

HOUSE BILL 104

IN THE HOUSE

January 10, 1979	Introduced and referred to Committee on Business and Industry.
January 16, 1979	Committee recommend bill, as amended.
January 17, 1979	Printed and placed on members' desks.
January 18, 1979	Second reading, do pass.
January 19, 1979	Considered correctly engrossed.
January 20, 1979	On motion, taken from third reading and referred to second reading. Second reading, pass consideration, as amended. On motion, taken from second reading and referred to Committee on Business and Industry.
January 25, 1979	Intent statement attached. Committee recommend bill, do pass.
January 27, 1979	Printed and placed on members' desks.
January 29, 1979	Second reading, pass consideration.
January 30, 1979	Second reading, do pass.
February 1, 1979	Third reading passed.

IN THE SENATE

February 2, 1979	Introduced and referred to Committee on Local Government.
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March 2, 1979

Committee recommend bill,
not concurred.

IN THE HOUSE

March 3, 1979

Returned from Senate,
not Concurred.

1 HOUSE BILL NO. 104
 2 INTRODUCED BY Farvick
 3 BY REQUEST OF THE ATTORNEY GENERAL

4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE
 6 STATE FIRE LAWS TO CONFORM THEM TO THE ADOPTION OF THE
 7 UNIFORM BUILDING CODE; AMENDING SECTIONS 2-15-2005,
 8 50-3-103, 50-61-104, 50-61-108, 50-61-114, 50-61-115, AND
 9 50-62-102, MCA; AND REPEALING SECTIONS 50-61-105, 50-61-109,
 10 AND 50-62-103 THROUGH 50-62-107, MCA."

11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 Section 1. Section 2-15-2005, MCA, is amended to read:

13 "2-15-2005. Fire marshal bureau -- advisory council.

14 (1) There is a fire marshal bureau in the department of
 15 justice which is under the supervision and control of the
 16 attorney general.

17 (2) The chief of the fire marshal bureau shall be
 18 appointed by the attorney general and shall serve at his
 19 pleasure. The chief of the fire marshal bureau is the state
 20 fire marshal.

21 (3) A person appointed state fire marshal shall have:

22 (a) at least 10 years of progressively responsible
 23 experience in fire protection;

24 (b) a 2-year associate degree in fire protection

1 engineering from a recognized institution of higher
 2 education and 2 years' experience in fire protection; or

3 (c) a degree from a recognized institution of higher
 4 education in fire protection engineering or fire protection
 5 technology.

6 (4) The attorney general shall create a fire marshal
 7 advisory council in accordance with procedures provided in
 8 2-15-122. The council shall perform the functions of the
 9 board of appeals as prescribed in the state fire code
 10 adopted by the state fire marshal pursuant to 50-3-102."

11 Section 2. Section 50-3-103, MCA, is amended to read:

12 "50-3-103. Rules promulgated by state fire marshal.

13 (1) Rules promulgated by the state fire marshal by authority
 14 of 50-3-102 shall be reasonable and calculated to effect the
 15 purposes of this chapter. They shall include but not be
 16 limited to requirements for ~~design~~---~~construction~~;
 17 ~~installation~~, operation, storage, handling, maintenance, or
 18 use of ~~structural~~---~~requirements~~---~~for~~---~~various~~---~~types~~---~~of~~
 19 ~~construction~~---~~building~~---~~restrictions~~---~~within~~---~~congested~~
 20 ~~districts~~; exit facilities from structures; fire alarm
 21 systems and fire extinguishing systems; fire emergency
 22 drills; ~~flue~~---~~and~~---~~chimney~~---~~construction~~; heating devices;
 23 ~~electrical~~---~~wiring~~---~~and~~---~~equipment~~---~~air~~---~~conditioning~~;
 24 ~~ventilating~~---~~and~~---~~other~~ duct systems; refrigeration systems;
 25 flammable liquids; oil and gas wells; application of

1 flammable finishes; explosives, acetylene, liquefied
2 petroleum gas, and similar products; calcium carbide and
3 acetylene generators; flammable motion picture film;
4 combustible fibers; hazardous chemicals; rubbish; open
5 flame devices; parking of vehicles; dust explosions;
6 lightning protection; and other special fire hazards.

7 (2) If rules relate to building and equipment
8 standards covered by the state or a municipal building code,
9 the rules are effective upon approval of the department of
10 administration and filing with the secretary of state.

11 (3) Standards of the national fire protection
12 association, United States bureau of standards, and American
13 insurance association, international conference of building
14 officials, and western fire chiefs' association may be
15 adopted in whole or in part by reference.

16 (4) Rules shall be adopted as prescribed in the
17 Montana Administrative Procedure Act.

18 (5) Any person violating any rule made under the
19 provisions of this part shall be guilty of a misdemeanor."

