

CHAPTER 73

STATE FIRE MARSHAL

Sec.	
73.01	Ex officio fire marshal
73.01	Fire marshal, appointment
73.02	Special attorney
73.03	Origin of fires investigated
73.04	Evidence, taking of
73.05	Testimonial powers
73.06	Disobedience, how punished
73.07	Premises, when entered
73.08	Buildings, entered within reasonable hours
73.09	Buildings repaired or torn down, entrance to
73.10	Structures repaired or demolished
73.11	Exits opened, order
73.12	Order to be in writing
73.13	Notice, service on owner
73.14	Written objections filed by owner
73.15	Hearing

Sec.	
73.16	Failure to comply with order
73.17	Combustible material removed
73.18	Fire insurance companies to report fire losses
73.19	Failure to comply, punishment
73.20	Fire insurance companies to pay cost of maintenance
73.21	Itemized statement kept
73.22	Records to be public, except in certain cases
73.23	County attorneys to assist
73.24	Fire drills in schools
73.25	Penalties paid into state treasury
73.26	Declaration for public safety
73.27	Annual report
73.28	Compensation for fires reported
73.29	Statement not used in civil actions, when

73.01 EX OFFICIO FIRE MARSHAL. The commissioner shall be ex officio state fire marshal, but shall receive no additional compensation therefor. He shall have all the duties and rights formerly by law conferred upon the state fire marshal.

[1925 c. 426 art. 8 s. 4] (53-31)

73.02 SPECIAL ATTORNEY. The attorney general may appoint a special attorney for the department, whose work shall be under the supervision of the attorney general, who shall fix the compensation, such compensation to be paid out of the fund created under this chapter.

[1913 c. 564 s. 4] (5953)

73.03 ORIGIN OF FIRES INVESTIGATED. The chief of the fire department of each city or village in which a fire department is established, and the mayor of each city in which no fire department exists, and the president of the village board of each village in which no fire department exists, and the town clerk of each town without the limits of any city or village, shall investigate, or cause to be investigated, the cause, origin, and circumstances of each fire occurring in the city, village, or town by which property has been destroyed or damaged when the damage exceeds \$25.00, except that all fires of unknown origin shall be reported, and shall especially make investigation as to whether the fire was the result of carelessness, accident, or design.

The investigation shall be begun within two days of the occurrence of the fire and the state fire marshal shall have the right to supervise and direct the investigation when he deems it expedient or necessary.

The officer making investigation of fires occurring in cities, villages, and towns shall forthwith notify the state fire marshal and shall, within one week of the occurrence of the fire, furnish to the state fire marshal a written statement of all the facts relating to the cause and origin of the fire and such further information as may be called for by the blanks furnished by the state fire marshal. The state fire marshal shall keep in his office a record of all fires occurring in the state, together with all facts, statistics, and circumstances, including the origin of the fires, which may be determined by the investigation provided by this chapter. These statistics shall be at all times open to public inspection.

[1913 c. 564 s. 6] (5955)

73.04 EVIDENCE, TAKING OF. The state fire marshal shall, when in his opinion further investigation is necessary, take or cause to be taken the testimony on oath of all persons supposed to be cognizant of any facts or to have any means of knowledge in relation to the matter as to which an examination is herein required to be made and shall cause the same to be reduced to writing; and, if he shall be of the opinion that there is evidence sufficient to charge any person with the crime of arson, he shall cause such person to be arrested and charged with the offense and

furnish to the proper prosecuting attorney all this evidence, together with the copy of all names of witnesses and all the information obtained by him, including a copy of all pertinent and material testimony taken in the case; and keep a record of the proceedings and progress made in all these prosecutions for arson and the result of all cases finally disposed of.

[1913 c. 564 s. 7] (5956)

73.05 TESTIMONIAL POWERS. Subdivision 1. **Attendance of witnesses.** The state fire marshal, chief assistant fire marshal, and deputy state fire marshals, shall each have the power in any county of the state to summon and compel the attendance of witnesses before them, or either of them, to testify in relation to any matter which is by the provisions of this chapter a subject of inquiry and investigation and may require the production of any book, paper, or document deemed pertinent thereto by them, or either of them. The summons shall be served in the same manner and have the same effect as subpoenas from district courts. All witnesses shall receive the same compensation as is paid to witnesses in district courts, which shall be paid out of the fire marshal fund upon vouchers signed by the state fire marshal, chief assistant fire marshal, or deputy fire marshal before whom any witnesses shall have attended and this officer shall, at the close of the investigation wherein the witness was subpoenaed, certify to the attendance and mileage of the witness, which certificate shall be filed in the office of the state fire marshal. All investigations held by or under the direction of the state fire marshal, or any subordinate, may in his discretion be private and persons other than those required to be present by the provisions of this chapter may be excluded from the place where the investigation is held, and witnesses may be kept separate and apart from each other and not allowed to communicate with each other until they have been examined.

