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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 4089

02/22/2024 Authored by Wolgamott and Jordan

The bill was read for the first time and referred to the Committee on Public Safety Finance and Policy

1.1 A bill for an act
1.2 relating to the State Fire Code; establishing fire life safety damper testing;
1.3 authorizing rulemaking; proposing coding for new law in Minnesota Statutes,
1.4 chapter 299F.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. 299F.49 DEFINITIONS.

1.7 Subdivision 1. Scope. As used in sections 299F.49 and 299F.491, the terms defined in
1.8 this section have the meanings given.

1.9 Subd. 2. Approved skill training program or program. "Approved skill training
1.10 program" or "program" means a Class A apprenticeship training program that is registered
1.11 with and approved by the United States Department of Labor or the commissioner of labor
1.12 and industry involving at least 8,000 hours of documented practical experience in the
1.13 installation, maintenance, and servicing of HVAC systems and providing both apprenticeship
1.14 training and training to upgrade skills of journeypersons in the skills of the HVAC industry,
1.15 including those relating to fire safety equipment.

1.16 Subd. 3. Building. "Building" means a building equipped with fire life safety dampers,
1.17 a smoke control system, or an HVAC duct system that contains fire life safety dampers or
1.18 is part of a smoke control system. Building does not include single family residential
1.19 buildings or multifamily buildings with four or fewer units.

1.20 Subd. 4. Combination fire smoke damper. "Combination fire smoke damper" means
1.21 a device that meets both the fire damper and smoke damper requirements.

2.1 Subd. 5. **Dedicated smoke control system.** "Dedicated smoke control system" means
2.2 a smoke control system and components that are installed for the sole purpose of providing
2.3 smoke control and that upon activation of the systems operate specifically to perform the
2.4 smoke control function.

2.5 Subd. 6. **Fire damper.** "Fire damper" means a device installed in an air distribution
2.6 system that is designed to close automatically upon detection of heat, to interrupt migratory
2.7 airflow and to restrict the passage of flame. Fire damper includes devices installed in air
2.8 conditioning systems to close automatically upon detection of heat, to interrupt migratory
2.9 airflow, and to restrict the passage of flames. A fire damper also includes a combination
2.10 fire smoke damper.

2.11 Subd. 7. **Fire life safety dampers.** "Fire life safety dampers" means all fire dampers,
2.12 smoke dampers, and combination fire and smoke dampers.

2.13 Subd. 8. **Fire life safety damper testing.** "Fire life safety damper testing" means testing
2.14 and inspection activities, including all physical, visual, and operational tests necessary to
2.15 ensure the complete opening, closing, and the proper functioning of fire life safety dampers
2.16 as required by the IFC, NFPA 80, NFPA 105, and applicable engineering specifications.

2.17 Subd. 9. **HVAC.** "HVAC" means heating, ventilation, and air conditioning.

2.18 Subd. 10. **ICB.** "ICB" means the International Certification Board.

2.19 Subd. 11. **IFC.** "IFC" means the International Fire Code.

2.20 Subd. 12. **Independent contractor.** "Independent contractor" means a company that is
2.21 not owned or managed by the building owner, or an immediate family member of the
2.22 building owner, of the building being inspected and includes any subsidiary companies of
2.23 the independent contractor.

2.24 Subd. 13. **ISO/IEC 17024.** "ISO/IEC 17024" means the International Organization for
2.25 Standardization/International Electrotechnical Commission 17024 international standard
2.26 for Conformity Assessment - General Requirements for Bodies Operating Certification of
2.27 Persons.

2.28 Subd. 14. **NFPA.** "NFPA" means the National Fire Protection Association.

2.29 Subd. 15. **NFPA 80.** "NFPA 80" means the current adopted version of the Standard for
2.30 Fire Doors and Other Opening Protectives.

2.31 Subd. 16. **NFPA 105.** "NFPA 105" means the current adopted version of the Standard
2.32 for Smoke Door Assemblies and Other Opening Protectives.

3.1 Subd. 17. **NFPA 92.** "NFPA 92" means the current version of the Standard for Smoke
3.2 Control Systems.

3.3 Subd. 18. **Nondedicated smoke control system.** "Nondedicated smoke control system"
3.4 means a smoke control system that shares components with some other system, such as the
3.5 building HVAC system, that changes its mode of operation to achieve the smoke-control
3.6 objective.

