

ENROLLED ACT NO. 15, SENATE

FIFTY-SEVENTH LEGISLATURE OF THE STATE OF WYOMING  
2003 GENERAL SESSION

AN ACT relating to public health and safety; specifying new code standards for fire prevention and safety; applying the new codes to inspections and certification of inspectors; providing for fees; modifying plan review provisions; expanding plan reviews to installation of certain fuel storage tanks; providing thresholds for remodeling, as specified; adding enforcement provisions; modifying fire prevention, protection and safety provisions relating to the duties of the council on fire prevention, electrical safety and energy efficiency in buildings and the state fire marshal; modifying the name of the council; repealing language pertaining to energy conservation; modifying conditions for investigation of fires; authorizing the state fire marshal to assist local building inspectors; providing that local building inspectors can be deputized; modifying authority over school buildings and school capital construction; repealing language; providing fee exemption for schools; modifying hospital exemption; providing authority for health care facilities, as specified; adding propane standards; providing appeal to council for state buildings; and providing for an effective date.

*Be It Enacted by the Legislature of the State of Wyoming:*

**Section 1.** W.S. 35-9-121.1 is created to read:

**35-9-121.1. Health care facilities; jurisdiction; delegation; rules.**

(a) The department of health has jurisdiction over all aspects of construction and remodeling, except electrical installation, of any state licensed health care facility as defined in W.S. 35-2-901.

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(b) The fire safety code requirements for the construction and remodeling of any state licensed health care facility shall meet the minimum requirements established in the National Fire Protection Association 101 Life Safety Code or any other code required to meet federal fire and life safety certification. If any code requirements for federal certification conflict with the code of any other state or local governmental entity, the code required for federal certification shall prevail.

(c) The department of health shall promulgate rules and regulations for all aspects of construction and remodeling of health care facilities except electrical installation. For aspects of construction and remodeling included in codes adopted by the council pursuant to W.S. 35-9-106, the rules and regulations shall be based on and not exceed the standards of these codes except where federal certification requirements dictate otherwise.

(d) Upon written request from any county or municipality, the department of health shall delegate plan review and inspection responsibilities to the county or municipality that has personnel who are certified pursuant to the applicable code. The department of health shall transfer jurisdiction and authority by letter. The department of health shall notify the governing body of the municipality or county of the minimum standards and requirements under this section and W.S. 16-6-501 and 16-6-502. The following shall apply:

(i) Any municipality or county may issue a certificate of occupancy for a health care facility. The certificate shall reference any code applied to the construction or remodeling of the facility;

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(ii) A municipality or county which has enforcement authority under this subsection may create its own appeals board to determine the suitability of alternate materials and types of construction. If a municipality or county has not created an appeals board, the department of health shall establish an appeals board which includes representation from the department of health and the council.

(e) After construction or remodeling of any health care facility, the department of health shall have jurisdiction over the fire and life safety inspections required for federal certification.

**Section 2.** W.S. 35-9-102(a)(iv), 35-9-103(a)(iii), 35-9-105(a)(ii), 35-9-106(a)(i)(intro), (A) and by creating new subsections (d) and (e), 35-9-107(a)(iii)(D), (E), by creating a new subparagraph (F), (iv), (vi), (b)(ii) and (iii), 35-9-108(a)(intro), (iv), by creating a new paragraph (vi), (d) and by creating new subsections (j) through (s), 35-9-109(a), 35-9-118(a)(ii) and 35-9-121 are amended to read:

**35-9-102. Definitions.**

(a) As used in W.S. 35-9-101 through 35-9-130:

(iv) "Council" means the council on fire prevention, and electrical safety ~~and energy efficiency~~ in buildings;

**35-9-103. Divisions created; council and board created.**

(a) There are created within the department:

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(iii) The council on fire prevention, and electrical safety ~~and energy efficiency~~ in buildings;

**35-9-105. Division administrators; qualifications.**

(a) After consultation with the council and the governor, the state fire marshal shall appoint:

(ii) The chief electrical inspector who is the administrator of the electrical safety division. He shall be a master electrician and an electrical inspector certified by the International ~~Conference of Building Officials~~ Code Council or the International Association of Electrical Inspectors.

**35-9-106. Powers and duties of council.**

(a) The council shall adopt rules and regulations to:

(i) Establish minimum fire standards not exceeding the standards prescribed by the ~~Uniform Fire Code, the Uniform Building Code and the Uniform Mechanical Code~~ International Fire Code, the International Building Code, the International Mechanical Code and the International Fuel Gas Code for:

(A) All new building construction or remodeling under W.S. 35-9-108(a);

(d) The standards for liquefied petroleum gas installations shall be the current edition of NFPA 58 Liquefied Petroleum Gas Code and ANSI Z223.1/NFPA 54 National Fuel Gas Code. To the extent the standards for liquefied petroleum gas conflict with the standards prescribed by the International Fuel Gas Code, the NFPA 58

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Liquefied Petroleum Gas Code and ANSI Z223.1/NFPA 54  
National Fuel Gas Code control.

