

FEB 10 2004
Place On Calendar

HOUSE FILE 2200
BY COMMITTEE ON PUBLIC SAFETY

(SUCCESSOR TO HSB 519)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to fire safety issues, including the promulgation
2 of administrative rules by the state fire marshal and arson
3 and simulated explosive related criminal offenses, and
4 providing for a penalty.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 2200

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HF 2200

1 Section 1. Section 101.5, Code 2003, is amended to read as
2 follows:

3 101.5 PUBLICATION OF RULES.

4 The rules shall be promulgated pursuant to chapter 17A,
5 only after a public hearing at least twenty days' notice of
6 the time and place of which is given by publication ~~in a~~
7 ~~newspaper of general circulation throughout the state~~ in the
8 Iowa administrative bulletin and by mail to any person who has
9 filed the person's name and address with the state fire
10 marshal for the purpose of receiving the notice.

11 Sec. 2. Section 712.1, Code 2003, is amended to read as
12 follows:

13 712.1 ARSON DEFINED.

14 1. Causing a fire or explosion, or placing any burning or
15 combustible material, or any incendiary or explosive device or
16 material, in or near any property with the intent to destroy
17 or damage such property, or with the knowledge that such
18 property will probably be destroyed or damaged, is arson,
19 whether or not any such property is actually destroyed or
20 damaged. Provided, that where a person who owns said property
21 which the defendant intends to destroy or damage, or which the
22 defendant knowingly endangers, consented to the defendant's
23 acts, and where no insurer has been exposed fraudulently to
24 any risk, and where the act was done in such a way as not to
25 unreasonably endanger the life or property of any other person
26 the act shall not be arson.

27 2. Causing a fire or explosion that damages or destroys
28 property while manufacturing or attempting to manufacture a
29 controlled substance in violation of section 124.401 is arson.
30 Even if a person who owns property which the defendant intends
31 to destroy or damage, or which the defendant knowingly
32 endangers, consents to the defendant's act, and even if an
33 insurer has not been exposed fraudulently to any risk, and
34 even if the act was done in such a way as not to unreasonably
35 endanger the life or property of any person, the act

1 constitutes arson.

2 Sec. 3. Section 712.2, Code 2003, is amended to read as
3 follows:

4 712.2 ARSON IN THE FIRST DEGREE.

5 Arson is arson in the first degree when ~~the property which~~
6 ~~the defendant intends to destroy or damage, or which the~~
7 ~~defendant knowingly endangers, is property in which~~ the
8 presence of one or more persons can be reasonably anticipated
9 in or near the property which is the subject of the arson, or
10 the arson results in the death of a fire fighter, whether paid
11 or volunteer.

12 Arson in the first degree is a class "B" felony.

13 Sec. 4. Section 712.3, Code 2003, is amended to read as
14 follows:

15 712.3 ARSON IN THE SECOND DEGREE.

16 Arson which is not arson in the first degree is arson in
17 the second degree when the property ~~which the defendant~~
18 ~~intends to destroy or damage, or which the defendant knowingly~~
19 ~~endangers, which is the subject of the arson~~ is a building or
20 a structure, or real property of any kind, or standing crops,
21 or is personal property the value of which exceeds five
22 hundred dollars. Arson in the second degree is a class "C"
23 felony.

24 Sec. 5. Section 712.6, Code 2003, is amended to read as
25 follows:

26 712.6 ~~POSSESSION OF~~ EXPLOSIVE OR INCENDIARY MATERIALS OR
27 DEVICES.

28 1. Any person who shall possess any incendiary or
29 explosive device or material with the intent to use such
30 device or material to commit any public offense shall be
31 guilty of a class "C" felony.

32 2. Any person, with the intent to intimidate, annoy, or
33 alarm another person, who places a simulated explosive or
34 simulated incendiary device in or near an occupied structure
35 as defined in section 702.12, is guilty of a serious

1 misdemeanor.

2 EXPLANATION

3 This bill relates to the promulgation of administrative
4 rules by the state fire marshal and to the criminal offenses
5 of arson and use of simulated explosives.

6 The bill provides that state fire marshal administrative
7 rules promulgated pursuant to Code chapter 101 may only be
8 promulgated after notice of any hearing related to these rules
9 is published in the Iowa administrative bulletin. Current law
10 requires the notice of the hearing to be published in a
11 newspaper of general circulation throughout the state prior to
12 the rules becoming effective.

13 The bill also amends the definition of the criminal offense
14 of arson. The bill provides that a person who manufactures or
15 attempts to manufacture a controlled substance in violation of
16 Code section 124.401, which then results in a fire or an
17 explosion that damages or destroys property, commits arson.
18 Code sections 712.2 and 712.3 are amended to conform with the
19 definitional change in Code section 712.1. Arson is
20 punishable as a class "B", class "C", or aggravated
21 misdemeanor depending on the facts of the case.

22 The bill creates a criminal offense related to the
23 placement of a simulated explosive or a simulated incendiary
24 device. The bill provides that a person, with the intent to
25 intimidate or annoy, who places a simulated explosive or
26 simulated incendiary device in or near an occupied structure,
27 as defined in Code section 702.12, commits a serious
28 misdemeanor.

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**Fiscal Services Division
Legislative Services Agency
Fiscal Note**

HF 2200— State Fire Marshal, Related Penalties (LSB 5063 HV)
Analyst: Jennifer Acton (Phone: (515) 281-7846) (jennifer.acton@legis.state.ia.us)
Fiscal Note Version — New
Requested by Representative Dwayne Alons

Description

House File 2200 relates to fire safety issues, including the promulgation of administrative rules by the State Fire Marshal and the definition of the criminal offenses of arson and harassment, and providing for a penalty.

