

SENATE BILL No. 376

By Joint Committee on Administrative Rules and Regulations

12-14

AN ACT concerning the state fire marshal; establishing a hazardous materials incident response program; amending K.S.A. 31-133 and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

New Section 1. (a) The state fire marshal shall establish a hazardous materials incident response program. The state fire marshal shall be responsible for coordinated response by state agencies and cities and counties to a hazardous materials incident.

(b) For the purposes of this act:

(1) "Hazardous material" means any substance or material in a quantity or form which may be harmful or injurious to the health and safety of humans, animals, crops or property when released into the environment. Hazardous material includes, but is not limited to, explosives, radioactive materials, disease-causing agents, flammable liquids, solids or gases, combustible liquids, poisons, poisonous gases, oxidizing materials, corrosive materials, irritants, nonflammable gases, cryogenics and blasting agents.

(2) "Hazardous materials agency" includes, but is not limited to, local firefighters, the department of health and environment, the Kansas department of agriculture, the department of transportation, the department of human resources, the state corporation commission, the Kansas highway patrol, the adjutant general, the division of emergency management and any other state or federal agency deemed appropriate by the state fire marshal as designated by rule and regulation.

(3) "Hazardous material incident" means the occurrence or eminent threat of widespread or severe damage, injury or loss of life or property resulting from any natural or manmade cause involving a hazardous material.

New Sec. 2. (a) To implement the provisions of this act, the state fire marshal shall adopt rules and regulations to:

(1) Establish appropriate procedures for requesting assistance of an emergency hazardous materials response team;

(2) establish consistent hazardous materials training standards and training materials after consultation with hazardous materials agencies;

1 (3) establish the composition of any hazardous materials incident re-
2 sponse team;

3 (4) establish the qualifications of and training requirements for any
4 hazardous materials incident response team;

5 (5) establish standards for supplies and equipment used by any haz-
6 ardous materials incident response team; and

7 (6) establish criteria for the operation of any hazardous materials in-
8 cident response team.

9 (b) In addition to the provisions of subsection (a), the state fire mar-
10 shal shall:

11 (1) Establish one or more hazardous materials emergency response
12 districts so that response time to any point in the state is at most two
13 hours;

14 (2) coordinate with hazardous materials agencies in the development
15 of rules and regulations to implement subsection (a);

16 (3) have power to sue;

17 (4) have the power to negotiate and enter into contracts necessary to
18 implement the provisions of this act; and

19 (5) be authorized to promulgate any rules and regulations necessary
20 to administer the provisions of this act in addition to the rules and reg-
21 ulations authorized by subsection (a).

22 New Sec. 3. (a) The state fire marshal is hereby authorized to organ-
23 ize, or cause to be organized, one or more advisory committees to assist
24 in the development of the hazardous materials incident response pro-
25 gram. Each advisory committee shall contain a representative from each
26 hazardous materials agency.

27 (b) No member of any advisory committee established under this
28 subsection shall receive any payment or other compensation from the
29 state fire marshal.

30 (c) No member of any advisory committee established under this sub-
31 section, except the state fire marshal, shall participate in the negotiation
32 of or receive any benefit from any contract authorized under this act.

33 New Sec. 4. No member of any hazardous materials incident re-
34 sponse team, except a full-time employee of the state fire marshal, shall
35 be deemed to be an employee of the state of Kansas for the purposes of
36 either the workers compensation act or the tort claims act.

37 New Sec. 5. The state fire marshal is authorized to recover costs
38 incurred by the state fire marshal attributable to causing a hazardous
39 materials incident response team to respond to a hazardous materials
40 incident. Such costs shall include travel expenses, wages, equipment costs
41 and such other costs as prescribed by the fire marshal by rule and regu-
42 lation. Such costs shall be recovered from any person or entity responsible
43 for safe handling or containment of the hazardous material involved in

1 the hazardous material incident.

2 New Sec. 6. No provision of sections 1 through 5, inclusive, and
3 amendments thereto, shall be deemed to amend, modify or repeal any
4 authority concerning hazardous materials under any statute or rule and
5 regulation in effect on the effective date of this act.

6 Sec. 7. K.S.A. 31-133 is hereby amended to read as follows: 31-133.

7 (a) The state fire marshal shall adopt reasonable rules and regulations,
8 consistent with the provisions of this act, for the safeguarding of life and
9 property from fire, ~~explosion and hazardous materials~~ and explosion. Such
10 rules and regulations shall include, but not be limited to the following:

11 (1) The keeping, storage, use, sale, handling, transportation or other
12 disposition of highly flammable materials, including crude petroleum or
13 any of its products, natural gas for use in motor vehicles, and of explosives,
14 including gunpowder, dynamite, fireworks and firecrackers; and any such
15 rules and regulations may prescribe the materials and construction of
16 receptacles and buildings to be used for any of such purposes;

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

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

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

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

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

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

43 (8) requiring administrators of public and private schools and edu-

1 cational institutions, except community colleges, colleges and universities,
2 to establish tornado procedures, which procedures shall provide for at
3 least three tornado drills to be conducted each year at some time during
4 school hours, aside from the regular dismissal at the close of the day's
5 session, shall describe the manner in which such tornado drills are to be
6 conducted, and shall be subject to approval by the state fire marshal;

7 (9) requiring administrators of community colleges, colleges and uni-
8 versities to establish tornado procedures, which procedures shall be sub-
9 ject to approval by the director of the disaster agency of the county; *and*

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

12 ~~—(11) other safeguards, protective measures or means adapted to ren-~~
13 ~~der inherently safe from the hazards of fire or the loss of life by fire any~~
14 ~~building or other place in which people work, live or congregate from~~
15 ~~time to time for any purpose, except buildings used wholly as dwelling~~
16 ~~houses containing no more than two families.~~

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

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

27 Sec. 8. K.S.A. 31-133 is hereby repealed.

28 Sec. 9. This act shall take effect and be in force from and after its
29 publication in the statute book.

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