

KANSAS FIRE PREVENTION CODE

Kansas Statutes Annotated

FIRE PROTECTION

31-132. Fire safety and prevention; definitions. As used in this act, unless the context otherwise requires:

(a) "Person" means an individual, partnership, corporation or other association.

(b) "Nationally recognized code" or "nationally recognized fire prevention code" means any published compilation of rules and regulations relating to fire prevention which have been prepared by a nationally recognized technical trade or service association. For the purposes of this act, the fire prevention codes of the national fire protection association and standards of the American national standards institute shall constitute examples of nationally recognized fire prevention codes.

(c) "Municipality" means any incorporated city, any county or any other political subdivision of this state.

(d) "Nationally recognized building code" means any published compilation of rules and regulations relating to building construction which have been prepared by a nationally recognized technical trade or service association.

History: L. 1972, ch. 157, § 1; L. 1980, ch. 120, § 1; July 1. **AGO:** 98-6, 98-9

31-132a. Fire safety and prevention; apartment house, defined. Every building or other structure, together with any building or structure used in connection therewith, kept, used, maintained, advertised, or held out to the public to be a place where furnished or unfurnished living accommodations other than sleeping accommodations for transient guests may be rented as a single room or as a suite of rooms, containing three (3) or more single units or suites, or both, regardless of the number of tenants therein, and regardless of whether any such room or suite of rooms is occupied by an owner or operator of such a building or structure, shall, for the purpose of this act, be deemed an apartment house.

History: L. 1975, ch. 220, § 2; July 1.

31-133. Fire marshal; power and duties; rules and regulations. (a) The state fire marshal shall adopt reasonable rules and regulations, consistent with the provisions of this act, for the safeguarding of life and property from fire, explosion and hazardous materials. Such rules and regulations shall include, but not be limited to the following:

(1) The keeping, storage, use, sale, handling, transportation or other disposition of highly flammable materials, including crude petroleum or any of its products, natural gas for use in motor vehicles, and of explosives, including gunpowder, dynamite, fireworks and firecrackers; and any such rules and regulations may prescribe the

materials and construction of receptacles and buildings to be used for any of such purposes;

(2) the transportation of liquid fuel over public highways in order to provide for the public safety in connection therewith;

(3) the construction, maintenance and regulation of exits and fire escapes from buildings and all other places in which people work, live or congregate from time to time for any purpose, including apartment houses, as defined by K.S.A. 31-132a, and amendments thereto. Such rules and regulations shall not apply to buildings used wholly as dwelling houses containing no more than two families;

(4) the installation and maintenance of equipment intended for fire control, detection and extinguishment in all buildings and other places in which persons work, live or congregate from time to time for any purpose, including apartment houses as defined by K.S.A. 31-132a, and amendments thereto. Such rules and regulations shall not apply to buildings used wholly as dwelling houses containing no more than two families;

(5) requiring administrators of public and private schools and educational institutions, except community colleges, colleges and universities, to conduct at least one fire drill each month at some time during school hours, aside from the regular dismissal at the close of the day's session, and prescribing the manner in which such fire drill is to be conducted;

(6) procedures for the reporting of fires and explosions occurring within the state and for the investigation thereof;

(7) procedures for reporting by health care providers of treatment of second and third degree burn wounds involving 20% or more of the victim's body and requiring hospitalization of the victim, which reporting is hereby authorized notwithstanding any provision of K.S.A. 60-427, and amendments thereto, to the contrary;

(8) requiring administrators of public and private schools and educational institutions, except community colleges, colleges and universities, to establish tornado procedures, which procedures shall provide for at least three tornado drills to be conducted each year at some time during school hours, aside from the regular dismissal at the close of the day's session, shall describe the manner in which such tornado drills are to be conducted, and shall be subject to approval by the state fire marshal;

(9) requiring administrators of community colleges, colleges and universities to establish tornado procedures, which procedures shall be subject to approval by the director of the disaster agency of the county;

(10) the development and implementation of a statewide system of hazardous materials assessment and response;

(11) the use of pyrotechnics, pyrotechnic devices and pyrotechnic materials; and

(12) other safeguards, protective measures or means adapted to render inherently safe from the hazards of fire or the loss of life by fire any building or other place in which people work, live or congregate from time to time

for any purpose, except buildings used wholly as dwelling houses containing no more than two families.

(b) Any rules and regulations of the state fire marshal adopted pursuant to this section may incorporate by reference specific editions, or portions thereof, of nationally recognized fire prevention codes.

(c) The rules and regulations adopted pursuant to this section shall allow facilities in service prior to the effective date of such rules and regulations, and not in strict conformity therewith, to continue in service, so long as such facilities are not determined by the state fire marshal to constitute a distinct hazard to life or property. Any such determination shall be subject to the appeal provisions contained in K.S.A. 31-140, and amendments thereto.

History: L. 1972, ch. 157, § 2; L. 1974, ch. 172, § 1; L. 1975, ch. 219, § 1; L. 1975, ch. 220, § 1; L. 1976, ch. 200, § 1; L. 1982, ch. 168, § 1; L. 1985, ch. 128, § 1; L. 1988, ch. 127, § 1; L. 1999, ch. 65, § 1; July 1.

31-133a. Fire extinguishers; inspection, installation or service, certification by state fire marshal; rules and regulations; fees; remittance. (a) No business shall inspect, install or service portable fire extinguishers or automatic fire extinguishers for commercial cooking equipment without first being certified by the state fire marshal.

(b) (1) The state fire marshal shall adopt rules and regulations as provided in K.S.A. 31-134, and amendments thereto, establishing standards for inspection, installation, servicing and testing procedures and minimum insurance requirements of businesses inspecting, installing or servicing portable fire extinguishers or automatic fire extinguishers for commercial cooking equipment. The rules and regulations shall also provide for qualifications and training of any person or persons designated by such business as the person or persons upon whose qualifications and training the certification of the business is based and, on and after January 1, 1991, shall require submission of proof, satisfactory to the state fire marshal, that such qualifications and training have been met.

