

Approved 1-31-90
Date

MINUTES OF THE Senate COMMITTEE ON Federal and State Affairs

The meeting was called to order by Senator Bill Morris at
Chairperson

11:10 a.m./p.m. on January 30, 1990 in room 254-E of the Capitol.

All members were present except:

Committee staff present:

Mary Ann Torrence, Revisor of Statutes Office
Mary Galligan, Legislative Research
Deanna Willard, Committee Secretary

Conferees appearing before the committee:

Rep. Anthony Hensley
Charles Nauheim, Kansas Fire and Safety Equipment, Inc., Topeka
William Higgs, Topeka Fire Marshal
Larry Payne, Larry's Fire Safety Co., Liberal
Jim Ramey, American Fire and Security, Kansas City, Mo.
William Maloney, American Fire Extinguisher, St. Joseph, Mo.
John Earhart, Kansas State Fire Marshal
David Hanson, E-Kan

The minutes of the January 23, 1990, meeting were approved.

Hearing on: Substitute for HB 2223 - Concerning fire safety and prevention; extinguishers

Rep. Anthony Hensley testified that this substitute bill would eliminate Paragraph C from the bill introduced in 1989. Rather than requiring the business to have their servicemen complete training conducted by the manufacturer, this regulatory function would be in the hands of the fire marshal. Current practice of some manufacturers is to require a certain sales volume in order to certify a business, which has worked a hardship on small businesses. He suggested that the fire marshal administer a certification test and, from talking with the House subcommittee, thinks the cost would be minimal.

Charles Nauheim, Kansas Fire and Safety Equipment, Inc., Topeka, presented testimony urging approval of the substitute bill. (Attachment 1) Also included in the attachment were nine other pieces of testimony and correspondence to support his position.

William Higgs, Topeka Fire Marshal, testified in support of the bill. He shared concern that a manufacturer could dictate who could repair an extinguisher. He would like to see certification training provided by the state fire marshal and sees this bill as making inspections and servicing of fire extinguishers more convenient for the citizens of Kansas.

Larry Payne, Larry's Fire Safety Co., Liberal, stated that he would like to see passage of this bill so manufacturers can't dictate who does the servicing. He believes dealers in Oklahoma and Colorado aren't subject to ever-increasing sales quotas, as those states don't have a statute similar to Paragraph 3.

Jim Ramey, American Fire and Security, Kansas City, Mo., spoke in support of the bill. He stated that he had lost customers because he could no longer service them after losing certification from manufacturers.

CONTINUATION SHEET

MINUTES OF THE Senate COMMITTEE ON Federal and State Affairs,

room 254-E Statehouse, at 11:10 a.m./~~p.m.~~ on January 30, 1990

William Maloney, American Fire Extinguisher, St. Joseph, Mo., stood in support of the bill. He has lost business in Kansas as he could not stock adequate amounts of all brands of systems. He clarified that there are two supply houses where one can purchase parts for any system.

John Earhart, Kansas State Fire Marshal, presented testimony which stated he believes the state will be better served by placing this regulatory responsibility with the State Fire Marshal's Office. (Attachment 2) He further stated that they had worked with the current law and could work with a new one. He said it would be necessary for servicepeople to be recertified at least every two years to keep them up with changes in technology and that that provision would be covered in the new regulations.

David Hanson, E-Kan, said that at the end of last year, there was a proposed substitute for this substitute bill. He urged the committee to consider that this bill takes the manufacturer out of the line of responsibility, that in the event of a fire, the servicing agent would come under question. The state might be liable as they would have licensed him. He said that servicers in Florida have to pay around \$5,000 for a certificate, which is, of course, passed on to the customer. He showed a service manual with supplements to illustrate that there are frequent changes and said that manufacturers wouldn't know who the certified persons were and could not get supplements to them.

Mr. Hanson could agree to some changes: 1) persons shouldn't have to attend every training session, as there are often three a year, but would attend one of the three, and 2) the fire marshal would be given authority to regulate unreasonable practices. However, he said that manufacturers shouldn't have to deal with people they don't choose to deal with, that franchising is not illegal. Installers are required to carry liability insurance; those costs went down when manufacturers were given authority to certify servicers, according to Mr. Hanson, but he thinks they would go back up if this measure is passed as it stands.

The meeting was adjourned at 12:05 p.m.

KANSAS FIRE AND SAFETY EQUIPMENT INC.

MEMBER NFPA

2420 SE 29TH - TOPEKA, KANSAS 66605 - (913) 266-7210

January 30, 1990

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

RE: Substitute House Bill No. 2223

Dear Committee Members:

This letter is being submitted as a supplement to my testimony before this committee regarding support for substitute 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.