3.7 Subd. 19. **Qualified fire smoke damper inspector.** "Qualified fire smoke damper
3.8 inspector" means:

3.9 (1) an authorized state or local fire department personnel; or

3.10 (2) a technician certified by the ICB as a fire smoke damper technician or through an
3.11 equivalent certification program accredited under the ISO/IEC 17024 personnel certification.

3.12 The technician must be employed by an independent contractor that provides fire life safety
3.13 damper inspection services and shall:

3.14 (i) maintain current workers' compensation insurance coverage;

3.15 (ii) hold an ICB Fire and smoke damper contractor certification, or equivalent
3.16 certification, from an organization that has been accredited under the ISO/IEC 17024
3.17 Personnel Certification standard in fire life safety damper inspections; and

3.18 (iii) participate in an approved skill training program.

3.19 Subd. 20. **Qualified smoke control system inspector.** "Qualified smoke control system
3.20 inspector" means:

3.21 (1) an authorized state or local fire department personnel; or

3.22 (2) a technician certified by ICB as a smoke control systems technician or through an
3.23 equivalent certification program accredited under the ISO/IEC 17024 personnel certification.

3.24 A smoke control systems technician shall also be a TABB technician certified by the
3.25 Associated Air Balance Council, the National Environmental Balancing Bureau, or the
3.26 Testing, Adjusting and Balancing Bureau. The technicians must be employed by an
3.27 independent contractor that provides fire life safety damper testing services. The independent
3.28 contractor must:

3.29 (i) maintain current workers' compensation insurance coverage;

3.30 (ii) hold an ICB smoke control system contractor certification or equivalent certification
3.31 from an organization that has been accredited under the ISO/IEC 17024 Personnel
3.32 Certification standard in smoke control systems inspections; and

4.1 (iii) participate in an approved skill training program.

4.2 Subd. 21. **Smoke control system.** "Smoke control system" means an engineered system
4.3 that includes all methods that can be used singly or in combination to modify smoke
4.4 movement, including engineered systems that use mechanical fans to produce pressure
4.5 differences across smoke barriers to inhibit smoke movement.

4.6 Subd. 22. **Smoke damper.** "Smoke damper" means a device within an air distribution
4.7 system to control the movement of smoke. Smoke damper includes devices installed in air
4.8 conditioning systems to control the movement of smoke. A smoke damper also includes a
4.9 combination fire smoke damper.

4.10 Subd. 23. **Subsidiary.** "Subsidiary" means any corporation or other organization, whether
4.11 incorporated or unincorporated, in which the company owns, directly or indirectly, any
4.12 equity or other ownership interest.

4.13 Sec. 2. **[299F.491] FIRE LIFE SAFETY DAMPER SYSTEM.**

4.14 Subdivision 1. **Requirement.** The owner of a building shall establish a fire life safety
4.15 damper and smoke control system inspection verification program to ensure that fire life
4.16 safety dampers and smoke control systems are in working order to prevent the spread of
4.17 fire and smoke throughout a building.

4.18 Subd. 2. **Required testing.** (a) All owners of buildings are responsible for ensuring that
4.19 newly installed fire life safety dampers are subject to fire life safety damper testing under
4.20 this section or under rules adopted by the state fire marshal before use is permitted.

4.21 (b) The testing of fire life safety dampers must include the visual inspection method in
4.22 accordance with NFPA 80 and NFPA 105.

4.23 (c) Once installed, a building owner must periodically inspect and test fire life safety
4.24 dampers no less than once after the first year of installation, and once every four years
4.25 thereafter, except for hospitals. In hospitals, the building owner must inspect and test fire
4.26 life safety dampers no less than once after the first year of installation and once every six
4.27 years thereafter. The periodic testing of fire life safety dampers must include the visual
4.28 inspection method in accordance with NFPA 80 and NFPA 105. The remote inspection
4.29 method, as defined in NFPA 80 and NFPA 105 must not be used in place of visual inspection
4.30 for the periodic testing required under this subdivision. All fire and smoke dampers must
4.31 be tested as required under this section regardless of location.

4.32 Subd. 3. **Required qualifications of individual testers of fire smoke dampers.** (a)
4.33 The state fire marshal shall establish and administer a program to review and approve

5.1 third-party inspection training and certification programs to ensure conformance to the
5.2 minimum qualifications under this section.

5.3 (b) Inspections and tests under this section must be performed by a qualified inspector.

5.4 For the purposes of this section, a "qualified inspector" means:

5.5 (1) authorized state or local fire department personnel; or

5.6 (2) qualified fire smoke damper inspector.

