

Approved

R. Grotewiel
Date

MINUTES OF THE HOUSE COMMITTEE ON ENERGY & NATURAL RESOURCES

The meeting was called to order by Representative John McClure at
Vice Chairperson

3:30 ~~xxx~~/p.m. on March 4, 1991 in room 526-S of the Capitol.

All members were present except:

Representative Grotewiel

Committee staff present:

Raney Gilliland, Principal Analyst, Legislative Research
Mary Torrence, Revisor of Statutes' Office
Pat Mah, Legislative Research
Lenore Olson, Committee Secretary

Conferees appearing before the committee:

Harold Spiker, Public Health Physicist, Department of Health & Environment
Bruce Snead, Residential Energy Specialist, Kansas State University
Julia Norris, Norris Radon Screening Service
Stephen Albright, Albright-Hughes Construction, Inc.
Randy Davis, President, Home Radon Detection Company, Inc.
Theresa Hodges, Section Chief, Laboratory Improvement Program Office,
Kansas Health and Environmental Laboratory

Vice Chairperson McClure called the meeting to order and opened the hearing on HB 2408.

Harold Spiker, Department of Health and Environment, testified in support of HB 2408. He stated that passage of this bill will provide a means of assuring that those persons providing radon testing and mitigation services to the citizens of Kansas have demonstrated the necessary knowledge, expertise and competency to provide such services. (Attachment 1)

Bruce Snead, Kansas State University, testified in support of HB 2408. He stated that he believes competent, well intentioned businesses and individuals currently engaged in the radon industry would welcome the application of this act. (Attachment 2)

Julia Norris, Norris Radon Screening Service, testified in support of HB 2408, stating that the radon industry does need a state certification program. She also stated that state certification of E.P.A. listed radon companies with E.P.A. trained personnel will build consumer confidence in the radon industry. (Attachment 3)

Stephen Albright, Albright-Hughes Construction, Inc., testified in support of HB 2408. He stated that the radon industry is in its infancy, and like any infant it needs guidance and structure to avoid mistakes resulting in injury to itself and others. (Attachment 4)

Randy Davis, Home Radon Detection Co., Inc., testified in support of HB 2408. He stated that nearly every day he hears about improper testing procedures and mitigation systems that do not follow established E.P.A. guidelines. He also said that the public's perception of the radon testing industry cannot help but decline. (Attachment 5)

The Vice Chair closed the hearing on HB 2408.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON ENERGY & NATURAL RESOURCES,
room 526-S, Statehouse, at 3:30 ~~xx~~/p.m. on March 4, 1991

The Vice Chair opened the hearing on HB 2409.

Theresa Hodges, Kansas Health and Environmental Laboratory, testified in support of HB 2409. She stated that timely and accurate technical information is of vital importance to industry in its efforts to protect the environment. The information that industry receives and relies on is only as good as the laboratory that produced it. (Attachment 6)

The Vice Chair closed the hearing on HB 2409 and requested the Committee to turn to HB 2407.

As requested by Representative Freeman, staff reviewed a balloon which included amendments to HB 2407, as requested by the Department of Health and Environment and the Kansas Audubon Society. (Attachment 7)

A motion was made by Representative Freeman to adopt the balloon on HB 2407. The motion failed for lack of a second.

A motion was made by Representative Freeman, seconded by Representative Charlton, to adopt the balloon amendments to HB 2407.

A substitute motion was made by Representative Shore, seconded by Representative Hendrix, to have the balloon amendments drafted into a substitute bill form. The motion carried.

A motion was made by Representative Stephens, seconded by Representative Correll, to approve the minutes of February 25 and 26. The motion carried.

The meeting adjourned.



State of Kansas

Joan Finney, Governor
Department of Health and Environment
Division of Health

Reply To: (913) 296-5600
Respond to: (913) 296-1343
FAX (913) 296-6231

Stanley C. Grant, Ph.D., Secretary *Acting*

Landon State Office Bldg., Topeka, KS 66612-1290

Testimony presented to

House Energy and Natural Resources Committee

by

The Kansas Department of Health and Environment

House Bill 2408

The Radon Certification Act, House Bill 2408, has been introduced as requested by the KDHE. Passage of H.B. 2408 will provide a means of assuring that those persons providing radon testing and mitigation services to the citizens of Kansas have demonstrated the necessary knowledge, expertise and competency to provide such services.