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 the manufacturer's equipment. The 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 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.

If a distributor fails to maintain the minimum 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.

Senate F&SA
1-30-90
Attachment 1

The current state of the law allows a manufacturer to terminate a distributorship at will unless the distributor can meet minimum purchase volumes as required by manufacturers. 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 manufacturer.

The enactment of substitute House Bill NO.2223 would preserve the public policy behind K.S.A. 31-133a but would remove 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.

I would urge this committee to approve substitute 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.

Thank You,

Charles Nauheim
Kansas Fire and
Safety Equipment, Inc.



Kansas State Fire Marshal Department
700 Jackson, Suite 600
Topeka, Kansas 66603-3714
Phone (913) 296-3401

"Where Fire Safety Is A Way Of Life"

April 6, 1989

Honorable James D. Braden
Speaker of the House
State House, Room 380-W
Topeka, Kansas

Dear Representative Braden:

Representative Ginger Barr, the Chairperson for the House Federal and State Affairs Committee will be introducing a proposed Substitute for House Bill 2223 for action.

The bill as offered by Representative Barr has my approval.

The original statute, specifically paragraph (c) had allowed the manufacturers of the extinguishing equipment to exert unnecessary pressure on the dealers in the state by the strict training requirements required for the dealers to become certified. The pressure had taken the form of requiring minimum dollar purchases of equipment that in most cases exceeded the need for the area they served. Non-compliance with the minimum purchases meant the loss of their dealership and state decertification, thus the wording in paragraph (c) allowed the dealers to become involved in the regulatory arena instead of the State Fire Marshal.

The Administrative Regulations will be re-written by January 1, 1990 to require reasonable proof of competency for the dealers and their employees to be certified to perform the installation and servicing of the equipment.

Sincerely,

JOHN A. EARHART
STATE FIRE MARSHAL

JAE:mr

cc: Representative Ginger Barr

An Equal Opportunity Employer

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

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

February 28, 1989

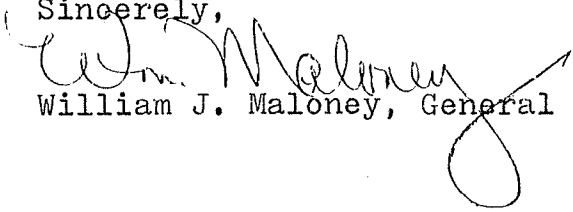
House Federal State Affairs Committee

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

DODGE CITY FIRE EXTINGUISHER
1507 CENTRAL
DODGE CITY, KANSAS 67801
316-229-5393

HOUSE, FEDERAL AND STATE AFFAIRS COMMITTEE:

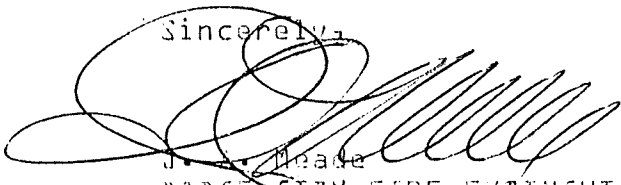
We of Dodge City Fire Extinguisher feel that house bill 2223 is a step in the right direction.

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

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

James R. Ramey
JR/pc

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



AUTOMATIC SPRINKLER CORPORATION OF AMERICA
POST OFFICE BOX 180
1000 EAST EDGERTON ROAD
CLEVELAND, OHIO 44141-0180

PHONE: 216/526-9900

TELEX: 098-5406



November 23, 1988

Kansas Fire & Safety Equipment
2420 S.E. 29th
Topeka, KS 66605
Attention: Charles Mauheim

Dear Charles:

In a recently completed series of marketing studies, we found that your sales volume consistently falls below our area expectations.

It is, of course, implied that a certain volume must be maintained in order to retain a distributorship.

Since there are many others in similar areas selling at higher levels, and since we are committed to an aggressive sales policy, you leave us no choice but to delete you as an authorized distributor of our product lines. Therefore, effective 45 days from the date of this letter we will no longer be able to accept your orders. Also, orders placed between now and then must be on a written purchase order which will ship C.O.D., material and freight collect.

We regret the necessity of this decision and hope that at some future date, with a new commitment on your part, we may possibly re-establish a mutually beneficial relationship.

