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Firefighter Minimum Training Law: Public Chapter 512 - 2009

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THE UNIVERSITY of TENNESSEE
MUNICIPAL TECHNICAL ADVISORY SERVICE

...in cooperation with the Tennessee Municipal League

#188
HOT topic

August 17, 2009

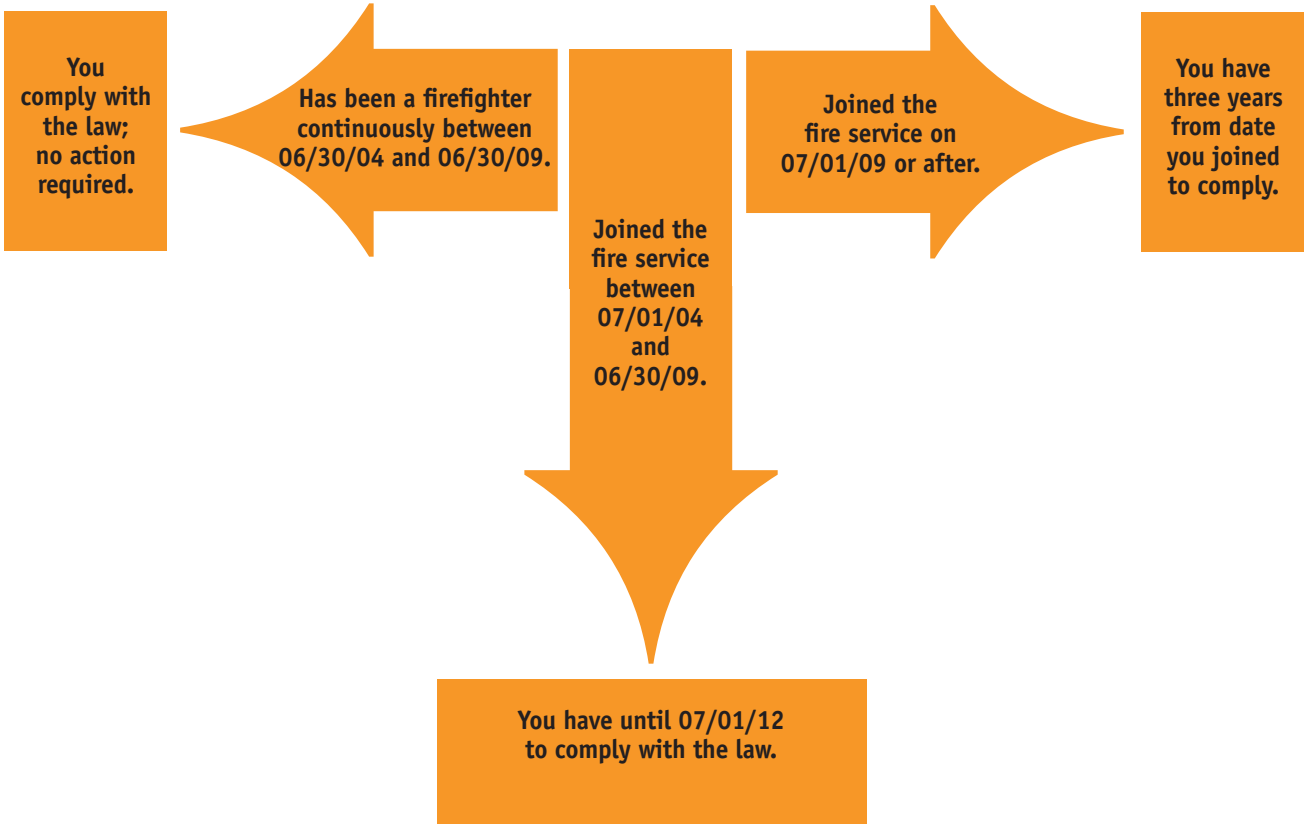
FIREFIGHTER MINIMUM TRAINING LAW: PUBLIC CHAPTER 512 – 2009

Ray Crouch, Fire Management Consultant

WHAT IS THE FIREFIGHTER MINIMUM TRAINING LAW?

This new law was passed by the 2009 General Assembly and signed by the governor on June 25, 2009. The law is effective on July 1, 2009. T.C.A. Title 4, Chapter 24, Part 1, is amended by adding a new section, Section 4-24-112. The law does three things: (1) establishes a 16-hour class that must be taken by anyone who enters the fire service before they can respond to any emergency, (2) requires that every firefighter complete a basic firefighter class, as defined by the Tennessee Fire and Codes Academy, within three years of joining a fire department, and (3) provides exceptions for firefighters who already have five years of experience.