Passage of H.B. 2408 would require the Secretary of KDHE to establish a certification program for persons performing radon testing and mitigation in Kansas and to promulgate rules and regulations for the implementation and administration of the program. The Secretary would be authorized to establish a fee schedule to defray all or part of the costs of the program and the Radon Certification Fee Fund would be created. The Secretary would also be authorized to employ appropriate personnel and to enter into agreements with private or public agencies in carrying out the provisions of this Act.

A very important provision of H.B. 2408 would require radon testers and mitigators to report the results of their testing and mitigation in Kansas to KDHE and would provide for confidentiality of the data and information received. It appears there is a significant amount of radon testing and mitigation that has and continues to be performed in Kansas. The data and information obtained from these efforts would be extremely valuable to KDHE in assessing the risks associated with indoor radon in Kansas and developing long-term plans.

Because radon gas is colorless, odorless, tasteless, and otherwise undetectable except with specialized equipment or test kits, the opportunity for individuals to be taken advantage of relative to radon testing and mitigation is great. This is why a number of states have already passed similar legislation. Although we do not have data on the quality of radon testing and mitigation being performed in Kansas, communications with citizens as well as radon testing and mitigation contractors indicate that there are problems.

It is intended that the provisions of this bill be implemented without initiating a major new regulatory program. Kansas State University is part of a consortium which has been selected and funded as one of four EPA Regional Radon Training Centers in the United States. As such, KSU administers EPA's Radon Contractor Proficiency Program (RCP) for this region. This involves training as well as

ENR 3/4/91 Attachment 1

administering the National Radon Contractor Proficiency Exam. All records pertaining to these training and examination efforts are maintained at KSU. However, participation in this program is strictly voluntary. It is anticipated that under this proposed legislation, the requirements for certification of radon mitigators in Kansas will be the satisfactory completion of the Radon Contractor Proficiency Exam.

EPA conducts a National Radon Measurement Proficiency (RMP) Program for radon testers. In addition to demonstrating accurate measurement of radon with test kits exposed in EPA's radon chambers, testers must also have adequate quality control and quality assurance programs. Participation in this program is also voluntary. It is intended that the requirements for certification of radon testers in Kansas under the proposed legislation will be the satisfactory completion of EPA's RMP Program.

A number of individuals who are in the business of providing radon testing and mitigation services in Kansas have expressed support for a certification program and even paying reasonable fees to support such a program if necessary.

The U.S. EPA has awarded a State Indoor Radon Grant (SIRG) for Kansas to fund the first year of KDHE's radon program efforts (July 1, 1990 to October 1, 1991), including funding for contractual services to be provided by KSU Engineering Extension. The purpose of the grant is to assist the State in establishing a radon program which can assess the risks associated with indoor radon in Kansas, develop a long-term action plan, and provide up-to-date guidance, information and assistance to citizens relative to radon in their homes, schools and work places. The grant is intended to continue over a three year period, but must be renewed and approved each year. The KDHE grant for the first year has already been received and the grant request for the second year has already been approved by EPA.

The funding provided by the EPA grant should be adequate to cover the expected cost of implementing the Radon Certification Act for the three year grant period. The required state match for the first and second grant year (25% and 40% respectively) is provided by radon program efforts by existing non-SIRG staff and use of KDHE's allowable indirect costs as match. However, the state match for the third grant year (60%) will require a commitment of additional non-SIRG dollars. It is estimated that an additional \$25,000 in non-SIRG funds would be required to meet the match. Although KSU may be able to provide some additional funding, it is likely that KDHE will have to provide the major portion of these funds. Accordingly, this bill provides the Secretary with the authority to charge fees to recover all or a portion of the costs of administering the certification program.

The Department of Health and Environment believes this effort represents the least costly means of assuring that those persons providing radon testing and mitigation services to the citizens of Kansas have the necessary knowledge, expertise and competency to perform such services. The KDHE urges favorable consideration and support of House Bill 2408.

Testimony presented by: Harold Spiker
Public Health Physicist
Bureau of Environmental Health Services
March 4, 1991

Testimony for HB 2408 - Radon Certification Act -

Given to House Committee on Energy and Natural Resources
March 4, 1991

Prepared by:
Bruce C. Snead
Residential Energy Specialist
Energy Extension - Kansas State University

The EPA has called for the testing of all homes in the United States for the presence of radon gas. The fact that radon cannot be detected by the human senses, yet is a class A carcinogen, creates the strong need for consumer protection legislation.