Very truly yours,

Jim Kline
Central Regional Manager

JK/dl

cc: Rick Wuescher
President, ASCOA/CHEMETRON

N. S. Kakos
Supervisor, Credit Department

Division of State Fire Marshal's Department
100 Jackson, Topeka, Kansas
Topeka, Kansas 66606-1111
Phone (913) 235-3100
After hours safety 913-235-3100

November 29, 1988

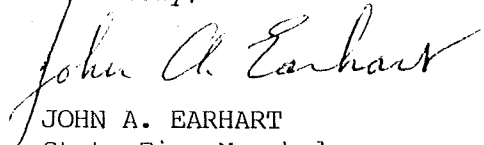
Mr. Charles Nauheim
Kansas Fire & Safety Equipment, Inc.
2420 S.E. 29th St.
Topeka, Kansas 66025

Dear Mr. Nauheim:

On November 28, 1988, the State Fire Marshal received notification of the cancellation of your distributorship authorization from Mr. Jim Kline, Regional Manager, Safety First products.

In recognition of a proposed change in the State Fire Marshal's Regulations, which in a case such as this will permit a business to continue to service equipment for which its distributorship has been cancelled for other than misconduct reasons, you will be allowed to continue servicing Safety First products until the expiration of your training certificate which is April 23, 1989.

Sincerely,


JOHN A. EARHART
State Fire Marshal

JAE:ba

WALTER KIDDE

Division of Kidde, Inc.
Fire Systems Operations

P. O. Box 1147
Wake Forest, N.C. 27587
(919) 556-6811

FIELD MEMO NO. 87-12
TO: Walter Kidde Fire Systems Distributors
DATE: March 24, 1987
SUBJECT: MINIMUM SALES REQUIREMENT

In 1986, a minimum sales requirement was set for all distributors which was necessary to develop, maintain and support an efficient distribution system for our products and your services. We have reviewed our policy and find that the minimum sales level to provide effective sales support to you must be raised. Our new policy is as follows, and is in effect immediately.

The minimum sales requirement in a calendar year for any pre-engineered distributor (Type 2) is \$15,000 per year.

For engineered distributors (Type 1), the minimum sales requirement in a calendar year is \$30,000. The \$30,000 excludes Bulk Halon and pre-engineered product sales. However, these sales do count toward reaching any volume discount we might offer.

We will discontinue our offer to sell products and services to those distributors who are unable to meet the minimum requirements by December 31, 1987. However, we will give 90 days advance notice to permit the distributor to either meet the minimum, or complete open orders and work-in-progress.

We trust you understand the necessity of this policy. We have increased, and will continue to increase, the commitment on our part to help you meet these requirements. Our goal is to help you increase your total business, and we stand ready to serve you. We want our relationship to be a mutually rewarding one. Please acknowledge receipt of this letter by signing in the space provided and return a signed copy to me.

Sincerely,

WALTER KIDDE
Division of Kidde, Inc.

Allen R. Coe
Regional Sales Manager

Date: _____

C. J. 4/14/87

1-11



Kansas State Fire Marshal Department
700 Jackson, Suite 600
Topeka, Kansas 66603-3714
Phone (913) 296-3401
FAX (913) 296-0151

"Serving Kansans Through Fire Safety Education,
Fire Prevention Inspections and Investigation"

Testimony of John Earhart, Kansas State Fire Marshal.

I support the Substitute for House Bill No. 2223.

I believe the state will be better served by this change which will place the regulatory responsibility with the State Fire Marshal's Office and eliminate the manufacturer's role in the regulations.

The changes and the elimination of paragraph "C" in K.S.A. 31-133A will require an addition to the Administrative Regulations to establish the proof of competency for employees of a business wanting to be certified to install, service or test certain fire extinguishers.

One of the alternatives that may be included in the new regulations is a competency test given at the State Fire Marshal's Office based on information contained in the installation and service manuals furnished by the manufacturers. This test and the administration of the competency program will cause an additional workload on the agency. It will be necessary to prepare a Governor's Budget Amendment to cover the additional workload and necessary forms as well as revising the test when changes and improvements are made in the equipment. A fiscal impact statement will be prepared when the new regulations are prepared. I don't anticipate the need will exceed \$5,000 generated by the fees that are in the regulations.

Senate F&SA
1-30-90
Attachment 2



Kansas State Fire Marshal Department
700 Jackson, Suite 600
Topeka, Kansas 66603-3714
Phone (913) 296-3401
FAX (913) 296-0151

"Serving Kansans Through Fire Safety Education,
Fire Prevention Inspections and Investigation"

FEES FOR CERTIFICATION FOR FIRE EXTINGUISHER INSTALLATION SERVICE

There are 29 businesses which provide service for fixed extinguishing systems @	\$50.00 each	\$1450.00
There are 80 businesses which provide service for portable extinguishers @	\$25.00 each	\$2000.00
There are 68 businesses which provide non-DOT hydrotesting services. @	\$25.00 each	\$1700.00
	TOTAL	<hr/> \$5150.00