VISUAL EXPLANATION



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WHO DOES THIS LAW AFFECT?

All full-time, part-time and volunteer firefighters in Tennessee.

ARE THERE ANY EXCEPTIONS?

Yes (1) Any firefighter who is certified by a medical doctor as medically or physically unable to complete the training requirements is exempt; however, the fire department may not allow such firefighters to engage in active firefighting operations and (2) any firefighter who is certified by the fire department's chief officer not to operate within an environment determined to be immediately dangerous to life and health (IDLH) is exempt from the "live firefighting" portion of the training referenced in subsection (a)(2).

WHAT ARE THE MINIMUM TRAINING STANDARDS REQUIRED BY THIS LAW?

(1) The firefighter must previously have completed or must complete after joining the fire department a minimum of 16 hours of initial training developed by the Tennessee Fire Service and Codes Enforcement Academy in firefighting procedures and techniques or complete equivalent training approved by the Tennessee Commission on Firefighting Personnel Standards and Education before being allowed to actively fight a fire, and (2) Within 36 months after hire or acceptance date as a firefighter, the firefighter must have completed, or must complete after joining the fire department, the "basic and live firefighting" course offered by the Tennessee Fire Service and Codes Enforcement Academy or an equivalent course.

POSSIBLE LEGAL IMPLICATIONS FOR FIRE DEPARTMENTS IN EXEMPTED COUNTIES

Fire departments in counties that are exempt from the training requirements of this law should not rest on their exemption too easily. For an exemption from a general law to be valid, there must be a rational basis for the exemption. *Nolichuckey Sand Co. v. Huddleston*, 896 S.W.2d 782 (Tenn. App. 1994). In other words, there must be a reason or a common thread linking the exempted counties that justifies treating them differently from all the other counties of the state. No such reason, common thread or rational basis is evident here. If an exemption is challenged, therefore, there is a good likelihood that it would be ruled invalid. There is a severability clause in the new law saying that if a part of the law is ruled invalid, that part will be removed and the rest of the law will remain in effect. If a county's exemption is ruled invalid and removed, the training requirements in the law would then apply in that county. Thus, there is a possibility that the law will be interpreted by the courts as applying statewide anyway, even with the attempted exemptions.

Another reason the training standards established in the new law could apply even in the exempt counties is that they might be interpreted in a tort liability suit as setting the standard against which conduct is measured even in those counties. Thus, even if the training requirement does not apply in those counties, the conduct of the firefighters in the county could be measured in a lawsuit using the presumed conduct, based upon expert testimony, of

firefighters who had received the training. In many cases the conduct of the untrained firefighter would not measure up. Lack of training also could be used in a federal lawsuit based on deliberate indifference or failure to train when firefighter actions result in injuries to or death of a member of the public or other firefighters. Liability under federal law is not limited. Governing bodies and fire departments in the exempt counties should not ignore this law.

ADDITIONAL INFORMATION

This training can be completed at the Tennessee Fire Service and Codes Enforcement Academy or through any equivalent course elsewhere. The Academy offers the curriculum for both the 16-hour class and the basic class on a DVD that is free from any staff member of the Academy.

The final version of the legislation also authorizes the local government to decide who will be responsible for the cost: the local government or the firefighter.

Several counties exempted themselves out of the legislation.

This section does not apply to the following counties unless the county legislative body adopts a resolution to apply such requirements:
Bradley, Campbell, Cannon, Cocke, Clay, Dickson, Fentress, Giles, Greene, Hamblen, Hickman, Houston, Humphreys, Jackson, Johnson, Lawrence*, Lewis*, Loudon, McMinn*, Meigs, Morgan, Overton, Perry*, Pickett, Polk, Roane, Scott, Trousdale, Union, Unicoi, Washington.

This section does not apply to the following counties unless the county legislative body adopts by a two-thirds vote a resolution to apply such requirements: **McMinn***.

This section does not apply to the following counties unless the county legislative body adopts by a two-thirds vote a resolution to opt into the statutory requirements: **Bledsoe, Cumberland, Lawrence*, Lewis*, Rhea**.

This act does not apply to the following counties:
Benton, Decatur, Hancock, Hawkins, Henderson, Henry, Jefferson, Lake, Obion, Perry*, Stewart, Weakley*.

**Counties listed in more than one section of the bill.*

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MUNICIPAL TECHNICAL ADVISORY SERVICE

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