

Neb.Rev.St. § 81-501.01

**81-501.01. State Fire Marshal; powers and duties; appointment; confirmation by Legislature; removal**

The Governor shall, with the advice and consent of the Legislature, appoint a State Fire Marshal who shall, under the general direction and supervision of the Governor, perform the duties and exercise the powers and have the rights and privileges conferred by sections 81-501.01 to 81-531 and 81-5,151 to 81-5,157. He or she may be removed from office at the pleasure of the Governor.

Neb.Rev.St. § 81-502

**81-502. State Fire Marshal; fire prevention and safety; duties; delegation of authority to local fire prevention personnel; rules and regulations; compliance; late penalty**

(1) It shall be the duty of the State Fire Marshal, under authority of the Governor:

(a) To enforce all laws of the state relating to the suppression of arson and investigation of the cause, origin, and circumstances of fires;

(b) To promote safety and reduce loss by fire;

(c) To make an investigation for fire safety of the premises and facilities of:

(i) Liquor establishments for which a license or renewal of a license is sought, upon request of the Nebraska Liquor Control Commission, pursuant to section 53-119.01;

(ii) Licensed foster care facilities or applicants for licenses for foster care facilities, upon request by the Department of Health and Human Services, pursuant to section 71-1903;

(iii) Upon request of the Department of Health and Human Services, licensed providers of programs or applicants for licenses to provide such programs pursuant to section 71-1913 and licensed residential child-caring agencies or applicants for such licensure pursuant to section 71-1934. The State Fire Marshal shall report the results of the investigation to the department within thirty days after receipt of the request from the department;

(iv) Licensed hospitals, skilled nursing facilities, intermediate care facilities, or other health care facilities which are licensed under the Health Care Facility Licensure Act or applicants for licenses for such facilities or institutions, upon request by the Department of Health and Human Services, pursuant to section 71-441; and

(v) Mobile home parks for which a license or renewal of a license is sought, upon request of the Department of Health and Human Services, pursuant to section 71-4635; and

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(d) After a careful study and investigation of relevant data, to adopt, promulgate, alter, and enforce, through inspections and code compliance, orders, rules, and regulations covering:

(i) The prevention of fires;

(ii) The storage, sale, and use of flammable liquids, combustibles, and fireworks;

(iii) Electric wiring and heating, protection equipment devices, materials, furnishings, and other safeguards within the structure necessary to promote safety and reduce loss by fire, and the means and adequacy of exits, in case of fire, in assembly, educational, institutional, residential, mercantile, office, storage, and industrial-type occupancies as such structures are defined in the National Fire Protection Association, Pamphlet Number 101, and associated pamphlets, and all other buildings, structures, and enclosures in which numbers of persons congregate from time to time for any purpose whether privately or publicly owned;

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

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

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

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

(2) The State Fire Marshal may enter into contracts with private individuals or other agencies, boards, commissions, or governmental bodies for the purpose of carrying out his or her duties and responsibilities pursuant to the Arson Reporting Immunity Act, the Nebraska Natural Gas Pipeline Safety Act of 1969, and sections 81-502 to 81-541.01, 81-5,132 to 81-5,146, and 81-5,151 to 81-5,157.

(3) The State Fire Marshal may delegate the authority set forth in this section to qualified local fire prevention personnel. The State Fire Marshal may overrule a decision, act, or policy of the local fire prevention personnel. When the State Fire Marshal overrules the local personnel, such local personnel may follow the appeals procedure established by sections 81-502.01 to 81-502.03. Such delegation of authority may be revoked by the State Fire Marshal for cause upon thirty days' notice after a hearing.

(4) The State Fire Marshal, first assistant fire marshal, and deputies shall have such other powers and perform such other duties as are set forth in sections 81-501.01 to 81-531 and 81-5,151 to 81-5,157 and as may be conferred and imposed by law.

(5) The rules and regulations adopted and promulgated pursuant to subdivision (1)(d) of this section may conform generally to the standards recommended by the National Fire Protection Association, Pamphlet Number 101, known as the Life Safety Code, and associated pamphlets, but not when doing so would impose an unduly severe or costly burden without substantially contributing to the safety of persons or property. This section and the rules and regulations adopted and promulgated pursuant to subdivision (1)(d) of this section shall apply to existing as well as new buildings, structures, and enclosures. Such rules and regulations shall also apply to sites or structures in public

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ownership listed on the National Register of Historic Places but without destroying the historic quality thereof.

(6) Plans for compliance with the rules and regulations adopted and promulgated pursuant to subdivision (1)(d) of this section shall be reviewed by the State Fire Marshal. Plans submitted after remodeling or construction has begun shall be accompanied by a penalty of fifty dollars in addition to the plan review fee set out in subdivision (4)(a) of section 81-505.01.

