (\$1,000.00) for each day's failure to comply
18 with this act; provided, that any person or entity described above
19 who is fined shall have the right to a hearing. The hearing request
20 must be submitted in writing to the State Fire Marshal within ten
21 (10) days of the fine notice and shall be heard by an Administrative
22 Hearing Officer at a date and time set by the Officer. After the
23 hearing, the Officer shall issue a proposed order containing
24 proposed findings of fact and conclusion of law which shall be

1 presented to the State Fire Marshal Commission at the next scheduled
2 meeting at least ten (10) days after issuance of the proposed order.
3 The State Fire Marshal Commission may adopt, modify or deny, in
4 whole or in part, the proposal from the Officer, and the Commission
5 shall issue a final order containing findings of fact and conclusion
6 of law and give notice to the parties involved as soon as practical
7 after issuance. Any party aggrieved by the final order of the State
8 Fire Marshal Commission may appeal to the district court of the
9 county in which the party seeking review resides or where the
10 property interest affected is situated in accordance with Section
11 318 of Title 75 of the Oklahoma Statutes. The process supersedes
12 any hearing or appeal section in the state adopted building and fire
13 codes. Fine collections shall be deposited in the State Fire
14 Marshal Revolving Fund created in Section 324.20b of this title.

15 SECTION 5. AMENDATORY 74 O.S. 2011, Section 324.20b, as
16 amended by Section 848, Chapter 304, O.S.L. 2012 (74 O.S. Supp.
17 2020, Section 324.20b), is amended to read as follows:

18 Section 324.20b. There is hereby created in the State Treasury
19 a revolving fund for the State Fire Marshal to be designated the
20 "State Fire Marshal Revolving Fund". The fund shall be a continuing
21 fund, not subject to fiscal year limitations, and shall consist of
22 monies received from the sale of surplus property, fees and receipts
23 collected pursuant to the Oklahoma Open Records Act, fines,
24 forfeitures, fees, charges, receipts, donations, gifts, bequests,

1 contributions, devises, interagency reimbursements, federal funds
2 unless otherwise provided by federal law or regulation, or any other
3 source. ~~The fund shall consist of no more than Five Hundred Fifty~~
4 ~~Thousand Dollars (\$550,000.00).~~ All monies accruing to the credit
5 of the fund are hereby appropriated and may be budgeted and expended
6 by the State Fire Marshal for authorized purposes. Expenditures
7 from the fund shall be made upon warrants issued by the State
8 Treasurer against claims filed as prescribed by law with the
9 Director of the Office of Management and Enterprise Services for
10 approval and payment.

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

12 COMMITTEE REPORT BY: COMMITTEE ON GENERAL GOVERNMENT
13 February 25, 2021 - DO PASS AS AMENDED
14
15
16
17
18
19
20
21
22
23
24