20 Section 3. Section 50-61-104, MCA, is amended to read:

21 "50-61-104. Fire escape requirements. (1) All
22 buildings described in 50-61-103, except private residences,
23 of two or more stories in height shall be equipped with not
24 less than one adequate fire escape for each 5,000 square
25 feet of lot area or fraction thereof occupied by the

1 building adequate fire escapes which meet the applicable
2 code requirements.

3 (2) "First-story" is defined as being the story the
4 ceiling of which is first above the level of the grade said
5 ceiling being on average of 5 feet or more above the ground
6 surrounding the building & "story" is as defined in the
7 state building code."

8 Section 4. Section 50-61-108, MCA, is amended to read:

9 "50-61-108. Alarm system required. (1) All buildings
10 within the scope of this chapter occupied at night by more
11 than 10 persons, if more than one story in height, shall
12 have in each story an electricity operated gong or gongs to
13 be operated by any one of a number of switches, one of which
14 shall be on each floor. Said gong or gongs shall not be less
15 than 6 inches in diameter and installed with not less than
16 number 14 rubber covered wire required by the state building
17 code or fire code to be equipped with alarm systems shall
18 comply with the applicable code requirements.

19 (2) In lieu of said gong or gongs, such buildings may
20 be equipped with a telephone alarm system operated from a
21 central switchboard. Wherever such telephone system is used
22 in such buildings, an attendant shall be on duty at the
23 central switchboard 24 hours daily. The alarm from such
24 switchboard shall be simultaneous in all rooms of the
25 building and a single switch at the switchboard shall

1 ~~operate said telephone alarm systems"~~

2 Section 5. Section 50-61-114, MCA, is amended to read:

3 "50-61-114. Fire chief ~~and~~ or county sheriff to make
4 inspections. The chief of the fire department of each
5 municipality or district where a fire department is
6 established, ~~and~~ or the county sheriff or deputy fire
7 ~~marshals~~ marshal where no fire department exists, ~~shall~~ may
8 enter into all buildings and upon all premises within ~~their~~
9 ~~his~~ jurisdiction ~~at least once each 6 months~~ for the purpose
10 of examining the premises for violations of this chapter.
11 The inspection ~~shall~~ may include ~~but is not limited to~~
12 testing fire alarms and fire extinguishers, examining fire
13 hose, attachments, and other fire apparatus, and examining
14 fire escapes. ~~Copies of the inspection shall be filed in the~~
15 ~~office of the state fire marshal on forms to be provided by~~
16 ~~him"~~

17 Section 6. Section 50-61-115, MCA, is amended to read:

18 "50-61-115. Notice of violations. (1) When a building
19 is found which requires the erection of fire escapes and
20 upon which fire escapes have not been erected according to
21 the provisions of this chapter or if fire hoses, fire
22 extinguishers, fire alarms, or other fire apparatus ~~is~~ are
23 found to be lacking or defective or not in good working
24 condition, the person making the inspection or the state
25 fire marshal shall serve a written notice upon the party

1 whose duty it is to erect the fire escapes or maintain such
2 fire apparatus. ~~The notice shall be in the form and shall be~~
3 ~~served by the method provided for in the rules adopted by~~
4 ~~the fire marshal.~~

5 ~~{2}--The notice shall specify the time within which the~~
6 ~~fire escapes shall be erected or the defective conditions~~
7 ~~remedied, which may not be more than 90 days.~~

8 ~~{3}--The notice is served if delivered to the person to~~
9 ~~be notified, if left with any adult person at the usual~~
10 ~~residence or place of business of the person to be notified,~~
11 ~~or if deposited in the post office directed to the last~~
12 ~~known address of the person to be notified. Whenever~~
13 ~~buildings are managed and controlled by a board of trustees,~~
14 ~~board of commissioners, or other governing body, the notice~~
15 ~~is served if delivered to the president, secretary, or~~
16 ~~treasurer of the board of trustees, board of commissioners,~~
17 ~~or other governing body."~~

18 Section 7. Section 50-62-102, MCA, is amended to read:

19 "50-62-102. Structures creating fire hazard a public
20 nuisance. Any building or other structure which for want of
21 proper repair by reason of age, dilapidated condition,
22 defective or poorly installed wiring and equipment,
23 defective chimneys, defective gas connections, defective
24 heating apparatus or for any other cause or reason is
25 especially liable to fire and which is so situated as to

1 ~~endanger other buildings and property in the vicinity is~~
2 ~~hereby declared to be a public nuisance, because of~~
3 ~~obsolescence, dilapidated condition, deterioration, damage,~~
4 ~~inadequate exits, lack of sufficient fire resistive~~
5 ~~construction, faulty electric wiring, gas connections, or~~
6 ~~heating apparatus, or any other cause, is determined by the~~
7 ~~fire marshal, a deputy fire marshal, or any other officer~~
8 ~~mentioned in 50-62-101 to be a fire hazard is, for the~~
9 ~~purposes of this chapter, an unsafe building. Any such~~
10 ~~unsafe building is a public nuisance and shall be abated by~~
11 ~~repair, rehabilitation, demolition, or renewal in accordance~~
12 ~~with the rules adopted by the state fire marshal."~~