Assumptions

1. Charge, conviction, and sentencing patterns and trends will not change over the projection period.
2. Prisoner length of stay, revocation rates, and other corrections policies and practices will not change over the projection period.
3. A six-month lag time will result from the law's effective date (July 1, 2004) to the date of first entry of affected offenders into the correctional system.
4. Under the harassment provision of this Bill, in FY 2003, 1,449 persons were convicted of harassment; of which, 1,093 of those convictions were for simple misdemeanor offenses. The type of harassment was determined in 293 convictions. Of the 293 convictions, 9 people or 3.1% were convicted for committing harassment via a simulated explosive device. Of the 1,093 simple misdemeanor convictions for harassment in FY 2003, 33 or 3.0% involved simulated explosive devices.
5. Approximately half of the 33 convictions involving a simulated explosive device or 16 convictions would be charged as a serious misdemeanor.
6. In calendar year 2003, there were 1,096 methamphetamine labs and meth dumpsites found in Iowa. Approximately 18 to 20 lab sites involved fires.

Correctional Impact

The arson provisions of HF 2200 will result in ten additional charges per year; three charges would be for Arson - 1st and seven charges would be for Arson - 2nd. Most charges will result in convictions of a lesser offense. In FY 2005, two people will be convicted of Arson - 2nd. In FY 2006 and ongoing years, four people will be convicted of Arson - 2nd (Class C felony) and one person will be convicted of Arson - 3rd (Aggravated Misdemeanor). Comparing imprisonment rates for arson to those for drug crime offenders, no additional sentences to incarceration will occur under the Bill's provisions. Additional people will be sentenced to probation, but the impact will be minimal.

A person convicted of Arson - 1st would be sent to State prison for a forcible felony. However, these convictions will rarely occur. A person convicted of this offense would serve an average of 102 more months in prison than if convicted of a Class B felony drug offense and would serve an average of 115 month more than if convicted of a Class C felony drug offense. However, most of these convictions are already being charged under current drug offenses, and therefore, no new prison admissions are anticipated.

Under the new harassment provision of the Bill, a person guilty of harassment with a simulated explosive device in an unoccupied structure will be charged with a serious misdemeanor penalty. Annually, 16 people currently convicted of a simple misdemeanor offense will be convicted of a serious misdemeanor offense.

Fiscal Impact

The fiscal impact for HF 2200 is anticipated to be minimal.

Under the new harassment of an occupied structure provision, the increased cost to the State is approximately \$13,000 and the increased cost to the counties is approximately \$2,000 annually.

Under the arson provision, the impact to the State is between \$40,000 and \$45,000 for State prison costs for each offender convicted of Arson - 1st. These costs would be incurred over a nine-year period.

Sources

Judicial Branch
Department of Public Safety
Department of Human Rights, Criminal and Juvenile Justice Planning Division

Dennis C Prouty

February 16, 2004

The fiscal note and correctional impact statement for this bill was prepared pursuant to Joint Rule 17 and pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Legislative Fiscal Bureau to members of the Legislature upon request.

HOUSE FILE 2200

S-5128

1 Amend House File 2200, as passed by the House, as
2 follows:

3 1. Page 1, by inserting before line 1 the
4 following:

5 "Section 1. Section 100.1, Code Supplement 2003,
6 is amended by adding the following new subsection:
7 NEW SUBSECTION. 7. To administer the fire
8 extinguishing system contractor certification program
9 established in chapter 100C.

10 Sec. ____ . NEW SECTION. 100C.1 DEFINITIONS.

11 As used in this chapter, unless the context
12 otherwise requires:

13 1. "Automatic dry-chemical extinguishing system"
14 means a system supplying a powder composed of small
15 particles, usually of sodium bicarbonate, potassium
16 bicarbonate, urea-potassium-based bicarbonate,
17 potassium chloride, or monoammonium phosphate, with
18 added particulate material supplemented by special
19 treatment to provide resistance to packing, resistance
20 to moisture absorption, and the proper flow
21 capabilities.

22 2. "Automatic fire extinguishing system" means a
23 system of devices and equipment that automatically
24 detects a fire and discharges an approved fire
25 extinguishing agent onto or in the area of a fire and
26 includes automatic sprinkler systems, carbon dioxide
27 extinguishing systems, deluge systems, automatic dry-
28 chemical extinguishing systems, foam extinguishing
29 systems, halogenated extinguishing systems, or other
30 equivalent fire extinguishing technologies recognized
31 by the fire extinguishing system contractors advisory
32 board.

33 3. "Automatic sprinkler system" means an
34 integrated fire protection sprinkler system usually
35 activated by heat from a fire designed in accordance
36 with fire protection engineering standards and
37 includes a suitable water supply. The portion of the
38 system above the ground is a network of specially
39 sized or hydraulically designed piping installed in a
40 structure or area, generally overhead, and to which
41 automatic sprinklers are connected in a systematic
42 pattern.

43 4. "Carbon dioxide extinguishing system" means a
44 system supplying carbon dioxide from a pressurized
45 vessel through fixed pipes and nozzles and includes a
46 manual or automatic actuating mechanism.

47 5. "Deluge system" means a sprinkler system
48 employing open sprinklers attached to a piping system
49 connected to a water supply through a valve that is
50 opened by the operation of a detection system

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1 installed in the same area as the sprinklers.

2 6. "Fire extinguishing system contractor" means a
3 person engaging in or representing oneself to the
4 public as engaging in the activity or business of
5 layout, installation, repair, alteration, addition,
6 maintenance, or maintenance inspection of automatic
7 fire extinguishing systems in this state.

8 7. "Foam extinguishing system" means a special
9 system discharging foam made from concentrates, either
10 mechanically or chemically, over the area to be
11 protected.

12 8. "Halogenated extinguishing system" means a fire
13 extinguishing system using one or more atoms of an
14 element from the halogen chemical series of fluorine,
15 chlorine, bromine, and iodine.