Attorney General Bob Stephen and the Secretary of Health and Environment Stanley Grant identified the potential for consumer fraud and abuse two years ago when they released the EPA-KDHE state radon survey results.

The desire of individuals to test their homes for radon, and to fix their homes when conditions warrant it, has generated the need for knowledgeable contractors who can respond to this demand. However, many homeowners who have contacted our office, have reported difficulty in locating qualified contractors to do radon measurement and mitigation. These and other inquiries about radon has led Kansas State University to seek support for contractor training activities. This was successfully accomplished in 1989 through Federal funding from the Environmental Protection Agency to the Midwest Universities Radon Consortium, of which Kansas State University is a principal collaborator. Training in radon measurement and mitigation has been offered over the last year and a half, with emphasis on serving EPA's two quality assurance programs, the Radon Measurement Proficiency (RMP) Program and Radon Contractor Proficiency (RCP) Program. These voluntary programs provide the consumer with companies and individuals that have met minimum performance qualifications or demonstrated proficiency through passing an examination and agreeing to program guidelines. The RMP evaluates the proficiency of radon measurement companies and the RCPP evaluates the proficiency of individual radon mitigators. Participation in these programs is not currently required for individuals engaging in radon activities in Kansas, but should be made mandatory as part of the rules and regulations utilized to implement this act.

I believe competent, well intentioned businesses and individuals currently engaged in the radon industry would welcome the application of this act. Numerous examples can be cited of uneducated contractors who, in attempting to fix a radon problem, have actually made the situation worse. Those who have received EPA training and participate in the RMP and RCPP programs have invested in themselves and their industry and are trying to bring

E + NR

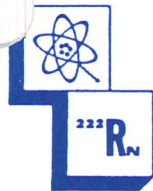
3/4/91

Attachment 2

quality products and services to the marketplace. This certification act would help to establish a level playing field, by requiring participation from all involved, and reducing the likelihood of unsafe or ineffective systems being installed in the homes of the public.

The test result reporting requirement will enhance the knowledge of radon levels throughout the state, better defining the problem and helping to direct testing and educational efforts.

I encourage you to positively consider this act, for it will help establish the conditions whereby the people of Kansas have a reference for dealing with the presence of a known carcinogenic substance in their homes.



NORRIS RADON SCREENING SERVICE

8655 W. 194th Terrace • Stilwell, Kansas 66085

(913) 897-4333 FAX: (913) 897-4555

I support House Bill # 2408.

The Radon Industry does need a State Certification Program, requiring Radon Testing and Radon Mitigation Companies to be E.P.A. Listed in the Radon Measurement Proficiency Program and the Radon Contractors Proficiency Program, also requiring the completion of E.P.A. training for all Testing Technicians and Mitigation Installation personnel employed by the Radon Testing & Mitigation Companies.

Certain Companies in the Radon Industry have not voluntarily participated in the E.P.A.'s Radon Measurement Proficiency Program or the Radon Contractor Proficiency Program. I have performed retests behind non listed companies, for confirmation of prior test results. The retest was necessary due to questionable test procedures. The home owners have told of charcoal canisters set on the floor, beside the sump pit, or 6 feet above the floor, and of testing technicians turned loose with test equipment that they have never operated until sent into the field to perform testing services; of Real Estate Agents performing the Radon test as a customer service; of Termite Companies doing whole house inspections including Radon Testing.

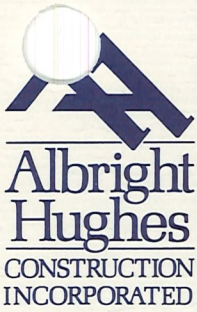
There are Mitigation Companies installing sub slab suction techniques, utilizing more suction points than necessary, for reliable remediation, causing higher costs. Mitigation Companies venting the mitigation system out below the patio door, or beside a basement window, causing Radon gas to re-enter the home. Mitigation Companies that do not follow with confirmatory tests.

In Conclusion, Radon Testing and Mitigation Companies, that are E.P.A. listed, utilizing E.P.A. trained personnel, following E.P.A. protocol, can guarantee accurate and reliable testing results and mitigation procedures. State certification of E.P.A. listed Radon Companies with E.P.A. trained personnel will build consumer confidence in the Radon Industry.