(2) The rules and regulations shall further provide for annual certification of such businesses for a fee of not less than \$25 or more than \$200 for each certification, but no fee shall be charged for any person who is an officer or employee of the state or political or taxing subdivision thereof when that person is acting on behalf of the state or political or taxing subdivision. If the person or persons upon whose qualifications and training the certification of the business is based leave such business, the certification of that business is void.

(3) The state fire marshal shall remit all moneys received for fees under this section to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury. The state treasurer shall credit 20% of each such deposit to the state general fund and shall credit the remainder of each such deposit to the fire marshal fee fund.

(c) Inspection or service of any portable fire extinguisher or automatic fire extinguisher for commercial cooking equipment by any business who is not certified by the state fire marshal as required by this section shall constitute a deceptive act or practice under the Kansas consumer protection act and shall be subject to the remedies and penalties provided by such act.

(d) As used in this section:

(1) "Automatic fire extinguisher for commercial cooking equipment" means any automatic fire extinguisher mounted directly above or in the ventilation canopy of commercial cooking equipment.

(2) "Business" means any person who inspects, services or installs portable fire extinguishers or automatic fire extinguishers for commercial cooking equipment but does not include (A) any person or authorized agent of the person who installs a portable fire extinguisher for protection of the person's own property or business or (B) any individual acting as a representative or employee of a certified business.

History: L. 1980, ch. 119, § 1; L. 1982, ch. 169, § 1; L. 1990, ch. 135, § 1; L. 1992, ch. 220, § 1; L. 2001, ch. 5, § 95; July 1.

31-134. Adoption of rules and regulations, procedure; distribution; fees; remittance; designated as fire prevention code; judicial review. (a) Any rules and regulations adopted by the state fire marshal under this act shall comply with the provisions of K.S.A. 77-415 *et seq.*, and amendments thereto, except that:

(1) In addition to the method of providing notice of the public hearing prescribed by K.S.A. 77-421, and amendments thereto, such notice shall be published three times in at least two newspapers of general circulation, with the last published notice to appear not less than 15 days prior to the public hearing.

(2) The state fire marshal shall make available for general distribution upon request copies of any nationally recognized code adopted by reference, marked so as to indicate the provisions thereof which have been so adopted. The state fire marshal may charge a fee for the copies in an amount equal to the cost of the copies and their distribution. Upon collection of any such fees, the state fire marshal shall remit to the state treasurer such fees in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. The state treasurer shall deposit the entire amount in the state treasury. The state treasurer shall credit 20% of each such deposit to the state general fund and shall credit the remainder of each such deposit to the fire marshal fee fund.

(3) In addition to the filing requirements of K.S.A. 77-416, and amendments thereto, the state fire marshal shall publish all such rules and regulations and make the same available for distribution to the general public upon request, but the fire marshal shall not be required to republish the provisions of any nationally recognized code adopted by reference if such provisions are made available

for general distribution upon request to the fire marshal's office.

(b) The rules and regulations adopted by the state fire marshal under authority of this act shall be known and may be cited as the Kansas fire prevention code. Such rules and regulations shall have uniform force and effect throughout the state. No municipality shall enact or enforce any ordinance, resolution or rule or regulation inconsistent therewith, except that nothing in this act shall be construed to impair the power of any municipality to regulate the use of land by zoning or fire district regulations or to prohibit or regulate the sale, handling, use or storage of fireworks within its boundaries. Whenever a question shall arise as to whether another state statute or an enactment of a municipality is inconsistent with the provisions of the fire prevention code, it shall be the duty of the state fire marshal to make such determination after a hearing thereon with all interested parties conducted in accordance with the provisions of the Kansas administrative procedure act. Any action of the state fire marshal pursuant to this section is subject to review in accordance with the act for judicial review and civil enforcement of agency actions.

History: L. 1972, ch. 157, § 3; L. 1980, ch. 120, § 3; L. 1983, ch. 130, § 1; L. 1986, ch. 318, § 24; L. 1988, ch. 356, § 67; L. 1992, ch. 220, § 2; L. 2001, ch. 5, § 96; July 1.

AGO: 91-48

31-134a. Same; compliance with certain building codes deemed compliance with fire prevention code. (a) A building shall be deemed to comply with the Kansas fire prevention code if the building conforms to one of the following building codes, has been issued a certificate of occupancy and conforms to any special requirements of the Kansas fire prevention code which are not covered by such building code:

- (1) The 1976 or 1979 edition of the uniform building code;
- (2) the 1975 or 1978 edition of the basic building code (B.O.C.A.);
- (3) the 1976 or 1979 edition of the standard building code (also known as the southern standard building code); or
- (4) the 2000 edition of the international building code.

(b) The state fire marshal shall adopt rules and regulations specifying those subsequent editions of the codes enumerated in subsection (a) and those editions of other nationally recognized building codes which the state fire marshal has determined provide protection equivalent to that of the Kansas fire prevention code.

(c) This section shall be part of and supplemental to K.S.A. 31-132 to 31-150, inclusive, and K.S.A. 31-150a, and amendments thereto.

History: L. 1980, ch. 120, § 2; L. 2000, ch. 6, § 1; July 1.

31-135. Advisory committees to assist fire marshal; membership; no compensation. Whenever it is deemed necessary, the state fire marshal may appoint an advisory

committee or committees to assist in the formulation and revision of the state fire prevention code and in the establishment of standards for certification of members of fire departments to make arrests, carry firearms and conduct searches and seizures pursuant to K.S.A. 31-157. Any such advisory committee shall serve without compensation. The membership of the advisory committee or committees shall be selected on the basis of their individual expertise and knowledge in the area of fire prevention under consideration.

History: L. 1972, ch. 157, § 4; L. 1982, ch. 135, § 3; July 1.

