

Sixty-eighth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2211

Introduced by

Senators Weber, Bekkedahl, Klein

Representatives Kempenich, Pyle, Warrey

1 A BILL for an Act to create and enact a new subsection to section 18-03-01.1, a new subsection
2 to section 26.1-01-03, and a new subdivision to subsection 1 of section 26.1-01-07 of the North
3 Dakota Century Code, relating to the operations of the state fire marshal; to amend and reenact
4 section 18-01-01, subsection 1 of section 18-01-03.1, sections 18-01-04, 18-01-09, 18-01-20,
5 18-01-35, 18-01-36, 18-03-04, 18-03-05, 18-03-07, 18-04-04, 18-04-04.1, and 18-04-05,
6 subsection 1 of section 18-13-01, subsection 4 of section 18-13-02, subsection 3 of section
7 18-13-03, subsection 6 of section 18-13-04, subsections 6 and 7 of section 18-13-05, section
8 18-13-07, and subsection 1 of section 26.1-03-17, relating to the operations of the state fire
9 marshal; and to provide a continuing appropriation.

10 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

11 **SECTION 1. AMENDMENT.** Section 18-01-01 of the North Dakota Century Code is
12 amended and reenacted as follows:

13 **18-01-01. Appointment of state fire marshal - Appointment and salaries of deputies**
14 **and assistants - Budget.**

15 The ~~attorney general~~insurance commissioner shall appoint the state fire marshal and
16 supervise the operation of the state fire marshal department. The state fire marshal shall
17 manage the state fire marshal department and shall perform the duties imposed on the state fire
18 marshal by this chapter.

19 The state fire marshal shall appoint such deputies and other employees as the state fire
20 marshal deems necessary to carry out this chapter within the limits of legislative appropriations.

21 Before entering upon their duties, the state fire marshal and each deputy appointed under
22 this section shall take and subscribe the constitutional oath of office and file the oath in the
23 office of the secretary of state.

1 The state fire marshal department ~~must be operated in conjunction~~ shall collaborate with the
2 bureau of criminal investigation, and the state fire marshal shall report all suspected cases of
3 arson to the bureau of criminal investigation. The budget for the state fire marshal department
4 must be submitted as part of the ~~attorney general's~~ insurance commissioner's budget.

5 **SECTION 2. AMENDMENT.** Subsection 1 of section 18-01-03.1 of the North Dakota
6 Century Code is amended and reenacted as follows:

7 1. The state fire marshal and the state fire marshal's deputies may perform fire safety
8 inspections of those facilities required to be inspected under administrative rules of the
9 department of health and human services. The state fire marshal shall charge a fee
10 not to exceed fifty dollars for conducting these fire safety inspections in an amount
11 determined by administrative rules adopted by the state fire marshal. Inspection fees
12 received by the state fire marshal must be deposited into the ~~attorney-~~
13 ~~general's~~ insurance regulatory trust fund operating fund.

14 **SECTION 3. AMENDMENT.** Section 18-01-04 of the North Dakota Century Code is
15 amended and reenacted as follows:

16 **18-01-04. Rules for prevention of fires to be issued.**

17 The state fire marshal, under the supervision of the ~~attorney general~~ insurance
18 commissioner, shall make rules not inconsistent with the provisions of this code for the
19 prevention of fires and shall explain such rules fully to all state, county, and municipal boards
20 and officers. All such rules must be posted in such conspicuous places as will tend to be of the
21 greatest benefit to the residents of the state, and when called upon, the state fire marshal or
22 one of the state fire marshal's assistants shall appear before any public board and explain the
23 benefits derived from compliance with such rules and regulations in the reduction of hazardous
24 conditions and loss by fire.

