TITLE 38

PROTECTION FROM FIRE

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Chapter 476

2011 EDITION

State Fire Marshal; Protection From Fire Generally

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GENERAL PROVISIONS

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

(1) "Fire protection equipment" means any apparatus, machinery or appliance intended for use by a fire service unit in fire prevention or suppression activities, excepting forest fire protection equipment.

(2) "Governmental subdivisions" means a city, county or rural fire protection district in this state whose functions include regulation of building use and occupancy and the administration of fire safety laws, ordinances and regulations. [Formerly 476.800; 1985 c.118 §1; 1993 c.185 §24]

476.010 Additional definitions. (1) As used in ORS 476.010 to 476.115, 476.150 to 476.170 and 476.210 to 476.270, "alterations," "construction," "family," "hospital," "occupancy" and "private residence" have the meanings given those terms in ORS 479.168.

(2) As used in ORS 476.030 and other laws relating to the duties of the State Fire Marshal, "governmental subdivision" means a city, county, municipal corporation, quasi-municipal corporation and rural fire protection district, created under the laws of Oregon.

(3) As used in ORS 476.380:

(a) "Commercial waste":

(A) Means any waste produced in any business involving the lease or sale, including wholesale and retail, of goods or services, including but not limited to housing.

(B) Means any waste produced by a governmental, educational or charitable institution.

(C) Does not include any waste produced in a dwelling containing four living units or less.

(b) "Demolition material" means any waste resulting from the complete or partial destruction of any man-made structure, such as a house, apartment, commercial building or industrial building.

(c) "Domestic waste" means any nonputrescible waste, consisting of combustible materials, such as paper, cardboard, yard clippings, wood or similar materials, generated in a dwelling, including the real property upon which it is situated, containing four living units or less.

(d) "Field burning" means the burning of any grass field, grain field, pasture, rangeland or other field by open burning or by use of mobile equipment or flaming equipment on any land or vegetation.

(e) "Industrial waste" means any waste resulting from any process or activity of manufacturing or construction.

(f) "Land clearing debris" means any waste generated by the removal of debris, logs, trees, brush or demolition material from any site in preparation for land improvement or construction projects.

(g) "Open burning" means any burning conducted in such a manner that combustion air is not effectively controlled and that combustion products are not vented through a stack or chimney, including but not limited to burning conducted in open outdoor fires, common burn barrels and backyard incinerators. [Subsection (2) formerly part of 476.030; 1975 c.635 §1; 2005 c.22 §353]

STATE FIRE MARSHAL; POWERS AND DUTIES

476.020 State Fire Marshal; appointment; qualifications. (1) The office of State Fire Marshal is established in the Department of State Police. The State Fire Marshal shall be appointed by and be administratively responsible to the Superintendent of State Police, and shall serve at the pleasure of the superintendent. The State Fire Marshal shall retain all current authority of the office and shall be responsible for the implementation of its mission and programs.

(2) The State Fire Marshal shall be qualified to direct the technical and executive work of the agency as determined by the superintendent and shall have education or training related to the programs of the agency and significant experience in managing fire protection or related programs. [Amended by 1963 c.523 §1; 1971 c.753 §54; 1987 c.414 §79; 1993 c.186 §1]

476.030 Powers and duties of marshal and deputies generally; rules; exemption of certain governmental subdivisions; inspection of adult foster homes. (1) The State Fire Marshal shall enforce all statutes, and make rules relating to:

(a) The prevention of fires.

(b) The storage and use of combustibles and explosives.

(c) The maintenance and regulation of structural fire safety features in occupied structures and overseeing the safety of and directing the means and adequacy of exit in case of fire from factories, asylums, hospitals, churches, schools, halls, theaters, amphitheaters, all buildings, except private residences, which are occupied for sleeping purposes, and all other places where large numbers of persons work, live or congregate from time to time for any purpose except that structural changes shall not be required in buildings built, occupied and maintained in

conformity with state building code regulations applicable at the time of construction.

(d) Standards for equipment used for fire protection purposes within this state including standard thread for fire hose couplings and hydrant fittings.

(2) The State Fire Marshal and deputies shall have such powers and perform such other duties as are prescribed by law.

(3) If, in the opinion of the State Fire Marshal, a governmental subdivision of the state has enacted adequate regulations generally conforming to state and national standards concerning fire prevention, fire safety measures and building construction requirements for safety, and if the governmental subdivision provides reasonable enforcement of its regulations, the State Fire Marshal may exempt the area subject to such regulation either partially or fully from the statutes, rules and regulations administered by the State Fire Marshal. Prior to adoption of any such exemption, the State Fire Marshal may request from the Department of Public Safety Standards and Training consideration of and recommendations regarding the exemption. The exemption may extend for a two-year period, and may be renewed from time to time, but may be canceled by the State Fire Marshal following 30 days' written notice if the State Fire Marshal finds that the governmental subdivision's regulations or enforcement thereof are not reasonably sufficient. The governmental subdivision shall furnish a copy of such regulations to the State Fire Marshal and shall file with the State Fire Marshal any amendment thereto within 30 days before the effective date of such amendment. The State Fire Marshal shall designate a person or division within such governmental subdivision as an approved authority for exercising functions relating to fire prevention, fire safety measures and building construction. Upon request of a local official having enforcement responsibility and a showing of unusual fire hazard or other special circumstances, the State Fire Marshal shall make investigation and appropriate recommendations.

(4) The State Fire Marshal may investigate or cause an investigation to be made to determine the probable cause, origin and circumstances of any fire and shall classify such findings as the State Fire Marshal may find appropriate to promote fire protection and prevention.

(5) The State Fire Marshal shall provide training in fire safety inspection to the Department of Human Services, area agencies, the Oregon Health Authority, community mental health programs, developmental disabilities programs and designees of the Long Term Care Ombudsman. If an adult foster home has been inspected by the Department of Human Services, the Oregon Health Authority, an area agency, a community mental health program or a developmental disabilities program and the agency conducting the inspection reasonably believes that the adult foster home is not in compliance with applicable fire safety rules, the agency conducting the inspection may request the State Fire Marshal to inspect or cause an inspection to be made. If a designee of the Long Term Care Ombudsman, in the course of visiting an adult foster home, believes that the adult foster home is not in compliance with applicable fire safety rules, the designee shall report the problem to the appropriate agency to request a fire safety inspection by the office of the State Fire Marshal or by a designated representative of the office of the State Fire Marshal.

(6) Upon the request of the Department of Human Services, the Oregon Health Authority, an area agency, a community mental health program or a developmental disabilities program, the State Fire Marshal shall inspect or cause an inspection to be made to determine if the adult foster home is in compliance with rules jointly adopted by the Department of Human Services and the State Fire Marshal establishing fire safety standards for adult foster homes.

(7) As used in subsections (5) and (6) of this section:

(a) "Adult foster home" has the meaning given that term in ORS 443.705.

(b) "Area agency" has the meaning given that term in ORS 410.040.

(c) "Community mental health program" means a program established under ORS 430.620 (1)(b).

(d) "Developmental disabilities program" means a program established under ORS 430.620 (1)(a). [Amended by 1957 c.265 §1; 1963 c.523 §5; 1965 c.602 §1; part renumbered as part of 476.010; 1967 c.417 §1; 1973 c.667 §16; 1977 c.821 §3; 1985 c.118 §2; 1985 c.726 §18; 1989 c.696 §1; 1993 c.185 §25; 1997 c.13 §1; 1997 c.853 §40; 2001 c.900 §206; 2009 c.595 §976]

476.033 Discretionary powers of State Fire Marshal. The State Fire Marshal may:

(1) Contract or otherwise cooperate with any person or public agency for the procurement of necessary services or property;

(2) Accept gifts or grants of services or property; and

(3) Perform such other duties as required by law. [Formerly 476.855]

Note: 476.033 was added to and made a part of ORS chapter 476 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

476.035 Adjustments and variances in application of statutes and regulations. When the State Fire Marshal finds that practical difficulties, unnecessary hardship or consequences inconsistent with the general purposes of statutes and regulations administered by the State Fire Marshal relating to fire protection and fire prevention may result under the provisions of such statutes and regulations, the State Fire Marshal may upon receipt of a verified application from the owner or occupant of the property affected stating fully the grounds of the application and facts relied upon, and upon further investigation, grant adjustments or variances with such conditions and safeguards as the State Fire Marshal may determine in harmony with the general purpose and intent and spirit of such fire protection and fire prevention statutes and regulations, so that the public health, safety and welfare shall be secured and substantial justice done. Such adjustments or variances shall be restricted to unique, unusual or peculiar circumstances or substitute materials or arrangements. The State Fire Marshal may refer the application to a regional appeal advisory board created under ORS 476.113 and 476.115 for recommendation prior to making a decision. Except as otherwise specified by law the order of the State Fire Marshal granting or denying a variance shall be final and conclusive. [1965 c.602 §6]

Note: 476.035 was added to and made a part of 476.010 to 476.115 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

476.040 Deputies and assistants. The State Fire Marshal shall appoint a chief deputy state fire marshal and deputy state fire marshals whose duties shall be to assist in carrying into effect the provisions of ORS 476.010 to 476.090 and 476.155 to 476.170, 476.210 to 476.270 and 479.168 to 479.190. The State Fire Marshal may also employ such other assistants and employees and incur such other expenses as the State Fire Marshal may deem necessary in carrying into effect these provisions. The State Fire Marshal may remove any deputies or assistants for cause. [Amended by 1963 c.523 §6; 1985 c.118 §3; 1993 c.185 §26; 2011 c.97 §1]

476.050 Payment of salaries and expenses. The salary of the chief deputy state fire marshal, deputy state fire marshals, compensation of clerks and other assistants and other expenses of the office of State Fire Marshal necessary in the performance of the duties imposed upon the State Fire Marshal shall be paid in the same manner as are other state officers and the expenses of other state departments, and shall not exceed the amount paid to the State Treasurer for the maintenance of the office of State Fire Marshal. [Amended by 1953 c.93 §1; 1987 c.414 §156]

476.055 State Fire Marshal Fund; uses. (1) All moneys received by the State Fire Marshal shall be paid into the State Treasury, and shall be placed by the State Treasurer to the credit of the State Fire Marshal Fund, except those moneys received and accounted for under the provisions of ORS 279A.290.

