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# FIRE MARSHAL

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## CHAPTER 169.

[S. B. No. 223—Heckle.]

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### FIRE MARSHAL DEPARTMENT.

AN ACT to Provide for the Creation of a Fire Marshal Department Under The Management of the Commissioner of Insurance, for the Better Protection and Preservation of Life and Property from Fire. For the Appointment of a Fire Marshal and Chief Assistant Marshal. Defining Their Duties and Powers. Providing Penalty for the Violation Thereof and Means for the Enforcement of the Provisions of this Act and to Provide for a Tax upon Mutual Fire Insurance Companies Therefor.

*Be it Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. That there be added to the duties of the Commissioner of Insurance the additional duties created by this act. The Governor shall appoint a fire marshal and a chief assistant fire marshal, who shall be under the management of the Commissioner of Insurance, said appointments to be made within sixty days after the passing of this act, and who shall hold office for the term of two years, and shall be removed for cause only, and until their successors are appointed and qualified. The Commissioner of Insurance shall appoint one clerk who shall act as deputy assistant fire marshal. The fire marshal and chief assistant shall give a bond to the State of North Dakota in the penal sum of five thousand dollars (\$5,000) each, conditioned upon the faithful discharge of his duties. The fire marshal, the chief assistant fire marshal, and the deputy shall take and subscribe and file in the office of the Secretary of State the constitutional oath within fifteen days from the time of their appointment respectively.

§ 2. It shall be the duty of the fire marshal and assistant to enforce all laws of the state in respect to fires as follows:

- (a) Prevention of fires.
- (b) The storage, sale and use of combustibles and explosives.
- (c) The installation and maintenance of automatic or other fire alarms and fire extinguishing equipment.
- (d) The means and adequacy of exits in case of fires from churches, schools, halls, theaters, amphitheatres and all other places in which numbers of persons congregate from time to time for any purpose.

(e) The suppression of arson and investigation of the cause, origin and circumstances in connection with fires.

(f) The fire marshal and chief assistant fire marshal shall have such other powers and perform such other duties as are set forth in other sections of this act, and as may be conferred and imposed from time to time by law.

§ 3. The duty of the chief assistant fire marshal shall be to assist the fire marshal and in the event of a vacancy in the office of fire marshal, or during the absence or disability of that officer the chief assistant fire marshal shall assume the duties of the office of fire marshal.

§ 4. (a) The chief of the fire department of every city or village in which a fire department is established, and the mayor of every incorporated city in which no fire department exists, and the president of the village board of every incorporated village in which no fire department exists, and the above named officers shall report the cause, origin and circumstances of every fire occurring in such city or village by which property has been destroyed or damaged, when the damage exceeds the sum of twenty-five dollars (\$25.00), except that all fires of unknown origin shall be reported, and shall especially make a report as to whether such fire was the result of carelessness, accident or design.

(b) Such report shall be made within five days after the occurrence of such fire, and the fire marshal shall have the right to supervise and direct such investigation whenever he deems it expedient or necessary.

(c) The officer making reports or investigation of fires occurring in cities or villages shall forthwith notify the fire marshal and shall within one week after the occurrence of the fire furnish to the fire marshal a written statement of all the facts relating to the cause and origin of the fire, and such further information as may be called for by the blanks furnished by said fire marshal. The state fire marshal shall keep in his office a record of all fires occurring in the state, together with the facts, statistics and circumstances in connection with said fires, including the origin of the fire, which may be determined by the reports or investigations provided by this act and such statistics shall at all times be open for public inspection.

§ 5. The fire marshal shall, when, in his opinion, further investigation is necessary, take or cause to be taken the testimony, under oath, of all persons supposed to be cognizant of any facts, or to have any means of knowledge in relation to the matter as to which an examination is herein required to be made, and shall cause the same to be reduced to writing, and if he shall be of the opinion that there is evidence

sufficient to charge any person with the crime of arson he shall cause said person to be arrested and charged with such an offense, and shall furnish to the proper prosecuting attorney all such evidence together with a copy of all names of witnesses and all the information obtained by him, including a copy of all pertinent and material testimony taken in the case, and shall keep a record of the proceedings and progress made in all such prosecutions for arson, and the result of all cases finally disposed of.

(a) The fire marshal and chief assistant fire marshal shall each have the power in any county in the state of North Dakota to summon and compel the attendance of witnesses before them or either of them to testify in relation to any matter which is, by the provisions of this act, a subject of inquiry and investigation, and may require the production of any books, papers or documents being pertinent thereto or deemed by them or either of them to be so, and such summons shall be served in the same manner and have the same effect as subpoenas in district court. All witnesses shall receive the same compensation as is paid to witnesses in the district court, which shall be paid out of the fire marshal's fund upon the voucher signed by the state fire marshal or chief assistant fire marshal before whom any witnesses shall have attended, and approved by the state auditing board, and such officers shall at the close of such investigation, wherein such witness or witnesses were subpoenaed, certify to the attendance and the mileage of such witnesses, which certificate shall be filed in the office of the fire marshal, and all investigations held by or under the direction of the state fire marshal or his subordinates.