31-136. Same; exemptions from regulations, when; procedure. The state fire marshal shall have the power to grant exemptions from the application of specific requirements of regulations promulgated pursuant to this act. Any such exemption shall be granted only upon written request which clearly demonstrates that the enforcement of a specific requirement of a rule or regulation will cause unnecessary hardship to the petitioner, or that such exemption is necessary for the petitioner to take advantage of new methods or equipment of recognized adequacy which conforms to fundamental safety standards. The particulars of any exemption so granted shall be set forth in writing, and a copy thereof shall be retained in the office of the state fire marshal.

History: L. 1972, ch. 157, § 5; July 1.

31-137. Same; enforcement of act and regulations; investigations; entry and examination of buildings and premises; report, filing. The state fire marshal, deputies of the fire marshal, the chief of any organized fire department of any municipality, whether such fire department is regular or volunteer, or any member of any such fire department who has been duly authorized by the chief thereof, shall enforce the provisions of this act and any rules and regulations adopted pursuant thereto. Such persons are authorized to make any investigations deemed necessary of any fire or explosion occurring within this state. Such persons shall make an investigation of any fire or explosion occurring within this state, or an attempt to cause any fire or explosion within this state, if there is reason to believe that the fire was of an incendiary origin or was an attempt to defraud an insurance company. In addition, the chief of any organized fire department of any municipality may designate other qualified persons to conduct such investigations in such municipality. In order to carry out such investigations, the state fire marshal and those persons designated by or authorized to be designated by this section shall have the right and authority at all times of day or night to enter upon or examine, in accordance with existing laws and regulations, any building or premises where any fire or explosion or attempt to cause a fire or explosion has occurred. Such persons shall make a written report of the findings of any investigation conducted pursuant to this section which shall be filed in the office of the state fire marshal.

History: L. 1972, ch. 157, § 6; July 1.

31-138. Same; hearings; information and evidence to attorney general or county attorney; prosecution; assistance by state fire marshal. The state fire marshal or any of the state fire marshal's deputies, in making the investigations authorized or required in K.S.A. 31-137 and amendments thereto, may hold a hearing with all interested parties in accordance with the provisions of subsection (a) of K.S.A. 31-141 and amendments thereto. If the state fire marshal or any of the state fire marshal's deputies, having made the investigation, shall be of the opinion that there is probable cause to believe any person has violated any provision of this act or any of the rules and regulations adopted pursuant to this act, or that any person is guilty of a criminal conduct under the laws of this state with respect to any fire or explosion, the state fire marshal shall furnish to the attorney general or the proper county attorney the names of the witnesses and all of the information and evidence obtained from the investigation, including a copy of all pertinent and material testimony taken in the case; and the attorney general or such county attorney shall take such action as the evidence and testimony justify. The state fire marshal has the right either in person or by the state fire marshal's deputy to assist in any prosecution arising therefrom.

History: L. 1972, ch. 157, § 7; L. 1988, ch. 356, § 68; July 1, 1989.

31-139. Same; right of entry to determine compliance with law and regulations; complaint; order to cease and desist. The state fire marshal and those persons designated in K.S.A. 31-137 shall have the authority during all reasonable hours of operation to enter, in accordance with existing laws, in and upon all buildings and premises subject to this act for the purpose of examination, inspection and investigation to determine compliance with the rules and regulations promulgated under the authority of this act. Whenever the state fire marshal or any person designated in K.S.A. 31-137 finds any violation of this act or the act of which this section is amendatory, or of any of the rules or regulations issued thereunder, or any lawful order issued pursuant thereto, he may file a criminal complaint with the attorney general or the proper district or county attorney or he may issue an order to the owner or his agent to cease and desist such violations. Any order so issued may be appealed by any person aggrieved thereby, as provided in K.S.A. 31-140, but unless otherwise stated in the order, the filing or pendency of such appeal shall not abate or operate as a stay of the effect of such order.

History: L. 1972, ch. 157, § 8; L. 1974, ch. 172, § 2; July 1.

31-140. Same; appeals from orders; notice and hearing; decisions; compliance. Any person aggrieved by any order or ruling issued pursuant to the provisions of this act may appeal such order or ruling to the state fire marshal within 15 days from the date of the service of such order by filing

a notice of such appeal in the office of the state fire marshal. The state fire marshal or a presiding officer from the office of administrative hearings shall hear such person within 30 days after the receipt of such notice of appeal, and the hearing shall be held in accordance with the provisions of the Kansas administrative procedure act. The state fire marshal shall file a decision thereon and, unless by authority of the state fire marshal the order is revoked or modified, the order shall be complied with within the time fixed in such decision.

History: L. 1972, ch. 157, § 9; L. 1988, ch. 356, § 69; July 1, 1989.

31-141. Same; powers of fire marshal in conduct of hearing; subpoena of witnesses and records; record of proceedings; statement; failure to comply with subpoena, effect; order by district court; service of process; costs, taxation. (a) Whenever the state fire marshal or the state fire marshal's authorized representative is authorized to conduct a hearing under the provisions of K.S.A. 31-138 and amendments thereto, the state fire marshal shall have the power to administer oaths, examine and cross-examine witnesses, receive oral and documentary evidence, and shall have the power to subpoena witnesses, compel their attendance, and require the production of books, papers, records, correspondence or other documents which are deemed relevant to the inquiry. The state fire marshal at such hearing may, and upon the request of any party shall, cause to be made a stenographic record of all the evidence and all the proceedings had at such hearing. If no stenographic record is made and if a judicial review is sought, the state fire marshal shall prepare a statement of the evidence and proceedings for use on review. In case of a refusal of any person to comply with any subpoena issued hereunder or to testify with respect to any matter concerning which such person may be lawfully interrogated, the district court of Shawnee county or the county wherein such party resides, on application of the state fire marshal, may issue an order requiring such person to comply with such subpoena and to testify. Any failure to obey any such order of the court may be punished by the court as a contempt thereof. Nothing contained in this act shall require the observance at any such hearing of formal rules of pleading or evidence. Notice of such hearings and any other process caused to be issued by the state fire marshal shall be served in substantial compliance with the requirements for service of process in district court.

