

§ 58-78A-7. Court review of orders and decisions.

(a) Any order or decision made, issued, or executed by the State Fire Marshal is subject to review in the Superior Court of Wake County on petition by any person aggrieved filed within 30 days from the date of the delivery of a copy of the order or decision made by the State Fire Marshal upon the person. A copy of the petition for review as filed with and certified by the clerk of the Superior Court of Wake County shall be served upon the State Fire Marshal within five days after the filing thereof. If the petition for review is not filed within 30 days, the parties aggrieved shall be deemed to have waived the right to have the merits of the order or decision reviewed and there shall be no trial of the merits thereof by any court to which application may be made by petition or otherwise, to enforce or restrain the enforcement of the same.

(b) The State Fire Marshal shall within 30 days, unless the time is extended by order of court, after the service of the copy of the petition for review as provided in subsection (a) of this section, prepare and file with the clerk of the Superior Court of Wake County a complete transcript of the record of the hearing, if any, had before him, and a true copy of the order or decision duly certified. The order or decision of the State Fire Marshal if supported by substantial evidence shall be presumed to be correct and proper. The court may change the place of hearing (i) upon consent of the parties, (ii) when the convenience of witnesses and the ends of justice would be promoted by the change, or (iii) when the judge has at any time been interested as a party or counsel. The cause shall be heard by the trial judge as a civil case upon transcript of the record for review of findings of fact and errors of law only. It shall be the duty of the trial judge to hear and determine the petition with all convenient speed and, to this end, the cause shall be placed on the calendar for the next succeeding term for hearing ahead of all other cases except those already given priority by law. If, on the hearing before the trial judge, it shall appear that the record filed by the State Fire Marshal is incomplete, the trial judge may, by appropriate order, direct the State Fire Marshal to certify any or all parts of the record omitted. The trial judge shall have jurisdiction to affirm or to set aside the order or decision of the State Fire Marshal and to restrain the enforcement thereof.

(c) Appeals from all final orders and judgments entered by the superior court in reviewing the orders and decisions of the State Fire Marshal may be taken to the appellate division of the General Court of Justice by any party to the action as in other civil cases.

(d) The commencement of proceedings under this section shall not operate as a stay of the State Fire Marshal's order or decision, unless otherwise ordered by the court. (2023-151, s. 10.1(a).)