

Approved 3-13-89 G. J. Barr, Chm
Date

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL AND STATE AFFAIRS

The meeting was called to order by Representative Ginger Barr at
Chairperson

1:35 ~~xxx~~/p.m. on March 2, 1989 in room 526-S of the Capitol.

All members were present except:

- Representative Cates - Excused
- Representative Ensminger - Excused
- Representative Peterson

Committee staff present:

- Mary Torrence, Revisor of Statutes Office
- Mary Galligan, Kansas Department of Legislative Research
- Juel Bennewitz, Secretary to the Committee

Conferees appearing before the committee:

- Kyle Smith, Attorney General's Office
- Representative Anthony Hensley
- Charles Nauheim, Kansas Fire & Safety Equipment, Inc., Topeka
- Jerry Calvert, Kansas Fire Equipment Company, Wichita
- Lee James, Lee's X-tinguisher Service, McPherson
- Bill Higgs, Assistant Fire Chief, Topeka
- Larry Magill, Independent Insurance Agents of Kansas, Topeka

HB 2138 & 2142

Representative Aylward reported discussing the bills with the authors and matters prompting the bills seemed to have been resolved. Representative Aylward moved to report the bills adversely. Representative Ramirez seconded the motion which carried on a voice vote.

HB 2300

Representative Ramirez made a motion to report the bill favorably for passage. Representative Eckert seconded the motion which passed on a voice vote.

HB 2388

Representative Aylward moved to recommend the bill favorably for passage. The second was by Representative Eckert. Representative Roy moved to amend the distance from the school boundary (1,000 feet) to one-half mile. It was seconded by Representative Jones. Representative Roy stated the amended distance would essentially close off any urban area or bring it under the purview of the bill. Representative Aylward opposed the amendment on the basis that extending the limit to "city limits" would accomplish the same end but be much more difficult to enforce. Representative Jones defended the amendment citing population density in areas where children are in transit to school or from school to home. Representative Douville spoke against the footage requirement on the basis that it will not target the drug wholesalers, those whom law enforcement really wants to apprehend. Citing the shortage of law enforcement personnel, Representative Eckert moved to amend the distance to one-quarter mile. The motion was seconded by Representative Ramirez. For purposes of clarification, Representative Roy explained that a standard measurement of two city blocks is equivalent to one-quarter mile which could make the distance restriction easier for police to translate.

Representative Aylward explained her concern with expanding the distance requirement was that it would have a direct effect on the already overcrowded prisons since a mandatory sentence is involved. The motion to amend the distance to one-quarter mile failed on a voice vote. After a voice vote, division was called on the motion to amend to one-half mile. The motion failed.

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL AND STATE AFFAIRS,

room 526-S, Statehouse, at 1:35 ~~xxx~~/p.m. on March 2, 1989

Representative Sprague offered a conceptual motion to require a mandatory sentence for anyone selling drugs to a minor. The motion was seconded by Representative Schauf. Committee discussion centered on the enforcement power regarding anyone having drugs in his house, car or on his person with the intent to sell. Representative Sprague clarified his motion to be: 1. enforcement of the intent to sell drugs within 1,000 feet of a school and 2. a mandatory sentence on the sale of drugs to a minor. Mary Torrence drew the attention of the committee to the current draft of the bill noting it applied only to public schools. The Chairman asked if it were the intent of Representative Sprague to have the bill apply to all schools and he affirmed. For additional clarification, Representative Jones cited the issue of children to selling to children on the campus and questioned whether they would still be under the juvenile code. Several members of the committee answered in the affirmative reflecting the committee's intent. The conceptual motion passed on a voice vote. Representative Sprague moved to recommend HB 2388, as amended, favorably for passage. The motion carried on a unanimous voice vote.

HB 2389

Representative Roper made a motion to report HB 2389 favorably for passage. Representative Charlton seconded the motion which passed on a voice vote.

HB 2378

Kyle Smith explained the bill deals with diversion agreements given to the K.B.I. as required by state law. The K.B.I. is the central depository for criminal records and the diversion agreements may or may not be K.B.I.'s. This bill would provide a mechanism allowing diversion agreements to be attributed to the correct person which cannot be done without fingerprints. Diversion agreements usually apply to minor offenses.

