

Act No. 133
Public Acts of 2020
Approved by the Governor
July 8, 2020
Filed with the Secretary of State
July 8, 2020
EFFECTIVE DATE: October 6, 2020

**STATE OF MICHIGAN
100TH LEGISLATURE
REGULAR SESSION OF 2020**

Introduced by Reps. Yaroch, Rabhi, Brann, Hertel, Sowerby, Allor, Bellino and Vaupel

ENROLLED HOUSE BILL No. 4390

AN ACT to amend 1966 PA 291, entitled “An act to create the firefighters training council; to prescribe the powers and duties of the council, the state fire marshal, and certain fire departments and other organizations; to create the firefighters training council fund and to provide for allocations from the fund to local agencies of government participating in a firefighters training program; and to make an appropriation,” by amending sections 2 and 9 (MCL 29.362 and 29.369), as amended by 2017 PA 144, and by adding section 9c.

The People of the State of Michigan enact:

Sec. 2. As used in this act:

(a) “Airport rescue firefighter” means an employee of or volunteer assigned by a political subdivision to assist an organized fire department or public safety department who is certified under National Fire Protection Association standard no. 1003 and meets the requirements of the Federal Aviation Administration under 14 CFR part 139, whose job description, duties, or responsibilities include responding to an aircraft accident.

(b) “Certificate” means a numbered document issued by the state fire marshal to a person who has obtained certification under this act.

(c) “Certification” means either of the following:

(i) A determination by the state fire marshal that a person meets the certification requirements for a position within the fire service, as established by the council under this act. Recognized positions in the fire service include, but are not limited to, firefighter, fire chief, public safety director, fire inspector, plans examiner, fire investigator, fire officer, hazardous materials responder, technical rescue responder, airport rescue firefighter, and fire service instructor. Certifications for each position within the fire service must comply with the Michigan occupational safety and health administration general industry safety standard, R 408.17411 of the Michigan Administrative Code.

(ii) A determination by the state fire marshal that a person was employed as a firefighter before October 1, 1988 and that the person is otherwise authorized under this act to be employed as a firefighter.

(d) “Contested case” means that term as defined in section 3 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.203.

(e) “Council” means the firefighters training council created under section 3.

(f) “Executive secretary” means the executive secretary of the council.

(g) “Felony” means a violation of the laws of this state, another state, or the United States that is designated as a felony.

(h) “Firefighter” means a member of an organized fire department or public safety department who is responsible for, or is in a capacity that includes responsibility for, the extinguishment of fires, the directing of the

extinguishment of fires, the directing or management of emergency response activities, fire safety prevention inspection, plans examination, fire investigation, hazardous materials response, technical rescue response, airport rescue response, airport rescue firefighting, fire service instruction, and the enforcement of the general fire laws of this state and the community where he or she serves.

(i) "Firefighter training" means an education or training program including a program eligible to receive funding from the fireworks safety fund created in section 11 of the Michigan fireworks safety act, 2011 PA 256, MCL 28.461, and other training programs as approved by the state fire marshal, designed and intended to enhance the ability of an organized fire department or public safety department and the personnel of an organized fire department or public safety department to safeguard life and property from damage from explosion, fire, or disaster, and to deliver fire suppression, emergency medical service, hazardous material response, technical rescue, airport rescue and firefighting, fire inspection, fire investigation, fire safety education, and other related fire services.

(j) "Fire chief" means the individual who serves as the administrative head of an organized fire department.

(k) "Fire inspector" means an employee of or volunteer assigned by a political subdivision to assist an organized fire department or public safety department whose job description, duties, or responsibilities include, or who is in a capacity that includes responsibility for, inspecting property for fire code violations and enforcing the general fire codes of the jurisdiction that he or she serves.

(l) "Fire instructor" means an employee of or volunteer assigned by a political subdivision to assist an organized fire department or public safety department, or other individual who is certified to instruct 1 or more council-approved fire service training programs.

