

CHAPTER 1125**ARSON AND FIRE SAFETY REGULATION***H.F. 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.

Approved May 3, 2004

CHAPTER 1126

LIQUEFIED PETROLEUM GAS SYSTEMS — LIABILITY FOR INJURIES OR DAMAGES

H.F. 2243

AN ACT regarding user responsibility and liability with respect to liquefied petroleum gas systems.

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

Section 1. NEW SECTION. 101.14 USER RESPONSIBILITY.

1. In any action or claim seeking damages for personal injuries or damage to property arising out of injuries or loss due to defects in a liquefied petroleum gas system, or arising out of the condition of any portion of that system, the negligence or other fault of the customer, owner, or other person in possession of or making use of that system relating to the installation, modification, maintenance, or repair of the system or damage incurred to the system, shall be admissible in evidence and considered by the finder of fact if such conduct was a cause in fact of the accident or condition leading to the injuries or damages.

2. For purposes of this section, "liquefied petroleum gas system" means any container designed to hold liquefied petroleum gas and attached valves, regulators, piping, appliances, controls on appliances, and venting of appliances.

Approved May 3, 2004