(b) Whenever any person shall appeal an order or ruling issued pursuant to the provisions of this act, as provided in K.S.A. 31-140 and amendments thereto, and after a hearing the decision of the state fire marshal is adverse to such person, the costs of the hearing, including witness fees, shall be taxed to such person.

History: L. 1972, ch. 157, § 10; L. 1988, ch. 356, § 70; July 1, 1989.

31-142. Judicial review of fire marshal's action. Any action of the state fire marshal pursuant to K.S.A. 31-140

and amendments thereto is subject to review in accordance with the act for judicial review and civil enforcement of agency actions.

History: L. 1972, ch. 157, § 11; L. 1977, ch. 105, § 13; L. 1986, ch. 318, § 25; July 1.

31-143. Fire marshal authorized to advise and assist state civil defense director; assistance to municipalities; responsibilities and duties of state fire marshal. (a) The state fire marshal shall be authorized to advise, assist and coordinate with the state civil defense director in the development of civil defense or disaster plans, and on request shall assist any municipality in the enforcement of the state fire prevention code. He shall have the responsibility for the implementation of any fire safety programs developed by the state fire marshal and designed to minimize fire hazards and disasters in loss of life and property from these causes. Such responsibilities shall include, but are not limited to, the establishment and enforcement of fire safety practices throughout the state; preventive inspection and correction activities; coordination of fire safety programs with volunteer and paid fire companies, other state agencies and municipalities, and the state fire marshal shall analyze and evaluate Kansas fire loss statistics in order to make a determination of the problems.

(b) The state fire marshal upon request shall assist the chief of any recognized fire company or department, any legally designated fire marshal of a municipality and the personnel of other state agencies in fire prevention matters.

History: L. 1972, ch. 157, § 12; July 1.

AGO: 98-6

31-144. School buildings; definition; inspection; correction of violations; closing in lieu of repair; judicial review. (a) As used in this act, "school building" means any building or structure operated or used for any purpose by, or located upon the land of, any school district, community college district, area vocational school, area vocational-technical school, institution under the state board of regents or any private or nonpublic school, college or university, whether or not operated for profit. The term school building does not include within its meaning any single-family dwelling or duplex constructed as part of a vocational education program or construction trades class if such single-family dwelling or duplex is to be sold, after its construction, for private use.

(b) All school buildings shall be inspected at least once each year. In all cities of the first and second class in which there is a full-time fire chief or full-time fire inspector, the inspection of the school buildings shall be conducted by such chief or inspector. The chief or inspector shall report the findings from the inspection to the state fire marshal within 30 days after such inspection. In all other cases, school buildings shall be inspected by the state fire marshal or the fire marshal's authorized assistants.

(c) The state fire marshal shall order the governing body having control of any school building or facility

thereof to correct any condition in such building or facility which is in violation of this act, or any condition which the fire marshal deems dangerous, or which in any way prevents a speedy exit from such building. After any such order is rendered, such governing body shall make the changes required to comply therewith. A board of education of any school district is hereby authorized to make expenditures from its general fund or capital outlay fund to comply with such order, or the board may issue no-fund warrants in such amounts as are necessary to pay expenses incurred in complying with such order. Such no-fund warrants shall be issued, registered, paid and redeemed and bear interest as provided by K.S.A. 79-2940, and amendments thereto, except that the approval of the state board of tax appeals shall not be required. Such warrants shall recite that they are issued by the board of education of the school district under authority of this act. Any board of education issuing warrants hereunder shall make a tax levy at the same time as other tax levies are made, after such warrants are issued, sufficient to pay such warrants and the interest thereon.

(d) Whenever a board of education receives an order from the state fire marshal pursuant to subsection (c), the board, in lieu of repairing or remodeling the school building or facility as ordered by the state fire marshal, may close such building or facility as an attendance center. Whenever any board of education finds that any such order of the state fire marshal involves a cost in excess of that which the board of education finds the school district can afford, or that the changes ordered are unwarranted or unnecessary, the board may petition for review of such order in the district court of the home county of such school district. Upon receiving such petition, the district court shall appoint three disinterested commissioners, one of whom shall be a licensed architect. The commissioners shall inspect the building or facility affected by the order and report to the court its findings of fact as to the necessity for the improvements or changes ordered by the state fire marshal, together with the estimated cost of each such improvement or change and such other recommendations as the commissioners deem advisable. Upon receiving such findings of fact and recommendations, or any other evidence relating to the petition for review, the court shall enter its order affirming, reversing or modifying the order of the state fire marshal. Such order of the court may be reviewed by the appellate courts in the same manner as other orders and judgments of the district court may be reviewed.

(e) Except as provided in subsection (d), any action of the state fire marshal pursuant to this section is subject to review in accordance with the act for judicial review and civil enforcement of agency actions.

History: L. 1972, ch. 157, § 13; L. 1986, ch. 318, § 26; L. 1988, ch. 128, § 1; L. 1991, ch. 230, § 2; L. 1992, ch. 280, § 52; July 1.

31-145. Powers of actual members of organized fire departments. Actual members of any organized fire depart-

ment, whether regular or volunteer, of any municipality shall be vested with police power to form fire lines, to prohibit persons from interfering with firemen in the discharge of their duties, interfering with apparatus, running over fire hose and trespassing upon private property, and shall have power to blockade any public highway temporarily while fighting a fire; and for the purpose of effectuating this police power shall have the power to make arrests for violation of any lawful orders made hereunder.

History: L. 1972, ch. 157, § 14; July 1.