(b) Said fire marshal, chief assistant fire marshal are hereby authorized and empowered to administer oaths and affirmations to any person appearing as a witness before them, and false swearing in any matter or proceeding aforesaid shall be deemed perjury, and shall be punished as such.

(c) Any witness who refuses to be sworn, or who refuses to testify, or who disobeys any lawful order of the fire marshal or chief assistant fire marshal in relation to such investigation, or who fails or refuses to produce any paper, book or document touching any matter under examination, or who is guilty of any contemptuous conduct after being summoned to appear before them to give testimony in relation to any matter or subject under investigation or examination, as aforesaid, may be summarily punished by the said state fire marshal, chief assistant fire marshal, as for contempt by a fine for a sum not exceeding one hundred dollars, or be committed to the county jail until such time such person may be willing to comply with any reasonable

order made by the said state fire marshal, or chief assistant fire marshal, as provided in this act, and subject to punishment as provided by law.

§ 6. If the fire marshal, chief assistant fire marshal, or any other officer mentioned in the preceding sections upon an examination or inspections finds a building or other structure, which, for want of proper repair by reason of age and delapidated condition, defective or poorly installed electric wiring, or equipment, defective chimneys, defective gas connections, defective apparatus, or for any other cause or reason, is especially liable to fire, and which building or structure is so situated as to endanger other buildings or property such officer shall order such buildings to be repaired, torn down, demolished, materials removed, and all dangerous conditions remedied and abated. If such officer finds in a building or upon any premises any combustible or explosive material, rubbish, rags, waste, oils, gasoline, or inflammable conditions of any kind, dangerous to the safety of such buildings or property he shall order such material removed and such dangerous conditions remedied and abated. Such order shall be made against and served personally, or by registered letter, upon the owner, lessee, agent, or occupant of such buildings or premises, and thereupon such order shall be complied with by the owner, lessee, agent, or occupant within the time fixed in such order. Any person who shall interfere in any way with the fire marshal, chief assistant fire marshal in the performance of their duties shall be guilty of a misdemeanor.

§ 7 If the fire marshal or chief assistant fire marshal shall find on any premises or in any building conditions that are a menace and dangerous to the safety of life and limb of the occupant of said building or adjacent buildings they are empowered to issue the necessary order for removal or correction of the dangerous conditions forthwith, and any owner, agent, or occupant of said premises upon whom said order is issued failing to comply with said order within the time specified shall be guilty of a misdemeanor.

§ 8. If the owner, lessee, agent, or occupant deems himself aggrieved by an order of an officer under the preceding section and desires a hearing he may complain or appeal, in writing, to the fire marshal within five days from the service of the order, and the fire marshal shall at once investigate said complaint, and he shall fix a time and place not less than five days nor more than ten days thereafter when and where said complaint will be heard by the fire marshal, and the fire marshal at said hearing may affirm,

modify, revoke, or vacate said order, and unless said order is revoked, modified or vacated by the fire marshal it shall remain in force and be complied with by such owner, lessee, agent or occupant within the time fixed in said order, or within such time as may be fixed by the fire marshal at said hearing.

§ 9. If a person is aggrieved by the final order of the fire marshal, as made at the hearing provided for in the preceding section, such person may, within five days thereafter, appeal to the district court in the county in which the property is situated, notifying the fire marshal of such appeal within three days thereafter, which notice shall be in writing, and delivered personally to the fire marshal or left at his principal office in the city of Bismarck. The party so appealing shall within two days thereafter file with the clerk of the district court in which appeal is made a bond in an amount to be fixed by the judge of the judicial district in which the property is situated, but in no case less than one hundred dollars (\$100) with at least two sufficient sureties, to be approved by said court, conditioned to pay all the costs of the appeal in case the appellant fails to sustain the same, or the appeal be dismissed for any cause. The district court shall hear and determine the appeal within ten days, or as soon thereafter as possible, from the date of the filing of the same at any place in the judicial district to be designated by the judge of said court. The fire marshal shall make a complete transcript of the proceedings had before him and certify the same together with all the original papers filed in his office, and transmit them to the district court at least three days prior to the date of hearing as fixed by the court. In case the decision is against the appellant, or for any cause the appeal be dismissed, judgment for the costs shall be ordered against the appellant.

§ 10. If the owner of such premises is not a resident of the state of North Dakota, and if such premises are vacant and are unoccupied, or if the owner of such premises has no known address then such notice shall be served by a three weeks' publication thereof in a legal newspaper published in the county in which said premises are situated, and such notice shall be deemed to have been served upon such owner upon the last day of the publication of such notice.

§ 11. Every fire insurance company authorized to transact business in this state is hereby required to report to the state fire marshal, through the secretary or other officer of the company designated by the board of directors for that purpose, all fire losses on property insured in any such companies, giving date of fire, the amount of probable loss,

the character of the property lost or destroyed, and the supposed cause of the fire together with the amount of insurance carried by such company. Such report shall be mailed to the fire marshal within three days after the notice of loss received by such company. Each company is hereby also required to report the amount of loss as adjusted on each fire after adjustment is made. Such report shall be in addition to, and not in lieu of, any reports such company may be required to make by any law of this state to the Commissioner of Insurance.

