

HOUSE BILL NO. 620

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Bill Status

H0620.....by STATE AFFAIRS
STATE FIRE MARSHAL - Amends existing law relating to the State Fire Marshal to provide for the application of the International Fire Code and rules by assistants to the State Fire Marshal when undertaking enforcement actions; to provide for the establishment of uniform training provisions for assistants; to provide for a local appeal procedure; to provide for appeals from local appeal decisions; and to provide penalties.

03/11 House intro - 1st rdg - to printing

03/12 Rpt prt - to Bus

03/14 Rpt out - rec d/p - to 2nd rdg

03/17 2nd rdg - to 3rd rdg

03/18 3rd rdg - PASSED - 66-1-3

AYES -- Anderson, Andrus, Barrett, Bayer, Bedke, Bell, Bilbao, Black, Block, Bock, Boe, Bolz, Bowers, Brackett, Chadderdon, Chavez, Chew, Clark, Collins, Crane, Durst, Eskridge, Hagedorn, Hart, Henbest, Henderson, Jaquet, Killen, King, Kren, Labrador, Lake, LeFavour, Loertscher, Luker, Marriott, Mathews, McGeachin, Mortimer, Nielsen, Nonini, Pasley-Stuart, Patrick, Pence, Ringo, Roberts, Ruchti, Rusche, Saylor, Schaefer, Shepherd(02), Shepherd(08), Shirley, Shively, Smith(30), Smith(24), Snodgrass, Stevenson, Thayn, Thomas, Trail, Vander Woude, Wills, Wood(27), Wood(35), Mr. Speaker

NAYS -- Harwood

Absent and excused -- Bradford, Moyle, Raybould

Floor Sponsor - Henderson

Title apvd - to Senate

03/19 Senate intro - 1st rdg - to Com/HuRes

03/26 Rpt out - rec d/p - to 2nd rdg

03/27 2nd rdg - to 3rd rdg

Rls susp - PASSED - 35-0-0

AYES -- Andreason, Bair, Bastian, Bilyeu, Broadsword, Burkett, Cameron, Coiner, Corder, Darrington, Davis, Fulcher, Gannon(Gannon), Geddes, Goedde, Hammond, Heinrich, Hill, Jorgenson, Kelly, Keough, Langhorst, Little, Lodge, Malepeai(Sagness), McGee, McKague, McKenzie, Pearce, Richardson, Schroeder, Siddoway, Stegner, Stennett, Werk

NAYS -- None

Absent and excused -- None

Floor Sponsor - Davis

Title apvd - to House

03/28 To enrol - Rpt enrol - Sp signed

03/31 Pres signed
04/01 To Governor

Bill Text

]]]] LEGISLATURE OF THE STATE OF IDAHO]]]]
Fifty-ninth Legislature Second Regular Session - 2008