16 9. "Maintenance inspection" means periodic
17 inspection and certification completed by a fire
18 extinguishing system contractor. For purposes of this
19 chapter, "maintenance inspection" does not include an
20 inspection completed by a local building official,
21 fire inspector, or insurance inspector, when acting in
22 an official capacity.

23 10. "Responsible managing employee" means an
24 owner, partner, officer, or manager employed full-time
25 by a fire extinguishing system contractor who has any
26 of the following qualifications:

27 a. Is certified by the national institute for
28 certification in engineering technologies at a level
29 III in fire protection technology, automatic sprinkler
30 system layout, or another recognized certification in
31 automatic sprinkler system layout recognized by rules
32 adopted by the fire marshal pursuant to section
33 100C.7.

34 b. Is a professional engineer registered in this
35 state having at least three years experience with
36 automatic fire extinguishing systems.

37 c. Meets any other criteria established by rule
38 under this chapter.

39 Sec. ____ . NEW SECTION. 100C.2 CERTIFICATION --
40 EMPLOYEES.

41 1. A person shall not act as a fire extinguishing
42 system contractor without first obtaining a fire
43 extinguishing system contractor's certificate pursuant
44 to this chapter.

45 2. A responsible managing employee may act as a
46 responsible managing employee for only one fire
47 extinguishing system contractor at a time. The
48 responsible managing employee shall not be designated
49 as the responsible managing employee for more than two
50 fire extinguishing system contractors in any twelve-

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1 month period.

2 3. An employee of a certified fire extinguishing
3 system contractor working under the direction of a
4 responsible managing employee is not required to
5 obtain and maintain an individual fire extinguishing
6 system contractor's certificate.

7 Sec. ____ . NEW SECTION. 100C.3 APPLICATION --
8 INFORMATION TO BE PROVIDED.

9 1. A fire extinguishing system contractor shall
10 apply for a certificate on a form prescribed by the
11 state fire marshal. The application shall be
12 accompanied by a fee in an amount prescribed by rule
13 pursuant to section 100C.7 and shall include all of
14 the following information:

15 a. The name, address, and telephone number of the
16 contractor, including all legal and fictitious names.

17 b. Proof of insurance coverage required by section
18 100C.4.

19 c. The name and qualifications of the person
20 designated as the contractor's responsible managing
21 employee and of persons designated as alternate
22 responsible managing employees.

23 d. Any other information deemed necessary by the
24 state fire marshal.

25 2. Upon receipt of a completed application and
26 prescribed fees, if the contractor meets all
27 requirements established by this chapter, the state
28 fire marshal shall issue a certificate to the fire
29 extinguishing system contractor within thirty days.

30 3. Certificates shall expire and be renewed as
31 established by rule pursuant to section 100C.7.

32 4. Any change in the information provided in the
33 application shall be promptly reported to the state
34 fire marshal. When the employment of a responsible
35 managing employee is terminated, the fire
36 extinguishing system contractor shall notify the state
37 fire marshal within thirty days after termination.

38 Sec. ____ . NEW SECTION. 100C.4 INSURANCE.

39 A fire extinguishing system contractor shall
40 maintain general and complete operations liability
41 insurance for the layout, installation, repair,
42 alteration, addition, maintenance, and inspection of
43 automatic fire extinguishing systems in an amount
44 determined by the state fire marshal by rule.

45 Sec. ____ . NEW SECTION. 100C.5 SUSPENSION AND
46 REVOCATION.

47 1. The state fire marshal shall suspend or revoke
48 the certificate of any fire extinguishing system
49 contractor who fails to maintain compliance with the
50 conditions necessary to obtain a certificate. A

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1 certificate may also be suspended or revoked if any of
2 the following occur:

3 a. The employment or relationship of a responsible
4 managing employee with a fire extinguishing system
5 contractor is terminated, unless the fire
6 extinguishing system contractor has included a
7 qualified alternate on the application or an
8 application designating a new responsible managing
9 employee is filed with the state fire marshal within
10 six months after the termination.

11 b. The contractor fails to comply with any
12 provision of this chapter.

13 c. The contractor fails to comply with any other
14 applicable codes and ordinances.

15 2. If a certificate is suspended pursuant to this
16 section, the certificate shall not be reinstated until
17 the condition or conditions which led to the
18 suspension have been corrected.

19 3. The state fire marshal shall adopt rules
20 pursuant to section 100C.7 for the acceptance and
21 processing of complaints against certificate holders,
22 for procedures to suspend and revoke certificates, and
23 for appeals of decisions to suspend or revoke
24 certificates.

25 Sec. ____ . NEW SECTION. 100C.6 APPLICABILITY.

26 This chapter shall not be construed to do any of
27 the following:

28 1. Relieve any person from payment of any local
29 permit or building fee.

30 2. Limit the power of the state or a political
31 subdivision of the state to regulate the quality and
32 character of work performed by fire extinguishing
33 system contractors through a system of fees, permits,
34 and inspections designed to ensure compliance with,
35 and aid in the administration of, state and local
36 building codes or to enforce other local laws for the
37 protection of the public health and safety.

38 Sec. ____ . NEW SECTION. 100C.7 ADMINISTRATION --
39 RULES.

40 The state fire marshal shall administer this
41 chapter and, after consultation with the fire
42 extinguishing system contractors advisory board, shall
43 adopt rules pursuant to chapter 17A necessary for the
44 administration and enforcement of this chapter.

45 Sec. ____ . NEW SECTION. 100C.8 PENALTIES.

46 1. A person who violates any provision of this
47 chapter is guilty of a simple misdemeanor.

48 2. The state fire marshal may impose a civil
49 penalty of up to five hundred dollars on any person
50 who violates any provision of this chapter for each

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1 day a violation continues. The state fire marshal may
2 adopt rules necessary to enforce and collect any
3 penalties imposed pursuant to this chapter.

