

By: Eltife

S.B. No. 1197

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to fire investigations by the state fire marshal; creating  
3 a criminal offense.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 417.007, Government Code, is amended by  
6 amending Subsections (a), (b), and (c) and adding Subsections (b-1)  
7 and (b-2) to read as follows:

8 (a) The state fire marshal shall immediately investigate a  
9 fire occurring in this state in which property is destroyed or an  
10 individual dies or is injured if the commissioner directs the  
11 investigation or, in the discretion of the commissioner, if the  
12 investigation is requested by:

13 (1) the mayor, fire chief, fire marshal, or police  
14 chief of a municipality in which a fire occurs;

15 (2) a county or district judge, sheriff, county fire  
16 marshal, chief or fire marshal of a fire department in an  
17 unincorporated area, or county attorney of a county in which a fire  
18 occurs;

19 (3) a fire insurance company interested in a loss or  
20 the company's general, state, or special agent;

21 (4) an insurance policyholder, property owner, or  
22 lessee sustaining a fire loss;

23 (5) a justice of the peace or a constable of a precinct  
24 in which a fire occurs; or

1 (6) officials of a state or federal law enforcement  
2 agency or local or special governmental district involved or  
3 interested in a fire loss that occurred in this state.

4 (b) The state fire marshal at any time may enter and examine  
5 a building, vehicle, or premises at which a fire is in progress or  
6 has occurred and an adjacent building, vehicle, or premises [~~is~~  
7 ~~under control of law enforcement or fire service officials~~] to  
8 investigate the cause, origin, and circumstances of the fire. If  
9 control of the building, vehicle, or premises has been  
10 relinquished, entry must be in compliance with search and seizure  
11 law and applicable federal law.

12 (b-1) The state fire marshal may obtain an order from a  
13 magistrate to conduct an examination under Subsection (b) if entry  
14 is refused. The order must:

15 (1) limit the investigation to the circumstances of  
16 the origin and cause of the fire; and

17 (2) be executed in accordance with Articles 18.06 and  
18 18.07, Code of Criminal Procedure.

19 (b-2) If the state fire marshal determines in an  
20 investigation conducted under Subsection (b) that a criminal  
21 offense occurred, the state fire marshal shall comply with state  
22 search and seizure law and federal law.

23 (c) The state fire marshal shall conduct the investigation  
24 at the place of the fire and before an insured loss may be paid. The  
25 state fire marshal shall ascertain, if possible, whether the fire  
26 was caused intentionally, carelessly, [~~or~~] accidentally, or by  
27 natural causes. The state fire marshal shall make a written report

1 of the investigation to the commissioner.

2 SECTION 2. Sections 417.0075(b) and (c), Government Code,  
3 are amended to read as follows:

4 (b) If a firefighter dies in the line of duty or if the  
5 firefighter's death occurs in connection with an on-duty incident  
6 in this state, the state fire marshal shall investigate the  
7 circumstances surrounding the death of the firefighter, including  
8 the cause of the fire and any factors and criminal offenses that may  
9 have contributed to the death of the firefighter.

10 (c) In conducting an investigation under this section, the  
11 state fire marshal has the same powers as those granted to the state  
12 fire marshal under Section 417.007. The state fire marshal shall  
13 coordinate the investigative efforts of federal, state, and local  
14 governmental entities [~~government officials~~] and may enlist  
15 established fire service organizations and private entities to  
16 assist in the investigation.

17 SECTION 3. Chapter 417, Government Code, is amended by  
18 adding Sections 417.0076, 417.0077, 417.0078, and 417.0079 to read  
19 as follows:

20 Sec. 417.0076. PRIVACY OF INVESTIGATIONS. (a) In an  
21 investigation under this chapter, the state fire marshal may:

22 (1) conduct the investigation in private;

23 (2) prevent an individual who is not under  
24 investigation from accessing a building, vehicle, or premises under  
25 investigation;

26 (3) prevent an individual not needed for the  
27 investigation from accessing a building, vehicle, or premises under

1 investigation; and

2 (4) keep witnesses separated until each witness is  
3 examined.

4 (b) The state fire marshal may withhold from the public any  
5 testimony or personal property taken in an investigation under this  
6 chapter.

7 Sec. 417.0077. SERVICE OF PROCESS. Service of process  
8 required by this chapter must be made by a peace officer and signed  
9 by the state fire marshal.

10 Sec. 417.0078. EFFECT ON CIVIL ACTIONS. An action taken by  
11 the state fire marshal in the investigation of a fire does not  
12 affect the rights of an insurance policyholder or any person  
13 regarding a loss caused by the fire.

14 Sec. 417.0079. LIMITATION OF LIABILITY. The state fire  
15 marshal and the assistants and employees of the state fire marshal  
16 are not liable for an act or omission in the performance of their  
17 duties unless the act or omission is the result of gross negligence  
18 or intentional conduct.

19 SECTION 4. Chapter 417, Government Code, is amended by  
20 adding Section 417.011 to read as follows:

21 Sec. 417.011. CRIMINAL OFFENSE; IMPEDING INVESTIGATION.

22 (a) A person commits an offense if the person, in connection with  
23 an investigation conducted under this chapter:

24 (1) refuses to provide testimony under oath; or

25 (2) on the request of the state fire marshal, fails to  
26 provide to the state fire marshal any book, paper, or other document  
27 relating to a matter under investigation.

1        (b) An offense under this section is a Class B misdemeanor.

2        (c) If a witness refuses to cooperate with an investigation  
3 conducted under this chapter, the state fire marshal shall refer  
4 the matter to the appropriate prosecuting attorney.

5        SECTION 5. Sections 417.007(f) and (g), Government Code,  
6 are repealed.

7        SECTION 6. This Act takes effect September 1, 2015.