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 620

BY STATE AFFAIRS COMMITTEE

1 AN ACT
2 RELATING TO THE STATE FIRE MARSHAL; AMENDING SECTION 41-253, IDAHO CODE, TO
3 PROVIDE FOR THE APPLICATION OF THE INTERNATIONAL FIRE CODE AND CERTAIN
4 RULES BY ASSISTANTS TO THE STATE FIRE MARSHAL WHEN UNDERTAKING ENFORCEMENT
5 ACTIONS; AMENDING SECTION 41-255, IDAHO CODE, TO PROVIDE FOR THE ESTAB-
6 LISHMENT BY RULE OF UNIFORM TRAINING PROVISIONS FOR ASSISTANTS AND TO MAKE
7 TECHNICAL CORRECTIONS; AMENDING SECTION 41-256, IDAHO CODE, TO PROVIDE FOR
8 A LOCAL APPEAL PROCEDURE, TO PROVIDE FOR NOTICE OF LOCAL APPEAL PROCEDURE,
9 TO MAKE A TECHNICAL CORRECTION AND TO PROVIDE CORRECT TERMINOLOGY; AMEND-
10 ING SECTION 41-259, IDAHO CODE, TO PROVIDE FOR ORDERS OF REMEDY OR REMOVAL
11 BASED UPON VIOLATION OF THE INTERNATIONAL FIRE CODE; AMENDING SECTION
12 41-260, IDAHO CODE, TO REVISE PROVISIONS RELATING TO APPEALS FROM ORDERS
13 OF REMEDY OR REMOVAL AND TO PROVIDE FOR APPEALS FROM LOCAL APPEAL DECI-
14 SIONS; AMENDING SECTION 41-261, IDAHO CODE, TO REVISE PROVISIONS RELATING
15 TO PENALTIES ASSOCIATED WITH FAILING TO COMPLY WITH ORDERS OF REMEDY OR
16 REMOVAL, TO PROVIDE FOR PENALTIES RELATING TO FAILURE TO COMPLY WITH LOCAL
17 DECISIONS OR LOCAL APPEAL DECISIONS AND TO PROVIDE FOR THE AWARD OF REA-
18 SONABLE ATTORNEY'S FEES AND COSTS TO CERTAIN PARTIES; AMENDING SECTION
19 41-262, IDAHO CODE, TO AUTHORIZE THE STATE FIRE MARSHAL AND ASSISTANTS TO
20 TAKE SPECIFIED ACTION IN THE EVENT A PERSON FAILS TO COMPLY WITH CERTAIN
21 ORDERS AND TO MAKE A TECHNICAL CORRECTION; AND AMENDING SECTION 41-263,
22 IDAHO CODE, TO PROVIDE FOR THE FAILURE TO PAY CERTAIN EXPENSES TO THE
23 STATE FIRE MARSHAL'S OFFICE OR FIRE DISTRICT, TO PROVIDE FOR THE CERTIFI-
24 CATION OF EXPENSES BY THE STATE FIRE MARSHAL OR HIS ASSISTANTS AND TO PRO-
25 VIDE FOR REFUNDS OF CERTAIN EXPENSES TO THE STATE FIRE MARSHAL OR FIRE
26 DISTRICT.

27 Be It Enacted by the Legislature of the State of Idaho:

28 SECTION 1. That Section 41-253, Idaho Code, be, and the same is hereby
29 amended to read as follows:

30 41-253. STATEMENT OF PURPOSE -- ADOPTION OF INTERNATIONAL FIRE CODE. (1)
31 The purpose of sections 41-253 through 41-269, Idaho Code, is to protect human
32 life from fire, and to prevent fires. These sections are intended to prescribe
33 regulations consistent with nationally recognized good practice for the safe-
34 guarding of life and property from hazards of fire and explosion arising from
35 the storage, handling and use of hazardous substances, materials, and devices,
36 and from conditions hazardous to life or property in the use or occupancy of
37 buildings or premises, and there is hereby adopted the "International Fire
38 Code," 2000 edition, with appendices thereto, published by the International

39 Code Council, Inc. and such later editions as may be so published and adopted
40 by the state fire marshal, as the minimum standards for the protection of life
41 and property from fire and explosions in the state of Idaho.

42 (2) Assistants to the state fire marshal, as provided in section 41-256,
43 Idaho Code, shall apply a reasonable interpretation to the International Fire

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1 Code as adopted by the state fire marshal, and rules of the state fire mar-
2 shal, when undertaking any enforcement action.

3 (3) For the purposes of sections 41-253 through 41-269, Idaho Code, the
4 "International Fire Code" shall mean the publications as adopted under subsec-
5 tion (1) of this section.

6 SECTION 2. That Section 41-255, Idaho Code, be, and the same is hereby
7 amended to read as follows:

8 41-255. DUTIES OF STATE FIRE MARSHAL. In addition to the duties pre-
9 scribed in section 41-254, Idaho Code, the state fire marshal shall:

10 (1-) Administer and enforce this act.

11 (2-) Appoint, employ and discharge such deputies and other employees as
12 in his judgment may be necessary, control their powers, prescribe their
13 duties, and fix their compensation.

14 (3-) Keep books, records and accounts, which shall be open to inspection
15 and audit by the state of Idaho at all times.

16 (4-) Purchase necessary equipment and supplies, and incur any other rea-
17 sonable and necessary expense in connection with or required for the purpose
18 of carrying out the provisions of this act.

19 (5-) Maintain in his office a record of all fires occurring in the state,
20 and of all the facts concerning the same, including statistics as to the
21 extent of such fires and the damage caused thereby and whether such losses
22 were covered by insurance, and if so, in what amount. All such records shall
23 be public, except any testimony taken in an investigation under the provisions
24 of this act which the state fire marshal in his discretion may withhold from
25 the public.