13 Section 8. Repealer. Sections 50-61-105, 50-61-109,
14 and 50-62-103 through 50-62-107, MCA, are repealed.

-End-

Approved by Committee
on Business and Industry

HOUSE BILL NO. 104

INTRODUCED BY PAVLOVICH

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A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE STATE FIRE LAWS TO CONFORM THEM TO THE ADOPTION OF THE UNIFORM BUILDING CODE; AMENDING SECTIONS 2-15-2005, 50-3-103, 50-61-104, 50-61-108, 50-61-114, 50-61-115, AND 50-62-102, MCA; AND REPEALING SECTIONS 50-61-105, 50-61-109, AND 50-62-103 THROUGH 50-62-107, MCA."

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Section 1. Section 2-15-2005, MCA, is amended to read:

"2-15-2005. Fire marshal bureau -- advisory council.

(1) There is a fire marshal bureau in the department of justice which is under the supervision and control of the attorney general.

(2) The chief of the fire marshal bureau shall be appointed by the attorney general and shall serve at his pleasure. The chief of the fire marshal bureau is the state fire marshal.

(3) A person appointed state fire marshal shall have:

(a) at least 10 years of progressively responsible experience in fire protection;

(b) a 2-year associate degree in fire protection

engineering from a recognized institution of higher education and 2 years' experience in fire protection; or

(c) a degree from a recognized institution of higher education in fire protection engineering or fire protection technology.

(4) The attorney general shall create a fire marshal advisory council in accordance with procedures provided in 2-15-122. The council shall perform the functions of the board of appeals as prescribed in the state fire code adopted by the state fire marshal pursuant to 50-3-102."

Section 2. Section 50-3-103, MCA, is amended to read:

"50-3-103. Rules promulgated by state fire marshal.

(1) Rules promulgated by the state fire marshal by authority of 50-3-102 shall be reasonable and calculated to effect the purposes of this chapter. They shall include but not be limited to requirements for design, construction, installation, operation, storage, handling, maintenance, or use of structural requirements for various types of construction, building restrictions within congested districts; exit facilities from structures; fire alarm systems and fire extinguishing systems; fire emergency drills; fire and chimney construction; heating devices; electrical wiring and equipment; air conditioning, ventilating, and other duct systems; refrigeration systems; flammable liquids; oil and gas wells; application of

1 flammable finishes; explosives, acetylene, liquefied
 2 petroleum gas, and similar products; calcium carbide and
 3 acetylene generators; flammable motion picture film;
 4 combustible fibers; hazardous chemicals; rubbish;
 5 flame devices; parking of vehicles; dust explosions;
 6 lightning protection; and other special fire hazards.

7 (2) If rules relate to building and equipment
 8 standards covered by the state or a municipal building code,
 9 the rules are effective upon approval of the department of
 10 administration and filing with the secretary of state.

11 (3) Standards of the national fire protection
 12 association, United States bureau of standards, and American
 13 insurance association, international conference of building
 14 officials, and western fire chiefs' association may be
 15 adopted in whole or in part by reference.

16 (4) Rules shall be adopted as prescribed in the
 17 Montana Administrative Procedure Act.

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 19 provisions of this part shall be guilty of a misdemeanor."

20 Section 3. Section 50-61-104, MCA, is amended to read:

21 "50-61-104. Fire escape requirements. (1) All
 22 buildings described in 50-61-103, except private residences,
 23 of two or more stories in height shall be equipped with not
 24 less than one adequate fire escape for each 5,000 square
 25 feet of lot area or fraction thereof occupied by the

1 building adequate fire escapes which meet the applicable
 2 code requirements.

3 (2) "First-story" is defined as being the story the
 4 ceiling of which is first above the level of the grade, said
 5 ceiling being an average of 5 feet or more above the ground
 6 surrounding the building. A "story" is as defined in the
 7 state building code."

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 10 within the scope of this chapter occupied at night by more
 11 than 10 persons, if more than one story in height, shall
 12 have in each story an electrically operated gong or gongs to
 13 be operated by any one of a number of switches, one of which
 14 shall be on each floor. Said gong or gongs shall not be less
 15 than 6 inches in diameter and installed with not less than
 16 number 14 rubber covered wire required by the state building
 17 code or fire code to be equipped with alarm systems shall
 18 comply with the applicable code requirements.

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 20 be equipped with a telephone alarm system operated from a
 21 central switchboard. Wherever such telephone system is used
 22 in such buildings, an attendant shall be on duty at the
 23 central switchboard 24 hours daily. The alarm from such
 24 switchboard shall be simultaneous in all rooms of the
 25 building and a single switch at the switchboard shall

1 operate said telephone alarm systems"

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3 "50-61-114. Fire chief and or county sheriff to make

4 inspections. The chief of the fire department of each

5 municipality or district where a fire department is

6 established, and or the county sheriff or deputy fire

7 marshals marshal where no fire department exists, shall may

8 enter into all buildings and upon all premises within their

9 jurisdiction at least once each 6 months for the purpose

10 of examining the premises for violations of this chapter.