Non-conviction data is maintained in the records as well as conviction data. K.B.I. only maintains records on: criminal offenses, DUI, "fleeing and elude", vehicular homicide and reckless driving. Records on traffic offenses are kept by the Department of Revenue. It was Mr. Smith's opinion that any records received by K.B.I. in connection with speeding, e.g. would be forwarded to the Department of Revenue. In response to a question from Representative Sprague, Mr. Smith replied the K.B.I. would have no objection to this bill specifying K.B.I. would only receive records as specified in the Kansas Criminal History Record Information Act. Fingerprints will be maintained even if the record is expunged and the files sealed. Expunged records may be made available for some of the following: employment with the racing commission, the lottery, or in the federal system; for licensure as an attorney; and corpse identification.

There were no opponents to the bill.

HB 2223

Representative Hensley explained the bill amends the section of Kansas statutes that authorizes the state fire marshal to promulgate rules and regulations regarding the inspection, installation and servicing of fire extinguishers. It essentially removes that authorization from the state fire marshal and provides any business engaged in this industry be required to have product liability and comprehensive liability insurance.

Charles Nauheim stated the problem of the industry to be outside manufacturers' requirements of being an "authorized manufacturers' distributor to operate in the State of Kansas, Attachment No. 1. The "authorized manufacturers' distributor" designation may only be obtained by purchasing the manufacturers' products. He explained that manufacturers do not care about the distributor's service or maintenance records but solely volume sold. He contended Kansas law, as stated, could put him out of business if the manufacturer dropped him as a distributor and urged the committee to pass the bill. Attached to his testimony are letters from five other fire extinguisher distributors, Attachments No. 1A, 1B, 1C, 1D and 1E.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL AND STATE AFFAIRS,

room 526-S, Statehouse, at 1:35 ~~xxx~~/p.m. on March 2, 1989

Committee discussion revealed that:

1. The distributors would have no objection to being inspected by the fire marshal on a limited basis for insurance purposes.
2. Section 1 (c) is to what Mr. Nauheim et al object.
3. Members of the committee expressed concern about who would regulate the distributors if the bill were to be adopted in its present form.
4. Mr. Nauheim stated he had received a letter from the State Fire Marshal indicating he would not take a position on this bill.
5. There would be no objection to having the State Fire Marshal oversee that the distributors carried appropriate insurance coverage.

Jerry Calvert testified in support of the bill citing the control of the manufacturers over the distributors with the wording of the current statute, the lack of training and shortage of manpower in the State Fire Marshal's office to properly inspect the distributors and the empowerment of the State Fire Marshal to promulgate rules and regulations which he called "poorly written", Attachment No 2. He submitted a letter from his attorney citing difficulty with the current statute and recommending that Mr. Calvert's company or any similar company not service or install an automatic fire extinguisher system until the problem is remedied, Attachment No. 2A.

In response to a question from Representative Wagon, Mr. Calvert responded he did not feel the State Fire Marshal's office has the expertise to police the industry. The representative noted the current draft of the bill eliminates any training requirement which would not prohibit a disreputable person from entering the business.

Lee James spoke as a proponent of the bill proposing the current law offers no protection to fire equipment servicing companies from lawsuits, Attachment No. 3.

In response to a question from Representative Sebelius, Mr. James stated he had no objection to attending any training schools, rather it was the volume requirement of manufacturers which would keep him from expanding his business. The representative's question also clarified that the action proposed by the proponents could result in no training school requirement. Representative Wagon noted the bill would not force manufacturers to supply equipment to the distributors and asked who would provide the necessary training. Mr. James suggested a person trying to establish such a business could get the training from someone who was already trained and/or an authorized distributor.

Bill Higgs explained he supported eliminating the portion of the bill stating the manufacturer determining "who will service what". He advocated a test be given by the State Fire Marshal's office for installers, maintaining licenses on a yearly basis and in-service education hours.

Jeff Hudson, President of the Fire Marshals' Association of Kansas and Jerry Montgomery, Fire Chief of Merriam, Kansas, requested to be recorded as being in opposition to the bill.

Larry Magill opposed the bill's mandate for insurance and questioned the public policy aspect of such a mandate. He also cited the possible anti-competitive impact on small businesses unable to obtain and/or afford such coverage, Attachment No. 4. In response to a question, Mr. Magill affirmed that he was asking the legislature to reconsider the current insurance requirement.