(2) Except as otherwise provided by this section, moneys in the State Fire Marshal Fund shall be available and constitute a continuing appropriation for the payment of any expense of the State Fire Marshal and for the payment of expenses of the Department of Public Safety Standards and Training and the Board on Public Safety Standards and Training relating to training programs concerning fire services and accreditation of fire service professionals. The State Fire Marshal shall keep on file an itemized statement of all expenses incurred by the State Fire Marshal and shall approve all disbursements as submitted for payment. Administrative expenditures made from the State Fire Marshal Fund shall not exceed a reasonable amount for the services performed. [1953 c.93 §2; 1953 c.199 §2; 1965 c.602 §2; 1967 c.359 §694; 1967 c.417 §2; 1973 c.832 §§6,6a; 1977 c.104 §1; 1985 c.118 §4; 1987 c.414 §157; 1993 c.185 §27; 1993 c.186 §6; 1997 c.853 §41; 2003 c.794 §298]

476.057 [1980 c.15 §1; repealed by 1985 c.383 §1]

476.060 Local officers and constables as assistants to State Fire Marshal. (1) All fire marshals in those governmental subdivisions having such officers, and where no such officer exists, the chief of the fire department of every city or rural fire protection district in which a fire department is established, the marshal or chief of police, officer of any city in which no fire department exists, and constables, if any, shall be, by virtue of the offices held by them, assistants to the State Fire Marshal without additional recompense, subject to the duties and obligations imposed by law, and shall be subject to the direction of the State Fire Marshal in the execution of the provisions of this section and ORS 476.070, 476.090, 476.150, 476.210 and 480.445.

(2) In addition to other duties under subsection (1) of this section, an individual designated as an assistant to the State Fire Marshal shall aid in the administration and enforcement of ORS 480.200 to 480.290 and 480.990 (6) upon the request of the State Fire Marshal. [Amended by 1965 c.602 §3; 1971 c.518 §22; 1983 c.740 §188; 1987 c.158 §103; 2005 c.88 §4]

476.070 Entering buildings and premises. The State Fire Marshal, the deputies or assistants of the State Fire Marshal, or any of them, may:

(1) At all reasonable hours, in performance of the duties imposed by the provisions of ORS 476.030, enter upon and examine any building or premises wherein fire has occurred, and other buildings or premises adjoining or near the same.

(2) For just cause and for the purpose of examination, enter, at all reasonable hours, in and upon all buildings and premises within their jurisdiction.

476.080 [Amended by 1973 c.834 §32; renumbered 476.150 in 1987]

476.090 Records of fires. (1) The State Fire Marshal shall keep a record of all fires occurring in this state and of all facts concerning the same, including statistics as to the extent of such fires and the damage caused, whether such losses were covered by insurance, and if so, in what amount. All such records shall be public, except any testimony, information or other evidence taken in an investigation under ORS 476.010 to 476.090, 476.155 to 476.170, 476.210 to 476.270 and 479.180, which shall be considered investigatory information as described in ORS 192.501.

(2) This section shall not apply to forestlands under the jurisdiction of the State Forester. [Amended by 1967 c.417 §3; 1981 c.701 §1]

476.100 [Amended by 1973 c.832 §§7,7a; 1977 c.104 §2; repealed by 1987 c.414 §172]

476.110 State police to enforce fire laws. The Department of State Police shall employ a sufficient number of state police who shall perform the duties of enforcement of criminal laws and other statutes of Oregon with reference to the suppression and punishment of arson and fraudulent claims and practices in connection with fire laws. [Amended by 1963 c.523 §7; 1965 c.602 §4; 1967 c.417 §4]

476.113 Designation of regions; regional appeal advisory boards; qualifications of members. (1) The State Fire Marshal may by order from time to time designate not more than seven regions within the state and establish regional appeal advisory boards for each of the designated regions.

(2) Each regional appeal advisory board shall consist of three regular members and three alternate members appointed by the State Fire Marshal. A member or alternate member of a regional appeal advisory board shall receive no compensation for services as a member, but, subject to any other applicable law regulating travel and other expenses for state offices, shall receive actual and necessary travel and other expenses incurred in the performance of official duties. All appointed members must be persons qualified by experience and training. At least one member of each board must be a qualified architect who has practiced the profession for at least two years. Appointments shall be made for three-year terms. Any member may be removed by the State Fire Marshal for cause. Upon the death, resignation or removal of any member, a successor shall be appointed by the State Fire Marshal to serve the balance of the unexpired term. No member of a regional appeal advisory board shall sit in a case in which the member is interested and if any such case comes before the board, an alternate shall act in the place of the member. [1965 c.602 §7(1),(2); 2005 c.22 §354]

476.115 Functions of regional appeal advisory boards; reports submitted to board. (1) Each regional appeal advisory board shall:

(a) Elect a chairperson to whom referral of any matter by the State Fire Marshal shall be effective as to all board members, and who shall call and preside over meetings.

(b) Consider, and make recommendations to the State Fire Marshal concerning, any application for adjustment or variance arising within that region and referred to the board by the State Fire Marshal within 15 days after such referral. With relation to the referred matter the board may hold a hearing and receive testimony. The recommendations of the board shall be made in writing to the State Fire Marshal and shall be accompanied by a summary of any testimony received, any documentary or physical evidence received, any affidavit submitted by applicant and a summary of any special facts found by the board.

(c) Hear and consider, and make recommendations to the State Fire Marshal concerning, any appeal from an order made appealable by law, within 15 days after referral of such appeal to the board by the State Fire Marshal. Such recommendations shall be accompanied by the same summaries and evidentiary matter as in the case of an application for adjustment or variance referred to the board.

(d) Make recommendations to the State Fire Marshal concerning any matter referred to the board by the State Fire Marshal or considered by the board on its own motion, relating to fire prevention, protection from fire or other safety measures.

(2) At the time of each appeals board meeting a deputy state fire marshal shall submit to the board a report containing the pertinent facts and the manner in which the statutes or regulations apply to the case in point. [1965 c.602 §7(3)]

476.120 Minimum standards for protection of life and property. The State Fire Marshal, in making rules and regulations establishing minimum standards for the protection of life and property against fire, shall

consider as evidence of generally accepted standards the applicable standards prescribed from time to time by the National Fire Protection Association. The State Fire Marshal may request consideration and recommendations from the Department of Public Safety Standards and Training before adopting any such regulations. [1963 c.523 §4; 1967 c.417 §5; 1973 c.667 §19; 1993 c.185 §28; 1997 c.853 §42]

476.130 Statistical reports; price; sale; deposit of proceeds. (1) The State Fire Marshal may from time to time cause to be prepared statistical reports on the history and condition of state fire defenses, and an analysis of contributing factors of fire causes for the period of the report. Such reports may be printed at the expense of the office of the State Fire Marshal and sold at a price not to exceed cost of printing and distribution. Receipts from the sale of such material shall be deposited with the State Treasurer and shall be placed in the State Fire Marshal Fund.

(2) The State Fire Marshal may fix a sale price for each copy of any publication of the office of the State Fire Marshal supplied to private persons interested therein, when such publication has been approved as provided by law. [1965 c.602 §8]

INSPECTION PROCEDURES

476.150 Entry and inspection of premises; interfering with or preventing entry prohibited. (1) The State Fire Marshal and deputies, at all reasonable hours, may enter into all buildings and upon all premises, except private residences, for the purpose of inspection to ascertain if fire hazards exist therein or thereon. Owners of private residences may request a fire inspection of their property.

(2) No person shall interfere with or prevent any such inspection by such officers.

(3) When any person interferes with or prevents the State Fire Marshal or deputies from making the inspection mentioned herein, the officer shall apply to the district attorney of the county wherein the inspection was made or attempted to be made, for a warrant for the arrest of the offending person, and it shall be the duty of such district attorney forthwith to prosecute such offending person. [Formerly 476.080]

476.155 When judges authorized to issue inspection warrants. Judges authorized by law to issue search warrants, upon application of the State Fire Marshal, or deputies or assistants of the State Fire Marshal, may issue an inspection warrant whenever an inspection or investigation of any building or premises is required or authorized by any state or local statute, ordinance or rule relating to fire cause investigation or fire safety inspection. [1987 c.362 §2]

476.160 Circumstances under which warrant may be issued. (1) An inspection warrant shall be issued only upon cause, supported by affidavit, particularly describing the applicant's status in applying for the warrant, the statute, ordinance or rule requiring or authorizing the inspection or investigation, the place, building or premises to be inspected or investigated and the purpose for which the inspection or investigation is to be made including the basis upon which cause exists to inspect. In addition, the affidavit shall contain either a statement that entry had been sought and refused or facts or circumstances reasonably showing that the purposes of the inspection or investigation might be jeopardized if entry were sought without an inspection warrant.

(2) Cause shall be deemed to exist in the following circumstances:

(a) There is probable cause to believe that a condition of nonconformity with a fire safety standard or order exists;

(b) A fire has occurred in a building or on premises the cause of which has not been determined; or

(c) For the purpose of carrying out a routine, periodic inspection. [1987 c.362 §3]

476.165 Establishing cause to issue warrant; content. (1) Before issuing an inspection warrant, the judge may examine under oath the applicant or any other witness to be satisfied of the existence of grounds for granting such application.

(2) If the judge is satisfied that cause for the inspection or investigation exists and that the other requirements for granting the application are satisfied, the judge shall issue the warrant, particularly describing the name and title of the person or persons authorized to execute the warrant, the building or premises to be entered and the purpose of the inspection or investigation. The warrant shall contain a direction that it be executed as provided for in ORS 476.070 and 476.150. [1987 c.362 §4]

476.170 Execution of warrant. (1) Except as provided in subsection (2) of this section, in executing an inspection warrant, the person authorized to execute the warrant, before entry, shall make a reasonable effort to present the person's credentials, authority and purpose to an occupant or person in possession of the building or premises and present the warrant or a copy thereof.