Norris Radon Screening Service
RMP Listed Primary Testing Company

RCPP Listed Mitigation Consultant: Julia A. Norris
ID# 10536

Julia A. Norris
E+NR
3/4/91
Attachment 3



4 March, 1991

Route 1 • Box 24
McLouth, KS 66054
(913) 843-4466

Stephen E. Albright
(913) 796-6604
Jack R. Hughes
(913) 863-2833

Testimony on House Bill No. 2408, Radon Certification Act
Before Committee on Energy and Natural Resources

The radon industry is in its infancy, and like any infant it needs guidance and structure to avoid mistakes resulting in injury to itself and others. We believe this bill will enable KDHE to provide that guidance and structure.

The EPA has, in place and functioning, programs for training, evaluation and continuing education of individuals and companies engaged in radon testing and mitigation. These programs, while well-designed as to content and well-implemented by the instructors in the field, are strictly voluntary. There is currently no federal requirement, nor in Kansas any state requirement, that compels an individual or company to demonstrate either competence in radon work or the operation of a responsible business structure before they can engage in radon testing or mitigation. This situation leaves the industry, and more importantly, the consuming public, utterly vulnerable to exploitation by the incompetent and irresponsible.

Unfortunately, there never seems to be a shortage of incompetence or irresponsibility, but there can be no excuse for tolerating either in the personnel working with this dangerous substance. The EPA training programs provide a mechanism for those willing to assume the responsibility. As the situation currently stands, however, those parties who behave responsibly find themselves at a competitive disadvantage. It obviously costs more to operate a business when you train and supervise workers properly, perform and document the work according to EPA guidelines and protocols, administer a worker safety program, carry the relevant professional and contractor's liability and worker's compensation insurance, and meet all the other requirements that legitimate contractors must face, than it does to operate in total disregard of these considerations. The result, of course, is that the consuming public mistakenly perceives the lower bid as a better price for the same service, so the majority of the work goes to the unqualified or irresponsible contractor. No legitimate business person can object to fair competition. But the current lack of regulation of the industry in Kansas allows, even encourages, unfair competition, and the ultimate loser is the public health and safety.

We believe the public deserves the highest quality service that the radon industry can provide, and the responsible members of the industry stand ready to provide it. House Bill No. 2408 will enable KDHE to initiate the necessary regulation, and we therefore urge this committee to support this legislation.

Respectfully,

A handwritten signature in dark ink that reads "Stephen E. Albright". The signature is written in a cursive style with a prominent initial 'S'.

Stephen E. Albright

A handwritten signature in dark ink that reads "Jack R. Hughes". The signature is written in a cursive style with a prominent initial 'J'.

Jack R. Hughes

E + NR

3/4/91

Attachment 4

HOME RADON DETECTION CO. INC.
5824 EL MONTE
FAIRWAY, KS 66205
913-262-1555 FAX 913-432-8320

EPA PROFICIENCY LISTED PRIMARY LABORATORY
EPA RADON CONTRACTOR PROFICIENCY LISTED

MARCH 4, 1991

MR. CHAIRMAN AND HOUSE COMMITTEE MEMBERS:

MY NAME IS RANDY DAVIS, I AM PRESIDENT OF HOME RADON DETECTION CO. INC. OF FAIRWAY, KANSAS. I AM ACTIVELY INVOLVED IN RADON TESTING, DIAGNOSTICS, MITIGATION, AND CONSULTATION.

I STRONGLY URGE YOUR SUPPORT OF HOUSE BILL #2408. OUR INDUSTRY NEEDS GOVERNMENT CONTROLS AND REGULATION. WE DESPERATELY NEED TO CLEAN UP OUR RANKS. THE PUBLIC IS BEING TAKEN FOR A RIDE AND THE LEGITIMACY OF OUR INDUSTRY IS PAYING THE PRICE. I SUPPORT STATE CERTIFICATION FOR BOTH RADON TESTING AND MITIGATION COMPANIES. THIS CERTIFICATION SHOULD REQUIRE CURRENT EPA RMP AND RCP LISTINGS. ALL COMPANIES PROVIDING RADON RELATED SERVICES IN OUR STATE SHOULD BE REQUIRED TO HAVE THESE CREDENTIALS INCLUDING EACH TECHNICIAN EMPLOYED BY THAT COMPANY THAT WORKS HERE. IT SHOULD BE REQUIRED THAT ALL APPLICANTS ATTEND EPA SPONSORED TRAINING SESSIONS TO MAINTAIN THEIR CREDENTIALS, AND MOST IMPORTANTLY SHOULD REQUIRE THAT ALL EPA RECOMMENDED GUIDELINES FOR TESTING AND MITIGATION BE FOLLOWED.