Representative Sutter moved to approve the minutes of the February 16, 1989, meeting, seconded by Representative Wagon and the motion carried on a voice vote.

The meeting adjourned at 2:57 p.m. The next meeting of the committee will be on the call of the chairman.

March 1, 1989

House, Federal and State
Affairs Committee
Kansas State House
Topeka, Kansas

RE: House Bill No. 2223

Dear Committee Members:

This letter is being submitted as a supplement to my testimony before this Committee regarding support for House Bill No. 2223. Under the current law, K.S.A. 31-133a, a business who engages in the inspection, installation and servicing of portable fire extinguishers and automatic fire extinguishers for cooking equipment, must establish its qualifications and training for the certification of the business to engage in such activities based solely on the completion of the most current training programs conducted by the manufacturers of the automatic fire extinguishers for commercial cooking equipment and portable fire extinguishers. The current law also allows the state fire marshall to adopt rules and regulations to establish standards for inspection, installation, servicing and testing procedures which have required current manufacturer certifications on an annual basis.

As a business engaged in the inspection, installation, servicing and testing of portable fire extinguishers and automatic fire extinguishers for commercial cooking equipment, I recognize the public policy concerns of insuring that such activities are conducted by qualified personnel. I believe that the changes proposed by House Bill No. 2223 requiring product liability and comprehensive general liability insurance will adequately insure that only qualified personnel are engaged in these endeavors. The cost of such insurance coverage would discourage unqualified businesses from operating in this area and it is further anticipated that the insurance companys would not write coverage for unqualified businesses.

The essential problem and inequity with the current law is that it allows the manufacturers of fire extinguishers for commercial use to determine who will service, inspect and test such equipment in the state of Kansas. Manufacturers will not allow an individual to attend their training programs to receive certification on the equipment unless they are a current distributor of that manufacturer's equipment. The

HOUSE FEDERAL & STATE AFFAIRS
Attachment No. 1
March 2, 1989

RE: House Bill No. 2223

distributorship granted an individual in virtually all cases is based upon the distributor maintaining a minimum volume of sales of new product and has no relationship to the continued servicing of equipment already installed at the consumer's place of business. Once the product has been installed in the consumer's place of business, the manufacturer has no further concern for this consumer but is only interested in the sale of new systems to other consumers in the state of Kansas.

Once a system is installed by a business who was qualified and trained to do so and to further service and test this equipment, there is no further need for annual recertification on this equipment as required by current law. The only need for additional training is if a new and different system is sold and installed which is different from the system and products which the business has been training on. If a distributor fails to maintain the minimal sales volume of new products required by a manufacturer, the distributorship can be terminated and the real loss to the Kansas business is not in the sale of new equipment in the future but based upon current law, the inability to become certified on an annual basis and to continue servicing a product which has already been installed and serviced in the past by that business. The termination of a distributorship can effectively put a small Kansas business into insolvency because all required servicing of previously installed equipment can no longer be conducted by said business because of the business's inability to attend the manufacturer's training programs.

The current state of the law allows a manufacturer to terminate a distributorship at will unless the distributor can show that the termination was the result of pressure from another customer, rather than a manufacturer acting on its own in pursuing its own marketing strategy. This is a very difficult burden for a small business in Kansas to overcome and under the current statute, K.S.A. 31-133a, leaves the small Kansas business totally at the mercy of the manufacturers.

The enactment of House Bill No. 2223 would preserve the public policy behind K.S.A. 31-133a but would remove the control of who can operate in the business of fire extinguishers for commercial purposes in Kansas from the manufacturers. Beyond the public policy of insuring that only qualified personnel inspect, install, service and test this equipment, the public policy of Kansas also should be to insure fair competition and encouragement for small businesses which can only be beneficial to the economic environment of the state of Kansas and the ultimate consumers who are purchasing commercial fire extinguishers and require periodic servicing of said equipment.

House, Federal and State Affairs Committee
March 1, 1989
Page 3

RE: House Bill No. 2223

I would urge this committee to approve House Bill No. 2223 in its entirety and that said bill be submitted to the legislature of the state of Kansas for enactment as law.