AGO: 94-23

31-146. Mandatory provisions of regulations governing transportation of liquid fuels; how inspections performed. The rules and regulations promulgated by the state fire marshal for transporting liquid fuel shall require that the vehicles used in such transportation be inspected by qualified inspectors sufficiently often to insure operation with maximum safety, and the operator of any such vehicle which is subject to the jurisdiction of the state corporation commission shall file with the commission copies of all such inspector's clearance receipts for such vehicles. The inspections required herein shall be performed by inspectors in the state fire marshal's office, except that the state fire marshal may issue a private inspector's permit to any person having registered in his name in this state one (1) or more vehicles used for transporting liquid fuel, if such person maintains inspection facilities and personnel qualified to perform the inspection to the satisfaction of the state fire marshal's office.

History: L. 1972, ch. 157, § 15; July 1.

31-147. Compliance with regulations by hotels, lodging facilities and restaurants. Hotels, motels, rooming houses, apartment houses, adult care homes, child care facilities, hospitals, adult boarding homes and restaurants shall comply with the rules and regulations promulgated by the state fire marshal for such occupancies.

History: L. 1972, ch. 157, § 16; July 1.

31-148. Inspection of building under jurisdiction of state penal director and division of institutional management. The state fire marshal at least annually shall inspect all buildings under the jurisdiction of the state penal director and the division of institutional management of the department of social welfare.

History: L. 1972, ch. 157, § 17; July 1.

31-150. Fire safety and prevention; school buildings; construction requirements; accessibility to persons with a disability; building plans, certification and approval; exceptions; rules and regulations. (a) Except as otherwise provided in this section, the construction of school buildings shall comply with the requirements of the 2000 edition of the international building code as published by the international codes council. All electric wiring shall conform to requirements of the 1999 issue of the national electric code of the national fire protection association.

(b) The construction of mobile, modular, portable or relocatable school buildings shall conform to the requirements of the 2000 edition of the life safety code as published by the national fire protection association.

(c) The construction of all school buildings shall conform to the provisions for making buildings and facilities accessible to, and usable by, persons with a disability, as required by K.S.A. 58-1301 through 58-1311, and amendments thereto.

(d) No contract shall be let for the construction of any school building, and it shall be illegal to pay out any public funds for the construction of a school building until the plans for such building shall: (1) Bear the seal of an architect or a professional engineer licensed by the state board of technical professions of the state of Kansas certifying that the plans meet the applicable requirements of this act; and (2) be submitted to the state board of education for approval as to compliance with such requirements.

(e) The provisions of subsections (c) and (d) of this section shall not apply to any building or structure operated or used for any purpose by, or located upon the land of any community college, area vocational school, area vocational-technical school, technical college, municipal university, institution under the governance of the state board of regents or other institutions of post secondary education as defined by K.S.A. 74-3249, and amendments thereto. Prior to construction of any new building or remodeling of any existing building, all community colleges, area vocational schools, area vocational-technical schools, technical colleges, any municipal university, institutions under the governance of the state board of regents or other institutions of post secondary education as defined by K.S.A. 74-3249, and amendments thereto, shall submit to the state fire marshal a code footprint for evaluation and approval of the fire/life safety features of such buildings.

(f) The relocation of school buildings to which the provisions of subsection (b) apply shall not be construed to be construction or reconstruction under the provisions, or for the purposes, of this section.

(g) The construction or reconstruction of a school building, whether funded by bonds or other moneys, in a school district where general obligations bonds were authorized to be issued by a vote of the electors in an election held on or before July 1, 2000, shall be governed by the provisions of this section that were in effect on January 1, 2004.

The provisions of this subsection shall expire on July 1, 2006.

(h) The state fire marshal shall adopt rules and regulations specifying those subsequent editions of the codes enumerated in subsections (a) and (b) which the state fire marshal has determined provide protection equivalent to those editions specified herein. Compliance with any subsequent edition specified by such rules and regulations shall be considered compliance with the edition of the code specified by this section.

History: L. 1972, ch. 157, § 19; L. 1978, ch. 150, § 1; L. 1978, ch. 336, § 1; L. 1979, ch. 115, § 1; L. 1981, ch. 343,

§ 2; L. 1984, ch. 149, § 1; L. 1986, ch. 147, § 1; L. 1992, ch. 208, § 4; L. 2001, ch. 23, § 1; July 1.

AGO: 87-9, 86-81

31-150a. Violations of fire prevention code; criminal penalty; injunction. (a) Any person who violates any provision of this act or the act of which this act is amendatory, or who violates any rule or regulation adopted pursuant thereto, or who violates any lawful order issued by the state fire marshal or by any of the persons designated in K.S.A. 31-137 and amendments thereto, shall be guilty of a class B misdemeanor, and each day that the offense continues after receipt of written notice thereof issued by the state fire marshal, or by any other person designated in K.S.A. 31-137 and amendments thereto, shall constitute a separate violation. Notice of any such violation may be sent to the responsible party by restricted mail, as defined in K.S.A. 60-103 and amendments thereto, but refusal of the addressee to receive such notice shall constitute receipt thereof, or such notice may be served personally on the responsible party by the state fire marshal or the state fire marshal's deputies.

(b) At the request of the state fire marshal or any other person designated in K.S.A. 31-137 and amendments thereto, the attorney general or the proper district or county attorney may obtain an injunction to restrain any violation designated in subsection (a), where such violation is a continuing offense or where it constitutes an immediate hazard to life or property. The application for an injunction pursuant to this subsection shall be made to the district court of the county in which the violation occurs, and any such injunction shall be governed by the provisions of article 9 of chapter 60 of the Kansas Statutes Annotated.

History: L. 1974, ch.172, § 3; L. 1993, ch. 162, § 1; July 1.

31-155. Bottle rockets; sale or use prohibited; exceptions. (a) Except as provided in subsection (c):

(1) It shall be unlawful to sell, offer to sell, or to possess with intent to sell or offer for sale a bottle rocket; and

(2) it shall be unlawful to ignite, fire, set-off or otherwise use a bottle rocket.

(b) Any person violating the provisions of subsection (a) shall be guilty of an unclassified misdemeanor punishable by a fine of not more than \$100.