NEARLY EVERY DAY I HEAR ABOUT IMPROPER TESTING PROCEDURES AND MITIGATION SYSTEMS THAT DO NOT FOLLOW ESTABLISHED EPA GUIDELINES. THE PUBLIC'S PERCEPTION OF OUR INDUSTRY CANNOT HELP BUT DECLINE. THERE ARE OVER 100 COMPANIES IN THE KANSAS CITY METROPOLITAN AREA THAT OFFER SOME TYPE OF RADON RELATED SERVICE. THE MAJORITY OF THESE COMPANIES HAVE NO FORMAL TRAINING AND DO IT ONLY AS A SIDELINE TO THEIR PRIMARY BUSINESS. THE ONLY CREDENTIAL THAT THEY MIGHT HAVE IS AN EPA RMP SECONDARY LISTING WHICH COULD BE OBTAINED BY SIMPLY ASKING A PRIMARY LABORATORY TO PUT THEIR NAME ON THE LIST.

PRESENTLY THERE ARE TWO GROUPS OF COMPANIES ACTIVE IN THE RADON INDUSTRY IN KANSAS. THE FIRST ARE THOSE THAT HAVE LITTLE OR NO CREDENTIALS, NO FORMAL TRAINING, NO INVESTMENT OF THEIR TIME OR RESOURCES, AND CONSEQUENTLY LITTLE KNOWLEDGE OF WHAT IS PROPER OR IMPROPER. FOR THIS GROUP THE RADON BUSINESS IS JUST A MEANS TO SOME EXTRA CASH IN THEIR POCKETS. INCLUDED IN THIS CATEGORY ARE THOSE COMPANIES THAT DO HAVE SOME "EPA CREDENTIALS" BUT CHOOSE TO IGNORE THEM BECAUSE NO ONE IS WATCHING OVER THEM. THESE PEOPLE OFFER DISCOUNT SERVICES THAT INCLUDE ABBREVIATED TESTING PROCEDURES BY UNQUALIFIED PERSONNEL AND SHORT CUT MITIGATION SYSTEMS THAT ARE POTENTIALLY HAZARDOUS TO PEOPLE'S HEALTH. THIS GROUP IS OUR INDUSTRY'S BIGGEST BLACK EYE BUT APPEARS TO BE THRIVING BECAUSE THERE ARE NO ENFORCEABLE REGULATIONS GOVERNING THEM.

THE SECOND GROUP ARE THOSE COMPANIES THAT HAVE MADE A CONSIDERABLE COMMITMENT TO THE INDUSTRY WITH THEIR TIME, ENERGY, RESOURCES, CREDENTIALS, EQUIPMENT, AND INTEGRITY. BUT INSTEAD OF BEING REWARDED BY THE PUBLIC WITH THEIR BUSINESS THEY ARE BEING PENALIZED FOR THEIR "PROPER" PROCEDURES RESULTING IN

E+NR

3/4/91

Attachment 5

GREATER OPERATIONAL COSTS. THIS TRANSLATES TO HIGHER FEES CHARGED AND RESULTS IN A DISADVANTAGE IN THE MARKET PLACE FOR DOING IT RIGHT.

THE RADON ISSUE IS NOT GOING TO GO AWAY. NUMEROUS STATES HAVE LEGISLATION PENDING OR PASSED REQUIRING CERTIFICATION OF OUR INDUSTRY. SEVERAL STATES ARE EVEN CONSIDERING REQUIRING RADON TESTING AS PART OF ALL REAL ESTATE TRANSACTIONS. THERE IS CURRENTLY A BILL BEING INTRODUCED INTO CONGRESS BY REP. EDWARD MARKEY, D-MASS., H.R. 5971 CALLED THE "RADON AWARENESS AND DISCLOSURE ACT", WHICH WILL REQUIRE A RADON TEST FOR ALL HOMES PURCHASED WITH A MORTGAGE LOAN PROVIDED BY A FEDERAL DEPARTMENT OR AGENCY.