(2) An inspection warrant must be executed and returned to the court by whom it was issued within 10 days from its date, unless such court before the expiration of such time, by indorsement thereon, extends the

time for five days. After the expiration of the time prescribed by this subsection, the warrant unless executed is void. [1987 c.362 §5]

INVESTIGATION OF FIRES; REPORTS

476.210 Investigation of fires by municipal officers and constables; reports; exemption. (1) The municipal fire marshals, fire department chiefs, constables and other officers referred to in ORS 476.060 shall investigate the cause, origin and circumstances of each fire occurring in their respective cities, villages or townships, by which property has been destroyed or damaged, and shall make an investigation to determine whether the fire was the result of carelessness or design. The investigation shall be commenced immediately after the occurrence of the fire. The State Fire Marshal may superintend and direct the investigation if the State Fire Marshal deems it necessary.

(2) The fire chief of every city, or rural fire protection district shall provide the State Fire Marshal with a full report of every fire occurring within the jurisdiction of the fire chief on a form provided or approved by the State Fire Marshal. Whenever the fire chief of every city under 200,000 population finds any fire is of undetermined or suspicious origin or involves a death or serious injury, the fire chief shall immediately notify the State Fire Marshal or a deputy state fire marshal and shall assemble all known facts and circumstances concerning the fire in an approved report form and shall submit such report to the State Fire Marshal, or the deputy state fire marshal assigned to the territory in which the fire originated. When evidence clearly indicates the cause of fire to be of incendiary origin, the fire chief shall also immediately notify the state, county or municipal police agency.

(3) This section shall not apply to forestlands under the jurisdiction of the State Forester. [Amended by 1965 c.602 §9; 1967 c.417 §6]

476.220 Report by officer investigating fire; exemption. (1) The officer making an investigation of a fire occurring in a city, village or township shall forthwith notify the State Fire Marshal and, within one week of the occurrence of the fire, shall furnish the State Fire Marshal a written statement of all facts relating to its cause and origin, and such other information as is required by forms provided by the State Fire Marshal.

(2) This section shall not apply to forestland under the jurisdiction of the State Forester. [Amended by 1967 c.417 §7]

476.230 Taking statements of persons knowing facts. If in the opinion of the State Fire Marshal further investigation is necessary, the State Fire Marshal or deputy state fire marshal, with the assistance of the district attorney, shall then proceed to take or have taken the statements of all persons supposed to be cognizant of any facts or who have means of knowledge in relation to the matter concerning which the examination is required and have such statements reduced to writing.

476.240 Supplying information to and requesting action by district attorney. If the Superintendent of State Police or an authorized assistant is of the opinion that there is evidence sufficient to charge a person with arson, burning with intent to defraud or prejudice the insurer, or a similar crime, the Superintendent of State Police or authorized assistant shall furnish the district attorney with such evidence, with the names of witnesses and a copy of material testimony taken in the case, and request the district attorney to cause the arrest of such person or take such other action as the district attorney deems necessary or advisable. [Amended by 1965 c.602 §10; 1967 c.417 §8]

476.250 District attorney summoning witnesses and requiring production of documents. The district attorney may at the discretion of the district attorney, upon the application of the State Fire Marshal or chief deputy state fire marshal, issue a subpoena to summon the attendance of witnesses before the district attorney to testify in relation to any matter which by law is a subject of inquiry and investigation, and require the production of any books, papers or documents the district attorney deems pertinent to an investigation of or relating to evidence pertaining to the cause of a fire. [Amended by 1967 c.417 §9]

476.260 District attorney assisting investigation of fires. The district attorney of any county, upon request of the state, county or a municipal police agency, shall assist such officers in the investigation of any fire which in their opinion is of incendiary origin. [Amended by 1967 c.417 §10]

476.270 Insurance company reports of suspicious fires; inspection of company's relevant information. (1) If an insurance company has reason to believe that a fire loss to its assured's real or personal property was caused by incendiary means, the company shall immediately make a report to the office of the State Fire Marshal. The report shall indicate the name of the assured, the date of the fire, location, occupancy, and facts and circumstances coming to the company's knowledge, tending to establish the cause or origin of the fire.

(2) Any federal, state or local public official or authorized agent thereof having legal authority to investigate a fire loss of real or personal property may request any insurance

company to provide relevant information in its possession pertaining to that loss. Upon request, the company shall release such information to the official who requests it. For purposes of this subsection, "relevant information" means information having any tendency to make the existence of any fact that is of consequence to the investigation more probable or less probable.

(3) In the absence of fraud or malice, no insurance company or its authorized representative shall be liable for damages in a civil action or subject to criminal prosecution for the release of information required by subsections (1) and (2) of this section. [Amended by 1967 c.417 §11; 1981 c.701 §2; 1985 c.686 §4]

EXTINGUISHING FIRES IN UNPROTECTED AREAS

476.280 Municipal fire departments and rural fire protection districts authorized to extinguish fires in unprotected areas. (1) The fire chief, or the representative of the fire chief, of any duly organized municipal or rural fire protection district may extinguish any uncontrolled fire found to be burning in any unprotected area, if:

(a) The governing body of the city or the district board of the rural fire protection district, as the case may be, has authorized the fire chief and the representatives of the fire chief to extinguish uncontrolled fires that are found to be burning in unprotected areas situated outside of the boundaries of the city or district and that are causing or may cause an undue jeopardy to life or property; and

(b) The fire chief or the representative of the fire chief believes that such fire is causing or may cause undue jeopardy to life or property.

(2) In extinguishing a fire pursuant to subsection (1) of this section, the fire chief and the representatives of the fire chief may employ the same means and resources used by them to extinguish similar fires within their jurisdiction. [1971 c.683 §1]

476.290 Billing owner of property for cost of extinguishing fire; cost limited; collection; action for recovery of cost. Whenever a fire is extinguished pursuant to ORS 476.280, the governing body of the city or the district board of the rural fire protection district that provided the fire suppression service may, on forms furnished by the State Fire Marshal for such purposes, bill the owner of the property involved in the fire for the cost of providing the fire suppression service. The governing body of the city or the district board of the rural fire protection district that provided the fire suppression service may determine the cost of providing the fire suppression service by use of a state standardized-costs schedule as approved by the State Fire Marshal. The cost charged for providing the fire suppression service may not be greater than the pro rata cost that would have been charged by the city or district for the performance by the city or district of a similar fire suppression service within its jurisdiction. If the cost is not paid within 30 days after the second billing, the governing body of the city or the district board of the rural fire protection district that provided the fire suppression service may bring an action for the recovery of the unpaid cost from the owner of the real property upon which the fire suppression service was rendered. [1971 c.683 §2; 2005 c.22 §355]

FIRE PREVENTION AND CONTROL ON CERTAIN LANDS NOT OTHERWISE PROTECTED

476.310 Zoning and rezoning of certain lands; hearing on petition of owners in nonzoned territory; duty of landowner to provide fire protection. (1) The governing body of each county may, in cooperation with the State Board of Forestry, zone and, as often as necessary, rezone any lands within the county lying outside the boundaries of incorporated cities, organized rural fire protection districts, federal and state-owned lands, lands protected under ORS chapter 477 and railroad rights of way, except that railroad rights of way may be zoned or rezoned if the owners of such rights of way file their written consent with the governing body. Lands, when zoned or rezoned, shall be divided into two zones as follows:

(a) Zone 1 shall be composed of forest, range, grass or undeveloped lands, or any of such lands intermingled with grazing and agricultural lands.

(b) Zone 2 shall be composed of rural lands not included in zone 1.

(2) During the season of the year when there is danger of fire, every owner of zone 1 land shall provide adequate protection against the starting or spread of fire thereon or therefrom, which protection shall meet with the approval of the governing body of the county in which the zone 1 land is located.

(3) An owner shall be deemed to have complied with the requirements of subsection (2) of this section if, on January 1 of each year, the owner files with the governing body of the county a bona fide fire protection plan that meets with the approval of the county governing body. The governing body of the county, or its appointed representative, shall periodically inspect the protection facilities

provided under such a plan in order to confirm compliance by the owner.

(4) If any owner of zone 1 land fails or neglects to file a fire protection plan, or to comply with the standard of protection approved by the county governing body, the governing body shall provide for forest protection pursuant to ORS 476.320.

(5) Nothing contained in ORS 476.310 to 476.340 shall prevent interested property owners in any nonzoned territory from petitioning the governing body and State Board of Forestry to hold a hearing on the matter of zoning the territory if a majority of the landowners within the territory file such petition. The governing body, cooperating with the State Board of Forestry, shall give full consideration to the wishes of the landowners as shown by the hearing. [Amended by 1957 c.432 §1; 1963 c.222 §1; 1965 c.253 §143; 1991 c.459 §415a; 2005 c.22 §356]

476.320 Determination of form of fire protection for lands in zone 1; costs. (1) The form of protection from fire for lands lying in zone 1 shall be determined jointly by the governing body of the county, the State Fire Marshal and the State Board of Forestry, which determination shall be reduced to writing, signed by the officers of the agencies and entered in the journal of the governing body of the county.

(2) The authority of the State Board of Forestry may be extended to include the establishment of forest protection on lands lying within zone 1 for lands not subject to a fire protection plan under ORS 476.310. For such purposes the board of forestry may contract with individuals, associations, agencies, corporations, rural fire protection districts, counties, cities, federal agencies, or any of them. The cost of protection in zone 1 shall be assessed and collected in the same manner as protection costs for lands protected under ORS chapter 477.

(3) The moneys received by the State Board of Forestry under this section shall be paid into the State Treasury and credited to the State Forestry Department Account and shall be used exclusively for the purposes stated in this section.

(4) As used in this section, the "authority of the State Board of Forestry" means the duties, obligations, requirements and penalties of ORS chapter 477. [Amended by 1957 c.83 §5; 1965 c.253 §144; 1967 c.429 §53; 1981 c.362 §1; 1991 c.459 §415b; 1999 c.355 §1]

476.330 Prevention and control of fires in zone 2; tax levy. (1) The county court or board of county commissioners of any county may prevent and control fire occurring within the limits of zone 2 in such county, and may for such purposes establish and maintain fire fighting and fire control facilities and contract with existing fire control agencies, either individuals, associations, corporations, cities or rural fire protection districts. The State Fire Marshal, upon the request of any county court or board of county commissioners, shall meet with and advise such county court or board of county commissioners as to the establishment and maintenance of fire fighting and fire protection equipment and facilities.