5.7 Subd. 4. **Required testing of smoke control systems.** (a) A building owner is responsible
5.8 for ensuring that smoke control systems under this section are tested for acceptance as
5.9 required by the applicable NFPA standards referenced in this section or as set forth in rules
5.10 adopted by the state fire marshal.

5.11 (b) Once installed, the building owner must periodically inspect and test smoke control
5.12 systems at the following intervals:

5.13 (1) dedicated smoke control systems shall be tested at least semiannually; and

5.14 (2) nondedicated smoke control systems shall be tested at least annually.

5.15 (c) Testing of smoke control systems shall include tests to determine that airflow
5.16 quantities and pressure differences are code compliant, including at the following locations:

5.17 (1) across smoke barrier openings;

5.18 (2) at the air makeup supplies; and

5.19 (3) at smoke exhaust equipment.

5.20 Subd. 5. **Required qualifications of individual testers of smoke control systems.** (a)
5.21 The state fire marshal shall establish and administer a program to review and approve
5.22 third-party inspection training and certification programs to ensure conformance to the
5.23 minimum qualifications set forth in this section.

5.24 (b) Inspections and tests under this section shall be performed by a qualified inspector.

5.25 For the purposes of this section, qualified inspector means:

5.26 (1) authorized state or local fire department personnel; or

5.27 (2) a qualified smoke control system inspector.

5.28 Subd. 6. **Certificate of operation.** (a) If the fire life safety dampers, smoke control
5.29 systems, or HVAC duct system that contains a fire life safety damper or is part of a smoke
5.30 control system pass the applicable inspections and tests, the person performing the inspection

6.1 or test shall execute a certificate of operation verifying compliance with this section. The
6.2 certificate of operation shall provide the following information:

6.3 (1) the name and certification number of the individual conducting the inspection or
6.4 test;

6.5 (2) the name of the inspector's employer;

6.6 (3) the name of the building owner and address of the property;

6.7 (4) the location of all smoke dampers, fire dampers, combination fire/smoke dampers,
6.8 and smoke control systems inspected or tested; and

6.9 (5) the date of the inspection or test.

6.10 (b) The building owner shall maintain a copy of the certificate of operation on the building
6.11 property and make the certificate available for inspection upon request.

6.12 Subd. 7. **Testing failures.** (a) In the event an inspection or test reveals deficiencies in
6.13 fire life safety dampers or smoke control systems, the person who conducted the inspection
6.14 or test shall prepare a deficiency report for the building owner identifying the nature of the
6.15 deficiency and reasons for noncompliance. The deficiency report shall also contain the name
6.16 and certification number of the individual conducting the inspection or test and that person's
6.17 employer; the name of the building owner; address of the property; the location of all fire
6.18 dampers, smoke dampers, combination fire smoke dampers, and smoke control systems
6.19 inspected or tested; and the date of the inspection or test. The building owner shall take the
6.20 necessary steps to ensure the defective equipment is replaced or repaired and that compliance
6.21 with the applicable inspection and testing requirements have been achieved. A building
6.22 owner who does not comply within 30 days is in violation of this section.

6.23 (b) The building owner shall post a notice of verification of the testing and inspection
6.24 of fire life safety dampers and smoke control systems in the outside lobby window of the
6.25 building or other area clearly visible to the public. The verification shall state the address
6.26 of the building and the date of the last fire life safety damper inspection, smoke control
6.27 system inspection, and the date that each inspection expires.

6.28 Subd. 8. **Submissions and inspections.** (a) Building owners shall submit copies of
6.29 operation certificates to the state fire marshal documenting compliance with the testing
6.30 requirements of this section within 30 days of obtaining certificates of operation. The state
6.31 fire marshal shall commence enforcement actions for any instance of noncompliance.

6.32 (b) When the state fire marshal conducts an annual fire inspection of any building, it
6.33 shall inspect the building owner's fire life safety dampers, smoke control systems, and

7.1 HVAC duct system that contain a fire life safety damper or is part of a smoke control system
7.2 control system certificate of operation to ensure it complies with the requirements of this
7.3 section and commence enforcement actions if violations are found.

7.4 Subd. 9. **Enforcement and penalties.** The state fire marshal shall assess a \$100 civil
7.5 penalty for each day of noncompliance to any building owner in violation of this section.

7.6 **Sec. 3. EFFECTIVE DATE.**

7.7 This act takes effect the day following enactment of administrative rules to review and
7.8 approve third-party inspection training and certification programs by the state fire marshal
7.9 or July 1, 2025, whichever occurs first.