CURRENT ESTIMATES IN KANSAS CITY PUT THE NUMBER OF TESTS PERFORMED AS PART OF A REAL ESTATE TRANSACTION BETWEEN ONE THIRD TO HALF OF THE TOTAL. IN THE RELOCATION INDUSTRY IT IS A STANDARD POLICY THAT BEFORE A HOME IS TAKEN INTO THE HOMESALE PROGRAM IT MUST BE TESTED FOR RADON AND PASS.

WE NEED CERTIFICATION FOR THE RADON INDUSTRY IN KANSAS. IF I CAN BE OF ANY FUTURE ASSISTANCE TO YOUR EFFORTS PLEASE CONTACT ME. THANK YOU FOR YOUR TIME AND CONSIDERATION.



State of Kansas

Joan Finney, Governor

Department of Health and Environment
Kansas Health and Environmental Laboratory

Stanley C. Grant, Ph.D.,
Acting Secretary

Forbes Field, Bldg. 740, Topeka, KS 66620-0002

(913) 296-1620
FAX (913) 296-6247

Testimony presented to Committee on Energy and Natural Resources

by

The Kansas Department of Health and Environment

House Bill 2409

Timely and accurate technical information is of vital importance to industry in its efforts to protect the environment. The information that industry receives and relies on is only as good as the laboratory that produced it.

The KDHE has operated a certification program for environmental laboratories since 1978. K.S.A. 65-171k provides the statutory authority for the water/wastewater certification program. In 1980, the laboratory certification office expanded the certification program to provide solid and hazardous waste certification as required by RCRA and Kansas Administrative Regulation 28-31-5. In view of a possible increase in litigation against permit holders, particularly with hazardous waste violations, we feel that the KDHE needs explicit statutory authority for the certification programs. The statutory citations indicated under (a) (1) are all inclusive of environmental programs which may require reporting of analytical data to the KDHE.

The KDHE has operated the certification program as a fee-supported program with all moneys collected being transferred to the state general fund. The statutory authority for fees has been somewhat indirect and we would like explicit authority to maintain the program as a fee-supported program.

Testimony presented by: Theresa L. Hodges, Section Chief
Laboratory Improvement Program Office
Kansas Health and Environmental Laboratory
March 4, 1991

*ENR
3/4/91
Attachment 6*

HOUSE BILL No. 2407

By Committee on Energy and Natural Resources

2-20

8 AN ACT concerning vehicle tires; relating to recycling and disposal;
9 amending K.S.A. ~~1990~~ Supp. 65-3424, 65-3424a and 65-3424f and
10 repealing the existing sections; also repealing K.S.A. 1990 Supp.
11 65-3424c.

prohibiting certain acts and providing penalties for violations;

65-3409 and K.S.A. 1990 Supp. 65-3424, 65-3424a, 65-3424b

12
13 *Be it enacted by the Legislature of the State of Kansas:*
14 Section 1. K.S.A. 1990 Supp. 65-3424 is hereby amended to read
15 as follows: 65-3424. As used in K.S.A. 1990 Supp. 65-3424 through
16 65-3424h, and amendments thereto, unless the context otherwise
17 requires:

(a) "Abatement" means the processing or removing to an approved storage site of waste tires which are creating a danger or nuisance.
(b) "Beneficial use" means the use or storage of waste tires in a way that creates an on-site economic benefit, other than from processing or recycling, to the owner of the tires.
(c) "Landfill" means a disposal site in which the method of disposing of solid waste is by landfill, dump or pit and which has a solid waste disposal area permit issued under K.S.A. 65-3401 et seq., and amendments thereto.

(d) 18 [(a)] "Person" means any individual, association, partnership, limited partnership, corporation or other entity.

(e) 20 [(b)] "Secretary" means the secretary of health and environment.

(g) 21 [(c)] "Tire" means a continuous solid or pneumatic rubber covering encircling the wheel of a vehicle.

(i) 23 [(d)] "Vehicle" means any motor vehicle, as defined by K.S.A. 8-24 1437 and amendments thereto, other than a traction engine, road roller or farm tractor or trailer.

(j) 26 [(e)] "Waste tire" means a whole tire that is no longer suitable for its original intended purpose because of wear, damage or defect.