(2) If the court or board establishes fire fighting and fire protection equipment and facilities, it shall not discontinue such equipment and facilities until at least three years after notice of its intention to do so has been first published in a newspaper considered by the board to be of general circulation in the county. The notice shall be published by four insertions in the newspaper and 12 months shall elapse between each insertion.

(3) While the county court or board of county commissioners of any county is maintaining fire fighting and fire protection equipment and facilities, the court or board annually shall levy a tax upon the taxable property lying within zone 2 in the county, not to exceed one-fourth of one percent (0.0025) of the real market value of all taxable property within the zone, computed in accordance with ORS 308.207, for the purpose of furnishing such fire protection.

(4) The court or board of county commissioners, upon approval of the majority of the electors of zone 2 voting at a special election called for such a purpose, may levy a special tax of not to exceed one-fourth of one percent (0.0025) of the real market value of all taxable property within the zone, computed in accordance with ORS 308.207. This special levy may be in addition to the regular levy under subsection (3) of this section.

(5) To carry into effect any of the powers granted under this section, the court or board, when authorized by a majority of the votes cast by the electors of the zone voting at an election called for that purpose by the court or board, may borrow money and sell and dispose of general obligation bonds, which bonds shall never in the aggregate exceed one and one-fourth of one percent (0.0125) of the real market value of all taxable property within the zone, computed in accordance with ORS 308.207.

(6) The tax limitations provided in subsections (3) and (4) of this section do not apply to taxes levied to pay principal or interest on outstanding bonds. [Amended by 1955 c.262 §1; 1959 c.288 §1; 1963 c.9 §29; 1967 c.356 §1; 1969 c.590 §1; 1971 c.647 §107; 1991 c.459 §416; 2007 c.154 §63]

476.340 Establishment of rural fire protection districts in zone 2; exemption from taxation of property included in district. Nothing contained in the provisions of ORS 476.310 to 476.330 shall be construed to prohibit the establishment of rural fire protection districts as provided by law within the boundaries of zone 2 as the same may be established in any county. In event of the organization of a rural fire protection district comprising lands in zone 2, property included within such fire protection district shall not thereafter be taxed or assessed under the provisions of ORS 476.320 or 476.330. [Amended by 1955 c.262 §2; 1963 c.222 §2]

476.380 Fire permits; limitations upon burning; records. (1) No person, outside the boundaries of a rural fire protection district or a forest protection district, shall cause or permit to be initiated or maintained on the property of the person, or cause to be initiated or maintained on the property of another any open burning of commercial waste, demolition material, domestic waste, industrial waste, land clearing debris or field burning without first securing a permit from the county court or board of county commissioners.

(2) The county court or board of county commissioners, or its designated representative, shall prescribe conditions for issuance of any permit and shall refuse, revoke or postpone issuance of permits when necessary to prevent danger to life or property or to protect the air resources of this state. The Environmental Quality Commission shall notify the State Fire Marshal of the type of and time for burning to be allowed on each day under schedules adopted pursuant to ORS 468A.570 and 468A.595. The State Fire Marshal shall cause all county courts and boards of county commissioners or their designated representatives in the affected areas to be notified of the type of and time for burning to be allowed on each day and of any revisions of such conditions during each day. The county court, board or representative shall issue permits only in accordance with schedules of the Environmental Quality Commission adopted pursuant to this section and ORS 468A.555 to 468A.620 and 468A.992, 476.990, 478.960 and 478.990 but may reduce the hours allowed for burning if necessary to prevent danger to life or property from fire. The State Fire Marshal may refuse or postpone permits when necessary in the judgment of the State Fire Marshal to prevent danger to life or property from fire, notwithstanding any determination by the county court or board of county commissioners or its designated officer. Notwithstanding any other provision of this subsection, for a permit for the propane flaming of mint stubble, the county court or board of county commissioners, or its designated representative may only prescribe conditions necessary to prevent the spread of fire or to prevent endangering life or property and may refuse, revoke or postpone permission to conduct the propane flaming only when necessary to prevent danger to life or property from fire.

(3) Nothing in this section:

(a) Requires permission for starting a campfire in a manner otherwise lawful.

(b) Relieves a person starting a fire from responsibility for providing adequate protection to prevent injury or damage to the property of another. If such burning results in the escape of fire and injury or damage to the property of another, such escape and damage or injury constitutes prima facie evidence that the burning was not safe.

(c) Relieves a person who has obtained permission to start a fire, or the agent of the person, from legal liability for property damage resulting from the fire.

(d) Permits an act within a city or regional air quality control authority area that otherwise is unlawful pursuant to an ordinance of the city or rule, regulation or order of the regional authority.

(4) The county court or board of county commissioners shall maintain records of all permits and the conditions thereof, if any, that are issued under this section and shall submit at such times, as the Environmental Quality Commission shall require such records or summaries thereof to the commission. The Environmental Quality Commission shall provide forms for the reports required under this subsection. [1967 c.420 §3; 1969 c.613 §2; 1971 c.563 §8; 1973 c.835 §164; 1975 c.635 §2; 1991 c.920 §21; 1997 c.473 §5]

STANDARDIZATION OF FIRE PROTECTION EQUIPMENT

476.410 Standard thread hose couplings and hydrant fittings required. All equipment for fire protection purposes purchased by state and municipal authorities, or any other authorities having charge of public property, shall be equipped with the standard thread for fire hose couplings and hydrant fittings as adopted by the State Fire Marshal under ORS 476.030. Prior to adopting any such standard, the State Fire Marshal may request from the Department of Public Safety Standards and Training consideration of and recommendations regarding the standard. [Amended by 1963 c.523 §8; 1973 c.667 §20; 1993 c.185 §29; 1997 c.13 §2; 1997 c.853 §43]

476.420 Standardization of existing fire protection equipment; exemption. The standardization of existing fire protection equipment in this state shall be arranged for and carried out by or under the direction of

the State Fire Marshal who may proceed to make the changes necessary to standardize all existing fire protection equipment in this state. Prior to making any such change, the State Fire Marshal may request from the Department of Public Safety Standards and Training consideration of and recommendations regarding the change. The State Fire Marshal shall provide the appliances necessary for carrying on this work and shall proceed with such standardization as rapidly as possible and complete such work at the earliest date circumstances will permit. However, the State Fire Marshal may exempt from standardization special purpose fire equipment and existing fire protection equipment when it is established that such equipment is not essential to the coordination of public fire protection operations. The provisions of this section and ORS 476.440 shall not apply to fire protection equipment used under authority of ORS chapters 477 and 526. [Amended by 1965 c.602 §11; 1973 c.667 §21; 1993 c.185 §30; 1997 c.13 §3; 1997 c.853 §44]

476.430 Changing private equipment. The State Fire Marshal shall notify industrial establishments and property owners having equipment for fire protection purposes, which may be necessary for a fire department to use in protecting the property or putting out fire, of the changes necessary to bring their equipment up to the requirements of the standard established and shall render them such assistance as may be available in converting their defective equipment to standard requirements.

476.440 Sale of nonstandard equipment prohibited; exemption. No person shall sell or offer for sale in Oregon any fire hose, hydrant, fire engine or other equipment for fire protection purposes unless such equipment is fitted and equipped with the standard thread for fire hose couplings and hydrant fittings as has been adopted by the State Fire Marshal under ORS 476.030. Fire equipment for special purposes, research programs or special features of fire protection equipment found appropriate for uniformity within a particular protection area, may be exempted from this requirement by order of the State Fire Marshal. [Amended by 1963 c.523 §9; 1965 c.602 §12]

PROTECTION OF LIFE AND PROPERTY FROM FIRE IN CASE OF EMERGENCY

476.510 Short title. ORS 476.510 to 476.610 shall be known as the Emergency Conflagration Act.

476.515 Other officers authorized to act when Governor unavailable. If the Governor is unavailable to make timely exercise of the authority under ORS 476.510 to 476.610, the Superintendent of State Police may exercise such authority, and if that individual is unavailable the State Fire Marshal may exercise such authority. Any orders, rules or regulations issued by the Superintendent of State Police or the State Fire Marshal pursuant to this section have the same force and effect as if issued by the Governor. [1979 c.76 §5; 1987 c.414 §81; 1993 c.186 §2]

476.520 Governor authorized to assign fire-fighting forces and equipment. The Governor may assign and make available for use and duty in any county, city or district, under the direction and command of an officer designated by the Governor for the purpose, any part of the fire-fighting forces and equipment of any fire-fighting organization in this state other than an organization that possesses only one self-propelled pumping unit. The Governor may make fire-fighting forces and equipment available under this section in response to fire, a heightened danger of fire or a significant reduction in available fire-fighting resources. [Amended by 2005 c.16 §1]

476.530 Chief executive of political subdivision to assign forces and equipment; federal equipment. The chief executive of any county, city or fire protection district or the head of any fire department of any political subdivision, including agencies of this state, if so ordered by the Governor, shall assign and make available for duty and use in any county, city or fire district under the direction and command of such officer as may be designated by the Governor for the purpose, any part of the fire-fighting forces and equipment under the control of the chief executive or the head of the fire department, provided that any equipment made available by loan, or otherwise, to any county, city or fire district or this state by the United States or any agency thereof, shall at all times be subject to the order of the United States or such agency in accordance with the terms and conditions upon which the equipment is made available. [Amended by 1961 c.626 §1; 1979 c.76 §1]

476.540 Powers and duties of fire-fighting forces. Whenever the fire-fighting forces of any county, city or fire district are rendering outside aid pursuant to ORS 476.520 or 476.530, the officers and members of such fire-fighting forces shall have the same powers, duties, rights, privileges and immunities as though they were performing their duties in the political subdivision in which they are normally employed.