25 **SECTION 4. AMENDMENT.** Section 18-01-09 of the North Dakota Century Code is
26 amended and reenacted as follows:

27 **18-01-09. Investigation by state fire marshal - Complaint to ~~state's attorney~~ bureau of**
28 **criminal investigation - Records of arson prosecutions.**

29 If any investigation made pursuant to the provisions of section 18-01-07 is insufficient in the
30 opinion of the state fire marshal, the state fire marshal shall take or cause to be taken the sworn
31 testimony of all persons having any means of knowledge in relation to the matter under

1 investigation and shall cause the same to be reduced to writing. If the state fire marshal is of the
2 opinion that there is evidence sufficient to charge any person with the crime of arson, the state
3 fire marshal shall ~~cause said person to be arrested and charged with such an offense. The state~~
4 ~~fire marshal shall furnish to the state's attorney of the county in which the crime is alleged to~~
5 ~~have been committed the names of all witnesses obtained by the state fire marshal~~furnish to the
6 bureau of criminal investigation and the state's attorney the written report created pursuant to
7 section 18-01-07 and a copy of all the pertinent and material testimony taken in the case. The
8 state fire marshal shall keep a record of the proceedings in all prosecutions for arson and of the
9 results in all cases in which a final disposition is made.

10 **SECTION 5. AMENDMENT.** Section 18-01-20 of the North Dakota Century Code is
11 amended and reenacted as follows:

12 **18-01-20. Service of order and notice - Contents of notice - Additional parties - Duty**
13 **of attorney general**insurance commissioner.

- 14 1. There must be served upon the owner, mortgagee, lessee, tenant, occupant, and
15 other persons known to have or claim any interest in the premises described in the
16 order of abatement a copy of the abatement order and a written notice stating:
- 17 1.a. The title of the proceeding.
18 2.b. The name of the court in which the proceeding is instituted.
19 3.c. That the abatement order has been filed in the district court.
20 4.d. That the state fire marshal will apply to the court for a judgment enforcing the
21 terms of the abatement order.
22 5.e. That all persons interested in the premises described in the abatement order or in
23 the proceeding in the district court will be required to appear therein and state
24 any objections to the order, within twenty days after the date of service of the
25 notice upon them.
- 26 2. The notice must be subscribed by the ~~attorney general~~insurance commissioner who
27 shall appear for the state fire marshal in each such proceeding. Service must be made
28 in the same manner as a summons is required to be served in a civil action. Whenever
29 it appears that persons in addition to those served are necessary or proper parties to
30 the proceeding, the court may order such persons to be brought in by proper service
31 of the order and notice upon them.

1 **SECTION 6. AMENDMENT.** Section 18-01-35 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **18-01-35. Fire and tornado fund fees.**

4 The ~~attorney general~~insurance commissioner shall charge and collect fees for services
5 provided by the state fire marshal program to entities covered by the fire and tornado fund
6 under chapter 26.1-22. All fees collected under this section must be deposited in the ~~attorney-~~
7 ~~general's operating~~insurance regulatory trust fund.

8 **SECTION 7. AMENDMENT.** Section 18-01-36 of the North Dakota Century Code is
9 amended and reenacted as follows:

10 **18-01-36. Petroleum release compensation fund fees.**

11 The ~~attorney general~~insurance commissioner shall charge and collect fees for services
12 provided by the state fire marshal program to entities covered by the petroleum release
13 compensation fund under chapter 23-37. All fees collected under this section must be deposited
14 in the ~~attorney general's operating~~insurance regulatory trust fund.

15 **SECTION 8.** A new subsection to section 18-03-01.1 of the North Dakota Century Code is
16 created and enacted as follows:

17 Report quarterly to the state fire marshal.

18 **SECTION 9. AMENDMENT.** Section 18-03-04 of the North Dakota Century Code is
19 amended and reenacted as follows:

20 **18-03-04. Association to furnish bond.**

21 The North Dakota firefighter's association shall file with the ~~director of the office of~~
22 ~~management and budget~~the state fire marshal a bond in the penal sum of two thousand dollars
23 conditioned for the faithful disposition of the funds ~~appropriated by the legislative-~~
24 ~~assembly~~distributed from the insurance regulatory trust fund for the use of the association in
25 ~~conducting fire schools~~to carry out this chapter.