Very truly yours,



Charles Nauheim
Kansas Fire and Safety Equipment, Inc.

cr

LARRY'S FIRE SAFETY COMPANY

418 S. George - 316-624-1172
Liberal, Kansas 67901-3752

February 24, 1989

House Federal and State Affairs Committee

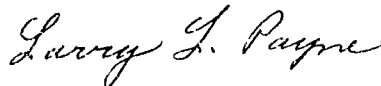
RE: House Bill #2223

Attending a fire systems recertification seminar leaves me unable to attend the committee meeting of March 2. However, as a fire equipment distributor, I feel obligated to inform the committee of my opinion.

I feel that House Bill 2223 would be a step in the right direction toward improving our industry and our service to the consumer. I would ask that each of you support this bill as it is written, because the existing statutes, as written, are restrictive in allowing a qualified company from expanding. This could even force some companies into bankruptcy.

Thank you for your consideration.

Sincerely,



Larry L. Payne

LLP/bp

HOUSE FEDERAL & STATE AFFAIRS
Attachment No. 1A
March 2, 1989

2-27-89

DODGE CITY FIRE EXTINGUISHER
1501 CENTRAL
DODGE CITY, KANSAS 67801
316-235-5393

HOUSE, FEDERAL AND STATE AFFAIRS COMMITTEE:

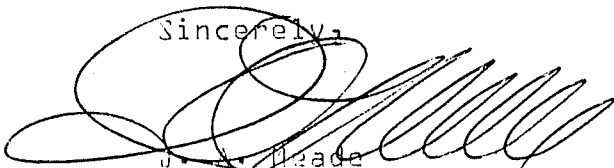
We of Dodge City Fire Extinguisher feel that house bill 2223 is a step in the right direction.

We feel that with the present bill the larger companies in the State of Kansas have to date had a monopoly on the system business due to their financial ability to carry a larger inventory consisting of systems from several different manufacturers, therefore exclusively deriving the revenue from the service of these systems.

We employ qualified personnel and ensure they are trained professionals in their various employment duties.

In passing this bill the smaller companies would be able to compete in the market place with the larger companies, and the consumer would have the freedom of choice they should be allowed to have in selecting from a greater number of service companies.

Sincerely,



J. A. Heade
DODGE CITY FIRE EXTINGUISHER

HOUSE FEDERAL & STATE AFFAIRS
Attachment No. 1B
March 2, 1989

AMERICAN FIRE EXTINGUISHER
SALES & SERVICE
P.O. Box 3261 - Station A
St. Joseph, MO 64503

February 28, 1989

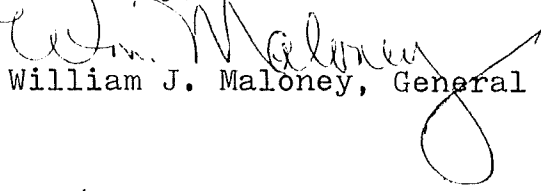
House Federal State Affairs Committee

Dear Sir:

Regarding the change of fire extinguisher ruling in the State of Kansas, I would like to cast my vote for the change.

For the past 15 years my company has been attending various fire extinguishing system schools and servicing systems. I feel we are qualified to service any brand and should be able to do so. I have lost several customers in the State of Kansas as I cannot be a stocking distributor for all brands of systems, so therefore, am not qualified.

Sincerely,


William J. Maloney, General Manager

WJM/ml

HOUSE FEDERAL & STATE AFFAIRS
Attachment No. 1C
March 2, 1989

AMERICAN FIRE & SECURITY

816-241-9742

4010 Truman Rd.

K.C., Mo. 64127

Fire Extinguisher Sales and Service

February 27, 1989

House Federal State Affairs Committee

Dear Sir:

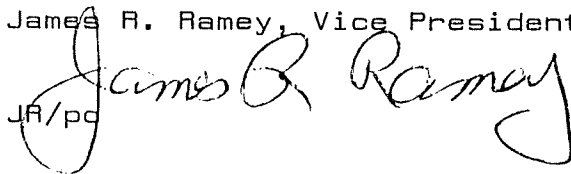
I support the change in the inspecting, installing, servicing and testing of fire extinguishers in the State of Kansas.