(e) To the extent that any provision in the  
International Fire Code, the International Building Code,  
the International Mechanical Code and the International  
Fuel Gas Code conflicts with the standards prescribed by  
the National Electrical Code, the National Electrical Code  
shall control.

**35-9-107. Duties and powers of state fire marshal.**

(a) The state fire marshal shall:

(iii) Implement fire safety programs designed to minimize fire hazards and disasters and loss of life and property from these causes. These programs shall include:

(D) Critical analysis and evaluation of fire loss statistics to determine problems and solutions;  
~~and~~

(E) Coordination, development and implementation of training programs designed to assist fire fighters in all phases of fire prevention and suppression activities except the wild land and forestry division fire control programs implemented by the state forester; ~~and~~

(F) Acceptance testing on fire alarm systems, fire sprinkler systems and kitchen hood and duct suppression systems.

(iv) Inspect each state owned building ~~as needed~~  
not under the authority of a local governmental entity pursuant to W.S. 35-9-121(b) and require conformance to the

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minimum standards of fire prevention, fire protection and public safety;

(vi) Upon request, assist the chief of a fire company or department, a fire marshal, a local building inspector, other state agencies or political subdivisions of the state or county fire wardens in fire prevention matters; and

(b) The state fire marshal may:

(ii) Inspect public, business or industrial buildings and require conformance to standards of prevention and safety and of uses of premises as promulgated by the ~~Uniform Fire Code, Uniform Building Code and Uniform Mechanical Code~~ International Fire Code, the International Building Code, the International Mechanical Code and the International Fuel Gas Code;

(iii) Deputize a member of a fire department who is approved by the chief of his department, ~~and or a local building inspector approved by the local governmental entity, provided that the person~~ is qualified to inspect, investigate and carry out orders for the state fire marshal under the rules adopted by the council;

**35-9-108. Plan review; procedure; fees.**

(a) Prior to beginning ~~work~~ any new construction, the remodeling of existing buildings except as provided under subsection (q) of this section, or the installation of aboveground flammable or combustible fuel storage tanks, the owner or the owner's designated representative shall submit plans to the state fire marshal ~~and the state fire marshal shall for~~ review for of the proposed project for compliance with applicable fire and electrical safety

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~~considerations and efficient energy usage all plans for construction or remodeling, if the cost of remodeling exceeds twenty-five percent (25%) of the market value of the structure or five thousand dollars (\$5,000.00), whichever is less, of~~ standards for:

(iv) Buildings intended for use as child care centers housing more than ~~eleven (11)~~ ten (10) children;

(vi) Public and private aboveground fuel dispensing facilities.

(d) The department shall collect fees for plan reviews and other inspections except as provided in subsections (q) and (r) of this section, in the amount provided in the ~~most current building code~~ 1997 Uniform Building Code and adjusted for inflation as adopted by rule or regulation by the council. Fees collected under this subsection shall be deposited into the general fund.

(j) No new construction or remodeling of buildings or installation of aboveground flammable or combustible fuel storage tanks shall begin until the state fire marshal has approved the plans for compliance with applicable fire and electrical safety standards.

(k) If new construction or remodeling of buildings or installation of aboveground flammable or combustible fuel storage tanks is commenced without approved plans, the state fire marshal may order the construction, remodeling or installation to cease until plans are approved, subject to the requirements of subsection (m) of this section.

(m) Orders issued by the state fire marshal pursuant to this section shall be served upon the owner in the manner provided for service of process by the Wyoming Rules

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of Civil Procedure. The order shall require that the person served immediately cease certain activities until he has complied with the applicable statutory requirements. The order shall be in full force and effect from the time of service until the person complies with the statutory requirement as described in the order, or the order is revoked by the council. If the person fails to cease certain activities as required within forty-eight (48) hours of service, the person is guilty of a misdemeanor.

(n) After new construction or remodeling of buildings is completed, the state fire marshal shall inspect the building and determine conformance with the plan review. If he finds conformance, the state fire marshal shall issue a certificate of occupancy for a newly constructed building and a letter of compliance for a remodeled building. No newly constructed or remodeled building shall be used or occupied until the state fire marshal has issued a certificate of occupancy or letter of compliance. If a newly constructed or remodeled building is used or occupied prior to the issuance of a certificate of occupancy or letter of compliance, the state fire marshal shall order the use and occupancy of the building to cease until a certificate of occupancy or letter of compliance is issued, subject to the requirements of subsection (m) of this section.