(m) "Fire investigator" means an employee of or volunteer assigned by a political subdivision to assist an organized fire department or public safety department who is certified under National Fire Protection Association standard no. 1033, whose job description, duties, or responsibilities include investigating the origin and cause of fires, and who has obtained the skills and knowledge necessary to conduct, coordinate, and complete a fire investigation. Fire investigator does not include a fire investigator who is employed by a law enforcement agency as that term is defined in section 2 of the Michigan commission on law enforcement standards act, 1965 PA 203, MCL 28.602, other than a public safety department, or a professional investigator licensed under the professional investigator licensure act, 1965 PA 285, MCL 338.821 to 338.851.

(n) "Fire officer" means a current member of an organized fire department or public safety department assigned a rank above firefighter who is responsible for, or is in a capacity that includes responsibility for, performing supervisory or management responsibilities of an emergency or nonemergency nature within his or her organized fire department or public safety department. Fire officer includes titles such as sergeant, lieutenant, captain, and chief officer.

(o) "Fire service" means the engaging in the directing or management of emergency response activities, fire safety prevention inspection, plans examination, fire investigation, hazardous material response, technical rescue response, airport rescue response, airport rescue firefighting, fire service instruction, and the enforcement of the general fire laws of this state and the communities therein by fire service members and organized fire departments and public safety departments.

(p) "Fire service course" means a training course or activity that is approved by the council and meets the standard for firefighter training in subdivision (i).

(q) "Fire service discipline" means each of the respective certifiable fire service positions included under this act. Fire service discipline includes fire chief, fire inspector, fire instructor, fire investigator, fire officer, public safety director, plans examiner, firefighter, hazardous materials responder, technical rescue responder, and airport rescue firefighter.

(r) "Fire service member" or "member" means a person described in subdivision (a), (h), (j), (k), (l), (m), (n), (u), (aa), (dd), (ff), or (ii).

(s) "Full-time" means employment during which an individual works scheduled shifts, is paid for all hours he or she works, and works sufficient hours weekly to be classified as a full-time employee by the applicable employing political subdivision.

(t) "Hazardous materials" means any chemical, substance, compound, mixture, or other material defined as, designated as, listed as, or having the same characteristics as any chemical substance, compound, mixture, or material defined as, designated as, or listed as hazardous under federal or state law or regulations.

(u) "Hazardous materials responder" means an employee of or volunteer assigned by a political subdivision to assist an organized fire department or public safety department who is certified under National Fire Protection Association standard no. 1072 and who is trained to or whose responsibilities include, responding to and being actively involved with the mitigation of a hazardous materials incident including a weapon of mass destruction event.

(v) "Hazardous materials response" means any response to an event involving any chemical, substance, compound, mixture, or other material defined as, designated as, listed as, or having the same characteristics as any substance, compound, mixture, or material defined as, designated as, or listed as hazardous under federal or state law or regulation.

(w) "Organized fire department" means that term as defined in section 1 of the fire prevention code, 1941 PA 207, MCL 29.1.

(x) "Paid on-call" means employment during which an individual works on an on-call basis, is paid for all hours he or she works, and only occasionally works scheduled shifts.

(y) "Part-time" means employment during which an individual is paid for all hours he or she works and works scheduled shifts but works fewer hours weekly than the hours necessary to be classified as a full-time employee by the applicable employing political subdivision.

(z) "PFAS" means a perfluoroalkyl or polyfluoroalkyl substance.

(aa) "Plans examiner" means an employee of or volunteer assigned by a political subdivision to assist an organized fire department or public safety department who is certified under National Fire Protection Association standard no. 1031 and whose job description, duties, or responsibilities include conducting plan reviews of construction documents for compliance with the general fire codes of the community that he or she serves.

(bb) "Political subdivision" means a county, municipality, school district, or any other local governmental unit, agency, body, board, or commission but does not include a state department, board, commission, or agency of state government.