476.550 Loss or damage to equipment. When any equipment is used pursuant to ORS 476.520 or 476.530 the state shall be liable for any loss thereof or damage thereto and shall pay any expense incurred in the

operation or maintenance thereof. No claim for any such loss, damage or expense shall be allowed unless, within 60 days after it has been sustained or incurred, or within such extension of such time as may have been obtained from the Department of State Police, an itemized notice of such claim, under oath, is served by mail or personally upon the Department of State Police and such loss, damage or expense shall be payable from the Emergency Fund of the state. [Amended by 1979 c.76 §2; 1993 c.186 §3]

476.560 Reimbursement for aid. Whenever aid is supplied pursuant to ORS 476.520 to 476.590, the state shall reimburse the political subdivision supplying such aid for the compensation paid to employees supplied under ORS 476.520 to 476.590 during the time the rendition of such aid prevents them from performing their duties in the political subdivision by which they are employed and shall defray the actual traveling and maintenance expenses of such employees while they are rendering such aid. "Employee" as used herein means, and the provisions of ORS 476.520 to 476.610 apply with equal effect to, all firefighters, whether paid, volunteer or call. [Amended by 1991 c.67 §145]

476.570 Appointment of substitute firefighters; recall of off-duty firefighters. Substitute firefighters or recalled off-duty firefighters within any county, city or fire district from which regular firefighters are taken under the provisions of ORS 476.530, not exceeding the number of regular firefighters, may be recalled or appointed by the same persons authorized by law to appoint regular firefighters, provided that substitute firefighters appointed shall not be subject to the requirements of the civil service law or rules and that such substitute firefighters shall not be entitled to any pension or retirement rights or privileges. The substitute firefighters appointed under this section shall have the powers, functions and duties of regular firefighters. Their compensation shall not be greater than the lowest rate of pay for regular firefighters. Persons appointed as substitute firefighters shall exercise their powers, functions and duties only when called upon, during the period all, or any part, of the regular fire-fighting forces of any county, city or fire district are rendering outside aid pursuant to ORS 476.520 or 476.530, and for no longer than two days after the return to duty of the part of the regular fire-fighting forces for which they are substituting. Compensation for recalled off-duty firefighters and substitute firefighters and any allowable expense necessarily incurred by them in the performance of their duties shall be charged against the county, city or fire district for which they were appointed and shall be audited, allowed and paid as other charges against it are audited, allowed and paid, and shall be subject to reimbursement by the state as provided in ORS 476.550 and 476.560. [Amended by 1979 c.76 §3; 1991 c.67 §146]

476.574 Leave of absence for volunteers; employment rights. (1) Upon request of an employee who is a volunteer firefighter of a rural fire protection district or a firefighter employed by a city or a private firefighting service to perform service pursuant to ORS 476.510 to 476.610, the employee, upon written notice by the employer, may be granted a leave of absence by the employer until release from such service permits the employee to resume the duties of employment.

(2) The regular employment position of an employee on leave of absence under this section shall be considered vacant only for the period of the leave of absence. The employee shall not be subject to removal or discharge from such position as a consequence of the leave of absence.

(3) Upon the termination of a leave of absence under this section, the employee shall be restored to the employee's position or an equivalent position by the employer without loss of seniority, vacation credits, sick leave credits, service credits under a pension plan or any other employee benefit or right that had been earned at the time of the leave of absence.

(4) An employer is not required to pay wages or other monetary compensation to an employee during a leave of absence under subsection (1) of this section.

(5) As used in this section:

(a) "Employee" means any individual, other than a copartner of the employer or an independent contractor, who renders personal services in this state to an employer who pays or agrees to pay wages or other compensation to the individual for those services.

(b) "Employer" means any person who employs one or more employees in this state. The term includes the State of Oregon or any county, city, district, authority, public corporation or entity and any of their instrumentalities organized and existing under law or charter, but does not include the federal government. [1997 c.266 §2]

Note: 476.574 and 476.576 were added to and made a part of 476.510 to 476.610 by legislative action but were not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

476.576 Violation of job restoration rights of volunteers as unlawful employment practice. (1) Any violation of ORS 476.574 by an employer is an unlawful employment practice.

(2) Complaints alleging a violation of ORS 476.574 may be filed by employees with the Commissioner of the Bureau of Labor and Industries. The commissioner shall enforce ORS 476.574 in the manner provided in ORS chapter 659A for the enforcement of other unlawful employment practices.

(3) Any person claiming to be aggrieved by a violation of ORS 476.574 may bring a civil action in the manner provided in ORS 659A.885. [1997 c.266 §3; 2001 c.621 §81]

Note: See note under 476.574.

476.580 Orders, rules and regulations. The Governor may make, amend and rescind such orders, rules and regulations as are necessary or advisable to carry out the provisions of ORS 476.530 and 476.540. Any order issued by the Governor in relation to carrying out the provisions of ORS 476.520 to 476.610 may be either written or oral. If written, a copy thereof shall be filed in the office of the Secretary of State and another copy dispatched forthwith to the chief executive of any county, city or fire protection district affected. Immediately thereafter such order, rule or regulation shall be in effect. Oral orders may be made by the Governor when in the opinion of the Governor the emergency is such that delay in issuing a written order would be dangerous to the welfare of the people of the state. However, written copies of such oral order shall be filed and dispatched as soon after issuing such oral order as is conveniently possible in the manner above provided for written orders.

476.590 Preparation of plans by State Fire Marshal; advice and counsel to Governor. The State Fire Marshal shall prepare plans for the effective carrying out of the provisions of ORS 476.520 to 476.610 and provide advice and counsel to the Governor for the most practical utilization under ORS 476.520 to 476.610 of the fire-fighting resources of this state. [Amended by 2005 c.16 §2]

476.600 Liability for injury to person or property. Neither the state nor any county, city or fire district or other political subdivision nor any firefighter acting as the agent of any of the foregoing is liable for any injury to person or property resulting from the performance of any duty imposed by the authority of ORS 476.520 to 476.590. In carrying out the provisions of ORS 476.520 to 476.590 or while acting within the scope of any duty imposed by authority of the provisions of ORS 476.520 to 476.590, no person shall incur civil liability. A person does not, however, escape full liability for injury to person or property resulting from willful misconduct or gross negligence of the person. [Amended by 1991 c.67 §147; 2005 c.22 §357]

476.610 Payment of claims. The state shall draw warrants on the State Treasurer for the payment of all duly approved claims lawfully incurred in pursuance of ORS 476.520 to 476.600. [Amended by 1983 c.740 §189; 1993 c.186 §5]

GOVERNOR'S FIRE SERVICE POLICY COUNCIL

476.680 Governor's Fire Service Policy Council; membership; terms; duties. (1) There is created the Governor's Fire Service Policy Council. The council shall include the following nonvoting ex officio members:

(a) The Superintendent of State Police, or a designee thereof experienced in the oversight of Department of State Police activities relating to the office of the State Fire Marshal; and

(b) The Director of the Department of Public Safety Standards and Training, or a designee thereof.

(2) The State Fire Marshal shall serve as executive director of the council, but is not a member. The council shall meet at least quarterly. The council shall select a chairperson and vice chairperson at the first council meeting of each odd-numbered year. The council may elect additional officers as the council determines to be reasonable and necessary.

(3) In addition to the ex officio members identified in subsection (1) of this section, the Governor may designate a representative of the Governor to serve as a nonvoting member. The Governor may also appoint not more than nine members to serve on the council for three-year terms. Initial terms of the appointed members may be adjusted to promote council stability. An appointed member may not serve more than two consecutive terms. A member appointed by the Governor must be a representative of one of the following:

(a) The Oregon Fire Chiefs Association or a successor or other organization representing fire chiefs.

(b) The Oregon Fire District Directors Association or a successor or other organization representing fire district directors.

(c) The Oregon Fire Marshals Association or a successor or other organization representing fire marshals.

(d) Property and casualty insurance providers.

(e) Employees of the office of the State Fire Marshal.

(f) The Oregon State Fire Fighters Council or a successor or other organization representing professional firefighters.

(g) The Oregon Volunteer Firefighters Association or a successor or other organization representing volunteer firefighters.

(h) The League of Oregon Cities or a successor or other organization representing municipalities.

(i) The general public.

(4) Notwithstanding the term of office specified in subsection (3) of this section, the initial term of a member appointed by the Governor may be adjusted to limit the number of member terms expiring in the same year.

(5) To the extent funding is available from moneys appropriated to the office of the State Fire Marshal, a member of the council is entitled to compensation and expenses as provided in ORS 292.495.

(6) The council shall advise the Governor and the Superintendent of State Police on fire policy issues and serve in an advisory capacity to the State Fire Marshal on strategies for the implementation of fire and life safety issues. The council may initiate advice to the State Fire Marshal, the Superintendent of State Police and the Governor on any matter related to the mission of the council. The council may not participate in the discussion of traditional labor relations issues.

(7) The office of the State Fire Marshal shall provide staff services to the council. All agencies, departments and officers of this state are directed to assist the council in the performance of its functions and to furnish information and advice as the council considers necessary. [2001 c.647 §1; 2011 c.9 §66]

Note: 476.680 and 476.685 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 476 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

476.685 Biennial reports. The Governor's Fire Service Policy Council shall provide a biennial report to the Governor and the Superintendent of State Police on the overall performance of the office of the State Fire Marshal. The report shall identify significant successes and improvement opportunities. [2001 c.647 §2]

Note: See note under 476.680.

MISCELLANEOUS PROVISIONS

476.710 Setting fires adjacent to structures or timber on ocean shore prohibited; exceptions. No person shall set or permit any fire on the Pacific Ocean shore, declared to be a state recreation area under ORS 390.615, adjacent to any structure or any timber or forest area except pursuant to rule, regulation or permit of or from the State Parks and Recreation Department. [Amended by 1965 c.368 §7; 1989 c.904 §65]

476.715 Throwing away of lighted matches, cigarettes and other materials prohibited; posting copy of section in public conveyances. No one shall, at any time, throw away any lighted tobacco, cigars, cigarettes, matches or other lighted material, on any forestland, private road, public highway or railroad right of way within this state. Everyone operating a public conveyance shall post a copy of this section in a conspicuous place within the smoking compartments of such conveyance. [Formerly 477.164]

476.720 Certain remedial statutes to be construed liberally. ORS 476.010 to 476.090, 476.155 to 476.170, 476.210 to 476.270, 476.990 (1) and 479.168 to 479.190 are remedial in nature and shall be construed liberally. [Amended by 2011 c.97 §2]

476.725 Statewide standards for residential carbon monoxide alarms; rules. (1) The State Fire Marshal shall adopt rules establishing minimum standards for carbon monoxide alarms in one and two family dwellings and multifamily housing. The rules adopted by the State Fire Marshal may include, but need not be limited to, rules establishing minimum standards for the design, inspection, testing and maintenance of carbon monoxide alarms.