4 Sec. ____ . NEW SECTION. 100C.9 DEPOSIT AND USE OF
5 MONEYS COLLECTED.

6 1. All fees assessed pursuant to this chapter
7 shall be retained as repayment receipts by the
8 division of fire protection in the department of
9 public safety and such fees received shall be used
10 exclusively to offset the costs of administering this
11 chapter.

12 2. Notwithstanding section 8.33, fees collected by
13 the division of fire protection that remain
14 unencumbered or unobligated at the close of the fiscal
15 year shall not revert but shall remain available for
16 expenditure for the purposes designated until the
17 close of the succeeding fiscal year.

18 Sec. ____ . NEW SECTION. 100C.10 FIRE
19 EXTINGUISHING SYSTEM CONTRACTORS ADVISORY BOARD.

20 1. A fire extinguishing system contractors
21 advisory board is established in the division of fire
22 protection of the department of public safety and
23 shall advise the state fire marshal on matters
24 pertaining to the application and certification of
25 fire extinguishing system contractors pursuant to this
26 chapter.

27 2. The board shall consist of seven voting members
28 appointed by the commissioner of public safety as
29 follows:

30 a. Two full-time fire officials of incorporated
31 municipalities or counties.

32 b. One full-time building official of an
33 incorporated municipality or county.

34 c. Two fire extinguishing system contractors,
35 certified pursuant to this chapter, of which at least
36 one shall be a water-based fire sprinkler contractor.

37 d. One professional engineer or architect licensed
38 in the state.

39 e. One representative of the general public.

40 3. The state fire marshal, or the state fire
41 marshal's designee, shall be a nonvoting ex officio
42 member of the board.

43 4. The commissioner shall initially appoint two
44 members for two-year terms, two members for four-year
45 terms, and three members for six-year terms.

46 Following the expiration of the terms of initially
47 appointed members, each term thereafter shall be for a
48 period of six years. No member shall serve more than
49 two consecutive terms.

50 5. Each voting member of the council shall receive

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1 per diem compensation at the rate specified in section
2 7E.6 for each day spent in the performance of the
3 member's duties. All members of the council shall
4 receive actual and necessary expenses incurred in the
5 performance of their duties.

6 6. Four voting members of the advisory board shall
7 constitute a quorum. A majority vote of the board
8 shall be required to conduct business."

9 2. Title page, line 1, by inserting after the
10 word "including" the following: "the establishment of
11 a fire extinguishing system contractor certification
12 program in the office of the state fire marshal,".

13 3. Title page, line 2, by striking the word
14 "marshal" and inserting the following: "marshal,".

15 4. Title page, by striking line 4 and inserting
16 the following: "providing for fees and penalties."

17 5. By renumbering as necessary.

By COMMITTEE ON JUDICIARY
DONALD B. REDFERN, Chairperson

S-5128 FILED MARCH 23, 2004

HOUSE FILE 2200

S-5225

1 Amend the amendment, S-5128, to House File 2200, as
2 passed by the House, as follows:

3 1. By striking page 5, line 50, through page 6,
4 line 5.

5 2. Page 6, line 6, by striking the figure "6."
6 and inserting the following: "5."

7 3. Page 6, by inserting after line 8 the
8 following:

9 "____. Page 3, by inserting after line 1 the
10 following:

11 "Sec. ____ . APPLICABILITY DATE. The sections of
12 this Act enacting sections 100C.1 through 100C.6,
13 100C.8, and 100C.9 shall not be applicable until July
14 1, 2005.""

15 4. By renumbering as necessary.

By STEVE KETTERING

S-5225 FILED MARCH 30, 2004

HOUSE FILE 2200

S-5257

- 1 Amend the amendment, S-5128, to House File 2200, as
2 passed by the House, as follows:
3 1. Page 2, by striking lines 34 through 36.
4 2. Page 2, line 37, by striking the word "c." and
5 inserting the following: "b."
6 3. By striking page 5, line 50, through page 6,
7 line 5.
8 4. Page 6, line 6, by striking the figure "6."
9 and inserting the following: "5."
10 5. Page 6, by inserting after line 8 the
11 following:
12 "____. Page 3, by inserting after line 1 the
13 following:
14 "Sec. ____ . APPLICABILITY DATE. The sections of
15 this Act enacting sections 100C.1 through 100C.6,
16 100C.8, and 100C.9 shall not be applicable until July
17 1, 2005."
18 6. Page 6, line 16, by inserting after the word
19 "penalties" the following: "and for the Act's
20 applicability".
21 7. By renumbering as necessary.

By STEVE KETTERING

S-5257 FILED APRIL 5, 2004
ADOPTED

**SENATE AMENDMENT TO
HOUSE FILE 2200**

H-8396

1 Amend House File 2200, as passed by the House, as
2 follows:

3 1. Page 1, by inserting before line 1 the
4 following:

5 "Section 1. Section 100.1, Code Supplement 2003,
6 is amended by adding the following new subsection:
7 NEW SUBSECTION. 7. To administer the fire
8 extinguishing system contractor certification program
9 established in chapter 100C.

10 Sec. ____ . NEW SECTION. 100C.1 DEFINITIONS.

11 As used in this chapter, unless the context
12 otherwise requires:

13 1. "Automatic dry-chemical extinguishing system"
14 means a system supplying a powder composed of small
15 particles, usually of sodium bicarbonate, potassium
16 bicarbonate, urea-potassium-based bicarbonate,
17 potassium chloride, or monoammonium phosphate, with
18 added particulate material supplemented by special
19 treatment to provide resistance to packing, resistance
20 to moisture absorption, and the proper flow
21 capabilities.