Subdivision 2. **Oaths administered.** The state fire marshal, chief assistant state fire marshal, and deputy state fire marshals are each hereby authorized and empowered to administer oaths and affirmations to any persons appearing as witnesses before them; and false swearing in any matter or proceeding aforesaid shall be deemed perjury and punished as such.

Subdivision 3. **Refusal to testify.** Any witness who refuses to be sworn, or who refuses to testify, or who disobeys any lawful order of the state fire marshal, chief assistant fire marshal, or deputy state fire marshal in relation to the investigation, or who fails or refuses to produce any paper, book, or document touching any matter under examination, or who is guilty of any contemptuous conduct, after being summoned to appear before them to give testimony in relation to any matter or subject under examination or investigation may be summarily punished by the state fire marshal, chief assistant state fire marshal, or deputy state fire marshals as for contempt by a fine in a sum not exceeding \$100.00, or be committed to the county jail until such time as such person may be willing to comply with any reasonable order made by the state fire marshal, chief assistant state fire marshal, or deputy state fire marshals, as provided in this chapter, and subject to the provisions of section 588.01.

[1913 c. 564 s. 8] (5957)

73.06 DISOBEDIENCE, HOW PUNISHED. Disobedience of any subpoena in such proceedings, or contumacy of a witness, may, upon application of the state fire marshal, be punished by any district court in the same manner as if the proceedings were pending in that court.

[1913 c. 564 s. 9] (5958)

73.07 PREMISES, WHEN ENTERED. In the performance of the duties imposed by the provisions of this chapter, the state fire marshal, and any of his subordinates, at all times of day or night may enter upon and examine any building or premises where a fire has occurred and other buildings and premises adjoining or near thereto.

[1913 c. 564 s. 10] (5959)

73.08 BUILDINGS, ENTERED WITHIN REASONABLE HOURS. The state fire marshal, his chief assistant, deputies, and subordinates, the chief of the fire department of each city or village where a fire department is established, the mayor of a city or village where no fire department exists, or the clerk of a town in territory without the limits of a city or village, at all reasonable hours may enter into

all buildings and upon all premises within their jurisdiction for the purpose of examination.

[1913 c. 564 s. 11] (5960)

73.09 BUILDINGS REPAIRED OR TORN DOWN, ENTRANCE TO. The state fire marshal may condemn, and by order direct the destruction, repair, or alteration of, any building or structure which, by reason of age, dilapidated condition, defective chimneys, defective electric wiring, gas connections, heating apparatus, or other defect is especially liable to fire and which building or structure in the judgment of the state fire marshal, is so situated as to endanger life or limb or other buildings or property in the vicinity. In case the order requires the repair of a building, the owner, lessee, or other person upon whom rests the duty to keep the structure in repair and upon whom the order is served shall make such repairs as thereby directed and the order may direct that the structure be closed and not further used or occupied until the repairs are made. Any person who shall wilfully disobey the order directing the closing of the building pending the making of these repairs shall be guilty of a misdemeanor.

[1913 c. 564 s. 12; 1917 c. 469 s. 1] (5961)