11 The inspection shall may include but is not limited to

12 testing fire alarms and fire extinguishers, examining fire

13 hoses, attachments, and other fire apparatus, and examining

14 fire escapes. Copies of the inspection shall be filed in the

15 office of the state fire marshal on forms to be provided by

16 him"

17 Section 6. Section 50-61-115, MCA, is amended to read:

18 "50-61-115. Notice of violations. (1) When a building

19 is found which requires the erection of fire escapes and

20 upon which fire escapes have not been erected according to

21 the provisions of this chapter or if fire hoses, fire

22 extinguishers, fire alarms, or other fire apparatus is are

23 found to be lacking or defective or not in good working

24 condition, the person making the inspection or the state

25 fire marshal shall serve a written notice upon the party

1 whose duty it is to erect the fire escapes or maintain such

2 fire apparatus. The notice shall be in the form and shall be

3 served by the method provided for in the rules adopted by

4 the fire marshal.

5 (2) ~~the notice shall specify the time within which the~~

6 ~~fire escapes shall be erected or the defective conditions~~

7 ~~remedied, which may not be more than 90 days.~~

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10 ~~residence or place of business of the person to be notified,~~

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12 ~~known address of the person to be notified, whenever~~

13 ~~buildings are managed and controlled by a board of trustees,~~

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19 "50-62-102. Structures creating fire hazard a public

20 nuisance. Any building or other structure which for want of

21 proper repair by reason of age, dilapidated condition,

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23 defective chimneys, defective gas connections, defective

24 heating apparatus or for any other cause or reason is

25 especially liable to fire and which is so situated as to

1 ~~endanger other buildings and property in the vicinity is~~
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6 ~~heating apparatus, or any other cause, is determined by the~~
7 ~~fire marshal, a deputy fire marshal, or any other officer~~
8 ~~mentioned in 50-62-101 to be a fire hazard is, for the~~
9 ~~purposes of this chapter, an unsafe building. Any such~~
10 ~~unsafe building is a public nuisance and shall be abated by~~
11 ~~repair, rehabilitation, demolition, or removal in accordance~~
12 ~~with the rules adopted by the state fire marshal."~~

13 Section 8. Repealer. Sections 50-61-105, 50-61-109,
14 and 50-62-103 through 50-62-107, MCA, are repealed.

-End-

1 STATEMENT OF INTENT RE: HB 104

2 A statement of intent is required for this bill in that
3 it amends section 50-3-103, MCA, which delegates authority
4 to the state fire marshal to promulgate rules in section 2.

5 1. Under section 2, the bill amends 50-3-103(1), MCA,
6 to remove the authority of the state fire marshal to
7 promulgate rules concerning the design and construction of
8 buildings and installation of equipment and materials
9 therein. This authority is no longer necessary as the
10 department of administration has adopted the uniform
11 building code which governs the design and construction of
12 buildings and installation of equipment and materials
13 therein.

14 2. Under section 2, the bill amends 50-3-103(3), MCA,
15 which states that the state fire marshal may adopt the
16 standards of the "international conference of building
17 officials, and western fire chiefs association". This
18 language refers to the uniform fire code. It is not intended
19 that this be an additional grant of rulemaking authority to
20 the state fire marshal, as the state fire marshal has
21 already adopted the uniform fire code under its rulemaking
22 authority in 50-3-102, MCA. This language was added solely
23 for the purpose of clarity. The uniform fire code is the
24 companion code to the uniform building code already in
25 effect. It should be noted that the state fire marshal

1 adopted the uniform fire code to provide for consistency in
2 rules relating to building and equipment standards. This
3 consistency is necessary as the uniform fire code has rules
4 governing the use of buildings and the uniform building code
5 has rules governing the design and construction of
6 buildings.

7 3. Under section 6, 50-61-115, MCA, is amended to
8 allow the fire marshal to adopt rules governing the form and
9 method for notice of violations pertaining to the erection
10 of fire escapes and maintenance of fire apparatus. This is
11 not intended to provide an additional or new delegation of
12 authority to the state fire marshal to adopt rules. The
13 rules governing the form and method for notice of such
14 violations are provided for in the uniform fire code which
15 is in effect. This language was added for clarity. Sections
16 50-61-115(2) and (3), MCA, which specified the form and
17 method of notice of violations were repealed as they
18 conflicted with the provisions in the uniform fire code.

