

PROPOSED AMENDMENTS TO

SENATE BILL NO. 2090

Introduced by

State and Local Government Committee

(At the request of the Insurance Commissioner)

1 A BILL for an Act to amend and reenact section 18-01-02, subsection 1 of section 18-01-03.1,
2 sections 18-01-06, 18-01-07, 23-15-04, and 54-12-01 of the North Dakota Century Code,
3 relating to updating language for the state fire marshal department and to the attorney general's
4 authority to appoint the state fire marshal; to repeal sections 18-01-35 and 18-01-36 of the
5 North Dakota Century Code, relating to fund fees collected by the state fire marshal
6 department; and to provide for a retroactive application.

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

8 **SECTION 1. AMENDMENT.** Section 18-01-02 of the North Dakota Century Code is
9 amended and reenacted as follows:

10 **18-01-02. Duties of state fire marshal and deputy state fire marshals.**

11 The state fire marshal and deputy state fire marshals may enforce all the laws of the state
12 providing for:

- 13 1. The prevention of fires.
- 14 2. The storage, sale, and use of combustibles ~~and~~, explosives, and fireworks, ~~and~~.
- 15 3. The fire and life safety code compliance of hazardous materials.
- 16 ~~3.4.~~ The installation and maintenance of automatic or other fire alarms and fire-
17 extinguishing equipment fire protection and life safety systems.
- 18 ~~4.5.~~ The means and adequacy of exits in case of fires fire and life safety code compliance
19 from ~~of~~ all public and private elementary and secondary schools, from all public places,

1 and from all other places in which fifty or more persons congregate from time to time
2 for any purpose.

3 ~~5.6.~~ The suppression of arson and the investigation of the ~~cause and origin~~ and cause of
4 fires and explosions.

5 ~~6.7.~~ The education of the citizens of North Dakota through organized programs on the
6 hazards of fire.

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

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

16 **SECTION 3. AMENDMENT.** Section 18-01-06 of the North Dakota Century Code is
17 amended and reenacted as follows:

18 **18-01-06. Fire chiefs and auditors or secretaries of cities and rural fire protection**
19 **districts must report fires.**

20 Within thirty days after the occurrence of any fire in which property in a city or rural fire
21 protection district has been destroyed or damaged, an organization that is contracted by a
22 political subdivision for fire protection or the fire chief of such city or rural fire protection district,
23 if a fire department is maintained therein, or the auditor of the city or the secretary of the rural
24 fire protection district, if a fire department is not maintained therein, shall report the cause, if
25 known, and the origin and circumstances of the fire and the name of the owner and occupant of
26 such property, to the state fire marshal. Reports shall be submitted in a form compliant and
27 compatible with the national fire incident reporting requirements emergency response
28 information system, or in a manner prescribed by the state fire marshal. Such report must show
29 whether such fire was the result of carelessness, accident, or design. The provisions of this
30 section must be complied with, insofar as the same are applicable, if the fire is of unknown
31 origin, regardless of the amount of damage caused thereby.

1 **SECTION 4. AMENDMENT.** Section 18-01-07 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **18-01-07. State fire marshal may direct investigation - Report of investigation -**
4 **Records in state fire marshal's office.**

5 An investigation of each fire must be made by the officers required to report the occurrence
6 of fires under section 18-01-06. ~~The state fire marshal shall furnish blanks upon which reports of~~
7 ~~investigations of fires must be submitted and, when~~When the state fire marshal deems it
8 expedient or necessary, the state fire marshal may supervise and direct any of such
9 investigations. Within ~~one week~~thirty days after the occurrence of a fire, the officer investigating
10 it shall furnish to the state fire marshal a written report containing a statement of the facts
11 relating to the ~~cause and origin~~ and cause of the fire and such other information as the state fire
12 marshal may require. The state fire marshal shall ~~keep in the state fire marshal's office~~have
13 access to a record of all fires ~~occurring~~reported in the state together with the facts,
14 circumstances, and statistics in connection therewith and showing the origin of such fires as the
15 same may be determined from the reports ~~filed in the state fire marshal's office.~~

16 **SECTION 5. AMENDMENT.** Section 23-15-04 of the North Dakota Century Code is
17 amended and reenacted as follows:

18 **23-15-04. Exceptions.**

- 19 1. This chapter does not prohibit:
- 20 a. A licensed wholesaler, dealer, or jobber from selling at wholesale fireworks that
 - 21 are not prohibited.
 - 22 b. The sale of any kind of fireworks for shipment directly out of the state.
 - 23 c. The use of fireworks by transportation agencies for signal purposes or
 - 24 illumination.
 - 25 d. The sale or use of blank cartridges for a show or theater, for signal or ceremonial
 - 26 purposes in athletics or sports, or for use by military organizations.
- 27 2. An application for a license as distributor must be made to the state fire marshal on
28 forms prescribed by the state fire marshal. An application for a license as a retailer
29 must be made to the county sheriff on forms prescribed by the state fire marshal. Each
30 application must be accompanied by the required fee, which must be two hundred fifty
31 dollars for a distributor's license and twenty dollars for a retailer's license. Fees for

1 distributors' licenses must be deposited in the general fund insurance regulatory trust
2 fund in the state treasury and fees for retailers' licenses must be deposited in the
3 county general fund. The license is valid only for the calendar year in which issued
4 and must at all times be displayed at the place of business of the licensee. The
5 licenses are in addition to any other license required by law or municipal ordinance.
6 The licensing provisions of this section do not apply to a retailer who is required to
7 become licensed by any municipality. Any license fee levied by a municipality must be
8 deposited in the municipality's general fund.