73.10 STRUCTURES REPAIRED OR DEMOLISHED. The state fire marshal is hereby authorized to petition the district court of any county for an order of condemnation directing the destruction, repair, or alteration of any building or structure located on land owned by, or on land held in trust by, the state which is especially liable to fire and dangerous to life and limb within the purview of the provisions of section 73.09. In case the petition is for an order requiring repairs, the person authorized by law to make the repairs and upon whom the order is served, shall make these repairs as thereby directed and the order may direct that the building or structure be closed and not further used or occupied until the repairs are made. Upon the filing of the petition with the district court wherein any such building or structure is located, the court shall make a temporary order directing the state fire marshal to serve a copy of the petition and a copy of the temporary order upon the commissioner of taxation and the county board of the county wherein the lands are situated; and, if the lands are situated in a city of the first class, then upon the assessor of this city of the first class, within such time as may be fixed by the court in its order. If, within 20 days, no objections are filed to the petition by the parties so served, the court may require the state fire marshal to present sufficient proof to sustain the allegations set forth in his petition, and thereupon the court may or may not, as the case may require, make an order of condemnation and direct the state fire marshal to proceed with the destruction of the building or structure; but if objections are filed and a copy of the objections have been duly served upon the state fire marshal within 20 days of the service of the copy of the temporary order and copy of the petition hereinbefore referred to, the court upon application by the state fire marshal shall make its order fixing the time and place for hearing of the matter, which place may be at any convenient point, at any general or special term, or out of the term, or in chambers, within the judicial district where the lands are situated, and which time shall be within ten days from the date of the filing of the objections or as soon thereafter as may be. If upon the hearing the petition shall be sustained, the court shall issue an order of condemnation and fix the time within which the building or structure shall be destroyed, repaired, or altered in compliance with the order and that upon failure of the proper person or persons to comply with the order the state fire marshal shall proceed with the destruction thereof. If upon the hearing the petition of the state fire marshal is not sustained, the court shall deny the petition.

In all cases where the order of the court has not been complied with and the state fire marshal is authorized to proceed with the demolition of any building or structure, the state fire marshal shall sell and dispose of the salvage materials therefrom at public auction upon three days' posted notice and all expenses incurred by the state fire marshal shall be paid out of the moneys received from the auction of salvage material, and any deficit remaining unpaid thereafter may be paid out of the funds created by and provided for in section 73.20. Should any surplus remain of the amount received for salvage material, after deducting the expenses incurred by the state fire marshal, this surplus shall be paid to the treasurer of the county where the property was situated to be distributed by him as provided by law.

[1939 c. 200; 1941 c. 123] (5961-1)

73.11 EXITS OPENED, ORDER. When the state fire marshal upon inspection shall find a building of such construction and use that the exits and means of egress already provided do not afford reasonably safe escape in case of fire for the number of people customarily within he may order such exits to be opened and such means of escape to be provided as in his judgment are reasonably necessary to eliminate the danger arising therefrom.

[1913 c. 564 s. 12; 1917 c. 469 s. 1] (5962)

73.12 ORDER TO BE IN WRITING. The order shall be in writing, recite the grounds therefor, and be filed in the office of the clerk of the district court of the county in which the building or structure so ordered to be altered, repaired, or demolished is situated and thereupon all further proceedings for the enforcement thereof shall be had in that court.

[1913 c. 564 s. 13; 1917 c. 469 s. 1] (5963)

73.13 NOTICE, SERVICE ON OWNER. A copy of the order filed in accordance with section 73.12, together with a written notice that the same has been so filed and will be put in force unless the owner or occupying tenant shall file with the clerk of the court his objections and answer thereto within the time specified in section 73.14, shall be served upon the owner of the building or structure so directed to be altered, repaired, or demolished; and, if there be a tenant occupying the building, then also upon this occupant, which service shall be made upon the owner and tenant, if there be one, personally, either within or without the state; but, if the whereabouts of the owner is unknown and the same cannot be ascertained by the state fire marshal in the exercise of reasonable diligence, then, upon his filing in the office of the clerk of the district court his affidavit to this effect, service of the notice upon the owner may be made by publishing the same once in each week for three successive weeks in a newspaper printed and published in the county in which the building or structure is located and by posting a copy thereof in a conspicuous place upon the building or structure, and the service so made shall be deemed to be complete upon the expiration of the publication period. Proof of service of the notice shall be filed in the office of the clerk of the district court within five days after the service thereof.

[1913 c. 564 s. 14; 1917 c. 469 s. 1] (5964)

73.14 WRITTEN OBJECTIONS FILED BY OWNER. The owner of any building so condemned, or any lessee upon whom the notice and order are served, within 20 days from the date of the service, as herein provided, may file with the clerk of the court and serve upon the state fire marshal by registered mail written objections to the order in the form of an answer denying the existence of any of the facts therein recited which he desires to controvert. If no answer is so filed and served, the owner and all other persons in interest shall be deemed to be in default and thereupon the court shall affirm the order of condemnation and direct the state fire marshal to proceed with the enforcement thereof; but, if an answer be filed and served, as herein provided, the court shall hear and determine the issues so raised and give judgment thereon as herein provided.