19 4. Under section 7, 50-62-102, MCA, was amended to
20 allow the fire marshal to adopt rules relating to the
21 "repair, rehabilitation, demolition, or renewal of unsafe
22 buildings". Again, this language is not intended to delegate
23 new or additional rulemaking authority to the state fire
24 marshal. The state fire marshal already has the authority to
25 adopt rules relating to safeguarding life and property from

1 the hazards of fire and the power to maintain an action to
2 enjoin the use of all or a portion of a building if it is
3 dangerous under 50-3-102(2), MCA. The authority to
4 promulgate rules was merely repeated here as the section
5 addresses specifically the problem of unsafe buildings.

6 First adopted by HOUSE COMMITTEE ON BUSINESS AND
7 INDUSTRY, January 25, 1979

Approved by Committee
on Business and Industry

HOUSE BILL NO. 104

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1 flammable finishes; explosives; acetylene, liquefied
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23 ~~defective chimneys, defective gas connections, defective~~
24 ~~heating apparatus, or for any other cause or reason, is~~
25 ~~especially liable to fire and which is so situated as to~~

1 ~~endanger other buildings and property in the vicinity is~~
2 ~~hereby declared to be a public nuisance, because of~~
3 ~~obsolescence, dilapidated condition, deterioration, damage,~~
4 ~~inadequate exits, lack of sufficient fire resistive~~
5 ~~construction, faulty electric wiring, gas connections, or~~
6 ~~heating apparatus, or any other REASONABLE cause, is~~
7 ~~determined by the fire marshal, a deputy fire marshal, or~~
8 ~~any other officer mentioned in 50-62-101 to be a fire hazard~~
9 ~~is, for the purposes of this chapter, an unsafe building.~~
10 ~~Any such unsafe building is a public nuisance and shall be~~
11 ~~abated by repair, rehabilitation, demolition, or renewal in~~
12 ~~accordance with the rules adopted by the state fire~~
13 ~~marshal."~~

14 Section 8. Repealer. Sections 50-61-105, 50-61-109,
15 and 50-62-103 through 50-62-107, MCA, are repealed.

-End-

HOUSE BILL NO. 104

INTRODUCED BY PAVLOVICH

BY REQUEST OF THE ATTORNEY GENERAL

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE STATE FIRE LAWS TO CONFORM THEM TO THE ADOPTION OF THE UNIFORM BUILDING CODE; AMENDING SECTIONS 2-15-2005, 50-3-103, 50-61-104, 50-61-108, 50-61-114, 50-61-115, AND 50-62-102, MCA; AND REPEALING SECTIONS 50-61-105, 50-61-109, AND 50-62-103 THROUGH 50-62-107, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 2-15-2005, MCA, is amended to read:

"2-15-2005. Fire marshal bureau -- advisory council.

(1) There is a fire marshal bureau in the department of justice which is under the supervision and control of the attorney general.

(2) The chief of the fire marshal bureau shall be appointed by the attorney general and shall serve at his pleasure. The chief of the fire marshal bureau is the state fire marshal.

(3) A person appointed state fire marshal shall have:

(a) at least 10 years of progressively responsible experience in fire protection;

(b) a 2-year associate degree in fire protection

engineering from a recognized institution of higher education and 2 years' experience in fire protection; or

(c) a degree from a recognized institution of higher education in fire protection engineering or fire protection technology.

(4) The attorney general shall create a fire marshal advisory council in accordance with procedures provided in 2-15-122. The council shall perform the functions of the board of appeals as prescribed in the state fire code adopted by the state fire marshal pursuant to 50-3-102."

Section 2. Section 50-3-103, MCA, is amended to read:

"50-3-103. Rules promulgated by state fire marshal.

(1) Rules promulgated by the state fire marshal by authority of 50-3-102 shall be reasonable and calculated to effect the purposes of this chapter. They shall include but not be limited to requirements for design---constructionv installationv operation, storage, handling, maintenance, or use of structure†---requirements---for---various---types---of construction†---building---restrictions---within---congested districts† exit facilities from structures; fire alarm systems and fire extinguishing systems; fire emergency drills; fue---and---chimney---construction† heating devices; elect†---wiring---and---equipment†---air---conditioningv ventilatingv---and---other duct systems; refrigeration systems; flammable liquids; oil and gas wells; application of

1 flammable finishes; explosives, acetylene, liquefied
 2 petroleum gas, and similar products; calcium carbide and
 3 acetylene generators; flammable motion picture film;
 4 combustible fibers; hazardous chemicals; rubbish; open
 5 flame devices; parking of vehicles; dust explosions;
 6 lightning protection; and other special fire hazards.

7 (2) If rules relate to building and equipment
 8 standards covered by the state or a municipal building code,
 9 the rules are effective upon approval of the department of
 10 administration and filing with the secretary of state.

11 (3) Standards of the national fire protection
 12 association, United States bureau of standards, and American
 13 insurance associations, international conference of building
 14 officials, and western fire chiefs' association may be
 15 adopted in whole or in part by reference.

16 (4) Rules shall be adopted as prescribed in the
 17 Montana Administrative Procedure Act.

18 (5) Any person violating any rule made under the
 19 provisions of this part shall be guilty of a misdemeanor."