26 **SECTION 10. AMENDMENT.** Section 18-03-05 of the North Dakota Century Code is
27 amended and reenacted as follows:

28 **18-03-05. Statement of desired appropriation submitted to ~~office of the budget~~state**
29 **fire marshal.**

30 Not later than July first of each year next preceding a regular session of the legislative
31 assembly, the ~~director of the budget~~North Dakota firefighter's association shall send to the North-

1 ~~Dakota firefighter's association a suitable blank form to be filled out with~~ state fire marshal an
2 itemized statement of the amount of money necessary to promote the efficiency and growth of
3 the different fire departments and fire protection districts of the association and to ~~conduct the~~
4 ~~fire schools to be held~~ carry out this chapter during the succeeding biennium ~~under the direction~~
5 ~~of the association. The association shall return the blanks properly filled out as provided in~~
6 ~~section 54-44.1-04.~~

7 **SECTION 11. AMENDMENT.** Section 18-03-07 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **18-03-07. Office of management and budget insurance commissioner to pay sum**
10 **appropriated to association treasurer.**

11 Not later than the first day of August of each year, the ~~office of management and budget, by~~
12 ~~warrants prepared and issued by the office and signed by the state auditor,~~ insurance
13 commissioner shall pay to the ~~treasurer of the~~ North Dakota firefighter's association ~~the sum~~
14 ~~appropriated by the legislative assembly for that year~~ one million two hundred thousand dollars
15 from the insurance regulatory trust fund. The sum, however, may not be paid until the treasurer
16 of the association has filed the bond required in section 18-03-04.

17 **SECTION 12. AMENDMENT.** Section 18-04-04 of the North Dakota Century Code is
18 amended and reenacted as follows:

19 **18-04-04. Insurance companies to report fire, allied lines, homeowner's multiple peril,**
20 **farmowner's multiple peril, and commercial multiple peril, and crop hail insurance**
21 **premium collections - Form furnished by insurance commissioner.**

22 1. The insurance commissioner, when the commissioner forwards to an insurance
23 company which is issuing policies for fire, allied lines, homeowner's multiple peril,
24 farmowner's multiple peril, ~~and commercial multiple peril,~~ and crop hail insurance in
25 this state the form to be used in submitting its annual statement, shall forward a form
26 containing the names of all cities and all rural fire protection districts or rural fire
27 departments entitled to benefits under the provisions of this chapter. Every insurance
28 company issuing policies for fire, allied lines, homeowner's multiple peril, farmowner's
29 multiple peril, ~~and commercial multiple peril,~~ and crop hail insurance within this state
30 shall complete such form by showing on the form the amount of all premiums received
31 by the insurance company upon such policies issued on property within the corporate

1 limits of each city shown on the form and on property within the boundaries of each
2 rural fire protection district shown on the form or property within the boundaries of
3 each rural fire department as certified by the state fire marshal during the year ending
4 on the preceding thirty-first day of December and shall file the form as a part of the
5 insurance company's annual statement.

6 2. An insurance company failing to report fire, allied lines, homeowner's multiple peril,
7 farmowner's multiple peril, ~~and~~ commercial multiple peril, and crop hail insurance
8 premium collections on or before March first, on forms prescribed by the insurance
9 commissioner, is subject to the monetary penalties prescribed in section 26.1-03-11.

10 **SECTION 13. AMENDMENT.** Section 18-04-04.1 of the North Dakota Century Code is
11 amended and reenacted as follows:

12 **18-04-04.1. Insurance tax distribution fund.**

13 The insurance tax distribution fund is a special fund in the state treasury. The portion of
14 revenue provided in section 26.1-03-17 must be deposited in the fund for disbursement as
15 provided in this chapter and chapter 23-46, ~~subject to legislative appropriation.~~

16 **SECTION 14. AMENDMENT.** Section 18-04-05 of the North Dakota Century Code is
17 amended and reenacted as follows:

18 **18-04-05. Amount due cities, rural fire protection districts, or rural fire departments -**
19 **Transfer to firefighters death benefit fund - Disbursement to North Dakota firefighter's**
20 **association - Payments by insurance commissioner - Continuing appropriation.**

21 1. The insurance commissioner shall disburse funds in the insurance tax distribution fund
22 as provided under this section.