[1913 c. 564 s. 15; 1917 c. 469 s. 1] (5965)

73.15 HEARING. The court upon application of the state fire marshal shall make its order fixing a time and place for the hearing, which place may be at any convenient point within the judicial district, and which time shall be within ten days from the date of the filing of the answer, or as soon thereafter as may be; and upon the trial the order of condemnation shall be prima facie evidence of the existence of the facts therein recited. If upon the trial the order shall be sustained, judgment shall be given accordingly and fixing a time within which the building shall be altered, destroyed, or repaired, as the case may be, in compliance with the order, but otherwise the court shall annul and set aside the order of condemnation.

[1913 c. 564 s. 16; 1917 c. 469 s. 1] (5966)

73.16 FAILURE TO COMPLY WITH ORDER. If the owner or other party in interest shall fail to comply with the order of condemnation of a structure within the time fixed thereby, or within the time fixed by the court in case a trial is had therein, the state fire marshal shall proceed to cause the building or structure to be demolished or repaired in accordance with the direction contained in the order, and where a building is demolished in accordance with the order he may sell and dispose of the salvage materials therefrom at public auction upon three days' posted notice. He shall keep an accurate account of the expenses incurred in carrying out the order and credit thereon the proceeds of the salvage sale, if any, and report his

action thereon, with a statement of these expenses or the balance thereof, the expense incurred by him, and the amount, if any, received from the salvage sale, to the court for approval and allowance and thereupon the court shall examine, correct, if necessary, and allow the expense account and by its order certify the amount so allowed to the county auditor for collection; and the owner or other party in interest shall pay the same within 30 days thereafter, with 25 per cent penalty added thereon, and in default of payment the auditor shall enter this expense on the tax lists of the county as a special charge against the real estate on which the building is or was situated and the same shall be collected in the same manner as other taxes and the amount so collected, including the penalty thereon, shall be paid into the state treasury and credited to the fund of the state fire marshal; if the amount received as salvage shall exceed the expense incurred by the state fire marshal, the court shall direct the payment of the surplus to the owner or the payment of the same into court for its use and benefit.

[1913 c. 564 s. 17; 1917 c. 469 s. 1] (5967)

73.17 COMBUSTIBLE MATERIAL REMOVED. The state fire marshal, the chief assistant fire marshal, or any deputy fire marshal, who finds in any building or upon any premises any combustible or explosive material, rubbish, rags, waste, oils, gasoline, or inflammable matter of any kind endangering the safety of the building or property or the occupants thereof or the occupants of adjoining buildings shall order these materials removed or the dangerous condition corrected forthwith. This order shall be in writing and directed generally to the owner, lessee, agent, or occupant of the building or premises and any owner, lessee, agent or occupant upon whom such notice shall be served who fails to comply therewith within 24 hours thereafter, unless the order prescribes a longer period within which it may be complied with, shall be guilty of a misdemeanor, and the material may be removed or dangerous condition corrected at the expense of the owner of the building and premises or the person upon whom the service is so made, or both, and the state fire marshal may maintain all necessary actions for the recovery thereof.

[1913 c. 564 s. 18; 1917 c. 469 s. 1] (5968)

73.18 FIRE INSURANCE COMPANIES TO REPORT FIRE LOSSES. Each fire insurance company authorized to transact business in this state is hereby required to report to the state fire marshal, through the secretary or other officer of the company designated by the board of directors for that purpose, all fire losses on property insured in the company giving the date of fire, the amount of probable loss, the character of property destroyed or damaged, and the supposed cause of the fire, together with the amount of insurance carried by the company. This report shall be mailed to the state fire marshal within three days after notice of loss is received by the company. Each company is hereby required to report the amount of loss adjusted on each fire after adjustment is made. This report shall be in addition to and not in lieu of any report the company may be required to make by any law of this state to the commissioner.

[1913 c. 564 s. 19] (5969)

73.19 FAILURE TO COMPLY, PUNISHMENT. Any officer referred to in section 73.03 who neglects to comply with any of the requirements of this chapter shall, upon conviction, be punished by a fine of not less than \$25.00, nor more than \$100, for each neglect or violation.

