

~~violating--any--of--such--rules--of--the--fire--marshal--shall--be--deemed--guilty--of--a--simple--misdemeanor-~~ Violation of a rule adopted by the fire marshal is a simple misdemeanor; provided, however, that upon proof that the fire marshal gave written notice to the defendant of the violation, and proof that the violation constituted a clear and present danger to life, and proof that the defendant failed to eliminate the condition giving rise to the violation within thirty days after receipt of notice from the fire marshal, the penalty shall be that provided by law for a serious misdemeanor. Each day of the continuing violation of ~~such--rules~~ a rule after conviction ~~shall--be--considered~~ of a violation of the rule is a separate offense. ~~Appeals--may--be--taken--from--such--convictions~~ A conviction is subject to appeal as in other criminal cases.

Rules by the fire marshal affecting the construction of new buildings, additions to buildings or rehabilitation of existing buildings and related to fire protection, shall be substantially in accord with the provisions of the nationally recognized building and related codes adopted as the state building code or with codes adopted by a local subdivision which are in substantial accord with the codes comprising the state building code.

Sec. 3. Chapter 103, Code 1981, is repealed.

Sec. 4. This Act takes effect July 1 following its enactment with the increased penalty for violation of the fire marshal's rules applicable to violations committed or continued after the effective date of this Act.

Approved June 19, 1981

CHAPTER 47

ARSON INSPECTION WARRANTS

H. F. 751

AN ACT to provide for special arson inspection warrants for the inspection of property damaged or destroyed by fire for the purpose of determining the cause, origin, and circumstances of the fire and the availability of information obtained from inspections.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 100.5, Code 1981, is amended to read as follows:

100.5 RECORD OF FIRES. The fire marshal shall keep in ~~his~~ the fire marshal's office a record of all fires occurring in the state, showing the name of the owners, ~~name-or~~ names of occupants of the property at the time of the fire, the ~~sound~~ value of the property, the amount of insurance ~~thereon~~ on the property, the total amount of insurance collected, the total amount of loss to the property owner, together with all the facts, statistics, and circumstances, including the origin of the fire, which may be determined by the investigation. Notwithstanding chapter 692, the fire marshal may share

information collected by the fire marshal's office relative to fires investigated by the fire marshal's office with local fire chiefs and fire marshals of fire departments organized under chapter 400 or arson investigators employed by those departments. Such The record shall at--all times be open to public inspection. However, in those unusual circumstances where disclosure of particular facts in the record would plainly and seriously jeopardize an investigation of suspected criminal activity, those portions of the record pertaining to those facts shall be deemed to be peace officers' investigative reports and subject to chapter 68A.

Sec. 2. Chapter 100, Code 1981, is amended by adding sections 3 through 7* of this Act.

Sec. 3. NEW SECTION. APPLICATION FOR WARRANT. If consent to inspect property damaged or destroyed by fire to determine the cause, origin and circumstances of the fire or to inspect property subject to rules adopted under section 100.35 has been refused to the official authorized to make the inspection, the state fire marshal, a state arson investigator or official authorized to make such an inspection may apply to the district court for a special inspection warrant for authority to conduct the inspection.

Sec. 4. NEW SECTION. GROUNDS FOR ISSUANCE. The judicial officer shall review the application and may take sworn testimony or receive affidavits to supplement it.

If the judicial officer is satisfied that there are legal grounds under the circumstances specified in the application and any supplementary testimony taken sufficient to justify the issuance of an inspection warrant, it shall be issued.

Sec. 5. NEW SECTION. WARRANT REQUIREMENTS. Each inspection warrant issued under this chapter shall:

1. State the grounds for its issuance.
2. Be directed to the applicant or some other designated person authorized to conduct the inspection.
3. Command the person to whom it is directed to inspect the area, premises, building or conveyance identified for the purpose specified and, if appropriate, direct the seizure of property specified.
4. Identify the item or type of property, if any, to be seized.
5. Direct that it be served, if appropriate, during normal business hours and designate the magistrate to whom it shall be returned.

Sec. 6. NEW SECTION. EXECUTION OF WARRANT. A warrant issued under this chapter must be executed and returned within ten days from the date of issuance unless, upon the showing of a need for additional time, the court so instructs otherwise in the warrant. A copy of the warrant shall be delivered to a person in charge of the premises being inspected or, if no one is present, a copy of the warrant shall be posted upon the premises. If property is seized pursuant to a warrant, the person executing the warrant shall give to the person from whom the property is seized, or the person in charge of the premises from which the property is seized, a receipt for the property seized or shall leave the copy and receipt at the place from which the property is seized. The return of the warrant shall be made promptly and accompanied by a written inventory of property seized. The inventory shall

*According to enrolled Act

be made in the presence of the person executing the warrant and of the person from whose possession or premises the property was seized, if they are present, or in the presence of at least one credible person other than the person executing the warrant.

A copy of the return, the inventory and any receipts issued shall be promptly filed with the clerk of the district court for the county in which the inspection is made.

Approved May 19, 1981

CHAPTER 48
OPEN BURNING RESTRICTIONS
H. F. 371

AN ACT relating to the prohibition of open burning under certain conditions and providing a penalty.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Chapter 100, Code 1981, is amended by adding the following new section:

NEW SECTION.

1. The state fire marshal, during periods of extremely dry conditions or under other conditions when the state fire marshal finds open burning constitutes a danger to life or property, may prohibit open burning in an area of the state at the request of the chief of a local fire department, a city council or a board of supervisors and when an investigation supports the need for the prohibition. The state fire marshal shall implement the prohibition by issuing a proclamation to persons in the affected area. The chief of a local fire department, the city council or the board of supervisors that requested the prohibition may rescind the proclamation after notifying the state fire marshal of the intent to do so, when the chief, city council or board of supervisors finds that the conditions responsible for the issuance of the proclamation no longer exist.

2. Violation of a prohibition issued under this section is a simple misdemeanor.

3. This section does not give the state fire marshal the authority to prohibit the use of outdoor fireplaces, barbeque grills, properly supervised dumping grounds, or the burning of trash in incinerators or trash burners made of metal, concrete, masonry, or heavy one-inch wire mesh, with no openings greater than one square inch.

Approved April 28, 1981