23 2. The insurance commissioner shall transfer an amount of up to fifty thousand dollars
24 per biennium, as may be necessary, to the firefighters death benefit fund for
25 distribution under chapter 18-05.1.

26 3. The insurance commissioner shall disburse funds to the North Dakota firefighter's
27 association for uses authorized under chapter 18-03, ~~subject to legislative~~
28 ~~appropriations.~~

29 4. The insurance commissioner shall compute the amounts due to the certified city fire
30 departments, certified rural fire departments, or certified fire protection districts entitled
31 to benefits under this chapter on or before December first of each year. ~~The insurance-~~

1 commissioner shall allocate one-half of the biennial legislative appropriation for
2 distribution under this subsection, to each eligible city not within a certified fire
3 protection district, each certified rural fire protection district organized under this title,
4 and each rural fire department certified by the state fire marshal, and pay the amount
5 allocated in December of each year. The allocation must be made in proportion to the
6 amount of insurance company premiums received by insurance companies pursuant
7 to section 26.1-03-17 for policies for fire, allied lines, homeowner's multiple peril,
8 farmowner's multiple peril, commercial multiple peril, and crop hail insurance the lines
9 of insurance identified under section 18-04-04 on property within the city, certified rural
10 fire protection district, or area served by the certified rural fire department to the total
11 of those premiums for those policies in the state.

12 5. Annually, the insurance commissioner shall determine the amount of insurance
13 premium taxes collected from the insurance lines identified in section 18-04-04 to the
14 certified city fire departments, certified rural fire departments, and certified fire
15 protection districts. Moneys authorized for disbursement under this section are
16 appropriated from the insurance tax distribution fund to the insurance commissioner
17 on a continuing basis for the purpose of this section.

18 **SECTION 15. AMENDMENT.** Subsection 1 of section 18-13-01 of the North Dakota Century
19 Code is amended and reenacted as follows:

20 1. "Agent" means any person authorized by the ~~attorney general~~ insurance commissioner
21 to purchase or sell packages of cigarettes.

22 **SECTION 16. AMENDMENT.** Subsection 4 of section 18-13-02 of the North Dakota Century
23 Code is amended and reenacted as follows:

24 4. Each manufacturer shall maintain copies of the reports of all tests conducted on all
25 cigarettes offered for sale for a period of three years, and shall make copies of these
26 reports available to the state fire marshal and the ~~attorney general~~ insurance
27 commissioner upon written request. Any manufacturer who fails to make copies of
28 these reports available within sixty days of receiving a written request is subject to a
29 civil penalty not to exceed ten thousand dollars for each day after the sixtieth day that
30 the manufacturer does not make those copies available.

1 **SECTION 17. AMENDMENT.** Subsection 3 of section 18-13-03 of the North Dakota Century
2 Code is amended and reenacted as follows:

3 3. The certifications must be made available to the ~~attorney general~~insurance
4 commissioner for purposes consistent with this chapter and the state tax
5 commissioner for the purposes of ensuring compliance with this section.

6 **SECTION 18. AMENDMENT.** Subsection 6 of section 18-13-04 of the North Dakota Century
7 Code is amended and reenacted as follows:

8 6. A manufacturer certifying cigarettes in accordance with section 18-13-03 shall provide
9 a copy of the certifications to every wholesale dealer and agent to which the
10 manufacturer sells cigarettes, and shall provide sufficient copies of an illustration of
11 the package marking utilized by the manufacturer under this section for each retail
12 dealer to which the wholesale dealer or agent sells cigarettes. A wholesale dealer and
13 agent shall provide a copy of these package markings received from the manufacturer
14 to all retail dealers to which they sell cigarettes. Wholesale dealers, agents, and retail
15 dealers shall permit the state fire marshal, the tax commissioner, the ~~attorney-~~
16 ~~general~~insurance commissioner, and their employees to inspect markings of cigarette
17 packaging marked under this section.

