CHAPTER 80

South Carolina Firefighters Employment and Registration Act

**SECTION 40‑80‑10.** Short title, definitions.

 (A) This chapter may be cited as the “South Carolina Firefighters Employment and Registration Act”.

 (B) For purposes of this chapter:

 (1) “Employer” means any fire department or other entity which puts an individual or employee in service as a firefighter or assigns any person to work or to official duties as a firefighter whether or not the firefighter receives financial compensation.

 (2) “Employment date” means the date the fire chief certifies the firefighter is trained and prepared to perform firefighting duties.

 (3) “Fire chief” means the highest ranking officer or official in charge of a fire department, whether or not called by some other title.

 (4) “Fire department” means any organization providing rescue, fire suppression, and related activities including any public or government sponsored organizations engaged in rescue, fire suppression, and related activities.

 (5) “Firefighter” means any person, male or female, paid or unpaid, who engages in rescue, fire suppression, or related activities under the supervision of a fire chief or fire department.

 (6) “Firefighting duties” means duties relating to rescue, fire suppression, public safety, and related activities as assigned by a fire chief.

HISTORY: 2001 Act No. 60, Section 1.

**SECTION 40‑80‑20.** Criminal records check required for employment.

 (A)(1) Prior to employment of a paid or volunteer firefighter, the fire chief or other employer must ensure that a prospective firefighter undergoes a criminal records check conducted by a law enforcement agency.

 (2) The cost of the criminal records check may not exceed eight dollars.

 (3) A criminal records check is not required for a firefighter employed as of June 30, 2001, if the firefighter is employed with the same fire department with which he was employed on June 30, 2001. Upon separation from the fire department where he was employed on June 30, 2001, a firefighter must comply with the provisions of Section 40‑80‑40 .

 (B)(1) After June 30, 2001, a person may not perform firefighting duties in South Carolina if the person has been convicted of, or pled guilty to, or pled nolo contendere to:

 (a) a felony;

 (b) arson or another offense provided in Article 3, Chapter 11 of Title 16; or

 (c) an offense involving a controlled substance as provided for in Chapter 53 of Title 44.

 (2) The prohibition in item (1) of this subsection applies for a period of ten years after the conviction or plea of guilty or nolo contendere.

 After the expiration of the ten‑year period, a fire chief or other employer may determine whether to allow a person with a criminal record to perform firefighting duties; except no person may volunteer as a firefighter, be employed as a firefighter, or perform firefighting duties if he has been convicted of, pled guilty to, or pled nolo contendere to arson.

HISTORY: 2001 Act No. 60, Section 1; 2002 Act No. 224, Section 3; 2008 Act No. 309, Section 1.

Library References

Municipal Corporations 197.

Westlaw Topic No. 268.

C.J.S. Municipal Corporations Sections 535 to 538, 542, 544 to 546, 548 to 552, 568 to 569.

Attorney General’s Opinions

The Legislature intended Section 40‑80‑20(B) to apply to arson convictions which occurred prior to the law going into effect. S.C. Op.Atty.Gen. (May 20, 2014) 2014 WL 2619139.

**SECTION 40‑80‑30.** Registration, maintenance, and availability of information.

 (A) No later than sixty days after the start of his employment date as a paid or volunteer firefighter, each firefighter must be registered with the Office of the State Fire Marshal by his fire chief or other employer. The criminal background check required by Section 40‑80‑20 must be conducted before registration.

 (B) The Office of the State Fire Marshal must maintain a file on each registered firefighter in this State, that includes all information required to be kept by this chapter, and must assign a firefighter identification number to each registered firefighter which corresponds with the firefighter’s social security number.

 (C) Upon request the information in the file of an individual firefighter may be released in its entirety to a potential employer as defined in this chapter and may be used as a basis for employment. The requesting department or employer must maintain this information in a confidential manner.

 (D) Any registered firefighter may at any time request and obtain a copy of his or her file. The fee for a copy of a firefighter’s file is five dollars payable to the Office of the State Fire Marshal.

HISTORY: 2001 Act No. 60, Section 1.

Library References

Municipal Corporations 197.

Westlaw Topic No. 268.

C.J.S. Municipal Corporations Sections 535 to 538, 542, 544 to 546, 548 to 552, 568 to 569.

**SECTION 40‑80‑40.** Background and registration requirements; federal employees excepted; firefighters serving more than one department; reinstatement.

 (A) No person may be allowed to perform firefighting duties with a public fire department, organization, or employer of a county, municipality, special purpose district, or other political subdivision in this State on or after July 1, 2001, without first undergoing a criminal background check as required by Section 40‑80‑20 and being recommended for registration pursuant to Section 40‑80‑50.

 (B) A firefighter employed by the United States Government and working in the course and scope of his official duties as a federal employee is not required to be registered under this chapter.

 (C) A firefighter who works for or serves more than one fire department must be registered by each department.

 (D) A firefighter previously registered with the Office of the State Fire Marshal, but not actively engaged with a fire department or as a firefighter for a period of six months, must apply for registration and must submit a criminal records check as required by Section 40‑80‑20. Firefighters that are being reinstated to their last registered department within a period of not more than three years are exempted from the provisions contained in this section.

HISTORY: 2001 Act No. 60, Section 1.

Library References

Municipal Corporations 197.

Westlaw Topic No. 268.

C.J.S. Municipal Corporations Sections 535 to 538, 542, 544 to 546, 548 to 552, 568 to 569.

**SECTION 40‑80‑50.** Office of the State Fire Marshall; records and registration.

 Upon recommendation of a fire chief or other employer, the Office of the State Fire Marshal must register each firefighter subject to the provisions of Sections 40‑80‑30 and 40‑80‑40. The Office of the State Fire Marshal must maintain as minimum information on each firefighter the complete name, the date of birth, the social security number, the South Carolina driver’s license number, the employer, and the date of employment or membership. The Office of the State Fire Marshal must notify the chief of the employing fire department or other employer of the registration. This notification may be transmitted electronically or in written form. The fire chief must utilize forms as required and provided by the Office of the State Fire Marshal.

HISTORY: 2001 Act No. 60, Section 1.

**SECTION 40‑80‑60.** Notification of separation or becoming inactive.

 If a firefighter becomes separated from employment or membership or becomes inactive, the fire chief or other employer within sixty days must notify the Office of the State Fire Marshal of the firefighter’s separation or inactive status. Notification of separation of a firefighter from employment must be on a form as provided by the Office of the State Fire Marshal.

HISTORY: 2001 Act No. 60, Section 1.

Library References

Municipal Corporations 198(1).

Westlaw Topic No. 268.

C.J.S. Municipal Corporations Sections 535 to 538, 542, 544 to 547, 564 to 566, 568 to 570.

**SECTION 40‑80‑70.** State of emergency exception.

 Notwithstanding another provision of law, the provisions contained in this chapter do not apply to individuals engaged in firefighting duties during a declared state of emergency.

HISTORY: 2001 Act No. 60, Section 1.