(k) 28 [(f)] "Waste tire collection center" means a site where used or waste tires are collected from the public prior to being offered for recycling and where fewer than 1,000 tires are kept on the site on any given day.

(l) 32 [(g)] "Waste tire processing facility" means a site where equipment is used to cut, burn or otherwise alter whole waste tires so that they are no longer whole.

(m) 35 [(h)] "Waste tire site" means a site at which 1,000 or more whole tires are accumulated.

(f) "Store" or "storage" means the placing of waste tires in a manner that does not constitute disposal of the waste tires. Storage includes the beneficial use of waste tires as fences, silo covers and erosion control, and other beneficial uses as the secretary determines create health or environmental risks.

(h) "Tire retailer" means a person in the business of selling new or used replacement tires at retail.

has the meaning provided by K.S.A. 8-1485

37 Sec. 2. K.S.A. 1990 Supp. 65-3424a is hereby amended to read
38 as follows: 65-3424a. (a) The owner or operator of any waste tire
39 site, within six months after the effective date of this act, shall
40 provide the department with information concerning the site's location and size and the approximate number of waste tires that are
41 accumulated at the site and shall initiate steps to comply with sub-
42 section (b).
43

EVNR
3/4/91
Attachment 7

7-2

1 (b) On or after July 1, 1990, no person shall:

2 (1) Maintain a waste tire site unless: (A) such site is an integral
3 part of the person's permitted waste tire processing facility; or (B)
4 the tires accumulated at such site are for use in the person's tire
5 retreading business;

strike bracketed language

6 (2) dispose of waste tires in the state unless the waste tires are
7 disposed of for processing, or collected for processing, at a permitted
8 solid waste processing facility, a waste tire site which is an integral
9 part of a permitted waste tire processing facility, a permitted waste
10 tire processing facility or a waste tire collection center or are made
11 available to: (A) The department of wildlife and parks for use by the
12 department; or (B) a person engaged in a farming or ranching activity,
13 including the operation of a feedlot as defined by K.S.A. 14-5701
14 47-1501, and amendments thereto, as long as accumulation or dis-
15 posal of such tires is in accordance with all applicable zoning reg-
16 ulations; or

the accumulation has a beneficial use to the person accumulating the
tires and (i) the secretary determines that the use has no adverse
environmental effects and (ii) the accumulation

17 (3) deposit waste tires in a landfill as a method of ultimate dis-
18 posal, except that: (A) *Residential waste containing tires may be*
19 *deposited in a landfill if such waste contains not more than four*
20 *tires in any one truckload; and (B) the secretary, by rules and*
21 *regulations, may:* (A) (i) authorize the final disposal of waste tires
22 at a permitted solid waste disposal facility provided the tires have
23 been cut into sufficiently small parts to assure their proper disposal
24 or are utilized as part of a proven and approved leachate collection
25 system in their original state; and (B) (ii) allow waste tire material
26 which has been cut into sufficiently small parts to be used as daily
27 cover material for a landfill.

28 (c) Violation of subsection (b) is a class C misdemeanor.

Insert Sec. 3 attached

29 Sec. 3 K.S.A. 1990 Supp. 65-3424f is hereby amended to read
30 as follows: 65-3424f. (a) On or before July 1, 1991, the secretary
31 shall establish a program to make grants to cities and counties which,
32 individually or collectively, submit to the secretary plans, approved
33 by the secretary, to:

December 31

- 34 (1) Enforce laws relating to collection and disposal of tires;
- 35 (2) encourage recycling of tires; or
- 36 (3) develop *and implement* management plans for collection, re-
- 37 cycling and disposal of tires; or
- 38 (4) ~~fund research and development for recycling and use of~~
39 ~~waste tires.~~

abatement,

40 (b) Each city, county or group of cities or counties, or both,
41 submitting a plan approved by the secretary shall be eligible for
42 grants pursuant to this section on the basis of priority as determined
43 by the secretary. No recipient shall be eligible to receive such grants

Sec. 3. K.S.A. 1990 Supp. 65-3424b is hereby amended to read as follows: 65-3424b. (a) The secretary shall establish a system of permits for waste tire processing facilities and permits for waste tire collectors and collection centers. Such permits shall be issued for a period of one year and shall require an application fee established by the secretary in an amount not exceeding \$250 per year.

(b) The secretary shall establish standards for waste tire processing facilities and associated waste tire sites, waste tire collection centers and waste tire collectors.