(o) After the installation of aboveground flammable or combustible fuel storage tanks is completed, the state fire marshal shall inspect the premises and determine conformance with the plan review. If he finds conformance, the state fire marshal shall issue a letter of compliance. No premises with aboveground flammable or combustible fuel storage tanks installed shall be used until the state fire marshal has issued a letter of compliance. If a premise with aboveground flammable or combustible fuel storage



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tanks installed is used prior to issuance of a letter of compliance, the state fire marshal shall order the use of the premises to cease until a letter of compliance is issued, subject to the requirements of subsection (m) of this section.

(p) Any owner aggrieved by an order of the state fire marshal may appeal to the council within forty-eight (48) hours. The complaint shall be investigated immediately by direction of the council. Unless the order is revoked by the council, it shall remain in force and the owner shall comply.

(q) A plan review is:

(i) Not required for remodeling that is exempt from permitting under the International Code;

(ii) Required for remodeling that costs less than twenty-five thousand dollars (\$25,000.00) and affects a built-in fire protection system for the building, provided a fee of no more than fifty dollars (\$50.00) per hour shall be paid to the department for the review;

(iii) Required for remodeling that costs twenty-five thousand dollars (\$25,000.00) or more, provided the department shall collect a fee pursuant to subsection (d) of this section.

(r) There shall be no plan review and inspection fees for school buildings.

(s) Subsections (a) through (r) shall not apply to remodeling that is exempt under subsection (q).

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**35-9-109. Investigation of fires; notification to fire marshal; powers of fire marshal.**

(a) The county fire warden or chief of the fire department of a city, town, county or fire district shall investigate the cause, origin and circumstances of each fire occurring in the city, town, county or district that was reported or subject to emergency response, by which property has been destroyed or damaged. ~~in excess of five hundred dollars (\$500.00). The investigation shall be commenced within two (2) days. The state fire marshal may direct the investigation.~~

**35-9-118. Exceptions.**

(a) W.S. 35-9-106 through 35-9-117 do not apply to:

(ii) County memorial hospitals, state-owned health care institutions, hospital districts, private hospitals and other health care facilities, except as permitted pursuant to W.S. 35-9-121.1;

**35-9-121. Local enforcement.**

(a) The state fire marshal shall delegate complete authority to municipalities and counties which apply to enforce and interpret local or state fire, energy efficiency, building or electrical safety standards. The state fire marshal shall notify the governing body of the municipality or county of the minimum standards and requirements of this act and W.S. 16-6-501 and 16-6-502 and transfer jurisdiction and authority by letter. Nothing in this section affects the authority of the state fire marshal or chief electrical inspector regarding state owned or leased buildings.

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(b) Notwithstanding the provisions of subsection (a) of this section a local governmental entity is authorized to assume joint plan review authority with the state fire marshal, and that entity has sole construction inspection authority on the approved plans, and sole authority for periodic fire and life safety inspections on state owned or leased buildings. For the purpose of this section school buildings shall not be construed to be state buildings. If local code provisions conflict with adopted state codes, the state code prevails. The authority granted to local governmental entities under this subsection is subject to certification of local inspectors as follows:

(i) If joint plan review authority is requested, certification of a plan reviewer by the international conference of building officials or the International Code Council;

(ii) If code enforcement authority for fire and building codes is requested, certification of a fire inspector or building inspector by the ~~state fire marshal~~ International Code Council or the International Conference of Building Officials;

(iii) If code enforcement authority for the electrical code is requested, certification of an electrical inspector by the International ~~Conference of Building Officials~~ Code Council or the International Association of Electrical Inspectors and licensing by the state as a master electrician.

(c) A municipality or county which has enforcement authority under this section may create its own appeals boards to determine the suitability of alternate materials and types of construction. The boards shall be appointed and removed by the governing body of the municipality or

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county. The council on fire prevention, and electrical safety ~~and energy efficiency~~ in buildings and the electrical board shall serve as appeals boards for a municipality or county that has not created an appeals board under this subsection.

(d) A decision rendered by the local municipal or county appeals board pursuant to subsection (c) of this section regarding state owned or leased buildings may be appealed to the council on fire prevention and electrical safety in buildings for a final decision.

**Section 3.** W.S. 35-9-106(a)(ii), 35-9-107(b)(i)(C) and 35-9-108(f) and (g) are repealed.

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**Section 4.** This act is effective July 1, 2003.

(END)

\_\_\_\_\_  
Speaker of the House

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Governor

TIME APPROVED: \_\_\_\_\_

DATE APPROVED: \_\_\_\_\_

I hereby certify that this act originated in the Senate.

\_\_\_\_\_  
Chief Clerk