22 2. "Automatic fire extinguishing system" means a
23 system of devices and equipment that automatically
24 detects a fire and discharges an approved fire
25 extinguishing agent onto or in the area of a fire and
26 includes automatic sprinkler systems, carbon dioxide
27 extinguishing systems, deluge systems, automatic dry-
28 chemical extinguishing systems, foam extinguishing
29 systems, halogenated extinguishing systems, or other
30 equivalent fire extinguishing technologies recognized
31 by the fire extinguishing system contractors advisory
32 board.

33 3. "Automatic sprinkler system" means an
34 integrated fire protection sprinkler system usually
35 activated by heat from a fire designed in accordance
36 with fire protection engineering standards and
37 includes a suitable water supply. The portion of the
38 system above the ground is a network of specially
39 sized or hydraulically designed piping installed in a
40 structure or area, generally overhead, and to which
41 automatic sprinklers are connected in a systematic
42 pattern.

43 4. "Carbon dioxide extinguishing system" means a
44 system supplying carbon dioxide from a pressurized
45 vessel through fixed pipes and nozzles and includes a
46 manual or automatic actuating mechanism.

47 5. "Deluge system" means a sprinkler system
48 employing open sprinklers attached to a piping system
49 connected to a water supply through a valve that is
50 opened by the operation of a detection system

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1 installed in the same area as the sprinklers.

2 6. "Fire extinguishing system contractor" means a
3 person engaging in or representing oneself to the
4 public as engaging in the activity or business of
5 layout, installation, repair, alteration, addition,
6 maintenance, or maintenance inspection of automatic
7 fire extinguishing systems in this state.

8 7. "Foam extinguishing system" means a special
9 system discharging foam made from concentrates, either
10 mechanically or chemically, over the area to be
11 protected.

12 8. "Halogenated extinguishing system" means a fire
13 extinguishing system using one or more atoms of an
14 element from the halogen chemical series of fluorine,
15 chlorine, bromine, and iodine.

16 9. "Maintenance inspection" means periodic
17 inspection and certification completed by a fire
18 extinguishing system contractor. For purposes of this
19 chapter, "maintenance inspection" does not include an
20 inspection completed by a local building official,
21 fire inspector, or insurance inspector, when acting in
22 an official capacity.

23 10. "Responsible managing employee" means an
24 owner, partner, officer, or manager employed full-time
25 by a fire extinguishing system contractor who has any
26 of the following qualifications:

27 a. Is certified by the national institute for
28 certification in engineering technologies at a level
29 III in fire protection technology, automatic sprinkler
30 system layout, or another recognized certification in
31 automatic sprinkler system layout recognized by rules
32 adopted by the fire marshal pursuant to section
33 100C.7.

34 b. Meets any other criteria established by rule
35 under this chapter.

36 Sec. ____ . NEW SECTION. 100C.2 CERTIFICATION --
37 EMPLOYEES.

38 1. A person shall not act as a fire extinguishing
39 system contractor without first obtaining a fire
40 extinguishing system contractor's certificate pursuant
41 to this chapter.

42 2. A responsible managing employee may act as a
43 responsible managing employee for only one fire
44 extinguishing system contractor at a time. The
45 responsible managing employee shall not be designated
46 as the responsible managing employee for more than two
47 fire extinguishing system contractors in any twelve-
48 month period.

49 3. An employee of a certified fire extinguishing
50 system contractor working under the direction of a

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1 responsible managing employee is not required to
2 obtain and maintain an individual fire extinguishing
3 system contractor's certificate.

4 Sec. ____ . NEW SECTION. 100C.3 APPLICATION --
5 INFORMATION TO BE PROVIDED.

6 1. A fire extinguishing system contractor shall
7 apply for a certificate on a form prescribed by the
8 state fire marshal. The application shall be
9 accompanied by a fee in an amount prescribed by rule
10 pursuant to section 100C.7 and shall include all of
11 the following information:

12 a. The name, address, and telephone number of the
13 contractor, including all legal and fictitious names.

14 b. Proof of insurance coverage required by section
15 100C.4.

16 c. The name and qualifications of the person
17 designated as the contractor's responsible managing
18 employee and of persons designated as alternate
19 responsible managing employees.

20 d. Any other information deemed necessary by the
21 state fire marshal.

22 2. Upon receipt of a completed application and
23 prescribed fees, if the contractor meets all
24 requirements established by this chapter, the state
25 fire marshal shall issue a certificate to the fire
26 extinguishing system contractor within thirty days.

27 3. Certificates shall expire and be renewed as
28 established by rule pursuant to section 100C.7.

29 4. Any change in the information provided in the
30 application shall be promptly reported to the state
31 fire marshal. When the employment of a responsible
32 managing employee is terminated, the fire
33 extinguishing system contractor shall notify the state
34 fire marshal within thirty days after termination.

35 Sec. ____ . NEW SECTION. 100C.4 INSURANCE.

36 A fire extinguishing system contractor shall
37 maintain general and complete operations liability
38 insurance for the layout, installation, repair,
39 alteration, addition, maintenance, and inspection of
40 automatic fire extinguishing systems in an amount
41 determined by the state fire marshal by rule.

42 Sec. ____ . NEW SECTION. 100C.5 SUSPENSION AND
43 REVOCATION.

44 1. The state fire marshal shall suspend or revoke
45 the certificate of any fire extinguishing system
46 contractor who fails to maintain compliance with the
47 conditions necessary to obtain a certificate. A
48 certificate may also be suspended or revoked if any of
49 the following occur:

50 a. The employment or relationship of a responsible

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1 managing employee with a fire extinguishing system
2 contractor is terminated, unless the fire
3 extinguishing system contractor has included a
4 qualified alternate on the application or an
5 application designating a new responsible managing
6 employee is filed with the state fire marshal within
7 six months after the termination.

8 b. The contractor fails to comply with any
9 provision of this chapter.