Since this law was passed I have lost customers as I was unable to service the systems for which I am not a stocking distributor or certified installer. I have had telephone conversations with potential customers that are unhappy with the present service organization. I find it very difficult to explain why I cannot compete for the business when my servicemen are trained and capable of servicing all fire extinguishers and systems.

Sincerely,

James R. Ramey, Vice President - General Manager

JR/pc



HOUSE FEDERAL & STATE AFFAIRS
Attachment No. 1D
March 2, 1989

NEBRASKA SAFETY AND FIRE EQUIPMENT, INC.
P.O. Box 685 - 105 WEST 6th
North Platte, Nebraska 69103
Phone (308) 534-7833

"DEDICATED TO THE PROTECTION OF LIFE AND PROPERTY"

GRAND ISLAND - NORTH PLATTE - SCOTTSBLUFF

August 4, 1988

Mr. Charles M. Nauheim
Kansas Fire and Safety Equipment Inc.
2420 SE 29th
Topeka, Kansas 66605

Dear Mr. Nauheim:

I appreciated your letter concerning the certification of companies to service kitchen range hood fire suppression systems.

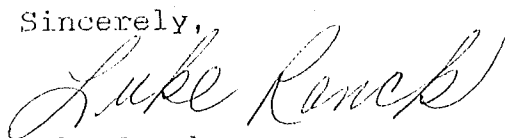
We agree with your concern of having to be a current certified, manufacturer authorized representative to service systems. We also understand the need to have guidelines to keep unprofessional and unqualified persons from working on these life and property saving systems.

We think that the \$300,000 product liability insurance required to get a license to service systems in Kansas should discourage most of the unprofessional people that may exist.

We will support your efforts to obtain legislation to protect our customers from unqualified companies but yet provide an atmosphere that will allow us to efficiently service our customers fire equipment needs.

We probably would not attend your meeting, but would be glad to write the state fire marshal and explain why we oppose the present regulations.

Sincerely,



Luke Ranck

Kansas Fire Equipment Company

TELEPHONE (316) 262-8943

GEORGE L. WINN, Owner
WICHITA, KANSAS 67213

123 SOUTH OSAGE

*Kansas House of Representatives
Federal & State Affairs Committee
Topeka, Kansas*

Kansas Fire Equipment Co is a Kansas corporation that has been engaged in the sale and service of fire extinguishers & fire extinguisher systems for the past 40 years. We wish herein, to express our support for House Bill # 2223 for the following reasons:

First, the Kansas statute as it now exists (section c) requires that any company that installs and services automatic fire extinguisher systems be certified each year by the manufacturer. Furthermore, it requires that said company "attend the most current training programs conducted by the manufacturer." The law in effect gives unbridled control over the service and installation of these systems to the system manufacturer. A manufacturer can arbitrarily grant or deny their certification to a company for the sale, service, and installation of their automatic systems. Denial of certification to a company in effect puts that company out of business, because it also prevents them from servicing past systems of the same brand even though they are otherwise fully qualified to do so. They as a consequence lose the past equity they have accumulated in their service business. In addition, their customers who are required to have their systems serviced may no longer have a local source for that service and must seek service from an outside source which in some cases is inconvenient and considerably more expensive. The manufacturer has the ability to eliminate competition from the market at their discretion and give or sell it to the highest bidder.

This would be like the Ford Motor Co. only certifying one dealer in Kansas to perform service on their vehicles and then the State of Kansas passing a law that required all Ford owners to have their cars serviced twice a year and only from a certified Ford dealer. As one can readily see this would be very bad for consumers as well as bad for the uncertified Ford dealers.

Secondly, the existing bill empowers the Kansas State Fire Marshal's Office to regulate an industry that it has little or no knowledge of. Even though they are sincere, well intentioned public servants neither they or the inspectors they dispatch have the formal training or expertise to perform the job the Kansas Statute requires of them. In addition, they do not receive the resources from the state both in terms of man power or financial resources to adequately police the fire equipment in this state.