(c) The provisions of this section shall not prohibit the possession or transportation of bottle rockets by a manufacturer or wholesaler thereof for sale outside this state if such manufacturer or wholesaler is currently registered with the state fire marshal pursuant to K.S.A. 31-156.

(d) As used in this act, "bottle rocket" means any pyrotechnic device which:

(1) Is classified as a class C explosive by the United States department of transportation under 49 C.F.R. 173.100 (1977);

(2) is mounted on a stick or wire; and

(3) projects into the air when ignited, with or without reports, and includes any device with the same

configuration, with or without reports, which may be classified as a pipe or trough rocket. "Bottle rocket" does not include helicopter-type rockets.

History: L. 1981, ch. 142, § 1; Jan. 1, 1982.

31-156. Same; permit to possess or transport. (a) Any person who manufactures bottle rockets or sells bottle rockets at wholesale and who desires to possess or transport any bottle rockets in this state for the purpose of selling the same outside this state shall register annually with the state fire marshal. Such registration shall entitle the manufacturer or wholesaler to possess and transport bottle rockets in this state for the purpose of selling the same outside this state for a period of one year from the date of registration.

(b) The state fire marshal shall prescribe by rules and regulations the form of the registration required by subsection (a), which form shall require such information of each registrant as necessary to enforce the provisions of K.S.A. 31-155.

History: L. 1981, ch. 142, § 2; Jan. 1, 1982.

AGO: 2002-039

31-157. Fire marshal deputies and investigatory personnel; law enforcement powers, when; training required, exceptions. (a) The state fire marshal, the state fire marshal's deputies and full-time fire prevention personnel assigned investigation duties who are members of a paid fire department who have been certified by the state fire marshal pursuant to this section shall have the authority to make arrests, carry firearms and conduct searches and seizures while investigating any fire or explosion in which arson or attempted arson is suspected or in which there is an attempt or suspected attempt to defraud an insurance company. Any affidavits necessary to authorize arrests, searches or seizures pursuant to this section shall be made in accordance with K.S.A. 22-2302 and 22-2502, and amendments thereto.

(b) The state fire marshal, with the assistance of an advisory committee appointed pursuant to K.S.A. 31-135 and amendments thereto, shall adopt rules and regulations and specify the number of investigators for departments or areas and establish standards for certification of members of fire departments to make arrests, carry firearms and conduct searches and seizures pursuant to this section. No fire department personnel shall be certified to carry firearms under the provisions of this act without having first successfully completed the firearm training course or courses prescribed for law enforcement officers under K.S.A. 74-5604[*], and amendments thereto.

(c) With the exception of firearms training, nothing in this section shall be construed to require persons employed prior to the effective date of this act to comply with the standards established by the state fire marshal pursuant to this section as a condition of continued employment, and such persons' failure to comply with such standards shall not make such persons ineligible for any promotional examination for which they are otherwise eligible

or affect in any way any pension rights to which they are entitled on the effective date of this act.

History: L. 1982, ch. 135, § 1; July 1.

AGO: 94-23

31-158. Fire safety and prevention; sale to or purchase by fire department of clothing or equipment which does not meet standards set by national fire protection association; penalty; definition. (a) No person shall knowingly sell or offer for sale in this state to any fire department any item of clothing or equipment intended to protect firefighters from death or injury while fighting fires unless the item of clothing or equipment meets or exceeds the minimum standards established for such item of clothing or equipment by the national fire protection association, in effect on the effective date of this act.

(b) No fire department shall purchase in this state any item of clothing or equipment intended to protect firefighters from death or injury while fighting fires unless the item of clothing or equipment meets or exceeds the minimum standards established for such item of clothing or equipment by the national fire protection association, in effect on the effective date of this act.

(c) A violation of subsection (a) is a class B misdemeanor.

(d) As used in this section, "fire department" means any city, county, township or other public or private fire department.

History: L. 1988, ch. 126, § 1; July 1.

AGO: 88-118

31-159. Violations of fire prevention code, administrative penalties. (a) In addition to any other penalty provided by law, the state fire marshal, upon finding that any person has violated the provisions of the Kansas fire prevention code, may impose a penalty not to exceed \$1,000, which shall constitute an actual and substantial economic deterrent to the violation for which the penalty is assessed.

(b) No penalty shall be imposed pursuant to this section except upon the written order of the state fire marshal to the person who committed the violation. The order shall state the violation, the penalty imposed and the right to appeal to the state fire marshal. Any such person, within 30 days after service of such order, may make written request to the fire marshal for a hearing thereon. The fire marshal shall conduct a hearing in accordance with the provisions of the Kansas administrative procedure act within 30 days after receipt of such request.

(c) Any person aggrieved by any order issued pursuant to this section may appeal such order in accordance with the provisions of the act for judicial review and civil enforcement of agency actions.

(d) All moneys received from penalties imposed pursuant to this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund.

(e) If a fire safety inspection is required to meet licensing requirements of a state agency, the state fire marshal, before imposing a penalty pursuant to this section, shall make written request to the state licensing agency to take appropriate action to require compliance with the Kansas fire prevention code. If the state licensing agency fails to take such action within 60 days after receipt of the state fire marshal's notice, the state fire marshal may impose a penalty as provided by this section.

History: L. 1993, ch. 65, § 1; L. 2001, ch. 5, § 97; July 1.

31-160. Smoke detectors; citation of act. K.S.A. 31-160 through 31-164 shall be known and may be cited as the smoke detector act.

History: L. 1998, ch. 66, § 12; July 1.

31-161. Same; definitions. When used in this act:

(a) "Dwelling unit" means a single-family residence, multiple-family residence and each living unit in a mixed-use building.

(b) "Smoke detector" means a device or combination of devices which operate from a power supply in the dwelling unit or at the point of installation for the purpose of detecting visible or invisible particles of combustion. Such term shall include smoke detectors approved or listed for the purpose for which they are intended by an approved independent testing laboratory.

