

**CHAPTER 1078**  
**STATE FIRE MARSHAL**  
*H.F. 2070*

**AN ACT** relating to administrative activities by the department of public safety concerning the state fire marshal.

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

Section 1. Section 100.13, Code 1993, is amended by striking the section and inserting in lieu thereof the following:

**100.13 VIOLATIONS — ORDERS.**

1. If a person has violated or is violating a provision of this chapter or a rule adopted pursuant to this chapter, the state fire marshal, the chief of any fire department, or the fire prevention officer of a fire department organized under chapter 400 may issue an order directing the person to desist in the practice which constitutes the violation and to take corrective action as necessary to ensure that the violation will cease. The order shall be in writing and shall specify a reasonable time by which the person shall comply with the order. The person to whom the order is issued may appeal the order as provided in chapter 17A. On appeal, the administrative law judge may affirm, modify, or vacate the order. Judicial review may be sought in accordance with chapter 17A.

2. Notwithstanding any other provision of law to the contrary, if the state fire marshal determines that an emergency exists respecting any matter affecting or likely to affect the public safety, the fire marshal may issue any order necessary to terminate the emergency without notice or hearing. An emergency order is binding and effective immediately, until or unless the order is modified, vacated, or stayed at an administrative hearing or by a district court.

Sec. 2. Section 100.14, Code 1993, is amended by striking the section and inserting in lieu thereof the following:

**100.14 PENALTIES — BURDEN OF PROOF.**

At the request of the state fire marshal, the county attorney shall institute any legal proceedings on behalf of the state necessary to obtain compliance or enforce the penalty provisions of this chapter or rules or orders adopted or issued pursuant to this chapter, including, but not limited to, a legal action for injunctive relief. The county attorney or any other attorney acting on behalf of the chief of a fire department or a fire prevention officer may institute legal proceedings, including, but not limited to, a legal action for injunctive relief, to obtain compliance or enforce the penalty provisions or orders issued pursuant to section 100.13.

Sec. 3. Section 100.16, Code 1993, is amended to read as follows:

**100.16 JUDICIAL REVIEW.**

1. Judicial review of actions of the fire marshal may be sought in accordance with the terms of the Iowa administrative procedure Act pursuant to chapter 17A. Notwithstanding the terms of said Act, petitions for judicial review may be filed in the district court of the county where such building is located. If legal proceedings have been instituted pursuant to section 100.14, all related issues which could otherwise be raised in a proceeding for judicial review shall be raised in the legal proceedings instituted pursuant to section 100.14.

2. Upon judicial review of the fire marshal's action, if the court affirms the agency action, the court shall tax all court costs of the review proceeding against the appellant. However, if the court reverses, revokes, or annuls the fire marshal's action, the court shall tax all court costs of the review proceeding against the agency. If the fire marshal's action is modified or the matter is remanded to the agency for further proceedings, the court shall apportion the court costs within the discretion of the court.

Sec. 4. Section 100.18, subsection 2, paragraph b, Code 1993, is amended to read as follows:

b. The rules shall require the installation of smoke detectors in existing single-family rental units and multiple-unit residential buildings. Existing single-family dwelling units shall be

equipped with approved smoke detectors. A person who files for a homestead credit pursuant to chapter 425 shall certify that the single-family dwelling unit for which the credit is filed has a smoke detector installed in compliance with this section, or that one will be installed within thirty days of the date the filing for the credit is made. The state fire marshal shall adopt rules and establish appropriate procedures ~~for the distribution and filing of such certificates with the state fire marshal to administer this subsection.~~

Sec. 5. Section 100.26, Code 1993, is amended to read as follows:

100.26 TIME FOR COMPLIANCE WITH ORDER – PENALTY.

~~When no~~ If a petition of review ~~as provided in section 100.14~~ has ~~not~~ been filed ~~or when the fire marshal on review or the court on review has affirmed or modified an order for the removal, destruction, or repair of a building, or the removal of any of its contents, or the change of any of its conditions, the owner, lessee, or occupant shall comply with the order within thirty days after the delivery of the order or a copy of the order to the person, either personally or by certified letter to the last known address, or by service upon the person's appointed agent. Failure of the owner, lessee, or occupant to comply with the order shall subject the owner, lessee, or occupant to a penalty of ten dollars for each day of failure or neglect after the expiration of the period. The penalty shall be recovered in the name of the state and paid into the treasury of the political subdivision which issues the order or the treasurer of state if the order is issued by the state. If the owner, lessee, or occupant cannot reasonably comply with the order within thirty days and a good faith effort at compliance has been made within thirty days, the owner, lessee, or occupant shall not be subject to a penalty under this section. However, the penalty may be imposed on the person upon a failure to continue the good faith compliance with the order.~~

Sec. 6. Section 100.31, unnumbered paragraph 2, Code 1993, is amended to read as follows:

Every school building with two or more classrooms shall have a warning system for fires of a type approved by the Underwriters' Laboratories and by the state fire marshal. ~~Said~~ The warning system shall be used only for fire drills or as a warning for emergency. Schools may modify the fire warning system for use as a tornado warning system or shall install a separate tornado warning system. Every school building shall also be equipped with ~~first-aid portable~~ fire extinguishers, with the type, size and number in accordance with National Fire Protection Association standards and approved by the state fire marshal.

Sec. 7. Section 103A.11, subsection 1, Code 1993, is amended by striking the subsection and inserting in lieu thereof the following:

1. The commissioner shall adopt rules pursuant to chapter 17A which are necessary for the implementation of this chapter.

Sec. 8. Section 331.512, subsection 1, paragraph d, Code 1993, is amended by striking the paragraph.

Sec. 9. Sections 100.15, 100.17, 100.19, 100.23, and 100.27 through 100.29, Code 1993, are repealed.

Approved April 18, 1994