

House Bill 3531

Sponsored by Representative EVANS; Representatives GRAYBER, NOSSE, Senator MEEK

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Requires owner of public building to periodically conduct inspections and testing of fire dampers, smoke dampers, combination fire and smoke dampers and smoke control systems in public building. Specifies qualifications for inspectors. Requires inspector to issue certificate of compliance if public building complies with applicable standards or to issue deficiency report if public building does not comply. Specifies time period within which public building owner must return public building to compliance.

Punishes violation of Act with civil penalty equivalent to five cents for each square foot of occupied space in public building. Authorizes additional civil penalties for continuing failure to comply.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to testing and inspection of fire safety systems in public buildings; and prescribing an ef-
3 fective date.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1. Section 2 of this 2023 Act is added to and made a part of ORS 479.168 to**
6 **479.190.**

7 **SECTION 2. (1) As used in this section:**

8 (a) **“Combination fire and smoke damper” means a device that meets requirements and**
9 **standards that apply to both fire damper and smoke damper devices.**

10 (b) **“Fire damper” means a device installed in ducts and air transfer openings that is**
11 **designed to close automatically upon detecting heat and to resist the passage of flame.**

12 (c) **“Local authority” means a fire department or code official with authority in a juris-**
13 **isdiction to conduct inspections and issue citations for violations or infractions.**

14 (d) **“Smoke control system” means an engineered system that includes all methods that**
15 **can be used singly or in combination to modify smoke movement, including mechanical fans**
16 **that produce pressure differences across smoke barriers to inhibit smoke movement.**

17 (e) **“Smoke damper” means a device installed in ducts and air transfer openings that is**
18 **designed to resist the passage of smoke.**

19 (2)(a) **An owner of a public building equipped with a fire damper, smoke damper, combi-**
20 **nation fire and smoke damper or smoke control system shall, at a minimum:**

21 (A) **Have all newly installed fire dampers, smoke dampers, combination fire and smoke**
22 **dampers and smoke control systems inspected and tested:**

23 (i) **Within 12 months after the fire damper, smoke damper, combination fire and smoke**
24 **damper or smoke control system is completely installed; and**

25 (ii) **At least once every four years or, for hospitals, at least every six years regardless**
26 **of the date of installation;**

27 (B) **Have every smoke control system inspected and tested at least once every six to 12**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 months, in accordance with standards the State Fire Marshal specifies by rule; and

2 (C) Maintain full inspection and testing reports on the premises of the public building and
3 make the reports available for public inspection.

4 (b) A fire damper, smoke damper or combination fire and smoke damper must be in-
5 stalled, inspected, tested and maintained in accordance with this section, with the
6 manufacturer's guidelines and with applicable standards the State Fire Marshal specifies by
7 rule.

8 (3)(a) A contractor or engineer shall conduct an inspection or test under subsection (2)
9 of this section. The contractor or engineer must be an individual with the following quali-
10 fications:

11 (A) To inspect and test fire dampers, smoke dampers and combination fire and smoke
12 dampers, the contractor or engineer must have a current and valid certification to inspect
13 and test fire dampers, smoke dampers and combination fire and smoke dampers.

14 (B) To inspect and test smoke control systems, the contractor or engineer must have a
15 current and valid certification to inspect and test smoke control systems.

16 (b) A certification under paragraph (a) of this subsection is valid only if the contractor
17 or engineer obtains the certification after completing a program that the American National
18 Standards Institute accredits under the ISO/IEC 17024 standard, or a succeeding standard,
19 and only if the State Fire Marshal by rule approves the entity that issues the certification
20 and the standards under which the entity issues the certification.

21 (4) During inspection and testing, a public building owner must make available to the
22 contractor or engineer, in person or by remote communication, a building engineer or an-
23 other person with knowledge of the public building's systems to provide needed access and
24 information.

25 (5)(a) If inspection and testing reveal compliance with the requirements of this section,
26 the contractor or engineer shall issue a certificate of compliance that displays the name and
27 employer of the contractor or engineer, the name of the owner of the public building and the
28 address of the public building, a description of the location of all fire dampers, smoke
29 dampers, combination fire and smoke dampers and smoke control systems and the date of
30 the inspection and testing.

31 (b) The State Fire Marshal may by rule specify a form for and any other necessary con-
32 tents of the certificate of compliance described in paragraph (a) of this subsection.

33 (6)(a) If inspection and testing reveal deficiencies or failures of compliance, the contrac-
34 tor or engineer shall issue a deficiency report to the owner of the public building that iden-
35 tifies the nature of the deficiency or failure of compliance. The contractor or engineer shall
36 also send a copy of the deficiency report to the local authority, which shall make the copy
37 available for public inspection. In addition to identifying the location of deficient equipment
38 or systems and the nature of the deficiency, a report under this paragraph must display the
39 name and employer of the contractor or engineer, the name of the owner of the public
40 building and the address of the public building, a description of the location of all fire
41 dampers, smoke dampers, combination fire and smoke dampers and smoke control systems
42 and the date of the inspection and testing.