10 c. The contractor fails to comply with any other
11 applicable codes and ordinances.

12 2. If a certificate is suspended pursuant to this
13 section, the certificate shall not be reinstated until
14 the condition or conditions which led to the
15 suspension have been corrected.

16 3. The state fire marshal shall adopt rules
17 pursuant to section 100C.7 for the acceptance and
18 processing of complaints against certificate holders,
19 for procedures to suspend and revoke certificates, and
20 for appeals of decisions to suspend or revoke
21 certificates.

22 Sec. ____ . NEW SECTION. 100C.6 APPLICABILITY.

23 This chapter shall not be construed to do any of
24 the following:

25 1. Relieve any person from payment of any local
26 permit or building fee.

27 2. Limit the power of the state or a political
28 subdivision of the state to regulate the quality and
29 character of work performed by fire extinguishing
30 system contractors through a system of fees, permits,
31 and inspections designed to ensure compliance with,
32 and aid in the administration of, state and local
33 building codes or to enforce other local laws for the
34 protection of the public health and safety.

35 Sec. ____ . NEW SECTION. 100C.7 ADMINISTRATION --
36 RULES.

37 The state fire marshal shall administer this
38 chapter and, after consultation with the fire
39 extinguishing system contractors advisory board, shall
40 adopt rules pursuant to chapter 17A necessary for the
41 administration and enforcement of this chapter.

42 Sec. ____ . NEW SECTION. 100C.8 PENALTIES.

43 1. A person who violates any provision of this
44 chapter is guilty of a simple misdemeanor.

45 2. The state fire marshal may impose a civil
46 penalty of up to five hundred dollars on any person
47 who violates any provision of this chapter for each
48 day a violation continues. The state fire marshal may
49 adopt rules necessary to enforce and collect any
50 penalties imposed pursuant to this chapter.

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1 Sec. ____ . NEW SECTION. 100C.9 DEPOSIT AND USE OF
2 MONEYS COLLECTED.

3 1. All fees assessed pursuant to this chapter
4 shall be retained as repayment receipts by the
5 division of fire protection in the department of
6 public safety and such fees received shall be used
7 exclusively to offset the costs of administering this
8 chapter.

9 2. Notwithstanding section 8.33, fees collected by
10 the division of fire protection that remain
11 unencumbered or unobligated at the close of the fiscal
12 year shall not revert but shall remain available for
13 expenditure for the purposes designated until the
14 close of the succeeding fiscal year.

15 Sec. ____ . NEW SECTION. 100C.10 FIRE
16 EXTINGUISHING SYSTEM CONTRACTORS ADVISORY BOARD.

17 1. A fire extinguishing system contractors
18 advisory board is established in the division of fire
19 protection of the department of public safety and
20 shall advise the state fire marshal on matters
21 pertaining to the application and certification of
22 fire extinguishing system contractors pursuant to this
23 chapter.

24 2. The board shall consist of seven voting members
25 appointed by the commissioner of public safety as
26 follows:

27 a. Two full-time fire officials of incorporated
28 municipalities or counties.

29 b. One full-time building official of an
30 incorporated municipality or county.

31 c. Two fire extinguishing system contractors,
32 certified pursuant to this chapter, of which at least
33 one shall be a water-based fire sprinkler contractor.

34 d. One professional engineer or architect licensed
35 in the state.

36 e. One representative of the general public.

37 3. The state fire marshal, or the state fire
38 marshal's designee, shall be a nonvoting ex officio
39 member of the board.

40 4. The commissioner shall initially appoint two
41 members for two-year terms, two members for four-year
42 terms, and three members for six-year terms.
43 Following the expiration of the terms of initially
44 appointed members, each term thereafter shall be for a
45 period of six years. No member shall serve more than
46 two consecutive terms.

47 5. Four voting members of the advisory board shall
48 constitute a quorum. A majority vote of the board
49 shall be required to conduct business."

50 2. Page 3, by inserting after line 1 the

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1 following:

2 "Sec. ____ . APPLICABILITY DATE. The sections of
3 this Act enacting sections 100C.1 through 100C.6,
4 100C.8, and 100C.9 shall not be applicable until July
5 1, 2005."

6 3. Title page, line 1, by inserting after the
7 word "including" the following: "the establishment of
8 a fire extinguishing system contractor certification
9 program in the office of the state fire marshal,".

10 4. Title page, line 2, by striking the word
11 "marshal" and inserting the following: "marshal,".

12 5. Title page, by striking line 4 and inserting
13 the following: "providing for fees and penalties and
14 for the Act's applicability. "

15 6. By renumbering as necessary.

RECEIVED FROM THE SENATE

H-8396 FILED APRIL 6, 2004

HOUSE FILE 2200

AN ACT

RELATING TO FIRE SAFETY ISSUES, INCLUDING THE ESTABLISHMENT OF A FIRE EXTINGUISHING SYSTEM CONTRACTOR CERTIFICATION PROGRAM IN THE OFFICE OF THE STATE FIRE MARSHAL, THE PROMULGATION OF ADMINISTRATIVE RULES BY THE STATE FIRE MARSHAL, AND ARSON AND SIMULATED EXPLOSIVE RELATED CRIMINAL OFFENSES, AND PROVIDING FOR FEES AND PENALTIES AND FOR THE ACT'S APPLICABILITY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 100.1, Code Supplement 2003, is amended by adding the following new subsection:

NEW SUBSECTION. 7. To administer the fire extinguishing system contractor certification program established in chapter 100C.

Sec. 2. NEW SECTION. 100C.1 DEFINITIONS.

As used in this chapter, unless the context otherwise requires:

1. "Automatic dry-chemical extinguishing system" means a system supplying a powder composed of small particles, usually of sodium bicarbonate, potassium bicarbonate, urea-potassium-based bicarbonate, potassium chloride, or monoammonium phosphate, with added particulate material supplemented by special treatment to provide resistance to packing, resistance to moisture absorption, and the proper flow capabilities.