(cc) "Public safety department" means a department of a political subdivision providing both law enforcement and fire services either separately or utilizing a combined response force with personnel trained and certified as both firefighters under this act and law enforcement officers under the Michigan commission on law enforcement standards act, 1965 PA 203, MCL 28.601 to 28.615, under the direction and administration of a single director.

(dd) "Public safety director" means the individual who serves as the administrative head of a public safety department.

(ee) "Rule" means a rule promulgated under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(ff) "Technical rescue responder" means an employee of or volunteer assigned by a political subdivision to assist an organized fire department or public safety department who is certified under National Fire Protection Association standard no. 1006 and who has received training in the application of special knowledge, skills, and equipment to safely resolve unique and complex rescue situations.

(gg) "Technical rescue response" means those aspects of saving life or property that employ the use of tools and skills that exceed those normally reserved for firefighting, medical emergency, and rescue. These disciplines include, but are not limited to, rope rescue, confined space rescue, trench and excavation rescue, and building collapse rescue.

(hh) "Volunteer" means appointment or employment for which an individual receives no compensation for work provided, or appointment or employment for which an individual receives compensation in the form of reasonable expenses incurred during the course of his or her appointment or employment or other reasonable benefits, including, but not limited to, length of service awards or nominal fees.

(ii) "Volunteer firefighter" or "paid on-call firefighter" means an individual who is charged with the prevention or suppression of fires and who is directly engaged in the hazards of firefighting or in charge of a designated fire company or companies that are directly engaged in the hazards of firefighting on a volunteer or paid on-call basis. Volunteer or paid on-call firefighter does not include a full-time firefighter.

Sec. 9. (1) The state fire marshal, with the approval of a majority of the council, shall prepare and publish rules that establish minimum standards for certification as a fire service member. The standards established under this section must comply with the Michigan occupational safety and health administration general industry safety standard, R 408.17411 of the Michigan Administrative Code and section 9c. To maintain compliance with the Michigan occupational safety and health administration general industry safety standard, R 408.17411 of the Michigan Administrative Code, the employer of a fire service member shall provide initial and continued training to the member commensurate with and specific to the duties that the member is expected to perform. The training described in this section and section 9c must be provided before the member is permitted to perform emergency operations.

(2) The state fire marshal, with the approval of a majority of the council, shall do all of the following:

(a) Create advisory standards of physical, criminal history, and educational fitness that govern the recruitment, selection, and certification of a person as a fire service member.

(b) Develop and administer certification examinations, testing procedures, and reciprocity recognition for credentialing in the various fire service disciplines recognized under this act. The requirements for each fire service discipline must meet the respective professional qualifications in the current and appropriate National Fire Protection Association standard.

(c) Establish subordinate regional training centers in strategic geographic locations in order to serve the greatest number of organized fire departments and public safety departments that are unable to support their own training programs.

(d) Develop and administer certification examinations that include a practical demonstration and a written or oral test to determine a person's competency in regard to the knowledge and skill requirements in the current edition of the National Fire Protection Association standards for each of the fire service disciplines recognized under this act. The state fire marshal, or his or her designee, shall, upon request, administer the examination in each county of this state not less than once annually. The examination may be administered in 2 parts. If the examination is administered in 2 parts, part 1 of the examination must test the knowledge and skill requirements set forth in the standards for fire fighter I in the current edition of the standards for Fire Fighter Professional Qualifications, National Fire Protection Association standard no. 1001, and part 2 of the examination must test the knowledge and skill requirements set forth in the standards for fire fighter II in the current edition of the standards for Fire Fighter Professional Qualifications, National Fire Protection Association standard no. 1001. The examination may also be administered as a combined fire fighter I and fire fighter II examination if a combined examination is requested by a county training committee or regional training center.

(e) Establish eligibility criteria for students to retake a failed written, oral, or practical certification examination.

