

Chapter 633. AN ACT REQUIRING THE INSTALLATION OF AUTOMATIC SPRINKLERS IN BUILDINGS OVER SEVENTY FEET IN HEIGHT.

Be it enacted, etc., as follows:

SECTION 1. Chapter 6 of the General Laws is hereby amended by adding after section 199, added by section 2 of chapter 716 of the acts of 1985, the following two sections:-

Section 200. There shall be established a fire safety commission, hereinafter called the commission, to consist of the state fire marshal or his designee, the chairman of the board of building regulations and standards or his designee, the fire commissioner of the city of Boston or his designee and six members to be appointed by the governor, one of whom shall be a member of the Fire Chiefs Association of Massachusetts, one of whom shall be a member of the Massachusetts Association of Realtors, one of whom shall be a member of the hotel and motel association, one of whom shall be a registered professional engineer who is a structural engineer, one of whom shall be an inspector of wires with ten years of experience and is the holder of an electrician's license and one of whom shall be a member of the sprinkler fitters union.

Each member shall be appointed for a term of three years, except that in making his initial appointments the governor shall appoint two members for one year, two members to serve for two years and two members to serve for three years, as he may designate. Any person appointed to fill a vacancy shall serve only for the unexpired term. Any member shall be eligible for reappointment. Any member of the commission may be removed by the governor for cause, after being given a written statement of the charges and an opportunity to be heard thereon. No member shall act as a member of the commission or vote in connection with any matter as to which his private right, distinct from public interest, is concerned.

A majority of the members of the commission shall constitute a quorum for the purpose of conducting business, but a lesser number may adjourn from time to time.

The commission shall annually elect a chairman and a vice chairman from its members; provided, however, that no member shall serve as chairman or vice chairman for more than two consecutive years.

Each member of the commission who is not otherwise an employee of the commonwealth shall receive from the commonwealth fifty dollars for each day or portion thereof spent in the performance of his official duties; provided, however, that the total sum paid to any member in any fiscal year shall not exceed three thousand dollars. Each member shall be paid necessary traveling and other expenses incurred in the performance of his duties.

The commission shall make and from time to time alter, rescind, amend and repeal in accordance with chapter thirty A, rules and regulations providing for the implementation of a statewide plan to require the installation of automatic sprinklers in all buildings or structures subject to the provisions of section twenty-six A 1/2 of chapter one hundred and forty-eight. Any regulation, as defined in section one of chapter thirty A, or any amendment or repeal of any such regulation adopted by the commission pursuant to this paragraph, shall,

after compliance with all applicable provisions of said chapter thirty A, except section five, be submitted to the general court. Said commission shall file the proposed regulation, amendment or repeal with the clerk of the house of representatives, together with a statement that the pertinent provisions of said chapter thirty A, except section five, have been complied with. Such regulations shall be accompanied by a summary of the regulations in layman's terms. The clerk of the house of representatives, with the approval of the president of the senate and the speaker of the house of representatives, shall refer such regulations to the appropriate joint standing committee. Within thirty days after such referral, such committee may hold a public hearing on the regulations and shall issue a report to the commission. Said commission shall review said report and shall adopt final regulations as deemed appropriate in view of said report and shall file with the chairman of such reporting committee its final regulations, not earlier than thirty days after the filing of such report with said chairmen. Said commission shall file the final regulations with the state secretary as provided in section five of said chapter thirty and said regulations shall thereupon take effect.

Section 201. There shall be an automatic sprinkler appeals board, hereinafter called the appeals board, to consist of the fire safety commission established under the provisions of section two hundred.

Whoever is aggrieved by the head of the fire department's interpretation, order, requirement, direction or failure to act under the provisions of section twenty-six A 1/2 of chapter one hundred and forty-eight, may within forty-five days after the service of notice thereof appeal from such interpretation, order, requirement, direction, or failure to act to the appeals board. Appeals hereunder shall be on forms provided by the appeals board and shall be accompanied by such a fee as said appeals board may determine.

The state, city or town officer in charge of the records and all other papers and documents relative to an appeal shall forthwith, upon receipt of a request of the appeals board, transmit such papers and documents constituting such record to the appeals board.

An appeal shall stay all proceedings in furtherance of the action or failure to act appealed from unless the head of the fire department presents evidence that a stay would involve imminent peril of life or property.

The chairman of the fire safety commission may designate any five members of the appeals board to hold any public hearing under this section, and to hear testimony and take evidence.

The appeals board in hearings conducted under this section shall not be bound by strict rules of evidence prevailing in courts of law or equity.

Decisions on appeal shall be made by the five members of the appeals board conducting the public hearing. Every decision shall require the concurrence of at least four of the five members holding the public hearing and the appeals board shall state in writing its findings of fact, its conclusions, reasons for its decision and indicate the vote of each member of the appeals board upon the decision.