§ 12. Any officer referred to in this act, who neglects to comply with any of the requirements of this act, shall, upon conviction, be punished by a fine of not less than twenty-five dollars (\$25) nor more than one hundred dollars (\$100) dollars for each neglect or violation.

§ 13. The fire marshal shall receive an annual salary of twenty-five hundred dollars (\$2,500). The chief assistant fire marshal shall receive an annual salary of eighteen hundred dollars (\$1,800). The fire marshal, chief assistant fire marshal, and all other employees of the state fire marshal's office shall receive their compensation monthly. All officers who shall perform any service at the request of the fire marshal, chief assistant fire marshal, shall receive the same fees as officers in district court, and such fees shall be paid out of the fire marshal's fund as witnesses testifying under this act.

§ 14. The Commissioner of Insurance shall employ clerks and assistants and incur such other expenses as may be necessary for the fire marshal and chief assistant fire marshal in the performance of their duties, including necessary traveling expenses, not to exceed, including salaries, such sums as may be paid into the state treasury in the manner hereafter provided. Provided that no clerk or assistant shall be appointed, except as expressly provided for in this act, until the necessity for such appointment shall first be passed upon by the Governor and approved by him.

§ 15. The Commissioner of Insurance and the fire marshal shall make rules for the prevention of fires, and such rules shall be fully explained to all state, county and city boards and officers by the fire marshal or his assistants. All such rules shall be posted in such conspicuous places as will tend to be of the greatest benefit to the residents of the state, and when called upon the fire marshal, or one of his assistants, shall appear before such boards and explain the benefits derived by the compliance with such rules and regulations in the reduction of the hazardous conditions and the reduction in loss by fire.

§ 16. For the purpose of maintaining the department of

the fire marshal and paying the expenses incident thereto every mutual and domestic fire insurance company doing business in the state of North Dakota (excepting therefrom county mutual insurance companies) shall hereafter pay to the Commissioner of Insurance on or before April 1, 1913, and annually thereafter a tax upon its fire premiums or assessments, or both, as follows: A sum equal to one-half of one per cent ( $\frac{1}{2}$  per cent) of the gross premiums and assessments less return premiums on all direct business received by it in this state, or by its agents for it, in cash or otherwise, and during the preceding calendar year.

Provided, however, that if the amount so raised be not sufficient to maintain the office of fire marshal, as herein provided, that the balance so required to support said office, as herein stated, shall be paid out of the two and one-half per cent tax now paid by foreign companies in this state.

Provided, further, that this act shall in no way affect the tax due March 31, 1913, and the payment thereof. The money so received into the state treasury shall be set aside as a special fund, and is hereby appropriated for the maintenance of such office of state fire marshal, and the expenses incident thereto. The state shall not be liable in any manner for the salary of said fire marshal, chief assistant fire marshal, or his subordinates, for the maintenance of the office of fire marshal, or any expense incident thereto, and the same shall be payable only from the special fund provided for in this section, and from the two and one-half per cent tax provided in this section, and the allowance for expenses as provided in this act shall be paid out only on an itemized statement, verified by oath, with receipted bills attached.

§ 17. The fire marshal shall keep on file in his office an itemized statement of all expenses incurred by his department, and shall approve all vouchers issued therefor before the same are submitted to the State Auditor for payment, which said vouchers shall be allowed and paid in the same manner as other claims against the state.

§ 18. All records on file in the fire marshal's department shall be public, except testimony, correspondence or other matter taken in any investigation under the provisions of this act, which the fire marshal, in his discretion, may withhold from the public.

§ 19. The state's attorney of any county, upon the request of the fire marshal, his deputies, or assistants, shall assist such officers upon an investigation of any fire which, in their opinion, is of suspicious origin.

§ 20. All penalties, fees or forfeitures collected under the provisions of this act shall be paid into the treasury of the state for the benefit of the fire marshal's fund.

§ 21. The fire marshal shall submit annually as early as consistent with full and accurate preparation, and not later than the 15th day of October of each year a detailed report of his official actions to the Governor.

§ 22. There shall be paid to the chiefs of fire departments and mayors of cities, who do not receive to exceed fifty dollars (\$50) annually as compensation for their services as such chiefs and mayors, and to the presidents of village boards, who are by this act required to report fires to the fire marshal, the sum of one dollar and fifty cents (\$1.50) for each fire reported to the satisfaction of the fire marshal. Said allowance shall be paid by the fire marshal at the close of each fiscal year out of any funds appropriated as heretofore provided for the use of the office of said fire marshal.

§ 23. All chiefs of departments, who receive a stated salary and devote their entire time to the duties of chiefs of departments, and the mayors of cities, who receive a stated salary exceeding fifty dollars (\$50.00) as such officers, shall be precluded from receiving any extra allowance for the report herein mentioned.

§ 24. All acts or parts of acts inconsistent with this act are hereby repealed.

§ 25. EMERGENCY.] Whereas, an emergency does now exist in that we have no law governing the office of fire marshal, therefore, this act shall take effect and be in force from and after its passage and approval.

Approved March 10, 1913.