(2) The State Fire Marshal shall adopt rules establishing standards for the placement and location of carbon monoxide alarms in one and two family dwellings and multifamily housing that were not subject to state building code requirements for carbon monoxide alarm placement or location at the time of construction.

(3) In adopting rules under this section, the State Fire Marshal shall give consideration to state building code requirements and any standards adopted by national safety organizations.

(4) Notwithstanding ORS 476.030, State Fire Marshal rules adopted under this section shall apply for all governmental subdivisions in the state. A governmental subdivision, as defined in ORS 476.005 may not enact or enforce any local ordinance, rule or regulation regarding the design, inspection, testing, maintenance, placement or location of carbon monoxide alarms. [2009 c.591 §4]

Note: 476.725 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 476 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

476.730 Notice prior to release or after escape of arsonist from state institution. (1) The superintendent of each Department of Corrections institution of this state and of each institution for persons with mental

illness shall, prior to the release, or immediately after the escape, from such institution of any person committed to such institution for arson or arsonist activity, notify the State Fire Marshal and the Department of State Police except that such notice shall not be required when such persons are on approved leave from such institutions for periods of not to exceed 10 days. The notice shall state the name of the person to be released or who has escaped, the county in which the person was convicted or from which the person was committed and, if known, the address or locality at which the person will reside.

(2) Promptly upon receipt of the notice, the State Fire Marshal and the Department of State Police shall notify respectively the fire departments and rural fire protection districts who maintain full-time personnel and the sheriff and police departments of the county in which the person was convicted or from which the person was committed and the county, if known, in which the person will reside. [1957 c.245 §§1,2; 1959 c.26 §1; 1965 c.602 §16; 1987 c.320 §237; 2007 c.70 §271]

476.740 [1967 c.417 §12; repealed by 1971 c.743 §432]

476.750 [1967 c.417 §14; repealed by 1971 c.743 §432]

REDUCED IGNITION PROPENSITY CIGARETTES

476.755 Definitions for ORS 476.755 to 476.790 and 476.995. As used in ORS 476.755 to 476.790 and 476.995:

(1) "Cigarette" means a roll for smoking:

(a) That is made wholly of tobacco, or of tobacco and any other substance, regardless of size, shape or flavoring or adulteration by or mixing with other ingredients, the wrapper of which is made of paper or other nontobacco materials; and

(b) That, because of its appearance, the type of tobacco used in the filler or its packaging and labeling, is likely to be offered to or purchased by consumers as a cigarette.

(2) "Distribute" means to do any of the following:

(a) Sell cigarettes or deliver cigarettes for sale by another person to consumers.

(b) Receive or retain more than 199 cigarettes at a place of business where the person receiving or retaining the cigarettes customarily sells cigarettes or offers cigarettes for sale to consumers.

(c) Place cigarettes in vending machines.

(d) Sell or accept orders for cigarettes that are to be transported from a point outside this state to a consumer within this state.

(e) Buy cigarettes directly from a manufacturer or wholesale dealer for resale in this state.

(f) Give cigarettes as a sample, prize, gift or other promotion.

(3) "Manufacturer" means:

(a) An entity that produces, or causes the production of, cigarettes for sale in this state;

(b) An importer or first purchaser of cigarettes that intends to resell within this state cigarettes that were produced for sale outside this state; or

(c) A successor to an entity, importer or first purchaser described in paragraph (a) or (b) of this subsection.

(4) "Packaging" includes, but is not limited to, cigarette soft packs, boxes, cartons and cases.

(5) "Quality control and assurance program" means laboratory procedures implemented to ensure that operator bias, systematic and nonsystematic methodological errors and equipment-related problems do not affect the results of testing.

(6) "Reduced ignition propensity" means meeting the fire safety performance standard described in ORS 476.770 (6).

(7) "Repeatability" means the range of values within which the repeat results of ignition propensity testing by a single laboratory will fall 95 percent of the time.

(8) "Retail dealer" means a person, other than a manufacturer or wholesale dealer, that engages in distributing cigarettes.

(9) "Sell" means to transfer, or agree to transfer, title or possession for a monetary or nonmonetary consideration.

(10) "Variety" means a type of cigarette marketed by the manufacturer as being distinct from other types of cigarettes on the basis of brand name, length, filter, wrapping, flavoring or other characteristics as the State Fire Marshal may provide by rule.

(11) "Wholesale dealer" means a person that distributes cigarettes to:

(a) A retail dealer or other person for resale; or

(b) A person that owns, operates or maintains cigarette vending machines on premises owned or operated by another person. [2007 c.34 §1]

Note: 476.755 to 476.806 and 476.995 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 476 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

476.760 Prohibition against distributing or offering certain cigarettes; improper packaging markings; seizure and forfeiture; interagency agreements; inspections; rules. (1) A person may not distribute or offer to sell a cigarette within this state unless the cigarette is of a variety the State Fire Marshal has determined to have reduced ignition propensity.

(2) Cigarette packaging may not bear a marking or other device identifying the packaged cigarettes as having reduced ignition propensity other than a packaging marking approved for use with those cigarettes by the State Fire Marshal under ORS 476.785. This subsection does not apply if the cigarettes are in interstate commerce and not intended for distribution in this state.

(3) The State Fire Marshal, an authorized representative of the State Fire Marshal or any law enforcement agency may immediately seize and subject to forfeiture any cigarettes distributed or offered for sale in violation of subsection (1) of this section and any packaging, and cigarettes contained in that packaging, that violates subsection (2) of this section. The State Fire Marshal shall destroy cigarettes and packaging seized and forfeited under this subsection. However, prior to destroying cigarettes or packaging seized under this subsection, the State Fire Marshal shall allow the true holder of the trademark rights in the cigarette variety to inspect the cigarettes and packaging.

(4) The State Fire Marshal may enter into a cooperative agreement with any state or local agency that allows the agency to act as an authorized representative of the State Fire Marshal for enforcement purposes under this section.

(5)(a) The State Fire Marshal or an authorized representative, upon oral or written demand, may inspect the inventory of cigarette manufacturers, wholesale or retail dealers and transporters as the State Fire Marshal or an authorized representative deems necessary to ensure compliance with this section. The State Fire Marshal may adopt rules to require reports, in a form prescribed by the State Fire Marshal, by cigarette manufacturers, wholesale or retail dealers and transporters for the purpose of ensuring compliance with this section.

(b) As used in this subsection, "transporter" has the meaning given that term in ORS 323.010. [2007 c.34 §2]

Note: See note under 476.755.

476.765 Imposition of civil penalties; bringing of actions. (1) The State Fire Marshal shall impose civil penalties under ORS 476.995 in the manner provided by ORS 183.745.

(2) The Attorney General may bring an action at the request of the office of the State Fire Marshal, in the name of the state, seeking:

(a) Injunctive relief to prevent or end a violation of ORS 476.760;

(b) To recover civil penalties imposed under ORS 476.995; or

(c) To recover attorney fees and other enforcement costs and disbursements. [2007 c.34 §4]

Note: See note under 476.755.

476.770 Determination of cigarette variety ignition propensity; reduced ignition propensity standard; listing; cigarette design; rules. (1) For each variety of cigarette sold or proposed for sale in this state, the State Fire Marshal shall determine whether that variety of cigarette has reduced ignition propensity.

(2) Any cigarette variety certified by a manufacturer under ORS 476.780 shall be determined to have reduced ignition propensity.

(3) Except as provided in this section, ignition propensity testing certified, conducted or accepted by a manufacturer or the State Fire Marshal must be performed using ASTM International specification E2187-04, Standard Test Method for Measuring the Ignition Strength of Cigarettes. The ignition propensity testing must be conducted on 10 layers of filter paper. Forty replicate tests shall constitute a complete test trial for each cigarette variety tested. The fire safety performance standard described in subsection (6) of this section applies only to a completed test trial.

(4) The State Fire Marshal may adopt an ignition propensity testing method developed by ASTM International as a modification or replacement of the method designated by subsection (3) of this section if the State Fire Marshal, by rule, deems the modified or replacement method acceptable for determining cigarette fire safety. However, the State Fire Marshal may not adopt a modified or replacement method that in repeated testing results in a change in the percentage of cigarettes exhibiting full-length burns from the percentage produced on the same variety of cigarettes by use of the ASTM E2187-04 method or that otherwise affects the ability of the cigarette to meet the fire safety performance standard described in subsection (6) of this section.

(5) If the State Fire Marshal determines that ignition propensity testing cannot be performed on a cigarette using a method described in subsection (3) or (4) of this section, the manufacturer may propose an alternative testing method and an alternative

fire safety performance standard for the variety. If the State Fire Marshal approves the alternative testing method and determines that the alternative fire safety performance standard is equivalent to the fire safety performance standard described in subsection (6) of this section, the manufacturer may use the alternative testing method and the alternative fire safety performance standard for the purpose of certifying the variety of cigarette under ORS 476.780. Except as provided under the approved alternative testing method and the alternative fire safety performance standard, a cigarette variety described in this subsection remains subject to ORS 476.755 to 476.790 and 476.995.

(6) For a cigarette variety to be declared to have reduced ignition propensity, no more than 25 percent of the cigarettes in a complete test trial conducted in accordance with an ignition propensity testing method described in this section shall exhibit full-length burns.

(7) The State Fire Marshal shall issue, keep current and make available to the public a list of the cigarette varieties the State Fire Marshal has determined to have reduced ignition propensity.

(8) A cigarette listed in a certification under ORS 476.780 that uses lowered permeability bands in the cigarette paper to achieve compliance with the fire safety performance standard described in subsection (6) of this section must have at least two nominally identical bands on the paper surrounding the tobacco column. If the bands are not positioned on the cigarette by design, at least one complete band must be at least 15 millimeters from the lighting end of the cigarette. If the bands are positioned on the cigarette by design, the cigarette must have at least two bands that are entirely located at least 15 millimeters from the lighting end and:

(a) If the cigarette is filtered, that are located at least 10 millimeters from the filter end of the tobacco column; or

(b) If the cigarette is nonfiltered, that are located at least 10 millimeters from the labeled end of the tobacco column. [2007 c.34 §5]

Note: See note under 476.755.

476.775 Laboratories; ignition propensity testing. (1) A laboratory that conducts ignition propensity testing for purposes of ORS 476.770 must have a quality control and assurance program. The program shall be designed to ensure the testing repeatability value for all test trials used to certify a cigarette variety. The repeatability value of ignition propensity testing may not be greater than 0.19.