2. "Automatic fire extinguishing system" means a system of devices and equipment that automatically detects a fire and discharges an approved fire extinguishing agent onto or in the area of a fire and includes automatic sprinkler systems, carbon dioxide extinguishing systems, deluge systems, automatic dry-chemical extinguishing systems, foam extinguishing systems, halogenated extinguishing systems, or

other equivalent fire extinguishing technologies recognized by the fire extinguishing system contractors advisory board.

3. "Automatic sprinkler system" means an integrated fire protection sprinkler system usually activated by heat from a fire designed in accordance with fire protection engineering standards and includes a suitable water supply. The portion of the system above the ground is a network of specially sized or hydraulically designed piping installed in a structure or area, generally overhead, and to which automatic sprinklers are connected in a systematic pattern.

4. "Carbon dioxide extinguishing system" means a system supplying carbon dioxide from a pressurized vessel through fixed pipes and nozzles and includes a manual or automatic actuating mechanism.

5. "Deluge system" means a sprinkler system employing open sprinklers attached to a piping system connected to a water supply through a valve that is opened by the operation of a detection system installed in the same area as the sprinklers.

6. "Fire extinguishing system contractor" means a person engaging in or representing oneself to the public as engaging in the activity or business of layout, installation, repair, alteration, addition, maintenance, or maintenance inspection of automatic fire extinguishing systems in this state.

7. "Foam extinguishing system" means a special system discharging foam made from concentrates, either mechanically or chemically, over the area to be protected.

8. "Halogenated extinguishing system" means a fire extinguishing system using one or more atoms of an element from the halogen chemical series of fluorine, chlorine, bromine, and iodine.

9. "Maintenance inspection" means periodic inspection and certification completed by a fire extinguishing system contractor. For purposes of this chapter, "maintenance inspection" does not include an inspection completed by a local building official, fire inspector, or insurance inspector, when acting in an official capacity.

10. "Responsible managing employee" means an owner, partner, officer, or manager employed full-time by a fire extinguishing system contractor who has any of the following qualifications:

a. Is certified by the national institute for certification in engineering technologies at a level III in fire protection technology, automatic sprinkler system layout, or another recognized certification in automatic sprinkler system layout recognized by rules adopted by the fire marshal pursuant to section 100C.7.

b. Meets any other criteria established by rule under this chapter.

Sec. 3. NEW SECTION. 100C.2 CERTIFICATION -- EMPLOYEES.

1. A person shall not act as a fire extinguishing system contractor without first obtaining a fire extinguishing system contractor's certificate pursuant to this chapter.

2. A responsible managing employee may act as a responsible managing employee for only one fire extinguishing system contractor at a time. The responsible managing employee shall not be designated as the responsible managing employee for more than two fire extinguishing system contractors in any twelve-month period.

3. An employee of a certified fire extinguishing system contractor working under the direction of a responsible managing employee is not required to obtain and maintain an individual fire extinguishing system contractor's certificate.

Sec. 4. NEW SECTION. 100C.3 APPLICATION -- INFORMATION TO BE PROVIDED.

1. A fire extinguishing system contractor shall apply for a certificate on a form prescribed by the state fire marshal. The application shall be accompanied by a fee in an amount prescribed by rule pursuant to section 100C.7 and shall include all of the following information:

a. The name, address, and telephone number of the contractor, including all legal and fictitious names.

b. Proof of insurance coverage required by section 100C.4.

c. The name and qualifications of the person designated as the contractor's responsible managing employee and of persons designated as alternate responsible managing employees.

d. Any other information deemed necessary by the state fire marshal.

2. Upon receipt of a completed application and prescribed fees, if the contractor meets all requirements established by this chapter, the state fire marshal shall issue a certificate to the fire extinguishing system contractor within thirty days.

3. Certificates shall expire and be renewed as established by rule pursuant to section 100C.7.

4. Any change in the information provided in the application shall be promptly reported to the state fire marshal. When the employment of a responsible managing employee is terminated, the fire extinguishing system contractor shall notify the state fire marshal within thirty days after termination.

Sec. 5. NEW SECTION. 100C.4 INSURANCE.

A fire extinguishing system contractor shall maintain general and complete operations liability insurance for the layout, installation, repair, alteration, addition, maintenance, and inspection of automatic fire extinguishing systems in an amount determined by the state fire marshal by rule.

Sec. 6. NEW SECTION. 100C.5 SUSPENSION AND REVOCATION.

1. The state fire marshal shall suspend or revoke the certificate of any fire extinguishing system contractor who fails to maintain compliance with the conditions necessary to obtain a certificate. A certificate may also be suspended or revoked if any of the following occur:

a. The employment or relationship of a responsible managing employee with a fire extinguishing system contractor is terminated, unless the fire extinguishing system contractor has included a qualified alternate on the application or an application designating a new responsible managing employee is

filed with the state fire marshal within six months after the termination.

b. The contractor fails to comply with any provision of this chapter.

c. The contractor fails to comply with any other applicable codes and ordinances.

2. If a certificate is suspended pursuant to this section, the certificate shall not be reinstated until the condition or conditions which led to the suspension have been corrected.

3. The state fire marshal shall adopt rules pursuant to section 100C.7 for the acceptance and processing of complaints against certificate holders, for procedures to suspend and revoke certificates, and for appeals of decisions to suspend or revoke certificates.

Sec. 7. NEW SECTION. 100C.6 APPLICABILITY.

This chapter shall not be construed to do any of the following:

1. Relieve any person from payment of any local permit or building fee.

2. Limit the power of the state or a political subdivision of the state to regulate the quality and character of work performed by fire extinguishing system contractors through a system of fees, permits, and inspections designed to ensure compliance with, and aid in the administration of, state and local building codes or to enforce other local laws for the protection of the public health and safety.