20 Section 3. Section 50-61-104, MCA, is amended to read:

21 "50-61-104. Fire escape requirements. (1) All
 22 buildings described in 50-61-103, except private residences,
 23 of two or more stories in height shall be equipped with not
 24 less than one adequate fire escape for each 5,000 square
 25 feet of lot area or fraction thereof occupied by the

1 building adequate fire escapes which meet the applicable
 2 code requirements.

3 (2) "First-story" is defined as being the story the
 4 ceiling of which is first above the level of the grade, said
 5 ceiling being on average of 5 feet or more above the ground
 6 surrounding the building. A "story" is as defined in the
 7 state building code."

8 Section 4. Section 50-61-108, MCA, is amended to read:

9 "50-61-108. Alarm system required. ~~††~~ All buildings
 10 within the scope of this chapter occupied at night by more
 11 than 10 persons, if more than one story in height, shall
 12 have in each story an electrically operated gong or gongs to
 13 be operated by any one of a number of switches, one of which
 14 shall be on each floor. Said gong or gongs shall not be less
 15 than 6 inches in diameter and installed with not less than
 16 number 14 rubber covered wire required by the state building
 17 code or fire code to be equipped with alarm systems shall
 18 comply with the applicable code requirements.

19 ~~††~~ In lieu of said gong or gongs, such buildings may
 20 be equipped with a telephone alarm system operated from a
 21 central switchboard. Wherever such telephone system is used
 22 in such buildings, an attendant shall be on duty at the
 23 central switchboard 24 hours daily. The alarm from such
 24 switchboard shall be simultaneous in all rooms of the
 25 building, and a single switch at the switchboard shall

1 operate-said-telephone-alarm-systems"

2 Section 5. Section 50-61-114, MCA, is amended to read:

3 "50-61-114. Fire chief and ~~or~~ county sheriff to make
4 inspections. The chief of the fire department of each
5 municipality or district where a fire department is
6 established, and ~~or~~ the county sheriff or deputy fire
7 marshals marshal where no fire department exists, shall ~~may~~
8 enter into all buildings and upon all premises within their
9 his jurisdiction at-least-once-each-6-months for the purpose
10 of examining the premises for violations of this chapter.
11 The inspection shall ~~may~~ include ~~but-is-not-limited-to~~
12 testing fire alarms and fire extinguishers, examining fire
13 hoses, attachments, and other fire apparatus, and examining
14 fire escapes. ~~Copies-of-the-inspection-shall-be-filed-in-the~~
15 ~~office-of-the-state-fire-marshal-on-forms-to-be-provided-by~~
16 ~~him."~~

17 Section 6. Section 50-61-115, MCA, is amended to read:

18 "50-61-115. Notice of violations. (1) When a building
19 is found which requires the erection of fire escapes and
20 upon which fire escapes have not been erected according to
21 the provisions of this chapter or if fire hoses, fire
22 extinguishers, fire alarms, or other fire apparatus ~~is~~ ~~are~~
23 found to be lacking or defective or not in good working
24 condition, the person making the inspection or the state
25 fire marshal shall serve a written notice upon the party

1 whose duty it is to erect the fire escapes or maintain such
2 fire apparatus. ~~The notice shall be in the form and shall be~~
3 ~~served by the method provided for in the rules adopted by~~
4 ~~the fire marshal.~~

5 (2) ~~The notice shall specify the time within which the~~
6 ~~fire escapes shall be erected or the defective conditions~~
7 ~~remedied which may not be more than 90 days.~~

8 (3) ~~The notice is served if delivered to the person to~~
9 ~~be notified if left with any adult person at the usual~~
10 ~~residence or place of business of the person to be notified~~
11 ~~or if deposited in the post office directed to the last~~
12 ~~known address of the person to be notified whenever~~
13 ~~buildings are managed and controlled by a board of trustees~~
14 ~~board of commissioners, or other governing body the notice~~
15 ~~is served if delivered to the president, secretary or~~
16 ~~treasurer of the board of trustees, board of commissioners~~
17 ~~or other governing body."~~

18 Section 7. Section 50-62-102, MCA, is amended to read:

19 "50-62-102. Structures creating fire hazard a public
20 nuisance. Any building or other structure which ~~for want of~~
21 ~~proper repair by reason of age, dilapidated condition~~
22 ~~defective or poorly installed wiring and equipment~~
23 ~~defective chimneys, defective gas connections, defective~~
24 ~~heating apparatus, or for any other cause or reason is~~
25 ~~especially liable to fire and which is so situated as to~~

1 ~~endanger other buildings and property in the vicinity is~~
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5 ~~construction, faulty electric wiring, gas connections, or~~
6 ~~heating apparatus, or any other cause, is determined by the~~
7 ~~fire marshal, a deputy fire marshal, or any other officer~~
8 ~~mentioned in 50-62-101 to be a fire hazard is, for the~~
9 ~~purposes of this chapter, an unsafe building. Any such~~
10 ~~unsafe building is a public nuisance and shall be abated by~~
11 ~~repair, rehabilitation, demolition, or renewal in accordance~~
12 ~~with the rules adopted by the state fire marshal."~~

13 Section 8. Repealer. Sections 50-61-105, 50-61-109,
14 and 50-62-103 through 50-62-107, MCA, are repealed.

-End-

1 STATEMENT OF INTENT RE: HB 104

2 A statement of intent is required for this bill in that
3 it amends section 50-3-103, MCA, which delegates authority
4 to the state fire marshal to promulgate rules in section 2.