(2) Ignition propensity testing used in a manufacturer certification submitted under ORS 476.780 must be conducted in a laboratory that has been accredited under:

(a) The ISO/IEC 17025 standard of the International Organization for Standardization, as amended and in effect on April 17, 2007; or

(b) A standard recognized in State Fire Marshal rules as comparable to prevailing international accreditation standards. [2007 c.34 §6]

Note: See note under 476.755.

476.780 Cigarette variety certification by manufacturer; retesting; record retention; unfavorable determination by State Fire Marshal. (1) A manufacturer shall submit a written certification attesting that each variety of cigarette listed in the certification has been subjected to ignition propensity testing described in ORS 476.770 and meets the fire safety performance standard described in ORS 476.770 (6).

(2) The certification shall provide the following information for each variety of cigarette listed:

(a) The brand name shown on the cigarette packaging.

(b) The style, such as light or ultralight.

(c) The length in millimeters.

(d) The circumference in millimeters.

(e) The flavor, such as menthol or chocolate, if applicable.

(f) Whether the cigarette is filtered or nonfiltered.

(g) A packaging description, such as soft pack or box.

(h) A description of the packaging marking approved by the State Fire Marshal under ORS 476.785.

(i) The name, address and telephone number of the laboratory conducting the ignition propensity testing, if other than the laboratory of the manufacturer.

(j) The date of the ignition propensity testing.

(3) The certification of a cigarette variety is valid for three years from the date of receipt by the State Fire Marshal.

(4) If the manufacturer certifies a cigarette variety and later makes any change that is likely to alter the cigarette variety's compliance with the fire safety performance standard described in ORS 476.770 (6), before distributing the changed cigarette variety in this state the manufacturer shall retest the ignition propensity of that variety. Notwithstanding subsection (3) of this section, a manufacturer may not sell a cigarette variety described in this subsection unless that variety continues to meet the fire safety per-

formance standard described in ORS 476.770 (6).

(5) A manufacturer shall retain copies of all ignition propensity test data for cigarette varieties listed in the certification, including any retesting performed under subsection (4) of this section. The manufacturer shall retain the test data for not less than three years. The manufacturer shall provide copies of the test data upon request to the State Fire Marshal and to the Attorney General. Failure of a manufacturer to provide copies of ignition propensity test data requested by the State Fire Marshal or the Attorney General creates a rebuttable presumption that a cigarette variety does not meet the fire safety performance standard described in ORS 476.770 (6).

(6) The State Fire Marshal may determine that a cigarette variety certified under this section does not have reduced ignition propensity only if:

(a) The test data provided to the State Fire Marshal by the manufacturer demonstrate that the cigarette variety does not meet the fire safety performance standard described in ORS 476.770 (6); or

(b) The State Fire Marshal conducts ignition propensity testing on the cigarette variety and the test results demonstrate that the cigarette variety does not meet the fire safety performance standard described in ORS 476.770 (6).

(7) Ignition propensity testing by the State Fire Marshal under subsection (6) of this section shall be conducted in accordance with the testing requirements applicable to manufacturers by a laboratory meeting the requirements described under ORS 476.775.

(8) Upon a determination by the State Fire Marshal under subsection (6) of this section, the State Fire Marshal may seek the remedies described in ORS 476.765. [2007 c.34 §7]

Note: See note under 476.755.

476.785 Cigarette packaging markings. (1) A manufacturer shall place a single type of marking on all packaging for cigarettes of the manufacturer sold in this state to indicate that cigarettes of the manufacturer sold in this state meet the fire safety performance standard established in ORS 476.770 (6).

(2) A manufacturer shall submit to the State Fire Marshal a proposal for marking cigarette packaging. The proposed marking must be in an eight-point font or larger and consist of one of the following:

(a) Modification of the universal product code to indicate a visible mark printed at or around the universal product code. The mark may consist of alphanumeric or symbolic characters permanently printed, stamped, engraved or embossed in conjunction with the universal product code.

(b) A visible combination of alphanumeric or symbolic characters permanently stamped, engraved or embossed upon the packaging or cellophane wrapping.

(c) Printed, stamped, engraved or embossed text indicating that the cigarettes meet the fire safety performance standard established in ORS 476.770 (6).

(3) The State Fire Marshal shall approve or disapprove the proposal for packaging marking. In determining whether to approve or disapprove a proposal for packaging marking, the State Fire Marshal:

(a) Shall give preference to packaging marking that is consistent with the packaging marking in use and approved for that cigarette variety in the State of New York; and

(b) Shall approve packaging marking that bears the letters "FSC."

(4) A proposal for packaging marking is approved unless the State Fire Marshal disapproves the proposal on or before the 10th day after receipt. The approved packaging marking may be used for the cigarette variety upon receipt by the State Fire Marshal of the manufacturer certification for that variety under ORS 476.780.

(5) A manufacturer may not modify the approved packaging marking unless the modification has been submitted to and approved by the State Fire Marshal. [2007 c.34 §8]

Note: See note under 476.755.

476.790 Providing copies of cigarette certification and illustration of packaging markings. (1) A manufacturer selling cigarettes to a wholesale dealer in this state shall provide the wholesale dealer with a copy of the certification for those cigarettes submitted to the State Fire Marshal under ORS 476.780. The manufacturer shall also provide the wholesale dealer with copies of an illustration of the packaging marking required under ORS 476.785. The manufacturer shall supply copies of the illustration to the wholesale dealer in sufficient number to allow one copy for each retail dealer receiving the cigarettes from the wholesale dealer.

(2) A wholesale dealer shall provide a copy of the illustration described in subsection (1) of this section to each retail dealer that receives cigarettes of the manufacturer from the wholesale dealer. A wholesale dealer is not required to provide a retail dealer of the cigarettes of a manufacturer with more than one copy of the illustration for that manufacturer. [2007 c.34 §9]

Note: See note under 476.755.

476.795 Interpretation of ORS 476.755 to 476.790 and 476.995. The interpretations given to the New York Fire Safety Standards for Cigarettes (Part 429, Title 19, New York Environmental Conservation Rules and Regulations) shall be persuasive authority in the interpretation of ORS 476.755 to 476.790 and 476.995. [2007 c.34 §12]

Note: See note under 476.755.

476.800 [1973 c.667 §1; 1977 c.104 §3; renumbered 476.055]

476.801 Cigarette varieties not subject to ORS 476.755 to 476.790 and 476.995. ORS 476.755 to 476.790 and 476.995 do not apply to any cigarette variety that the State Fire Marshal determines is subject to a federal law that imposes a cigarette fire safety performance standard that is at least as strict as the standard imposed under ORS 476.770. [2007 c.34 §13]

Note: See note under 476.755.

476.805 [1973 c.667 §2; 1985 c.118 §5; repealed by 1993 c.185 §34]

476.806 Cigarette Fire Safety Fund. (1) The Cigarette Fire Safety Fund is established in the State Treasury, separate and distinct from the General Fund. The Cigarette Fire Safety Fund shall consist of all moneys recovered from the imposition of civil penalties under ORS 476.995. Interest earned by the Cigarette Fire Safety Fund shall be credited to the fund.

(2) All moneys in the fund are continuously appropriated to the Department of State Police for use by the office of the State Fire Marshal for fire safety, enforcement and fire prevention programs. [2007 c.34 §14]

Note: See note under 476.755.

476.810 [1973 c.667 §3; repealed by 1993 c.185 §34]

476.815 [1973 c.667 §8; 1985 c.118 §6; repealed by 1993 c.185 §34]

476.820 [1973 c.667 §4; 1977 c.104 §4; repealed by 1993 c.185 §34]

476.825 [1973 c.667 §5; 1985 c.118 §7; repealed by 1993 c.185 §34]

476.830 [1973 c.667 §6; 1985 c.118 §8; repealed by 1993 c.185 §34]

NOVELTY LIGHTERS

476.831 Definitions for ORS 476.831 to 476.856. As used in ORS 476.831 to 476.856:

(1) "Audio effects" includes music, animal sounds and whistles, buzzers, beepers or other noises not pertinent to the flame-producing function of the lighter.

(2) "Distribute" means to:

(a) Deliver to a person other than the purchaser; or

(b) Provide as part of a commercial promotion or as a prize or premium.

(3) "Importer" means a person who causes a lighter to enter this state from a manufacturing, wholesale, distribution or retail sales point outside this state, for the purpose of selling or distributing the lighter within this state or with the result that the lighter is sold or distributed within this state.

(4) "Lighter" means a handheld device of a type typically used for igniting tobacco products by use of a flame.

(5) "Misleading design" means that a lighter has a shape that resembles or imitates an object other than a lighter.

(6) "Novelty lighter":

(a) Means a lighter that has misleading design, audio effects or visual effects, or that has other features of a type that would reasonably be expected to make the lighter appealing or attractive to a child less than 10 years of age.

(b) Does not mean:

(A) A lighter manufactured before January 1, 1980; or

(B) A lighter that has been rendered permanently incapable of producing a flame or otherwise causing combustion.

(7) "Sell" means to provide or promise to provide to a wholesale, retail, mail-order or other purchaser in exchange for consideration.

(8) "Visual effect":

(a) Includes flashing lights, color-changing lights and changing images; and

(b) Does not include logos, decals, decorative artwork or heat-shrinkable sleeves. [2009 c.6 §1]

Note: 476.831 to 476.856 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 476 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

476.835 [1973 c.667 §7; 1979 c.772 §24; 1985 c.118 §9; repealed by 1993 c.185 §34]

476.836 Identification of novelty lighters; rules; disposition of contraband lighters. (1) The State Fire Marshal may adopt rules to identify lighters or classes or types of lighters that are novelty lighters. The novelty lighters identified by the State Fire Marshal may include, but need not be limited to, lighters of misleading design that resemble or imitate:

(a) Cartoon characters, figurines or action figures;

(b) Toys or game pieces;

(c) Musical instruments;

(d) Vehicles;

(e) Animals;

(f) Human body parts;

(g) Food, beverages or food or beverage packages;

(h) Weaponry;

(i) Furniture;

(j) Sports equipment;

(k) Holiday decoration;

(L) Tools; or

(m) Household products.