[1913 c. 564 s. 20] (5970)

73.20 FIRE INSURANCE COMPANIES TO PAY COST OF MAINTENANCE. For the purpose of maintaining the office of the state fire marshal and paying all the expenses incident thereto, every fire insurance company doing business in the state, excepting town insurance companies, farmers' mutual fire insurance companies, and township mutual fire insurance companies, shall hereafter pay to the state treasurer on or before March first annually a tax upon its fire premiums or assessments, or both, as follows:

A sum equal to one-half of one per cent of the gross premiums and assessments, less return premiums, on all direct business received by it in this state, or by its agents for it, in cash or otherwise, during the preceding calendar year, including premiums on policies covering fire risks only on automobiles, whether written under floater form or otherwise. In the case of a mutual company, the dividends paid or credited to members in this state shall be construed to be return premiums. The money so received into the state treasury shall be set aside as a special fund and it is hereby appropriated for the maintenance of the office of the state fire marshal

MINNESOTA STATUTES 1945

and the expenses incident thereto. The state shall not be liable in any manner for the salary of the state fire marshal, his chief assistant, deputies, clerks, and other employees, or for the maintenance of the office of fire marshal or any expenses incident thereto, and the same shall be payable only from the special fund provided for in this section.

[1913 c. 564 s. 23; 1915 c. 341 s. 1; 1937 c. 77 s. 1] (5973)

73.21 ITEMIZED STATEMENT KEPT. The state fire marshal shall keep on file in his office an itemized statement of all expenses incurred by his office and approve all vouchers issued therefor before the same are submitted to the state auditor for payment, which vouchers shall be allowed and paid in the same manner as other claims against the state.

[1913 c. 564 s. 24] (5974)

73.22 RECORDS TO BE PUBLIC, EXCEPT IN CERTAIN CASES. All records on file in the state fire marshal's office shall be public, except any testimony, correspondence, or other matter taken in an investigation under the provisions of this chapter, which the state fire marshal, in his discretion, may withhold from the public.

[1913 c. 564 s. 26] (5976)

73.23 COUNTY ATTORNEYS TO ASSIST. The county attorney of any county, upon request of the state fire marshal, his deputies or assistants, shall assist such officers upon an investigation of any fire, which in their opinion is of suspicious origin.

[1913 c. 564 s. 27] (5977)

73.24 FIRE DRILLS IN SCHOOLS. It shall be the duty of the state fire marshal, his deputies and assistants, to require teachers of public and private schools and educational institutions to have one fire drill each month and to keep all doors and exits unlocked during school hours.

[1913 c. 564 s. 28] (5978)

73.25 PENALTIES PAID INTO STATE TREASURY. All penalties, fees, or forfeitures collected under the provisions of this chapter shall be paid into the state treasury for the benefit of the state fire marshal fund.

[1913 c. 564 s. 29] (5979)

73.26 DECLARATION FOR PUBLIC SAFETY. It is hereby declared that this chapter is necessary for the public safety, health, peace, and welfare, is remedial in nature, and shall be construed liberally and this chapter shall not be declared unconstitutional and void for the reason that any section or provision thereof may be in contravention of the constitution.

[1913 c. 564 s. 30] (5980)

73.27 ANNUAL REPORT. The state fire marshal shall submit annually as early as consistent with full and accurate preparation and not later than the fifteenth day of February a detailed report of his official actions to the governor.

[1913 c. 564 s. 31] (5981)

73.28 COMPENSATION FOR FIRES REPORTED. There shall be paid to the chiefs of fire departments, and mayors of cities, who do not receive to exceed \$50.00 annually as compensation for their services as such chiefs and mayors, and to presidents of the village boards, and to the town clerks of towns, who are by this chapter required to report fires to the state fire marshal, the sum of \$1.00 for each fire reported to the satisfaction of the state fire marshal; and in addition thereto mileage at the rate of ten cents per mile for each mile traveled to and from the place of fire. These allowances shall be paid by the state fire marshal at the close of each fiscal year out of any funds appropriated for the use of the office of the state fire marshal.

All chiefs of departments who receive a stated salary and devote their entire time to the duties of chiefs of the department and those mayors of cities who receive a stated salary exceeding \$50.00 as such officer shall be precluded from receiving any extra allowance from the report herein mentioned.

[1913 c. 564 s. 32] (5982)

73.29 STATEMENT NOT USED IN CIVIL ACTION, WHEN. No statement or admission of assured in any fire insurance policy given to the fire marshal's office in any investigation or proceeding had by that office shall be used in any civil action based upon such policy of insurance.

[1913 c. 564 s. 33] (5983)