5 1. Under section 2, the bill amends 50-3-103(1), MCA,
6 to remove the authority of the state fire marshal to
7 promulgate rules concerning the design and construction of
8 buildings and installation of equipment and materials
9 therein. This authority is no longer necessary as the
10 department of administration has adopted the uniform
11 building code which governs the design and construction of
12 buildings and installation of equipment and materials
13 therein.

14 2. Under section 2, the bill amends 50-3-103(3), MCA,
15 which states that the state fire marshal may adopt the
16 standards of the "international conference of building
17 officials, and western fire chiefs association". This
18 language refers to the uniform fire code. It is not intended
19 that this be an additional grant of rulemaking authority to
20 the state fire marshal, as the state fire marshal has
21 already adopted the uniform fire code under its rulemaking
22 authority in 50-3-102, MCA. This language was added solely
23 for the purpose of clarity. The uniform fire code is the
24 companion code to the uniform building code already in
25 effect. It should be noted that the state fire marshal

1 adopted the uniform fire code to provide for consistency in
2 rules relating to building and equipment standards. This
3 consistency is necessary as the uniform fire code has rules
4 governing the use of buildings and the uniform building code
5 has rules governing the design and construction of
6 buildings.

7 3. Under section 6, 50-61-115, MCA, is amended to
8 allow the fire marshal to adopt rules governing the form and
9 method for notice of violations pertaining to the erection
10 of fire escapes and maintenance of fire apparatus. This is
11 not intended to provide an additional or new delegation of
12 authority to the state fire marshal to adopt rules. The
13 rules governing the form and method for notice of such
14 violations are provided for in the uniform fire code which
15 is in effect. This language was added for clarity. Sections
16 50-61-115(2) and (3), MCA, which specified the form and
17 method of notice of violations were repealed as they
18 conflicted with the provisions in the uniform fire code.

19 4. Under section 7, 50-62-102, MCA, was amended to
20 allow the fire marshal to adopt rules relating to the
21 "repair, rehabilitation, demolition, or renewal of unsafe
22 buildings". Again, this language is not intended to delegate
23 new or additional rulemaking authority to the state fire
24 marshal. The state fire marshal already has the authority to
25 adopt rules relating to safeguarding life and property from

1 the hazards of fire and the power to maintain an action to
2 enjoin the use of all or a portion of a building if it is
3 dangerous under 50-3-102(2), MCA. The authority to
4 promulgate rules was merely repeated here as the section
5 addresses specifically the problem of unsafe buildings.

6 First adopted by HOUSE COMMITTEE ON BUSINESS AND
7 INDUSTRY, January 25, 1979

HOUSE BILL NO. 104

INTRODUCED BY PAVLOVICH

BY REQUEST OF THE ATTORNEY GENERAL

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE STATE FIRE LAWS TO CONFORM THEM TO THE ADOPTION OF THE UNIFORM BUILDING CODE; AMENDING SECTIONS 2-15-2005, 50-3-103, 50-61-104, 50-61-108, 50-61-114, 50-61-115, AND 50-62-102, MCA; AND REPEALING SECTIONS 50-61-105, 50-61-109, AND 50-62-103 THROUGH 50-62-107, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 2-15-2005, MCA, is amended to read:

"2-15-2005. Fire marshal bureau -- advisory council.

(1) There is a fire marshal bureau in the department of justice which is under the supervision and control of the attorney general.

(2) The chief of the fire marshal bureau shall be appointed by the attorney general and shall serve at his pleasure. The chief of the fire marshal bureau is the state fire marshal.

(3) A person appointed state fire marshal shall have:

(a) at least 10 years of progressively responsible experience in fire protection;

(b) a 2-year associate degree in fire protection

engineering from a recognized institution of higher education and 2 years' experience in fire protection; or
(c) a degree from a recognized institution of higher education in fire protection engineering or fire protection technology.

(4) The attorney general shall create a fire marshal advisory council in accordance with procedures provided in 2-15-122. The council shall perform the functions of the board of appeals as prescribed in the state fire code adopted by the state fire marshal pursuant to 50-3-102."

Section 2. Section 50-3-103, MCA, is amended to read:

"50-3-103. Rules promulgated by state fire marshal.