(2) The State Fire Marshal shall establish and maintain a list of lighters, and of classes and types of lighters, that the State Fire Marshal has determined to be novelty lighters. The State Fire Marshal shall make the list available to the public in electronic form or in other forms selected by the State Fire Marshal.

(3) A lighter is a contraband item subject to seizure and destruction by the State Fire Marshal or a representative of the State Fire Marshal, or by a law enforcement agency, if the lighter is:

(a) Listed, or of a class or type listed, in State Fire Marshal rules as a novelty lighter; and

(b) Offered for sale, sold or distributed in this state or manufactured or possessed for the purpose of sale or distribution in this state.

(4) The State Fire Marshal or a representative of the State Fire Marshal, or a law enforcement agency, may seize a novelty lighter that is not described in subsection (3) of this section. Upon finding that the person from whom the lighter was seized is subject to imposition of a civil penalty under ORS 476.841 for being a manufacturer, importer, wholesaler, storer, seller or distributor of the lighter, the State Fire Marshal or a representative may order that the lighter be forfeited and destroyed. [2009 c.6 §2]

Note: See note under 476.831.

476.840 [1973 c.667 §9; 1987 c.414 §82; repealed by 1993 c.185 §34]

476.841 Prohibition against sale or distribution of novelty lighters; civil penalties. (1) A person may not sell, offer for sale or distribute a novelty lighter in this state. A person may not manufacture a novelty lighter in this state, or import a novelty lighter into this state, for the purpose of selling or distributing the novelty lighter within this state. A person may not possess a novelty lighter in inventory for the purpose of selling or distributing the novelty lighter within this state.

(2) The State Fire Marshal may impose a civil penalty against a person who violates subsection (1) of this section. The civil penalty may not exceed:

(a) $10,000 if the person is a manufacturer or importer of lighters.

(b) $1,000 if the person is a wholesaler of lighters or distributes lighters by means other than distribution directly to consumers.

(c) $500 if the person is:

(A) A retail seller of lighters; or

(B) A person distributing lighters, if the person is other than a manufacturer, importer or wholesaler.

(3) If a person continues to violate this section after the State Fire Marshal gives the person written notice of the violation, each day that the violation continues is a separate offense subject to a civil penalty.

(4) The State Fire Marshal shall impose civil penalties under this section as provided in ORS 183.745. For purposes of ORS 183.417, it is prima facie evidence that a lighter is a novelty lighter if the lighter is listed by the State Fire Marshal as described in ORS 476.836 as a novelty lighter, or is of a class or type of lighter listed by the State Fire Marshal as novelty lighters. However, listing by the State Fire Marshal is not a prerequisite for finding that a lighter is a novelty lighter.

(5) All moneys collected from civil penalties under this section shall be deposited to the credit of the State Fire Marshal Fund. [2009 c.6 §3]

Note: See note under 476.831.

476.845 [1973 c.667 §11; 1977 c.104 §5; 1985 c.118 §10; repealed by 1993 c.185 §34]

476.846 Compliance inspections. (1) The State Fire Marshal, or a representative of the State Fire Marshal, may conduct inspections to ensure compliance with ORS 476.841. The State Fire Marshal or representative may:

(a) Have access during reasonable business hours to facilities within this state used in the business of manufacturing, importing, distributing, selling or storing lighters;

(b) Inspect the manufacturing, importing, distribution, sales or storage facilities and any lighters located at the facilities; and

(c) Inspect all business records pertaining to lighter manufacture, import, distribution, sale or storage.

(2) A person engaged in this state in the business of manufacturing, importing, distributing, selling or storing lighters shall grant the State Fire Marshal or a representative reasonable access for conducting inspections as described in subsection (1) of this section. [2009 c.6 §4]

Note: See note under 476.831.

476.850 [1973 c.667 §13; 1977 c.104 §6; repealed by 1993 c.185 §34]

476.851 Agreements with State Fire Marshal representatives. The State Fire Marshal may enter into agreements with any state or local agency to allow the agency to act as a representative of the State Fire Marshal for purposes of ORS 476.841 and 476.846. [2009 c.6 §5]

Note: See note under 476.831.

476.855 [1973 c.667 §14; 1985 c.118 §11; 1993 c.185 §19; renumbered 476.033 in 1999]

476.856 Attorney General actions to enforce ORS 476.841 and 476.846. The Attorney General may bring an action at the request of the State Fire Marshal, in the name of the state, seeking:

(1) Injunctive relief to prevent or end a violation of ORS 476.841 or 476.846;

(2) To recover civil penalties imposed under ORS 476.841;

(3) To obtain access for inspections under ORS 476.846; or

(4) To recover attorney fees and other enforcement costs and disbursements. [2009 c.6 §6]

Note: See note under 476.831.

476.860 [1973 c.667 §12; 1977 c.104 §7; repealed by 1985 c.118 §17]

476.865 [1973 c.667 §15; 1977 c.104 §8; 1985 c.118 §12; repealed by 1993 c.185 §34]

476.870 [1981 c.97 §2; repealed by 1985 c.118 §17]

FIRE PROTECTION EQUIPMENT LOAN FUND

476.900 Application by certain cities and rural fire protection districts to borrow money from loan fund. (1) Any city of 5,000 or less in population and any rural fire protection district serving 5,000 or fewer residents may file with the State Fire Marshal an application to borrow from the Fire Protection Equipment Loan Fund moneys for the acquisition of fire protection equipment.

(2) Applications shall be submitted in such manner and shall contain or be accompanied by such information as the State Fire Marshal may prescribe. [1991 c.587 §1]

Note: 476.900 to 476.925 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 476 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

476.905 Approval of application by State Fire Marshal. The State Fire Marshal may approve an application for a fire protection equipment acquisition loan if the State Fire Marshal finds that:

(1) Moneys in the Fire Protection Equipment Loan Fund will be available therefor; and

(2) The application is for the acquisition of equipment determined by the State Fire Marshal to be necessary to provide adequate fire protection service by the applicant. [1991 c.587 §2]

Note: See note under 476.900.

476.910 Loan agreement; terms; conditions. If the State Fire Marshal approves an application for a fire protection equipment acquisition loan, the State Fire Marshal, on behalf of the state, and the applicant may enter into a loan agreement. The agreement shall set forth among other matters:

(1) The amount and purpose of the loan.

(2) A plan for repayment by the applicant to the Fire Protection Equipment Loan Fund of moneys borrowed, upon such terms and conditions as the State Fire Marshal considers appropriate.

(3) That the liability of the state under the contract is contingent upon the availability of moneys in the Fire Protection Equipment Loan Fund.

(4) Such further provisions as the State Fire Marshal determines appropriate to insure expenditure of moneys borrowed for the purposes set forth in the approved application. [1991 c.587 §3]

Note: See note under 476.900.

476.915 Source of revenue to repay loan. A city or rural fire protection district that enters into an agreement with the State Fire Marshal for a fire protection equipment acquisition loan may obtain moneys for repayment thereof in the same manner as other moneys are obtained for purposes of the payment of expenses of the city or rural fire protection district. [1991 c.587 §4]

Note: See note under 476.900.

476.920 Rules; acceptance of gifts, donations and grants. (1) In accordance with any applicable provisions of ORS chapter 183, the State Fire Marshal may adopt rules to carry out the provisions of ORS 476.900 to 476.925. Such rules may include, but are not limited to, specifying the importance and priority of fire protection equipment that may be acquired pursuant to ORS 476.900 to 476.925 and which requires local government matching funds.

(2) The State Fire Marshal may accept gifts, donations and grants from whatever source for the purpose of carrying out ORS 476.900 to 476.925. All moneys received shall be paid into the Fire Protection Equipment Loan Fund. [1991 c.587 §5]

Note: See note under 476.900.

476.925 Fire Protection Equipment Loan Fund; uses. The Fire Protection Equipment Loan Fund is established in the State Treasury, separate and distinct from the General Fund. All moneys in the fund are appropriated continuously to the State Fire Marshal to carry out the provisions of

ORS 476.900 to 476.925. Interest earned by moneys in the fund shall be credited to the fund. [1991 c.587 §6]

Note: See note under 476.900.

PENALTIES

476.990 Penalties. (1) Violation of ORS 476.150 (2) is a Class A misdemeanor.

(2) Violation of ORS 476.380 (1) is a Class A misdemeanor.

(3) Violation of ORS 476.410 to 476.440 is a Class C misdemeanor.

(4) Violation of any provision of ORS 476.510 to 476.610 is a Class A misdemeanor.

(5) Subject to ORS 153.022, violation of ORS 476.710 or 476.715 or of any rule or regulation of the State Parks and Recreation Department promulgated thereunder is a Class B misdemeanor. [Subsection (5) of 1959 Replacement Part formerly 477.990(5); 1961 c.52 §1; subsection (2) enacted as 1967 c.420 §4; subsection (6) enacted as 1967 c.417 §13 and 1967 c.417 §15; 1971 c.563 §10; 1971 c.743 §383; 1999 c.1051 §312; 2001 c.104 §216; 2011 c.597 §219]

476.995 Penalty for violation of ORS 476.760. The State Fire Marshal may impose a civil penalty for a violation of ORS 476.760 (1). The civil penalty may not exceed:

(1) For a person that distributes or offers to sell cigarettes to a wholesale or retail dealer, $10,000 or five times the wholesale invoice cost of the cigarettes involved in the violation, whichever is greater.

(2) For a person that distributes or offers to sell cigarettes to consumers:

(a) For a distribution or offer of not more than 1,000 cigarettes, $500.

(b) For a distribution or offer of more than 1,000 cigarettes, $1,000 or five times the retail value of the cigarettes involved in the violation, whichever is greater.

(3) For a continuing violation of ORS 476.760 (1), each day that a person distributes or offers to sell cigarettes after being notified by the State Fire Marshal that the distribution or offer to sell cigarettes violates ORS 476.760 (1) is a separate violation subject to civil penalty. For purposes of this subsection, a person is notified by the State Fire Marshal that the distribution or offer to sell cigarettes violates ORS 476.760 (1) only after the person receives a notice, has been provided an opportunity for a hearing and has exhausted all opportunities for administrative or judicial review of the notice in the manner provided for contested cases under ORS chapter 183. [2007 c.34 §3]

Note: See note under 476.755.