History: L. 1998, ch. 66, § 13; July 1.

31-162. Same; installation of smoke detectors required; limitations on enforcement; certain evidence inadmissible; insurance payments not affected. (a) Every single-family residence shall have at least one smoke detector on every story of the dwelling unit.

(b) Every structure which:

(1) Contains more than one dwelling unit; or

(2) contains at least one dwelling unit and is a mixed-use structure, shall contain at least one smoke detector at the uppermost ceiling of each interior stairwell and on every story in each dwelling unit.

(c) The owner of a structure shall supply and install all required smoke detectors. The owner of a structure shall test and maintain all smoke detectors, except inside rental units, the occupant shall test and maintain all smoke detectors after taking possession of the dwelling unit.

(d) The smoke detectors required in dwelling units in existence on January 1, 1999, may either be battery-powered or wired into the structure's electrical system, and need not be interconnected. The smoke detectors required in dwelling units constructed after January 1, 1999, shall be wired permanently into the structure's electrical system.

(e) For purposes of this act, manufactured homes as defined in K.S.A. 58-4202, and amendments thereto, shall be subject to the federal, manufactured home construction and safety standards established pursuant to 42 U.S.C. § 5403 in lieu of the standards set forth herein. Owners and occupants of such manufactured homes shall

be subject to the testing and maintenance standards for smoke detectors required under this act.

(f) Officials responsible for the enforcement of the smoke detector act shall not enter a dwelling unit solely for the purpose of determining compliance with the provisions of the smoke detector act except when:

(1) Conducting an inspection prior to the issuance of an occupancy permit or building permit;

(2) responding to a report of a fire in a dwelling unit, except in cases of a false alarm; or

(3) conducting, at the request of the owner or occupant, a home safety inspection.

(g) Evidence of the failure of any property owner to provide an operational smoke detector in a residence as required by this section shall not be admissible in any action for the purpose of determining any aspect of civil liability.

Evidence of the failure of any occupant to properly maintain a smoke detector as required by this section shall not be admissible in any action for the purpose of determining any aspect of civil liability.

(h) The provisions of the smoke detector act shall not constitute grounds for the purpose of offsetting, reducing or denying the payment of amounts due under any contract for or policy of insurance.

History: L. 1998, ch. 66, § 14; July 1.

31-163. Same; violations; penalties. Failure to place or maintain a smoke detector as provided by the smoke detector act shall be a nonclass nonperson misdemeanor. Any fine imposed for a violation of this section shall not exceed \$25.

History: L. 1998, ch. 66, § 16; July 1.

31-164. Same; act in addition to local law. This law shall be in addition to any county resolution or city ordinance relating to regulation of smoke detectors.

History: L. 1998, ch. 66, § 16; July 1.

31-165. Toll-free number; hazardous materials incidents. The state fire marshal may provide a toll-free telephone number where persons may call the state fire marshal to request a response to a hazardous materials incident.

History: L. 1999, ch. 65, § 2; July 1.

31-301. Fire protection; creation of benefit district; procedure. Whenever 51% of the resident property owners of territory located partly in two or more counties and adjacent to, or within a radius of 10 miles of a city, and the boundaries of the territory coincide with the boundaries of a common-school district or a rural high school district, shall petition the board of county commissioners of the county in which the city is located for the creation of a benefit district for the purpose of providing fire-fighting service within the benefit district by the city, it shall be the duty of the board of county commissioners subject to the provisions of K.S.A. 19-270, by resolution, to organize such benefit district and to define the limits thereof as set

forth in the petition. Thereafter the board of county commissioners organizing the benefit district shall direct the county clerk of the county in which the city is located to transmit to the county clerk of any other county in which any territory of the benefit district lies, a copy of the original resolution of the board of county commissioners organizing such district.

History: L.1951, ch.238, §1; L.1986, ch. 70, § 33; May 15.
AGO: 95-45

31-302. Same; governing body; election; terms; vacancies; contracts for services. (a) Any benefit district created pursuant to K.S.A. 31-301, and amendments thereto, shall be governed by a board of directors. Except as provided in subsection (b), the members of the board of education of the unified school district who reside within the boundaries of such benefit district shall be the board of directors of such benefit district.

(b) (1) If the territory of a benefit district created pursuant to K.S.A. 31-301, and amendments thereto, is located partly within Osage county and partly within Lyon county, such district shall be governed by a five-member board of directors. Except as provided by paragraph (3) of this subsection, members shall be elected for four-year terms.

(2) The members of the board of directors, as it existed prior to the effective date of this act and the fire chief of the district shall appoint three persons as members of the board as follows: One person shall be a resident of the fire district and a resident of Osage county; one member shall be a resident of the fire district and a resident of the unincorporated area of Lyon county; and one member shall be a resident of the fire district and a resident of the city of Reading. Such members shall be appointed within 30 days of the effective date of this act. The terms of all members of the board, both elected and appointed, shall expire on the second Monday in January of 1993.

(3) An election shall be held in the benefit district on the Tuesday following the first Monday in November of 1992 and of each even-numbered year thereafter for the purpose of electing the members of the board. At the first such election, two members shall be elected from the district at large to serve for two-year terms. Three members shall be elected for four-year terms and of such members: One member shall be a resident of the fire district and a resident of Osage county; one member shall be a resident of the fire district and a resident of the unincorporated area of Lyon county; and one member shall be a resident of the fire district and a resident of the city of Reading. All members not filling a vacancy and not holding office for a shorter term in compliance with this paragraph shall hold office for a term of four years from the second Monday in January next after their election and until their successors are elected and qualified. Members of the board shall be qualified electors of the district.

Vacancies occurring during a term shall be filled for the unexpired term by appointment by the remaining members of the board.