(c) On and after ~~July 1, 1990~~ December 31, 1991, no person shall:

(1) Own or operate a waste tire processing facility or waste tire collection center or act as a waste tire collector unless such person holds a valid permit issued therefor pursuant to subsection (a); or

(2) own or operate a waste tire processing facility or waste tire collection center or act as a waste tire collector except in compliance with the standards established by the secretary pursuant to subsection (b).

(d) The provisions of subsection (c)(1) shall not apply to:

(1) A tire retreading business where fewer than 1,000 waste tires are kept on the business premises;

(2) a business that, in the ordinary course of business, removes tires from motor vehicles if fewer than 1,000 of these tires are kept on the business premises;

(3) a retail tire-selling business which is serving as a waste tire collection center if fewer than 1,000 waste tires are kept on the business premises; or

(4) the department of wildlife and parks; or

~~(5) a person engaged in a farming or ranching activity, including the operation of a feedlot as defined by K.S.A. 14-5701, and amendments thereto.~~

~~(e) Violation of subsection (c) is a class C misdemeanor.~~

7-4

1 for more than two consecutive fiscal years.

2 (c) Cities and counties may join together, pooling their financial
3 resources, when utilizing their grants for the purposes described in
4 subsection (a).

5 (d) The secretary may provide technical assistance, upon request,
6 to a city, county or group of cities or counties, or both, desiring
7 assistance in applying for waste tire grants or choosing a method of
8 waste tire management which would be an eligible use of the grant
9 funds.

, in cooperation with the statewide coordinator of waste reduction,
recycling and market development,

Insert Secs. 5 and 6

10 Sec. 4. K.S.A. 1990 Supp. 65-3424, 65-3424a, 65-3424c and 65-
11 3424f are hereby repealed.

Sec. 7. K.S.A. 65-3409 and K.S.A. 1990 Supp. 65-3424, 65-3424a, 65-3424b

12 Sec. 5 This act shall take effect and be in force from and after
13 its publication in the statute book.

8

New Sec. 5. (a) No tire retailer shall refuse to accept waste tires from customers or offer any discount or other monetary inducement to customers to encourage customers to remove their old tires from the tire retailer's premises at the time or point of transfer.

(b) A tire retailer may: (1) Ask customers if they wish to retain their old tires at the time of sale; or (2) refuse to accept more tires from a customer than purchased by that customer at the time of sale.

Sec. 6. K.S.A. 65-3409 is hereby amended to read as follows: 65-3409. (a) It shall be unlawful for any person to:

(1) Dispose of any solid waste by open dumping, but this provision shall not prohibit: (A) The use of solid wastes in normal farming operations or in the processing or manufacturing of other products in a manner that will not create a public nuisance or adversely affect the public health; or (B) an individual from dumping or depositing solid wastes resulting from such individual's own residential or agricultural activities onto the surface of land owned or leased by such individual when such wastes do not create a public nuisance or adversely affect the public health or the environment.

(2) Construct, alter or operate a solid waste storage, processing or disposal facility or area of a solid waste management system without a permit or other approval from the secretary or be in violation of the rules and regulations, standards or orders of the secretary.

(3) Violate any condition of any permit issued under K.S.A. 65-3407, and amendments thereto.

(4) Conduct any solid waste burning operations in violation of the provisions of K.S.A. 65-3001 ~~to 65-3020, inclusive, and any through 65-3020,~~ and amendments thereto.

(5) Store, collect, transport, process, treat or dispose of solid waste contrary to the rules and regulations, standards or orders of the secretary or in such a manner as to create a public nuisance.

(6) Refuse or hinder entry, inspection, sampling and the examination or copying of records related to the purposes of this act by an agent or employee of the secretary after such agent or employee identifies and gives notice of their purpose.

(7) Violate subsection (b) of K.S.A. 65-3424a, and amendments thereto, subsection (c) of K.S.A. 65-3424b or section 5, and amendments thereto.

(b) No person shall be held responsible for failure to secure a permit under the provisions of this section for the dumping or depositing of any solid waste on land owned or leased by such person without such person's expressed or implied consent, permission or knowledge.

(c) Any person who violates any provision of subsection (a) ~~of this section~~ shall be guilty of a class A misdemeanor and, upon conviction thereof, shall be punished as provided by law.