The chairman shall fix a convenient time and place for a public hearing before said five members. Said hearing shall be held not later than thirty days after the filing of such appeal unless such time is extended by agreement with the appellant. The chairman shall give at least ten days notice of the time and place of said hearing to all

interested parties. Any such party may appear in person or by agent or attorney at such hearing. The appeals board shall issue a decision or order reversing, affirming or modifying in whole or in part such interpretation, order or requirement, or postponing the application thereof, within thirty days after such hearing, unless such time is extended by agreement with the appellant.

A record of all appeals board decisions and of votes thereunder, properly indexed, shall be maintained in the office of the appeals board and shall be open to public inspection at all times during regular business hours.

The appeals board may grant a variance from any provision of section twenty-six A 1/2 of chapter one hundred and forty-eight or from any provision of the rules and regulations promulgated by the fire safety commission under section two hundred and may determine the suitability of alternate materials and methods of sprinkler installation and may provide reasonable interpretations of said section twenty-six A 1/2 and said fire safety commission rules and regulations; provided, however, that appeals board decisions shall not conflict with the general objectives of said section twenty-six A 1/2.

In exercising its powers under this section, the appeals board may grant an extension of time for compliance with the provisions of said section twenty-six A 1/2 in any particular case that said board deems an extension to be necessary. The appeals board shall, in addition to any other considerations the board deems appropriate, examine the following factors when granting an extension; the location, overall height, and primary use of the building; structural complications; asbestos removal; insufficient water pressure, financial hardship and nonexistence of a standpipe.

The appeals board may grant a waiver from compliance with the provisions of said section twenty-six A 1/2 in any particular case that said board deems a waiver to be appropriate. The appeals board shall, in addition to any other considerations the board deems appropriate, examine the architectural or historical significance of the building or structure when granting said waiver.

SECTION 2. Chapter 148 of the General Laws is hereby amended by inserting after section 26A, as appearing in the 1984 Official Edition, the following section:-

Section 26A 1/2. Every building or structure of more than seventy feet in height above the mean grade and constructed prior to January first, nineteen hundred and seventy-five, shall be protected with an adequate system of automatic sprinklers in accordance with the provisions of the state building code; provided, however that sprinklers shall not be required to be installed in patient rooms in hospitals or in public or private libraries; provided, further, that sprinklers shall not be required to be installed in buildings where construction has commenced prior to January first, nineteen hundred and seventy-five and which have been submitted to the provisions of chapter one hundred and eighty-three A; and, provided further, that automatic sprinklers shall not be required in rooms or areas of a telephone central office equipment building when such rooms or areas are protected with an automatic fire alarm system.

The head of the fire department shall enforce the provisions of this section.

Whoever is aggrieved by the head of the fire department's interpretation, order, requirement, direction or failure to act under the provisions of this section, may, within forty-five days after the service of notice thereof, appeal from such interpretation, order, requirement, direction, or failure to act, to the board of appeals of the fire safety commission as provided in section two hundred and one of chapter six.

Any building or structure subject to the provisions of this section shall comply with the following schedule for the installation automatic sprinklers:– one-third of the gross square footage of the building or structure shall be equipped with automatic sprinklers by January first, nineteen hundred and ninety, two-thirds of the gross square footage of the building or structure shall be equipped with automatic sprinklers by January first, nineteen hundred and ninety-three, and the entire gross square footage of the building or structure shall be equipped with automatic sprinklers by January first, nineteen hundred and ninety-seven; provided, however, the owner of said building or structure may apply to the board of appeals of the fire safety commission for an extension or a waiver of the provisions of this section as provided for in section two hundred and one of chapter six.

Any building or structure subject to the provisions of this section shall have the option of complying with the following schedule: the entire gross square footage of the building or structure shall be equipped with automatic sprinklers by January first, nineteen hundred and ninety-three; provided, however, that under said option the owner of said building or structure shall be deemed to have waived his right to any such extension of time.

For purposes of this section, the gross square footage of a building or structure shall include the sum total of the floor areas for all floor levels, basements and sub-basements, measured from outside walls irrespective of the existence of interior fire resistive walls, floors and ceilings.

Approved December 23, 1986.

Chapter 634. AN ACT FURTHER REGULATING PRICING PRACTICES OF CERTAIN CONSUMER PRODUCTS.

Be it enacted, etc., as follows:

SECTION 1. Section 115A of chapter 6 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out in lines 7, 11 and 22, the word "council", each time it appears, and inserting in place thereof, in each instance, the following words:– director of standards.

SECTION 2. Section 181 of chapter 94 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out, in line 39, the word "eighty-four" and inserting in place thereof the following words:– eighty-four E.

SECTION 3. Said chapter 94 is hereby amended by inserting after section 184A, as so appearing, the following four sections:–