HOUSE FEDERAL & STATE AFFAIRS
Attachment No. 2
March 2, 1989

FIRE PROTECTION IS OUR ONLY BUSINESS

Kansas Fire Equipment Company

TELEPHONE (316) 262-8943

GEORGE L. WINN, Owner
WICHITA, KANSAS 67213

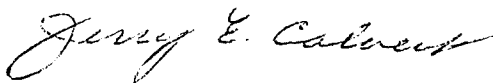
123 SOUTH OSAGE

In their erratic attempts to do so they have created wide spread confusion for both the companies performing the services and the customers that receive it. The Fire Marshal's Office readily admits to the problematic nature of this situation. Out of frustration and lack of adequate manpower they have attempted to delegate the inspection responsibilities to the local city fire departments who in many cases have even less expertise and training than the Fire Marshal's personnel, compounding the confusion. The local fire departments have requested that the local fire equipment companies to provide them with the training and expertise to perform the installation inspections. We feel that this method serves no regulatory function and imposes additional and unjustified expense on the business owners.

Thirdly, the current law has empowered the Kansas Fire Marshal to write the administrative regulations which govern the fire equipment industry. The regulations are poorly written and many times have adopted carte blanche Nation Fire Protection Agency Codes which are not relevant and sometime contradict each other. We have enclosed a copy of a letter from the law firm of Foulston, Siefkin, Power & Eberhardt, one of the largest law firms in the state, who recently had occasion to review the regulations and they determined that they contained serious problems and were badly in need of revision. In fact, they recommended that neither we or any other fire equipment company in the state service or install an automatic fire extinguisher system until the problem could be remedied.

We have always stood for maintaining a high standard in the fire equipment industry, but we feel that over the past several years since the old law was enacted, that it has not served those ends. It has created more problems than it has solved for both consumers and fire equipment companies. It is our feeling that the ammendment #2223 would go along way in correcting some of the confusion and inequities created by the old bill.

Sincerely Yours,



*Jerry E. Calvert
President of Kansas Fire Eq. Co.*

FIRE PROTECTION IS OUR ONLY BUSINESS

FOULSTON, SIEFKIN, POWERS & EBERHARDT

LAW OFFICES

700 FOURTH FINANCIAL CENTER

BROADWAY AT DOUGLAS

WICHITA, KANSAS 67202

(316) 267-6371

FACSIMILE (316) 267-6345

ROBERT C. FOULSTON
ROBERT N. PARTRIDGE
RICHARD C. HARRIS
GERALD SAWATZKY
ROBERT L. HOWARD
CHARLES J. WOODIN
MIKEL L. STOUT
BENJAMIN C. LANGEL
WILLIAM H. DYE
PHILLIP S. FRICK
STANLEY G. ANDEEL
FREDERICK L. HAAG
RICHARD D. EWY
DARRELL L. WARTA
HARVEY R. SORENSEN
JAMES M. ARMSTRONG
MARY KATHLEEN BABCOCK
CHARLES P. EFFLANDT
JAMES D. OLIVER

NICHOLAS S. DAILY
GARY L. AYERS
LINDA K. CONSTABLE
GLORIA G. FLENTJE
LARRY G. RAPP
R. DOUGLAS REAGAN
JAY P. FOWLER
STEPHEN M. KERWICK
GARY E. KNIGHT
JOHN J. MURPHY
CHRISTOPHER M. HURST
VAUGHN BURKHOLDER
TERRY C. CUPPS
SUSAN L. SMITH
WYATT M. WRIGHT
JIM H. GOERING
WYATT A. HOCH
AMY S. LEMLEY

KEVIN J. ARNEL
CAROL A. BEIER
MICHAEL C. GILLESPIE
PHILLIP A. GLENN
DOUGLAS L. HANISCH
JEFFERY A. JORDAN
DAVID K. MARTIN
J. STEVEN MASSONI

ERIC F. MELGREN
TIMOTHY B. MUSTAINE
DOUGLAS L. STANLEY
TRISHA A. THELEN
GAYE B. TIBBETS
CRAIG W. WEST
WILLIAM R. WOOD II

OF COUNSEL
DAVID R. EDWARDS
JAMES P. RANKIN

RETIRED
JOHN F. EBERHARDT
ROBERT M. SIEFKIN

ROBERT C. FOULSTON (1889-1947) GEORGE SIEFKIN (1895-1954)
GEORGE B. POWERS (1905-1987)

December 29, 1988

Mr. Jerry Calvert
Kansas Fire Equipment Company
123 S. Osage
Wichita, Kansas 67213

Dear Jerry:

Enclosed is some additional language to include in the service agreement which you are in the process of developing. This language should be added at the end of the last paragraph of the document I previously forwarded to you. As we discussed, you are now intending to place the information on the invoice and/or inspection sheet. It would be entirely appropriate to do so. I would suggest, however, that you make some effort to communicate this information directly to the owner of each of the premises where you service systems contemporaneously with the services performed.