Sec. 8. NEW SECTION. 100C.7 ADMINISTRATION -- RULES.

The state fire marshal shall administer this chapter and, after consultation with the fire extinguishing system contractors advisory board, shall adopt rules pursuant to chapter 17A necessary for the administration and enforcement of this chapter.

Sec. 9. NEW SECTION. 100C.8 PENALTIES.

1. A person who violates any provision of this chapter is guilty of a simple misdemeanor.

2. The state fire marshal may impose a civil penalty of up to five hundred dollars on any person who violates any provision of this chapter for each day a violation continues. The state fire marshal may adopt rules necessary to enforce and collect any penalties imposed pursuant to this chapter.

Sec. 10. NEW SECTION. 100C.9 DEPOSIT AND USE OF MONEYS COLLECTED.

1. All fees assessed pursuant to this chapter shall be retained as repayment receipts by the division of fire protection in the department of public safety and such fees received shall be used exclusively to offset the costs of administering this chapter.

2. Notwithstanding section 8.33, fees collected by the division of fire protection that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available for expenditure for the purposes designated until the close of the succeeding fiscal year.

Sec. 11. NEW SECTION. 100C.10 FIRE EXTINGUISHING SYSTEM CONTRACTORS ADVISORY BOARD.

1. A fire extinguishing system contractors advisory board is established in the division of fire protection of the department of public safety and shall advise the state fire marshal on matters pertaining to the application and certification of fire extinguishing system contractors pursuant to this chapter.

2. The board shall consist of seven voting members appointed by the commissioner of public safety as follows:

a. Two full-time fire officials of incorporated municipalities or counties.

b. One full-time building official of an incorporated municipality or county.

c. Two fire extinguishing system contractors, certified pursuant to this chapter, of which at least one shall be a water-based fire sprinkler contractor.

d. One professional engineer or architect licensed in the state.

e. One representative of the general public.

3. The state fire marshal, or the state fire marshal's designee, shall be a nonvoting ex officio member of the board.

4. The commissioner shall initially appoint two members for two-year terms, two members for four-year terms, and three members for six-year terms. Following the expiration of the terms of initially appointed members, each term thereafter shall be for a period of six years. No member shall serve more than two consecutive terms.

5. Four voting members of the advisory board shall constitute a quorum. A majority vote of the board shall be required to conduct business.

Sec. 12. Section 101.5, Code 2003, is amended to read as follows:

101.5 PUBLICATION OF RULES.

The rules shall be promulgated pursuant to chapter 17A, only after a public hearing at least twenty days' notice of the time and place of which is given by publication ~~in a newspaper of general circulation throughout the state~~ in the Iowa administrative bulletin and by mail to any person who has filed the person's name and address with the state fire marshal for the purpose of receiving the notice.

Sec. 13. Section 712.1, Code 2003, is amended to read as follows:

712.1 ARSON DEFINED.

1. Causing a fire or explosion, or placing any burning or combustible material, or any incendiary or explosive device or material, in or near any property with the intent to destroy or damage such property, or with the knowledge that such property will probably be destroyed or damaged, is arson, whether or not any such property is actually destroyed or damaged. Provided, that where a person who owns said property which the defendant intends to destroy or damage, or which the defendant knowingly endangers, consented to the defendant's acts, and where no insurer has been exposed fraudulently to any risk, and where the act was done in such a way as not to unreasonably endanger the life or property of any other person the act shall not be arson.

2. Causing a fire or explosion that damages or destroys property while manufacturing or attempting to manufacture a controlled substance in violation of section 124.401 is arson. Even if a person who owns property which the defendant intends to destroy or damage, or which the defendant knowingly endangers, consents to the defendant's act, and even if an insurer has not been exposed fraudulently to any risk, and even if the act was done in such a way as not to unreasonably endanger the life or property of any person, the act constitutes arson.

Sec. 14. Section 712.2, Code 2003, is amended to read as follows:

712.2 ARSON IN THE FIRST DEGREE.

Arson is arson in the first degree when ~~the property which the defendant intends to destroy or damage, or which the defendant knowingly endangers, is property in which~~ the presence of one or more persons can be reasonably anticipated in or near the property which is the subject of the arson, or the arson results in the death of a fire fighter, whether paid or volunteer.

Arson in the first degree is a class "B" felony.

Sec. 15. Section 712.3, Code 2003, is amended to read as follows:

712.3 ARSON IN THE SECOND DEGREE.

Arson which is not arson in the first degree is arson in the second degree when the property ~~which the defendant intends to destroy or damage, or which the defendant knowingly endangers, which is the subject of the arson~~ is a building or a structure, or real property of any kind, or standing crops, or is personal property the value of which exceeds five hundred dollars. Arson in the second degree is a class "C" felony.

Sec. 16. Section 712.6, Code 2003, is amended to read as follows:

712.6 ~~POSSESSION OF~~ EXPLOSIVE OR INCENDIARY MATERIALS OR DEVICES.

1. Any person who shall possess any incendiary or explosive device or material with the intent to use such device or material to commit any public offense shall be guilty of a class "C" felony.

2. Any person, with the intent to intimidate, annoy, or alarm another person, who places a simulated explosive or simulated incendiary device in or near an occupied structure as defined in section 702.12, is guilty of a serious misdemeanor.

Sec. 17. APPLICABILITY DATE. The sections of this Act enacting sections 100C.1 through 100C.6, 100C.8, and 100C.9 shall not be applicable until July 1, 2005.

CHRISTOPHER C. RANTS
Speaker of the House

JEFFREY M. LAMBERTI
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2200, Eightieth General Assembly.

MARGARET THOMSON
Chief Clerk of the House

Approved _____, 2004

THOMAS J. VILSACK
Governor