(4) Elections to choose members of the board shall be conducted, the returns made and the results ascertained in the manner provided by the general election law. Any person desiring to be a candidate as a member of the board in any election, shall file with the county election officer of the home county wherein the district is located, by 12 o'clock noon, June 10, prior to such election, a statement directing such officer to place such person's name on the ballot as a candidate in such election indicating the position for which such person is filing. There shall be no fee imposed for such filing. The county election officer in preparing the ballots shall rotate the names of candidates for each member position in such a manner that each candidate shall be given an equitable opportunity to have such candidate's name appear first on the ballot. The county election officer shall cause to be ascertained the names of all qualified electors within the district, and shall furnish lists thereof to the judges of such election. Notice of the time and place of holding each election, signed by the county election officer, shall be given in a newspaper of general circulation in the district at least 10 days before holding the election. At all elections held under the provisions of this act, only persons who are residents of the district, and who are qualified electors under the constitution, shall be entitled to vote. In addition, if a position on the board has a special residency requirement, only persons who also meet such requirement shall be entitled to vote for that position.

(5) For the purposes of this subsection home county means Lyon county.

(6) All moneys and records of the benefit district in possession of the former board of directors shall be turned over by the board to the successor board of directors. All legal obligations and contracts entered into by the former board shall become the obligations and contracts of the new board.

(c) The board of directors of the benefit district is authorized to execute contracts with the city for the furnishings of fire-fighting services to the district upon such terms and for such compensation as may be agreed upon, to adopt budgets, to receive and expend moneys and otherwise to act to carry out the provisions of this act.

History: L. 1951, ch. 238, § 2; L. 1965, ch. 266, § 1; L. 1992, ch. 161, § 1; April 30.

31-401. Title. This act shall be known and may be cited as the "Kansas arson reporting-immunity act."

History: L. 1979, ch. 132, § 1; July 1.

31-402. Definitions. As used in this act, unless the context requires otherwise, the following words and phrases shall have the meanings ascribed to them in this section.

(a) "Authorized agencies" means:

- (1) The office of state fire marshal;
- (2) the office of the attorney general of Kansas;
- (3) the office of a district or county attorney;
- (4) all law enforcement agencies;
- (5) all official fire fighting agencies;

and solely for the purposes of K.S.A. 31-403(a):

(6) The federal bureau of investigation or any other federal agency;

(7) the United States attorney's office.

(b) "Relevant" means information having any tendency to make the existence of any fact that is of consequence to the investigation or determination of the issue more probable or less probable than it would be without the evidence.

(c) Material will be "deemed important", if within the sole discretion of the "authorized agency", such material is requested by that "authorized agency".

(d) "Action" shall include nonaction or the failure to take action.

(e) "Immune", as used in K.S.A. 31-403(e) and 31-404, shall mean that a civil action may not arise from any action taken pursuant to K.S.A. 31-403 and 31-404 in the absence of gross negligence, bad faith, malice or fraud on the part of an individual, insurance company, or person acting in its behalf, or authorized agency.

(f) "Insurance company" includes the Kansas Fair Plan.

History: L. 1979, ch. 132, § 2; July 1.

31-403. Disclosure of information by insurance companies; disclosure of information by authorized agency; immunity from liability in civil actions. (a) Any authorized agency may, in writing, require an insurance company to release to the requesting agency any or all relevant information or evidence deemed important to the authorized agency which the company may have in its possession, relating to a fire loss. Relevant information may include, without limitation herein:

(1) Pertinent insurance policy information relevant to a fire loss under investigation and any application for such a policy;

(2) premium payment records;

(3) history of previous claims made by the insured; and

(4) material relating to the investigation of the loss, including statements of any person, proof of loss, and any other evidence relevant to the investigation.

(b) (1) When an insurance company has reason to believe that a fire loss in which it has an interest may be of other than accidental cause, then, for the purpose of notification and for having such fire loss investigated, the company shall, in writing, notify an authorized agency and provide it with any or all material developed from the company's inquiry into the fire loss.

(2) When an insurance company provides any one of the authorized agencies with notice of a fire loss, it shall be sufficient notice for the purpose of this act.

(3) Nothing in subsection (b) of this section shall abrogate or impair the rights or powers created under subsection (a) of this section.

(c) The authorized agency provided with information pursuant to subsections (a) or (b) of this section or K.S.A. 31-404 and in furtherance of its own purposes, may

release or provide such information to any of the other authorized agencies.

(d) Any insurance company providing information to an authorized agency or agencies pursuant to subsections (a) or (b) of this section shall have the right to request relevant information relating to such fire loss from an authorized agency and receive, within a reasonable time, not to exceed thirty (30) days, the information requested from an authorized agency.

(e) Any insurance company, or person acting in its behalf, or an authorized agency which releases information, whether oral or written, pursuant to subsections (a) or (b) of this section shall be immune from any liability arising out of a civil action by reason of providing such information.

History: L. 1979, ch. 132, § 3; July 1.

31-404. Disclosure of information by an individual; immunity from liability in civil actions. Any individual who provides information to an authorized agency, whether oral or written, concerning the damaging of any building or property by fire shall be immune from any liability arising out of a civil action by reason of providing such information.

History: L. 1979, ch. 132, § 4; July 1.

31-405. Confidentiality of information; personnel of authorized agency required to testify. (a) Except as otherwise provided in K.S.A. 31-403(c), any authorized agency or insurance company described in K.S.A. 31-402 or 31-403 which receives any information furnished pursuant to this act, shall hold the information in confidence until such time as its release is required pursuant to a criminal or civil proceeding.

(b) Any authorized agency referred to in K.S.A. 31-402, or its personnel, may be required to testify in any litigation in which the insurance company at interest is named as a party.

History: L. 1979, ch. 132, § 5; July 1.

31-406. Violation of act; penalties. It is unlawful and a violation of this act to fail to release information or evidence pursuant to K.S.A. 31-403(a) or to fail to give notice and to provide material developed from an inquiry into a fire loss as provided in K.S.A. 31-403(b). Any such violation shall constitute a class C misdemeanor.

History: L. 1979, ch. 132, § 6; July 1.