As we discussed, the draft service contract which I forwarded to you is not intended to be a broad disclaimer of all liabilities. We are attempting to clarify some of the problems that arose during the recent case that we tried. A bigger problem exists in the area of the Kansas Administrative Regulations which adopt the National Fire Protection Association standards carte blanche. Those standards are overly broad and applicability of the standards in many instances is questionable. You cannot, however, disclaim responsibility for compliance with a statutory standard that applies to your industry. As we discussed, you need to be working with the Kansas Fire Marshal in an attempt to get the regulations modified to eliminate many of the problems we encountered in the trial.

HOUSE FEDERAL & STATE AFFAIRS
Attachment No. 2A
March 2, 1989

March 2,1989

I am Lee James, owner of Lee's X-tinguisher Service in McPherson. I am here in support of House Bill 2223. I feel that this is the right move at this time. My opinion comes from being a part of the Fire Marshal's Fire Extinguisher Servicing Advisory Board, formed in February 1988, and by discussing this issue with others in this business. The law, as it now reads, opens all hood equipment servicing companies to law suits. Even the companies that are doing the very best job in the state. The consumer is the one who is going to be hurt if major changes aren't made in the current law. I feel that the changes proposed here are the best place to start to keep the quality businesses operating and the consumer gett=ing the service he deserves.

Thank You;

Lee James

Lee's X-tinguisher Service
104 E. Loomis
McPherson, Kansas 67460

HOUSE FEDERAL & STATE AFFAIRS
Attachment No. 3
March 2, 1989

Testimony on HB 2223
Before the House Federal & State Affairs Committee
By: Larry W. Magill, Jr., Executive Vice President
Independent Insurance Agents of Kansas
March 2, 1989

Thank you very much, Madam Chairman and members of the committee, for the opportunity to express our concerns with the insurance provisions on lines 60-70 of HB 2223. While we have no problem with the sponsors and proponents' intent, as we understand it, of deregulating fire equipment installation and servicing firms, we are opposed to mandating insurance as either a replacement for regulation or some type of screening device.

We realize the insurance requirements have been in the law for some time, but HB 2223 gives us an opportunity to ask the legislature to reconsider whether insurance requirements should be a part of this statute.

We are philosophically opposed to state mandates of insurance and the resulting government intrusion into ordinary business decisions.

We feel it is poor public policy to mandate insurance except for the most compelling reasons. For example, the workers' compensation insurance requirement was enacted as part of the "trade-off" between employers liability and a "no fault", state mandated system of benefits for injured workers. Auto insurance has been mandated because of the millions of vehicles on the road and the need for some protection for all the citizens of Kansas. Medical malpractice insurance was mandated with the establishment of the Health Care Stabilization Fund, but will probably be repealed when the fund is phased out.

Carried to an extreme, the legislature could mandate insurance for every business and individual. All sellers of products and services

expose the purchaser to some risk of bodily injury or property damage. All homeowners are capable of causing bodily injury and property damage. Clearly the legislature does not want to go this far. We question why the legislature would have included insurance requirements for a small industry like fire equipment servicers and installers in the first place.

One reason we oppose mandatory insurance is it does create a guaranteed "deep pocket". The Health Care Stabilization Fund again is an excellent example of the possible result of that.

Mandating insurance has a possible anti-competitive impact on small businesses who are either unable to obtain the coverage or unable to afford the required coverage. This would especially be true in a "hard market" insurance cycle.

In other words, mandating insurance could create an entire new set of problems for the legislature to deal with such as available and affordable coverage, assigned risk plans for those firms that are rejected, deductibles that would be allowed, specific coverage endorsements that may be used and a host of other problems that arise from mandating insurance.

If the committee does anything with the bill, we encourage you to delete the insurance requirement and rely on regulation, or no regulation as you decide, to protect the public interest. We are opposed to using insurance as either a screening device for allowing businesses to enter the fire equipment installation and inspection business or in lieu of regulation - if regulation is needed.