26 (6) Establish by rule uniform training provisions for all persons acting
27 as assistants to the state fire marshal as provided in section 41-256, Idaho
28 Code.

29 SECTION 3. That Section 41-256, Idaho Code, be, and the same is hereby
30 amended to read as follows:

31 41-256. ASSISTANTS TO STATE FIRE MARSHAL -- LOCAL APPEAL PROCEDURE. (1)
32 The chief of the fire department, or his deputy, of every city or county, or
33 fire protection district organized under state law in which a fire department
34 is established, and in areas where no organized fire department exists the
35 county sheriff, or his deputy, shall be assistants to the state fire marshal
36 in carrying out the provisions of the ~~International Fire Code~~ and ~~such~~
37 ~~other regulations as set forth by the~~ rules of the state fire marshal.

38 (2) Any final decision made by an assistant to the state fire marshal
39 involving an interpretation of the International Fire Code or rules of the
40 state fire marshal shall contain a notification to any party subject to the
41 decision that the decision may be appealed in a local appeal procedure that is
42 substantially similar to the one set forth in the International Fire Code or
43 rules adopted by the state fire marshal.

44 SECTION 4. That Section 41-259, Idaho Code, be, and the same is hereby
45 amended to read as follows:

46 41-259. INSPECTION OF BUILDINGS -- ORDER OF REMEDY OR REMOVAL -- SERVICE
47 OF ORDER. The state fire marshal, his deputies or assistants, upon the written

48 and signed complaint of any person or whenever he or they shall deem it neces-
49 sary, may at reasonable hours inspect buildings and premises within their

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1 jurisdiction, upon the presentation of proper credentials, except the interior
2 of private dwellings, private garages appertaining to such residences, or
3 buildings on farms of more than five (5) acres.

4 Whenever any of said officers shall find that any building or other struc-
5 ture which, for want of repairs, or lack of or insufficient fire escapes,
6 automatic or other fire alarm apparatus or fire extinguishing equipment, or by
7 reason of age or dilapidated condition, or due to violation of the Interna-
8 tional Fire Code or from any other cause, is especially liable to fire, and is
9 so situated as to endanger life, other buildings or structures or said build-
10 ing or structure, he or they shall order the same to be remedied or removed,
11 and such order shall forthwith be complied with by the owner or occupant of
12 such premises or buildings, unless said owner or occupant avail himself of the
13 appeals procedure set forth in this act.

14 The service of any such order shall be made upon the owner or occupant
15 either by delivering to and leaving with the said person a true copy of the
16 said order, or, by mailing such copy to the owner or occupant's last known
17 address. All mailings shall be registered or certified, with return receipt.

18 SECTION 5. That Section 41-260, Idaho Code, be, and the same is hereby
19 amended to read as follows:

20 41-260. APPEAL FROM ORDER OF REMEDY OR REMOVAL -- APPEAL FROM LOCAL
21 APPEAL DECISION. If ~~such~~ an order to remedy or remove, or a local appeal deci-
22 sion regarding the interpretation of the International Fire Code or rules of
23 the state fire marshal, is made by the deputies or assistants of the state
24 fire marshal, such owner or occupant who receives the order, or a party
25 aggrieved by a local appeal decision, may, within twenty (20) days after
26 receipt of service of such order or local appeal decision, appeal to the state
27 fire marshal, who shall within ten (10) days, review such order or local
28 appeal decision and if affirmed, file his decision thereon, and unless by his
29 authority the order or local appeal decision is revoked or modified it shall
30 remain in full force and be complied with within the time fixed in said order,
31 local appeal decision, or decision of the state fire marshal.

32 Provided, however, that any such owner, ~~or~~ occupant or party who feels
33 himself aggrieved by any such order or local appeal decision, or affirming of
34 such order or local appeal decision, may within thirty (30) days after the
35 making or affirming of any such order or local appeal decision by the state
36 fire marshal, appeal such order or local appeal decision to the district court
37 having jurisdiction of the property.