(1) Rules promulgated by the state fire marshal by authority of 50-3-102 shall be reasonable and calculated to effect the purposes of this chapter. They shall include but not be limited to requirements for ~~design~~---~~construction~~---~~installation~~ operation, storage, handling, maintenance, or use of ~~structure~~---~~requirements~~---~~for~~---~~various~~---~~types~~---~~of~~ ~~construction~~---~~building~~---~~restrictions~~---~~within~~---~~congested~~ ~~districts~~; exit facilities from structures; fire alarm systems and fire extinguishing systems; fire emergency drills; ~~flue~~---~~and~~---~~chimney~~---~~construction~~; heating devices; ~~electrical~~---~~wiring~~---~~and~~---~~equipment~~---~~air~~---~~conditioning~~---~~ventilating~~---~~and~~---~~other~~ duct systems; refrigeration systems; flammable liquids; oil and gas wells; application of

1 flammable finishes; explosives; acetylene, liquefied
 2 petroleum gas, and similar products; calcium carbide and
 3 acetylene generators; flammable motion picture film;
 4 combustible fibers; hazardous chemicals; rubbish; open
 5 flame devices; parking of vehicles; dust explosions;
 6 lightning protection; and other special fire hazards.

7 (2) If rules relate to building and equipment
 8 standards covered by the state or a municipal building code,
 9 the rules are effective upon approval of the department of
 10 administration and filing with the secretary of state.

11 (3) Standards of the national fire protection
 12 association, United States bureau of standards, and American
 13 insurance association, international conference of building
 14 officials, and western fire chiefs' association may be
 15 adopted in whole or in part by reference.

16 (4) Rules shall be adopted as prescribed in the
 17 Montana Administrative Procedure Act.

18 (5) Any person violating any rule made under the
 19 provisions of this part shall be guilty of a misdemeanor."

20 Section 3. Section 50-61-104, MCA, is amended to read:

21 "50-61-104. Fire escape requirements. (1) All
 22 buildings described in 50-61-103, except private residences,
 23 of two or more stories in height shall be equipped with not
 24 less than one adequate fire escape for each 5,000 square
 25 feet of lot area or fraction thereof occupied by the

1 building adequate fire escapes which meet the applicable
 2 code requirements.

3 (2) "First-story" is defined as being the story the
 4 ceiling of which is first above the level of the grade, said
 5 ceiling being on average of 5 feet or more above the ground
 6 surrounding the building. A "story" is as defined in the
 7 state building code."

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 13 be operated by any one of a number of switches, one of which
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 15 than 6 inches in diameter and installed with not less than
 16 number 14 rubber covered wire required by the state building
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 25 ~~building, and a single switch at the switchboard shall~~

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3 "50-61-114. Fire chief and or county sheriff to make
4 inspections. The chief of the fire department of each
5 municipality or district where a fire department is
6 established, and or the county sheriff or deputy fire
7 marshots ~~marshal~~ where no fire department exists, ~~shalt~~ may
8 enter into all buildings and upon all premises within their
9 ~~his~~ jurisdiction ~~at least once each 6 months~~ for the purpose
10 of examining the premises for violations of this chapter.
11 The inspection ~~shalt~~ may include ~~but is not limited to~~
12 testing fire alarms and fire extinguishers, examining fire
13 hoses, attachments, and other fire apparatus, and examining
14 fire escapes. ~~Copies of the inspection shall be filed in the~~
15 ~~office of the state fire marshal on forms to be provided by~~
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18 "50-61-115. Notice of violations. (1) When a building
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20 upon which fire escapes have not been erected according to
21 the provisions of this chapter or if fire hoses, fire
22 extinguishers, fire alarms, or other fire apparatus is ~~are~~
23 found to be lacking or defective or not in good working
24 condition, the person making the inspection or the state
25 fire marshal shall serve a written notice upon the party

1 whose duty it is to erect the fire escapes or maintain such
2 fire apparatus. The notice shall be in the form and shall be
3 served by the method provided for in the rules adopted by
4 the fire marshal.

5 ~~(2) The notice shall specify the time within which the~~
6 ~~fire escapes shall be erected or the defective conditions~~
7 ~~remedied, which may not be more than 90 days.~~

8 ~~(3) The notice is served if delivered to the person to~~
9 ~~be notified, if left with any adult person at the usual~~
10 ~~residence or place of business of the person to be notified,~~
11 ~~or if deposited in the post office directed to the last~~
12 ~~known address of the person to be notified, whenever~~
13 ~~buildings are managed and controlled by a board of trustees,~~
14 ~~board of commissioners, or other governing body, the notice~~
15 ~~is served if delivered to the president, secretary, or~~
16 ~~treasurer of the board of trustees, board of commissioners,~~
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19 "50-62-102. Structures creating fire hazard a public
20 nuisance. Any building or other structure which ~~for want of~~
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22 ~~defective or poorly installed wiring and equipment,~~
23 ~~defective chimneys, defective gas connections, defective~~
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14 Section 8. Repealer. Sections 50-61-105, 50-61-109,
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-End-