18 **SECTION 19. AMENDMENT.** Subsection 6 of section 18-13-05 of the North Dakota Century
19 Code is amended and reenacted as follows:

20 6. In addition to any other remedy provided by law, the state fire marshal or ~~attorney-~~
21 ~~general~~insurance commissioner may file an action in district court for a violation of this
22 chapter, including petitioning for:
23 a. Preliminary or permanent injunctive relief against any manufacturer, importer,
24 wholesale dealer, retail dealer, agent, or any other person to enjoin the person
25 from selling or offering to sell any cigarette that does not comply with the
26 requirements of this chapter; or
27 b. To recover any costs or damages suffered by the state because of a violation of
28 this chapter, including enforcement costs relating to the specific violation and
29 attorney's fees.

30 **SECTION 20. AMENDMENT.** Subsection 7 of section 18-13-05 of the North Dakota Century
31 Code is amended and reenacted as follows:

1 7. Each violation of this chapter or of rules adopted to implement this chapter constitutes
2 a separate civil violation for which the state fire marshal or ~~attorney general~~insurance
3 commissioner may obtain relief.

4 **SECTION 21. AMENDMENT.** Section 18-13-07 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **18-13-07. Inspection. (Contingent expiration date - [See note](#))**

7 The ~~attorney general~~insurance commissioner and the state fire marshal may examine the
8 books, papers, invoices, and other records of any person in possession, control, or occupancy
9 of any premises where cigarettes are placed, stored, sold, or offered for sale, as well as the
10 stock of cigarettes on the premises. Every person in the possession, control, or occupancy of
11 any premises where cigarettes are placed, sold, or offered for sale shall give the ~~attorney-~~
12 ~~general~~insurance commissioner and the state fire marshal the means, facilities, and opportunity
13 for the examinations authorized by this section.

14 **SECTION 22.** A new subsection to section 26.1-01-03 of the North Dakota Century Code is
15 created and enacted as follows:

16 Manage, control, and supervise the state fire marshal.

17 **SECTION 23.** A new subdivision to subsection 1 of section 26.1-01-07 of the North Dakota
18 Century Code is created and enacted as follows:

19 For services provided by the state fire marshal.

20 **SECTION 24. AMENDMENT.** Subsection 1 of section 26.1-03-17 of the North Dakota
21 Century Code is amended and reenacted as follows:

22 1. Before issuing the annual certificate required by law, the commissioner shall collect
23 from every stock and mutual insurance company, nonprofit health service corporation,
24 health maintenance organization, and prepaid legal service organization, except
25 fraternal benefit and benevolent societies, doing business in this state, a tax on the
26 gross amount of premiums, assessments, membership fees, subscriber fees, policy
27 fees, service fees collected by any third-party administrator providing administrative
28 services to a group that is self-insured for health care benefits, and finance and
29 service charges received in this state during the preceding calendar year, at the rate of
30 two percent with respect to life insurance, one and three-fourths percent with respect
31 to accident and health insurance, and one and three-fourths percent with respect to all

1 other lines of insurance. This tax does not apply to considerations for annuities. The
2 total tax is payable on or before March first following the year for which the tax is
3 assessable. If the due date falls on a Saturday or legal holiday, the tax is payable on
4 the next succeeding business day. Collections from this tax must be deposited in the
5 insurance tax distribution fund under ~~section~~sections 18-04-04.1 ~~but not in an amount~~
6 ~~exceeding one-half of the biennial amount appropriated for distribution under~~
7 ~~section~~and 18-04-05 ~~and chapter 23-46 in any fiscal year~~. Collections from this tax
8 exceeding the sum of the amount deposited in the insurance tax distribution fund must
9 be deposited in the general fund in the state treasury.