38 SECTION 6. That Section 41-261, Idaho Code, be, and the same is hereby
39 amended to read as follows:

40 41-261. FAILURE TO COMPLY WITH ORDER OF REMEDY OR REMOVAL -- FAILURE TO
41 COMPLY WITH LOCAL DECISION OR LOCAL APPEAL DECISION -- PENALTY -- CIVIL ACTION
42 TO RECOVER PENALTY. Any owner or occupant failing to comply with such order or
43 local decision, or local appeal decision within thirty (30) days after said
44 appeal to the state fire marshal has been determined, or, if no appeal is
45 taken, then within the time fixed in said order, local decision or local
46 appeal decision shall be liable to a penalty of: ten dollars (\$10.00) for each
47 day's neglect beginning with the first day through the seventh day; fifty dol-
48 lars (\$50.00) per day on the eighth through the thirtieth day; and one hundred
49 dollars (\$100) per day on the thirty-first day and each day thereafter. In the
50 event such enforcement action is brought by the office of the state fire mar-
51 shal, the penalty shall be payable to the state fire marshal, for deposit in

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1 the arson, fire and fraud prevention account. In the event such enforcement
2 action is brought by a fire district under the authority of the state fire
3 marshal, the penalty shall then be payable to the fire district which has
4 prosecuted the enforcement action.

5 The penalty herein provided, if not then paid, may be recovered in an
6 action brought in any court of competent jurisdiction of the county where such
7 property is located, in the name of the state, under the direction of the
8 state fire marshal and/or any of the assistants herein designated, where such
9 property is located, or by an attorney specially designated therefor by the
10 attorney general, or by the attorney for a fire district in the event such
11 enforcement action is brought by the district. The reasonable attorney's fees
12 and costs incurred in bringing any such enforcement action, if any, shall be
13 awarded to the state or the fire district bringing the enforcement action in
14 addition to the assessment of any penalty, and shall be paid in the same man-
15 ner as the penalty. If the court determines that the enforcement action has
16 been brought frivolously or without reasonable cause, the court may award to
17 the owner, ~~or~~ occupant or party who is the subject of the enforcement action
18 such reasonable attorney's fees and costs of the defense or appeal of the
19 enforcement action as the court determines is fair and just.

20 SECTION 7. That Section 41-262, Idaho Code, be, and the same is hereby
21 amended to read as follows:

22 41-262. FAILURE TO COMPLY WITH ORDER OF REMEDY OR REMOVAL -- REPAIR OR
23 DEMOLITION OF PREMISES -- EXPENSE. If any person fails to comply with the
24 order of any officer, the state fire marshal or assistants to the state fire
25 marshal under the preceding sections or with the order as modified on appeal
26 as herein provided, and within the time fixed, then such officer, ~~is~~ the state
27 fire marshal or assistants to the state fire marshal are hereby empowered and
28 authorized to cause such building or premises to be repaired, torn down or
29 demolished, with the materials removed and all dangerous conditions remedied,
30 at the expense of the person who fails to comply with such order.

31 SECTION 8. That Section 41-263, Idaho Code, be, and the same is hereby
32 amended to read as follows:

33 41-263. FAILURE TO PAY EXPENSE OF REPAIR OR DEMOLITION -- ASSESSMENT. If,
34 within thirty (30) days thereafter, such person shall fail, neglect or refuse
35 to repay ~~the marshal~~ the expenses for demolishing or repair of said building
36 incurred under the provisions of this act, to the state fire marshal's office
37 if the demolition or repair action was brought by the state fire marshal, or
38 to a fire district if a fire district brought the demolition or repair action,
39 the enforcing officer, state fire marshal or his assistants shall certify such
40 expenses to the clerk of the city, fire district or county in which the prop-
41 erty is situated, and the city, fire protection district or county shall cer-
42 tify to the county treasurer the amount of the assessment, which assessment
43 shall be by said county treasurer, placed upon the tax roll and collected as
44 other taxes, and when collected shall be refunded to the state fire marshal
45 for deposit in the arson, fire and fraud prevention account if the demolition
46 or repair action was brought by the state fire marshal, or to a fire district
47 if a fire district brought the demolition or repair action.

Statement of Purpose / Fiscal Impact

STATEMENT OF PURPOSE

RS 18090

This legislation deals with the Idaho Code as it relates to the State Fire Marshall and the application of the International Fire Code.

FISCAL NOTE

There is no fiscal impact to the General Fund.

Contact

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STATEMENT OF PURPOSE/FISCAL NOTE

H 620