**Neb.Rev.St. § 81-502.01**

**81-502.01. Nebraska Fire Safety Appeals Board; members; appointment; qualifications; term**

For the purposes of assisting the State Fire Marshal in matters pertaining to the performance of his or her duties, there is hereby established the Nebraska Fire Safety Appeals Board. Such board shall consist of the following members: (1) A representative of the fire insurance industry with experience in fire prevention inspections, (2) an architect licensed in this state, (3) a member of a board of education of a public school district, (4) a fire protection engineer, (5) a member of the inspection division of a paid fire department in this state, (6) an active member of a volunteer fire department in this state, (7) two representatives of the Department of Health and Human Services, and (8) a representative of the Nebraska Association of Hospitals and Health Systems. The members shall be appointed by the Governor and shall serve for a term of four years.

**Neb.Rev.St. § 81-502.02**

**81-502.02. Nebraska Fire Safety Appeals Board; duties; expenses; meetings**

The board shall select from among its members a chairperson and adopt and promulgate rules and regulations to govern its procedures. Any vacancy occurring in the board shall be filled in the manner in which original appointments are made. No person shall receive any compensation for services rendered as a member of the board. Each member of the board shall be reimbursed for his or her actual and necessary expenses as provided in sections 81-1174 to 81-1177 for state employees. The board shall meet at such times as the business of the board requires and at such places as may be established by its chairperson. When requested to do so by the State Fire Marshal, it shall be the duty of the board to make a study of the specific problems, questions, or appeals presented to the board. No member of the board shall sit in hearing upon any question in which such member or any corporation of which he or she is a shareholder or employee is a party.

**Neb.Rev.St. § 81-502.03**

**81-502.03. Nebraska Fire Safety Appeals Board; disagreement; hearing; notice; decision; written report prior to order; exception**

In case of disagreement concerning the propriety of any action taken or proposed to be taken by the State Fire Marshal or the application of any statute, rule, or regulation of his or her office with respect to any establishment or installation, the State Fire Marshal may, and upon application of any party in interest, shall provide for a hearing before the Nebraska Fire Safety Appeals Board in the county of the establishment or installation which is the subject of the disagreement. At least ten days' written notice shall be given to the governing body responsible for the establishment or installation involved and to any public official having jurisdiction. The board shall make a decision based upon the evidence brought forth in the hearing and issue its order accordingly. Prior to ordering any political or governmental subdivision of the State of Nebraska to make any modification in the design or construction of any public building or any modification in the location, installation, or operation of any existing equipment in any public

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building or to replace such equipment, the State Fire Marshal, his or her first assistant, or one of his or her deputies shall personally appear at a regular meeting of the governing board of such subdivision and present a written report stating the condition of such building or equipment and the reason why such building should be modified or such equipment should be modified or replaced, and a copy of such report shall be attached to the order. Nothing in this section shall prevent the State Fire Marshal from ordering necessary repairs, and nothing in sections 81-502.01 to 81-502.03 shall prevent the State Fire Marshal, when actual and immediate danger to life exists, from ordering and requiring the occupants to vacate a building or structure subject to his or her jurisdiction.

**Neb.Rev.St. § 81-502.04**

**81-502.04. Rules and regulations; enforcement; procedure**

The enforcement of rules and regulations adopted and promulgated by the State Fire Marshal under section 81-502 shall be as follows:

- (1) Any order of the State Fire Marshal under the authority granted to him or her by section 81-502 shall be in writing addressed to the owner or person in charge of the premises affected by such order;
- (2) If the affected party or organization does not comply with the final order, the State Fire Marshal shall apply to the district court of the county in which the premises are located to obtain court enforcement of the order. The county attorney of the county in which the action is brought shall represent the State Fire Marshal and the action shall be brought in the name of the State of Nebraska and be tried the same as any action in equity; and
- (3) If the affected party or organization feels that the order of the State Fire Marshal is not necessary for the safety and welfare of the persons using or to use the premises regarding which the order is made, the party or organization may appeal such order, and the appeal shall be in accordance with the Administrative Procedure Act.

**Neb.Rev.St. § 81-505**

**81-505. First assistant and deputies; duties**

The duties of the first assistant and the deputies shall be to operate under the direction of and to assist the State Fire Marshal in the execution of sections 81-501.01 to 81-531 and 81-5,151 to 81-5,157, the Nebraska Natural Gas Pipeline Safety Act of 1969, the Petroleum Products and Hazardous Substances Storage and Handling Act, and any other statutory duties imposed upon the State Fire Marshal. In the event of a vacancy in the office of State Fire Marshal and until a successor is appointed or during the absence or disability of that officer, the first assistant fire marshal, with the assent and approval of the Governor, shall assume the duties of that office.