43 (b) The owner of a public building that receives a deficiency report under paragraph (a)
44 of this subsection shall, within 120 days after the inspection and testing that revealed the
45 deficiency or failure to comply, take steps necessary to correct the deficiency, repair or re-

1 place any defective equipment and have another inspection and testing conducted to ensure
2 compliance with this section and with all applicable standards.

3 (c) The public building owner shall prepare and maintain documentation of when and how
4 the public building owner had all deficiencies corrected and the public building returned to
5 compliance. The public building owner shall maintain on the premises of the public building
6 the documentation described in this paragraph, together with a copy of the deficiency report
7 described in paragraph (a) of this subsection, and shall make both the documentation and the
8 deficiency report available for public inspection.

9 (d) A local authority for good cause may extend the 120-day period described in paragraph
10 (b) of this subsection for not more than 90 additional days.

11 (7)(a) The State Fire Marshal shall adopt rules to carry out the provisions of this section
12 and shall work in conjunction with local authorities to coordinate the implementation and
13 enforcement of this section.

14 (b) In adopting rules to specify inspection, testing and maintenance standards under
15 subsection (2) of this section or technical specifications and time periods for an inspection
16 or test under subsection (6) of this section, the State Fire Marshal shall consider and, if
17 appropriate, adopt standards that are equivalent to standards that the National Fire Pro-
18 tection Association establishes for similar activities including, but not limited to, standards
19 80, 90a, 92 and 105, as applicable.

20 (c) In adopting rules that govern certification requirements for contractors and engi-
21 neers that perform inspections or tests under subsection (3) of this section, the State Fire
22 Marshal shall consider and, if appropriate, adopt certification requirements that are sub-
23 stantially similar to requirements the International Certification Board establishes for Fire
24 Life Safety 1 or a Fire and Smoke Damper Technician, as applicable.

25 (8)(a) If a public building owner does not comply with any of the requirements or duties
26 set forth in this section or has not received a certificate of compliance within 120 days after
27 receiving a deficiency report under subsection (6) of this section, or within any extended
28 period that a local authority specifies under subsection (6)(d) of this section, the local au-
29 thority shall issue a citation and impose a civil penalty upon the public building owner in an
30 amount equivalent to five cents for each square foot of occupied space within the public
31 building.

32 (b) A local authority may impose the civil penalty described in paragraph (a) of this
33 subsection in addition to any other penalty the local authority may impose for the same or
34 a similar violation under an ordinance of the local authority or other applicable law or if the
35 local authority does not specify a fine or penalty for violating similar standards under an
36 ordinance or other applicable law.

37 (c) A local authority shall require a public building owner to conspicuously post at all
38 pedestrian entrances to and exits from a public building that is deficient or not in compliance
39 under this section a copy of the citation that the local authority issues under paragraph (a)
40 of this subsection until the public building owner corrects deficiencies in the public building
41 or until the local authority dismisses the citation.

42 (d) If a public building remains deficient or not in compliance with this section 240 days
43 after receiving a deficiency report under subsection (6) of this section, a local authority shall
44 issue another citation to, and impose another civil penalty on, the public building owner in
45 an amount equivalent to 10 cents per square foot of occupied space, while also requiring the

1 posting described in paragraph (c) of this subsection. The local authority shall also require
2 the head facilities manager for the public building to attend in person a four-hour fire life
3 safety course approved by the State Fire Marshal, which must be a life safety program that
4 the American National Standards Institute has accredited.

5 (e) If a public building remains deficient or not in compliance with this section for more
6 than 240 days after receiving a deficiency report under subsection (6) of this section, for ev-
7 ery subsequent 60-day period in which the public building remains deficient or not in com-
8 pliance, the local authority shall issue another citation to, and impose another civil penalty
9 on, the public building owner in an amount equivalent to 10 cents per square foot of occupied
10 space, while also requiring the posting described in paragraph (c) of this subsection. A local
11 authority may not dismiss any of the citations the local authority imposed under this section
12 until the public building owner corrects all deficiencies, returns the public building to com-
13 pliance and pays all civil penalties the local authority imposed under this section. The local
14 authority may also take any other lawful action necessary to reduce or prevent dangers to
15 public safety from potential fires and smoke in the public building.

16 (9) A local authority shall deposit all proceeds from civil penalties the local authority
17 imposes under this section into the local authority's treasury and shall dedicate the proceeds
18 to programs for training personnel to provide fire prevention and safety services within the
19 local authority's jurisdiction.

20 SECTION 3. This 2023 Act takes effect on the 91st day after the date on which the 2023
21 regular session of the Eighty-second Legislative Assembly adjourns sine die.
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