(3) A person who is hired or appointed as a full-time or part-time firefighter shall pass both part 1 and part 2 of the certification examination described in subsection (2)(d) not more than 12 months after he or she is hired or appointed as a full-time or part-time firefighter to be eligible to continue his or her employment or appointment as a full-time or part-time firefighter.

(4) A person who is hired or appointed as a volunteer or paid on-call firefighter shall pass part 1 of the certification examination described in subsection (2)(d) not more than 24 months after he or she is hired or appointed as a volunteer or paid on-call firefighter to be eligible to continue his or her employment or appointment as a volunteer or paid on-call firefighter, as applicable.

(5) The certification examination requirement under this section does not apply to a person who was employed or under appointment as a firefighter on or before October 1, 1988, unless the person subsequently seeks to change his or her status from a volunteer or paid on-call firefighter to a part-time or full-time firefighter.

(6) The state fire marshal may waive the examination requirements under this section for a veteran who served in and is separated from the armed forces and provides a form DD214, a form DD215, or any other form that is satisfactory to the department of licensing and regulatory affairs that demonstrates that he or she was separated from service with an honorable character of service or under honorable conditions (general) character of service, upon verification that the veteran completed firefighter training that meets the standards for fire fighter I and fire fighter II in the standards for Fire Fighter Professional Qualifications, National Fire Protection Association standard no. 1001, while serving in the Armed Forces of the United States. As used in this subsection, "armed forces" means the Army, Air Force, Navy, Marine Corps, Coast Guard, or other military force designated by Congress as part of the Armed Forces of the United States.

(7) Except as otherwise provided in this subsection, the state fire marshal shall waive the examination requirements under this section and extend reciprocity certification to a person from another state who seeks to become employed or volunteer in the fire service in this state if the person was certified in the other state after successfully completing a program that meets or exceeds the National Fire Protection Association standards for the applicable fire service discipline recognized under this act. The state fire marshal shall not waive the certification examination for a person who was certified in another state if either of the following applies:

(a) The person's out-of-state certification was revoked by that state or another issuing organization.

(b) The person has been convicted of a felony under the laws of this state, another state, or the United States.

(8) Certification as a fire service member granted to a person under this act is valid unless or until the council revokes the certification as part of a disciplinary action.

(9) The state fire marshal shall issue a certificate to a person who is certified under this act not more than 30 days after the person becomes certified. A certificate issued under this act remains the property of the state fire marshal.

(10) The state fire marshal and the council shall review and monitor the state and federal standards relating to live fire training exercises in structures and make recommendations regarding the general industry safety standards for any new or modified standards necessary for the protection of firefighter trainees under part 74 of

the Michigan occupational safety and health administration general industry safety standard, R 408.17401 to R 408.17464 of the Michigan Administrative Code.

(11) Not later than 1 year after obtaining a waiver of the examination requirements under subsection (6) or (7), the veteran or person certified in another state must complete the training required under section 9c.

Sec. 9c. (1) Firefighting foam concentrate containing intentionally added PFAS must not be used in any firefighter training required under this act.

(2) Until December 31, 2023, the firefighter training required under this act must include both of the following subjects:

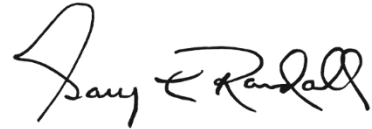
(a) The proper use, handling, and storage of firefighting foam concentrate.

(b) The best environmental and public health practices, including, but not limited to, containment and proper disposal, and decontamination of the firefighter's equipment and body, following the use of firefighting foam.

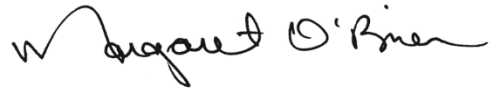
(3) The firefighter training under subsection (2) may involve the use of a video or online resource.

Enacting section 1. This amendatory act takes effect 90 days after the date it is enacted into law.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved _____

Governor