- 9 3. A person not licensed as a wholesaler or retailer may not bring any fireworks into this
10 state, and a retailer may not sell any fireworks that have not been purchased from a
11 wholesaler licensed under this chapter. A person licensed under this chapter shall
12 keep available for inspection by the state fire marshal or any sheriff, police officer, or
13 local fire marshal a copy of each invoice for fireworks purchased as long as any
14 fireworks included on the invoice are held in the licensee's possession, which invoice
15 must show the license number of the wholesaler from whom the purchase was made.

16 **SECTION 6. AMENDMENT.** Section 54-12-01 of the North Dakota Century Code is
17 amended and reenacted as follows:

18 **54-12-01. Attorney general - Duties.**

19 The attorney general shall:

- 20 1. Appear for and represent the state before the supreme court in all cases in which the
21 state is interested as a party.
- 22 2. Institute and prosecute all actions and proceedings in favor or for the use of the state
23 which may be necessary in the execution of the duties of any state officer.
- 24 3. Appear and defend all actions and proceedings against any state officer in the
25 attorney general's official capacity in any of the courts of this state or of the United
26 States. If both parties to an action are state officers, the attorney general may
27 determine which officer the attorney general will represent and the other officer may
28 employ counsel to represent that other officer.
- 29 4. Consult with and advise the several state's attorneys in matters relating to the duties
30 of their office.

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- 1 5. Attend the trial of any party accused of crime and assist in the prosecution when in the
2 attorney general's judgment the interests of the state require it.
- 3 6. Consult with and advise the governor and all other state officers and when requested
4 give written opinions on all legal or constitutional questions relating to the duties of
5 such officers respectively.
- 6 7. Prepare, when necessary, proper drafts for contracts and other writings relating to
7 subjects in which the state is interested.
- 8 8. a. Give written opinions, when requested by a member of the legislative assembly,
9 upon legal questions unless the request:
 - 10 (1) Requires the attorney general to make a factual determination;
 - 11 (2) Involves the constitutionality of a statute;
 - 12 (3) Concerns the internal operation or management of the judicial branch of
13 government;
 - 14 (4) Is likely to be or presently is pending before a court or a court has ruled on
15 the issue;
 - 16 (5) Provides private legal advice; or
 - 17 (6) Involves matters regarding whether a criminal offense has occurred.
- 18 b. If the attorney general declines to issue an opinion for a reason in subdivision a,
19 the attorney general shall inform the individual who requested the opinion in a
20 written response within sixty days of the request.
- 21 9. Enforce the proper application of funds appropriated to the public institutions of the
22 state and prosecute breaches of trust in the administration of such funds.
- 23 10. Prosecute corporations and limited liability companies, when necessary, for failure or
24 refusal to make the reports required by law.
- 25 11. Keep in proper books a register of all cases prosecuted or defended by the attorney
26 general or the attorney general's assistants, in behalf of this state or its officers, and of
27 all proceedings had in relation thereto, including a record of all actions wherein the
28 state is a party, or is interested, prosecuted by the state's attorneys of the several
29 counties and reported to the attorney general as provided by law, and deliver the same
30 to the attorney general's successor in office.

- 1 12. Keep in the attorney general's office a book in which the attorney general shall record
2 all the official opinions given by the attorney general during the attorney general's term
3 of office, such book to be delivered by the attorney general to the attorney general's
4 successor in office.
- 5 13. Pay into the state treasury all moneys received by the attorney general for the use of
6 the state.
- 7 14. Serve as superintendent of the bureau of criminal investigation and perform all duties
8 incident to the proper and efficient conduct of that office.
- 9 15. Attend to and perform any other duties which from time to time may be required by
10 law.
- 11 16. ~~Appoint the state fire marshal and supervise the operation of the state fire marshal~~
12 ~~department.~~
- 13 17. Give written opinions, when requested by the governing body or city attorney of a city
14 in the state of North Dakota.
- 15 ~~17.~~ 17. Repealed by S.L. 1991, ch. 637, § 9.
- 16 ~~18.~~ 18. Give written opinions to public entities as defined in subdivision a or b of subsection 13
17 of section 44-04-17.1, when requested by an interested person under section
18 44-04-21.1.

19 **SECTION 7. REPEAL.** Sections 18-01-35 and 18-01-36 of the North Dakota Century Code
20 are repealed.

21 **SECTION 8. RETROACTIVE APPLICATION.** Section 6 of this Act applies retroactively to
22 cases arising after July 31, 2023.