

## HOUSE BILL No. 2567

By Committee on Appropriations

1-22

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AN ACT concerning the state fire marshal; establishing a hazardous materials 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 response program.

(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 local, state or federal agency necessary.

(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;

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

(4) establish standards for supplies and equipment used by any haz-

1 arduous materials response team; and

2 (5) establish criteria for the operation of any hazardous materials re-  
3 sponse team.

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

6 (1) Establish a hazardous materials response program with a suffi-  
7 cient number of regional response areas so that response time to any point  
8 in the state is not more than two hours;

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

11 (3) have the power to negotiate and enter into contracts necessary to  
12 implement the provisions of this act; and

13 (4) be authorized to promulgate any rules and regulations necessary  
14 to administer the provisions of this act in addition to the rules and reg-  
15 ulations authorized by subsection (a).

16 New Sec. 3. (a) The state fire marshal is hereby authorized to organ-  
17 ize, or cause to be organized, one or more advisory committees to assist  
18 in the development of the hazardous materials response program. Each  
19 advisory committee shall contain a representative from each hazardous  
20 materials agency.

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

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

27 (d) The state fire marshal is hereby authorized to receive grants, gifts  
28 or donations from the United States government, or its agencies, or any  
29 other source whatsoever for the purposes of the hazardous materials re-  
30 sponse programs established under section 1, and amendments thereto,  
31 and any moneys so received shall be deposited in the state treasury and  
32 credited to the fire marshal's gratuities fund.

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

37 New Sec. 5. (a) The state fire marshal is authorized to investigate  
38 any hazardous materials incident to determine the person or entity re-  
39 sponsible and to recover costs incurred by the state fire marshal attrib-  
40 utable to causing a hazardous materials response team to respond to a  
41 hazardous materials incident. Such costs shall include travel expenses,  
42 wages, equipment costs and such other costs as prescribed by the fire  
43 marshal by rule and regulation. Such costs shall be recovered from any

1 person or entity responsible for safe handling or containment of the haz-  
2 arduous material involved in the hazardous material incident.

3 (b) Any person or entity which the state fire marshal determines to  
4 be responsible for the safe handling or containment of a hazardous ma-  
5 terial involved in a hazardous material incident pursuant to this section  
6 shall be responsible for the payment of costs specified in subsection (a).  
7 If the state fire marshal incurs costs or expends funds for such activities,  
8 the responsible person or entity shall be notified of such costs and ex-  
9 penditures and shall make repayment of all costs incurred for response  
10 to the hazardous material incident. If the responsible person or entity  
11 fails to pay for such costs, such payment or repayment shall be recoverable  
12 in an action brought in the district court of Shawnee county. Any action  
13 or hearing under this section shall be in accordance with the procedure  
14 established by K.S.A. 31-138, and amendments thereto. Any money re-  
15 covered under this section shall be deposited in the fire marshal's gra-  
16 tuities fund.

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

21 New Sec. 7. Sections 1 through 7, and amendments thereto, may be  
22 cited as the hazardous materials response program act.

23 Sec. 8. K.S.A. 31-133 is hereby amended to read as follows: 31-133.

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

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

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

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

42 (4) the installation and maintenance of equipment intended for fire  
43 control, detection and extinguishment in all buildings and other places in

1 which persons work, live or congregate from time to time for any purpose,  
2 including apartment houses as defined by K.S.A. 31-132a, and amend-  
3 ments thereto. Such rules and regulations shall not apply to buildings  
4 used wholly as dwelling houses containing no more than two families;

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

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

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

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

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

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

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

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

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

1     Sec. 9. K.S.A. 31-133 is hereby repealed.

2     Sec. 10. This act shall take effect and be in force from and after its  
3 publication in the statute book.

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